



Molalla City Council –Meeting Agenda
Meeting located at: Molalla Adult Center
315 Kennel Ave, Molalla, OR 97038
April 8, 2015

Business meeting will begin at 7:00PM. The Council has adopted Public Participation Rules. Public comment cards are available at the entry desk. Request to speak must be turned into to the Mayor prior to the start of the regular Council meeting.

Executive Session 6:00PM before regular meeting

1. CALL TO ORDER – 1,055th Regular Meeting

- A. Call the meeting to order
- B. Flag Salute and Roll Call

2. COMMUNICATIONS AND PUBLIC COMMENT

- A. Minutes: March 25, 2015
- B. Library Board Minutes – Information Only

3. AWARDS, RECOGNITIONS & PRESENTATIONS

- A. Children Center Presentaion - Russ Reinhard

4. PROCLAMATIONS

- A. Proclamation Declaring the Month of April 2015 as Child Abuse Prevention Month

5. PUBLIC HEARINGS

- A. Re-zoning of 1118 Toliver Road - Dan Huff/Nicolas Lennartz

6. NEW BUSINESS

- A. C4 Retreat Request – Councilor Thompson

6. CONTINUING BUSINESS

7. RESOLUTION

- A. A Resoultion Declaring the Vacancy of Councilor Chris Cook

8. ORDINANCES

- A. 2015-02: An Ordinance Amending The Molalla Land Use And Development Code To Impose Reasonable Regulations On The Placement Of Medical Marijuana Dispensaries In The City And Declaring An Emergency (*1st reading with revisions*) *Note: Development Code Amendment – Medical Marijuana Public Hearing Held on 03/25/15*
- B. 2015-03: An Ordinance Approving the Zone Change of 1118 Toliver Road

9. REPORTS AND ANNOUNCEMENTS

- A. City Manager/Staff Reports – Dan Huff

10. EXECUTIVE SESSIONS: ORS 192.660(2)(f) to consider information or records that are exempt from disclosure by law. ORS 192.660 (2)(d) to conduct deliberations with persons designated by the governing body to carry on labor negotiations.

11. ADJOURNMENT

Minutes of the Molalla City Council Regular Meeting
Molalla Adult Center
315 Kennel Ave., Molalla, OR 97038
Wednesday, March 25, 2015

ATTENDANCE: Mayor Rogge, Absent; Councilor Pottle, Present; Councilor Thompson, Present; Councilor Griswold, Present; Councilor Cook, Present; Councilor Satter, Present; Councilor Riggs, Present.

STAFF IN ATTENDANCE: City Manager Dan Huff, Present; City Recorder Sadie Cramer, Present.

COMMUNICATIONS

A. Minutes – February 11, 2015 and February 25, 2015

Councilor Cook pointed out a correction that was brought to CR Sadie Cramer's attention and has since been corrected in verbiage piece for proposed medical marijuana code. Councilor Griswold made a motion to approve the minutes as corrected from both February 11, 2015 and February 25, 2015 meetings; Councilor Thompson seconded. Motion approved (6-0)

B. TAC Minutes – no comments made

C. Library Board Minutes – no comments made

PUBLIC COMMENT:

Citizen Ray Bash, 624 Wedgwood Drive, update council on camera status at Skate Park. Currently one camera up and running mounted on PAL building since 03/06/2015, other two still in process of getting installed. All city/police officials should have access to cameras, cameras record one week at a time. Zac Botsford w/ MCC still handling installation and monitoring and can be contacted with questions regarding access and/or monitoring. Councilor Pottle reported that he goes to the skate park daily, kids cooperating, and keeping park clean. Ms. Bash also states signage for the park is still being worked on.

PUBLIC HEARING

A. Development Code Amendment – Medical Marijuana

Councilor Thompson motions to close the regular session and open into a public hearing. Councilor Griswold seconded. Vote 6-0.

CM Huff states planning commission held public hearing 03/04/2015, notice was provided based on municipal code, and a staff report prepared by Community Planner Nicolas Lennartz was included in the council packets for review. The standards for medical marijuana dispensaries for

the City of Molalla are based on the framework the council provided. Stresses the standards for medical marijuana facilities are the same as what any other facility would encounter if submitting site plan review to the City of Molalla. Within ordinance, in Central Business District, Item 12, Medical Marijuana Dispensaries are a permitted use, and also an *17 that goes with it. Also General Commercial District C2, medical marijuana dispensaries are a permitted use under Item 13. Item 17 specifies specific development standards that was previously discussed by council and the public, and that the planning commission followed, which are that dispensaries shall not be within 1,000 feet of another medical marijuana dispensary, schools, preschools, religious institutions, residential care facilities or licensed day care facilities; must be 500 ft within any publicly-owned property, zoned PSP, such as public parks or City Hall; must be 200 ft from any property zoned residential, zones R1, R2, R3, R5 except when an arterial street lies between a dispensary and residential or PSP-zoned property. In addition, any medical marijuana dispensary must be registered with the Oregon Health Authority under ORD 475.314 and comply with all OHA rules. Development standards for these facilities will be the same as any other development proposal.

Public Testimony:

Stephanie Huff, Mulino resident, states she doesn't drink, smoke, or do drugs but uses marijuana for medical purposes to help with symptoms of migraines. Urges public to change their perception on marijuana and consider it as a valid method for medical use. Uses various statistics to support testimony.

Ed Huff, Mulino resident, 06/27/2014 was approved for medical marijuana dispensary at 704 E Main St, Molalla, met all state requirements, paid all fees, used to be indoor garden shop, has since shut down to make room for medical marijuana dispensary business knowing the law was going to be approved. Has put lots of money into the building prepping for the business, but is now concerned with the new distance regulations that he might not be able to have his business there after all. States that customers would only be coming in for their medicine, that there would be no on-site use. Asks to reduce the 500 ft PSP zone requirement to 150 ft. And reduce residential requirement from 200 ft to 50 ft. As it stands, he would not be able to operate there and points out that there is next to no locations that would fit the proposed requirements.

Jeff Brumbaugh, 10376 S. Comer Creek Drive, Molalla, wants to speak against proposed restrictions for medical marijuana dispensaries. Has been a grower, caregiver, and patient for about 16 years since medical marijuana program started, has patients with various ailments and it would cause grief for them to have to drive to Portland to get their medicine. Says no difference from a patient going into a dispensary to pick up their vial or edible than a patient going into Safeway pharmacy to pick up their prescriptions. Asks to consider it a medicine only. Says no partying or consumption happening within vicinities of the facilities due to extensive surveillance. States the restrictions will prohibit any possibility of a dispensary in Molalla.

Sharon Mast, RN, 130 Metzler Avenue (written statement read via Councilor Pottle and submitted as Exhibit A in 03/25/2015 Council Agenda) – states she is against medical marijuana dispensaries allowed in Molalla as the town already has a severe problem with drugs. States Molalla is already known as a drug and alcohol community with ignorance and poverty being prominent. States our community is already suffering as it is.

Councilor Satter wants citizens to understand that medical marijuana is legal in the state of Oregon and what council is trying to do is establish rules locally in our community on land use ordinances. If nothing is done locally, guidelines fall on the state requirements.

Councilor Thompson says he looked at legislation that recently passed and has compared the proposed ordinance with what would happen if Molalla had no ordinance. Regarding item 17, the state does not specify distance restrictions on religious institutions, residential care facilities and pretty sure licensed daycare facilities. Also does not include 500 ft from properties zoned PSP or 200 ft from properties zoned residential. Does specify it has to be in an industrial or commercial zone so it cannot be in a residential area. Biggest concern is that marijuana is consumed publicly.

Councilor Satter adds that she attended a webinar hosted by the League of Oregon Cities and forwarded the report to other councilors. League of Oregon Cities takes the stance that cities should treat regulations as more restrictive than permissive, and that to protect themselves, since marijuana is still illegal federally, to state where facilities are not allowed, versus where they are allowed. She is unsure that the proposed code falls under those guidelines.

Councilor Thompson motions to cancel the public hearing and go back to the regular meeting; Councilor Cook seconded. Vote 6-0 in favor.

NEW BUSINESS

A. OLCC Application – White Horse

Name changed to Molalla White Horse. Councilor Thompson motions to approve application and forward on to OLCC for review; Councilor Griswold seconded. Vote 6-0 in favor.

B. Citizen Appointment – Budget Committee

Leota Childress appointed to the budget committee; vote 6-0 in favor.

ORDINANCES

A. 2015-02: An Ordinance Amending The Molalla Land Use And Development Code To Impose Reasonable Regulations On The Placement Of Medical Marijuana Dispensaries In The City And Declaring An Emergency.

Discussion: Councilor Thompson asks CM Huff to elaborate on benefits of including religious institutions, residential care facilities, licensed daycares and publicly-owned facilities in the

ordinance that the state does not currently require. CM Huff says the inclusion of the licensed-daycare facility was presented at the request of the Council, the religious institutions and residential care facilities were recommended/discussed at the planning commission meetings, not by staff, something the planning commissioners came up with due to groups and gatherings frequenting churches, the elderly around residential care facilities, and banning PSP properties due to fear of public use in parks. Mostly planning commission recommendations. Emergency clause added due to urgency of laws passing and the need to have an ordinance in place. Councilor Cook says he does not see benefit of added restrictions on PSP zones, says he was the one who recommended the licensed daycare facilities due to children frequenting those areas, says he thinks state restrictions are sufficient otherwise. CM Huff states that the State of Oregon has no authority on developments within the city limits. Councilor Thompson motions to instruct staff to modify ordinance to exclude the distance restrictions on religious institutions, residential care facilities, and PSP zones, leaving the restriction for licensed daycare facilities in place. Councilor Satter seconds motion. Vote in favor 4-2; Councilor Griswold opposed; Councilor Pottle opposed. Ordinance as presented not approved, will re-present at next meeting with changes. CM Huff confirms what revised version will read.

REPORTS & ANNOUNCEMENTS

City Manager/ Staff Report

CM Huff says this Friday they are submitting grant application to ODOT for Systemic Grant for intersection of Toliver road and Hwy 213, and the intersection of Ona Way and Hwy 211. Substantial completion date for Grange, Stowers and Heintz streets is April 18, 2015. Substantial means main project, there still may be little clean-up projects occurring. Next week they should have 30% plans on the first urban renewal project which is the extension of Heintz st from about Kennel at barricades to ridings, project happening this summer. The trail grant for Oregon Parks and Recreation department is due in a couple of weeks, one application already submitted, the second one is the one due. Next meeting will report on work they've done dealing with some bargaining units that are coming up.

Councilor Satter reports she attended library board meeting, carpets are completed. Next project will be painting the bathrooms, currently down a staff member, but are backfilling with hours on that position and looking to hire another professional librarian.

Councilor Griswold tried to attend the transportation advisory committee but there was not a quorum.

Councilor Riggs missed the Molalla Area Seniors meeting due to confusion on meeting times.

Councilor Cook since meeting with Molalla School Board regarding the pool we made a commitment with subcommittee to get back together to meet on a regular basis. Action item was to reach out to local group to see if they are able to help out with the pool. Have not heard from

school district since. Announced that this will be his last meeting, submitted letter of resignation to the city as his family will be moving outside city limits.

Councilor Thompson has nothing to report.

Councilor Pottle has nothing to report.

ADJOURNMENT:

Councilor Satter made a motion to adjourn; Councilor Cook seconded. Motion approved (6-0)
Councilor Thompson, Aye; Councilor Griswold, Aye; Councilor Pottle, Aye; Councilor Cook,
Aye; Councilor Satter, Aye; Councilor Riggs, Aye.

Sadie Cramer, City Recorder

Mayor Debbie Rogge

Molalla Library Advisory Board

Meeting Date: 2-19-2015

Meeting brought to order by Paula Beck at 6:33 P.M.

Members Present: Paula Beck, Mary Gilson, Kelly Andrews, Sandy Nelson, Angela Patton

City Council Liaison: Jennifer Satter

Staff Present: Diana Hadley

The minutes from the January meeting were approved with two corrections.

- Director's Report: (See Diana if you didn't receive one.)
 - a) Very importantly, the library will remain open during the carpeting project.
- New Business:
 - a. We held elections with these results: President Sandy Nelson; Vice President Kelly Andrews; Secretary, as appointed by Director Diana, Mary Gilson.
- Old Business:
 - a. Our liaison, Jennifer, will fill us in on the role of the Molalla Public Library Advisory Board according to the Molalla City Council. We need clarification as to our duties.

The next meeting will be on Thursday, March 19th at the Molalla Public Library.

The meeting was adjourned at 7:40 P.M.

Submitted by Mary Gilson, Secretary.

Children's Center

A place where healing begins

CONTACT

Barbara Peschiera, Executive Director
Children's Center

Barbara@childrenscenter.cc

503-655-7725

THE PROBLEM

One in ten children will be sexually abused by their 18th birthday. And sadly, an average of 20 children are killed as a direct result of child abuse, in Oregon alone, every year.

Untreated, child abuse leads to debilitating, lifelong chronic physical and mental health conditions. The fallout from child abuse and neglect extends beyond these young victims, destabilizing families, fracturing communities, and increasing the financial burden on law enforcement, social services, and the health care system.

Children of every gender, age, race, ethnicity, background, socioeconomic status and family structure are at risk of child abuse. **No child is immune.**

WHO WE ARE

Children's Center is an accredited member of National Children's Alliance and an integral partner in Clackamas County's response to child abuse and the answer to a child's pain. A private, non-profit medical assessment center, Children's Center supports children and families in cases of suspected physical abuse, sexual abuse, neglect, drug endangerment, and witness to violence. Core services include:

- **Forensic Medical Evaluations:** Comprehensive head-to-toe exam to determine and document a child's health and safety by Medical Examiners trained in diagnosing child abuse and neglect.
- **Forensic Interviewing Services:** Digitally recorded forensic interviews with Child Interviewers specially trained to talk to children of all ages and developmental levels. Child Interviewers work with the Medical Examiners as part of the medical evaluation.
- **Family Support:** Support, referrals, education, and case management for families in Clackamas County struggling with issues of abuse or neglect. These services are offered to non-offending family members of children receiving evaluations at Children's Center as well as families in the community.
- **Community Education and Outreach:** Trainings, presentations, prevention workshops, and resources for local professional and community groups.

HOW YOU CAN BE PART OF THE SOLUTION

Though we hope to prevent child abuse from ever occurring, there is a national movement in April to recognize Child Abuse Prevention Month. Working with strong community leadership, we are undertaking a comprehensive public education and engagement campaign. Our goals are to increase calls to our local Child Abuse Hotline and decrease incidents of child abuse in Clackamas County.

Many community partners will play a role in the success of our campaign. We hope you will consider joining us as we all work together to prevent child abuse and neglect in Clackamas County. We welcome the opportunity to talk with you more about how we can work together to end child abuse in our community.

PROCLAMATION

- Whereas,** child abuse and neglect are epidemic; and
- Whereas,** the effects of child abuse are felt by whole communities and can only be addressed by entire communities; and
- Whereas,** effective child abuse intervention programs succeed because of partnerships created between the governments, social service agencies, schools, religious organizations, and the business community; and
- Whereas,** all citizens should seize opportunities to become more aware of child abuse and its prevention within the community, and to become involved in supporting parents to raise their children in safe, nurturing environments; and
- Whereas,** children are key to the City of Molalla's future success, prosperity, and quality of life; and
- Whereas,** children have a right to be safe and to be provided an opportunity to thrive, learn, and grow; and
- Whereas,** we must come together as partners to shine the light on child abuse so that we are as a community extending helping hands to children and families in need; and
- Whereas,** by providing a safe and nurturing environment for our children, free of violence, abuse and neglect, we can ensure Molalla's children will grow to their full potential as the next generation of leaders, helping to secure the future of this city and nation;

NOW, THEREFORE, I, DEBBIE ROGGE, MAYOR OF THE CITY OF MOLALLA, OREGON, DO HEREBY PROCLAIM THE MONTH OF APRIL 2015 AS

CHILD ABUSE PREVENTION MONTH

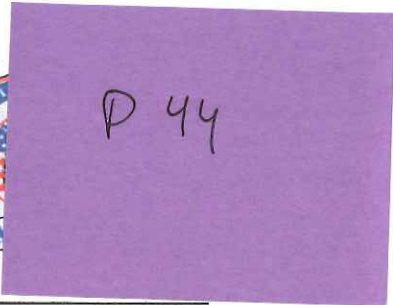
in the City of Molalla and call upon all citizens to increase their participation in efforts to prevent child abuse, thereby strengthening the community in which we live.

Dated this 8th Day of April, 2015

Mayor Debbie Rogge



City of Molalla
 P.O. Box 248
 Molalla, OR 97038
 503-829-7526



PLANNING PERMIT APPLICATION

1118 Toliver Road Molalla, OR 97038
LOCATION (ADDRESS IF AVAILABLE)

Frank Walker & Associates 503-588-8001
APPLICANTS NAME PHONE

37708 Kings Valley Highway
MAILING ADDRESS APT/SUITE

Philomath OR 97370
CITY STATE ZIP

frankwalker@peak.org
 Donald R. Itschner trust 503-829-2851
PHONE CELL PHONE FAX EMAIL PHONE

11886 South Thomas Road
MAILING ADDRESS APT/SUITE

Molalla OR 97038
CITY STATE ZIP

Comprehensive Plan Amendment and Zone Change.
TYPE OF PLANNING APPLICATION IF MULTIPLE WRITE ALL THAT APPLY

Single Family Residential
PRESENT USE OF THE PROPERTY

Multi - Family Residential
PROPOSED USE OF PROPERTY

[Signature]
Signature
 Authorized Agent

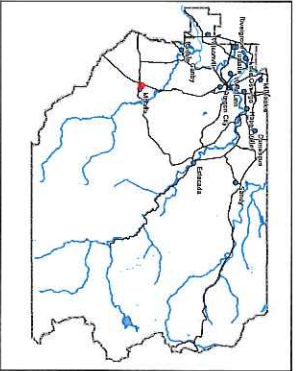
10/9/2014
Date of Application

RECEIVED: 10.17.14 RECEIVED BY: *[Signature]*

FEE'S PAID:\$ TBD CHECK NO:

APPLICATION NUMBER: P44-2014

Cancelled Tracts
 200
 200
 200
 200



- Parcel Boundary
- Private Road ROW
- Historical Boundary
- Railroad Centerline
- TaxParcelLines
- Map Index
- Waterlines
- Land Use Zoning
- Map Index
- Water
- Corner
- Section Corner
- 1/16th Line
- Govt. Lat. Line
- DLC Line
- Meander Line
- P.L.S.S Section Line
- Historic Corridor 40'
- Historic Corridor 20'

THIS MAP IS FOR ASSESSMENT
 PURPOSES ONLY



Proposed Comprehensive Plan Amendment and Zone Change

Property Owners:
Donald R. Itschner Revocable Living Trust
Co/ Lloyd Itschner Trustee
11886 South Thomas Road
Molalla, OR 97038

Property Location:
1118 Toliver Road
Molalla, OR 97038

Legal Description:
Township 5S, Range 2E, Section 7AA, Tax Lot 2700

Project Coordinator:
Frank Walker and Associates
37708 Kings Valley Highway
Philomath, OR 97370
(541) 929-5454
(503) 588-8001
frankwalker@peak.org

October 8, 2014

Introduction:

This is an application to re-zone 5.5 acres from Single Family Residential to Multi-family residential and to change the Comprehensive Plan from Low Density Residential to High Density Residential. The subject property currently has a single family residence and a shop building. A small fork of Bear Creek bisects the property East to West separating a forested upland from a grassy wetland. The upland portion of the property has all the improvements, including sewer, water, storm drainage, and three buildings. All of the public improvements are in the Toliver Road right-of-way.

The property is located East of Highway 213 North of Highway 211 and South of Toliver Road. Figure 1, vicinity map, shows the location of the subject property.

The reason for this zoning action is to increase the supply of land zoned for multi-family. The property owner's representative conducted a city wide interview of most apartment owners and managers. The overwhelming majority of owners have extended waiting list for apartments with some holding open applications for three years. None of the apartments had any vacancies, except for one. An interview was conducted with a new apartment owner and their 160 unit complex was filled before final construction was even completed. They then undertook a second phase with an equal number of apartments and they were all full on the one and two bedroom suites.

The property owner's representative also undertook a land use inventory of all vacant R-3 zoned properties. Every Tax Lot and ownership in the R-3 zone were field checked. The supply of vacant and available land essential is used up. The largest vacant R-3 zoned property in Molalla is platted for a mobile home subdivision so it would not be considered available for apartments. There were a few scattered lots around town that are collectively inadequate to meet the projected need for multi-family housing. Exhibit 1 attached to this application shows all of the vacant and available properties.

Based upon the inventory and the interviews with apartment owners and managers there is bona fide need for addition multi-family housing.

Site Description:

The property is located approximately two block east of Highway 213 on the south side of Toliver Road as shown in Figure 2. Figure 3, entitled Community Amenities, shows the location of schools and fire stations. It should be noted from this map that Molalla Elementary school is located one half block away, and the Molalla Middle School is one more block away. Two blocks to the southeast is a full complement of shopping facilities including a Safeway Store and a medical complex.

Figure 4 shows the site improvements on the property which include a dwelling with a garage, a large shop building, a tool shed, and another outbuilding. Figure 4 also shows the location of the vegetation on the property as well as the stream. Figure 4 also shows the ball field, bike tract, and the industrial buildings to the west.

Figure 5 is a Topography map. The elevation difference between the front of the lot and the rear of the lot are not shown on the Topography map. For all intents and purposes the property is basically flat.

Figures 6, 7, and 8 show the zoning, adjacent and nearby properties.

Approval Criteria:

B. Criteria for Quasi-Judicial Amendments. A recommendation or a decision to approve, approve with conditions or to deny an application for a quasi-judicial amendment shall be based on all of the following criteria:

1. Approval of the request is consistent with the Statewide Planning Goals;

Response: This report address all applicable Land Use Goals and Guidelines

2. Approval of the request is consistent with the Comprehensive Plan;

Response: This criterion is addressed under the Statewide Goals and Guidelines.

3. The property and affected area is presently provided with adequate public facilities, services and transportation networks to support the use, or such facilities, services and transportation networks are planned to be provided in the planning period; and

Response: The subject property has a full complement of public facilities and services. Each of these are addressed as follows:

- Sanitary Sewer: A trunk sewer line is located in Toliver Road. The projected maximum number of dwelling units can be accommodated by this sewer line.
- Storm Sewer: The subject property currently utilizes storm drainage in Toliver Road. Any proposed property improvements can either tie into that storm sewer or it can be diverted into a fork of Bear Creek. The subject property contains a creek that passes under the Molalla Forrest Service Road and continues to the west where it exits into Bear Creek. (see Figure 5, Topographic Map)
- Streets: The subject property has frontage and access on Toliver Road which is a two lane paved arterial street. The subject property also has frontage on the Molalla Forest Service Road, however; the Molalla Forest Service Road is a private road owned by the city of Molalla and is therefore not available for public transportation.
- Pedestrian Access: The only pedestrian access to the property is from a new sidewalk on Toliver Road.
- Domestic Water: The subject property receives water service from an 8-inch water main in Toliver Road. The water main has the capacity to serve this site.
- Schools: (Figure 3, Local Amenities) shows that the property is only 300-feet from Molalla Elementary School. And the Molalla River Middle School is next door to the Molalla Elementary School. The Molalla River High School is located approximately $\frac{3}{4}$ of a mile to the East.

- Police: The Police Station is located near the intersection of Toliver Road and Molalla Avenue. The Police Station is actually three blocks south of the Molalla Avenue and Toliver Road intersection.
- Fire Protection: The Fire Station is located near the intersection of Robbins Street and Molalla Avenue. The Fire Station has a direct access onto Molalla Avenue. It is approximately ½ of a mile from the subject property to the fire station. The response time to the subject property is approximately three to five minutes.
- Public Transportation: The City of Molalla is serviced by Metro for public transportation (bus). Bus stops are scattered throughout the community and readily available by the site.

4. The change is in the public interest with regard to neighborhood or community conditions, or corrects a mistake or inconsistency in the comprehensive plan or land use district map regarding the property which is the subject of the application; and

Response: This criterion is very important to this application. Housing conditions in the city of Molalla have changed drastically over the last seven years. Single family housing starts have decreased from over 30 seven years ago to only two in the last year. An inventory was made of all R-3 Zoned properties in Molalla and it was determined that the supply of such land was inadequate. Exhibit 1 is a map of Molalla showing the location of all R-3 zoned lands. The exhibit shows where vacant parcels are present, those lots are shaded a light rose color or pink. There is an inadequate supply of R-3 zoned lands based on long term absorption rates. Though there are 81 vacant lots comprising of 10.22 acres of vacant land, all but six of those lots are platted as a mobile home subdivision.

The projected need for multi-family housing for 2030 cannot be met with the current supply. An examination of the Housing Needs Analysis shows increased employment opportunities, young commuting households, and a growing Hispanic community. These three trends are pushing the demand for a broader range of housing. The number of households required by the year 2030 will increase by 1,055. The gross acreage required by these households will be 188. Even if only 5% of this is for Multi-Family Housing, 55 additional acres will be needed. At present there is only 10.22 acres available. In recent years the demand for Multi-Family Housing has been so great that two large commercial properties were rezoned to Multi-Family. The staff at Frank Walker and Associates also interviewed 12 apartment owners in Molalla. All of them without exception, had no vacancies. The government subsidized housing had a three year waiting list for two bedroom apartment and one and half years for three bedroom. Appendix 3 is a partial list of apartment managers that gave us permission to publish their occupancy information.

The Stoneplace Apartments located on the south side of Highway 211 has 187 dwelling units. Phase 1 was filled before all of the units were even completed. Phase 2, next-door to the west, was 75% full prior to occupancy. In the summer of 2014 only a handful of 3 bedroom units were available, and all of the one and two bedroom units were occupied. The market demand for quality apartments appears to be strong for the foreseeable future.

The subject property has more amenities than Stoneplace because children can reach two schools without crossing the street. The subject property also has a beautiful forest and a year round stream. The subject property also in a predominately residential area instead of being on an arterial highway. Figure 6 shows the zoning of the subject property and the surrounding area. Figures 7 and 8 shows the dimensions of the property.

In summary, there is an unquestionable demand for R-3 Zoning for Multi-Family Housing. Appendix 1 is an analysis of all the R-3 Zoned properties in Molalla. All of the assessment and deed data are provided and especially the year these properties were developed with Multi-Family Housing. Appendix 2 is the Residential Lands Need Report prepared by Winterbrook Planning in July 2009. The data in this report also supports the premise that additional lands are needed for Multi-Family Housing. The evidence in this case is compelling based on published information and interviews with apartment managers.

5. The amendment conforms to applicable administrative rules of the Oregon Land Conservation and Development Commission, including the transportation planning rules. (Ord. 2010-15 §1; Ord. 2010-04 §1)

Response: It is not known at this time how many actual dwelling units will be established on the subject property. The net developable area also is not known at this time. It is known that the property has a stream margin and a wetland to the south.

The transportation planning rule requires mitigation if the a.m. and p.m. peak traffic hours increases by 100 trips or if the total development adds 600 trips in 24 hours. The transportation issues can be addressed at the time the property is actually developed.

Oregon's Statewide Planning Goals & Guidelines

GOAL 1: CITIZEN INVOLVEMENT

OAR 660-015-0000(1)

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

Response: This application is subject to notice of all surrounding ownerships that are within 100-feet from the perimeter of the property. This application is also advertised for public hearing in a newspaper of local circulation. With the advent of the internet, the hearing is also posted on-line. The applicant actually plays no part in this procedure unless the city requires the posting of a sign on the property.

GOAL 2: LAND USE PLANNING

OAR 660-015-0000(2)

PART I -- PLANNING

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

Response: A full land use planning process and policy framework has already been established.

PART II -- EXCEPTIONS

A local government may adopt an exception to a goal when:

- (a) The land subject to the exception is physically developed to the extent that it is no longer available for uses allowed by the applicable goal;
- (b) The land subject to the exception is irrevocably committed to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable; or
- (c) The following standards are met:
 - (1) Reasons justify why the state policy embodied in the applicable goals should not apply;
 - (2) Areas which do not require a new exception cannot reasonably accommodate the use;
 - (3) The long-term environmental, economic, social and energy consequences resulting from the use of the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site; and
 - (4) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.

Response: Not Applicable

Goal 3 Agriculture Lands

Response: Not Applicable

Goal 4 Forest Lands

Response: Not Applicable

GOAL 5: NATURAL RESOURCES, SCENIC AND HISTORIC AREAS, AND OPEN SPACES

OAR 660-015-0000(5)

(Please Note: Amendments Effective 08/30/96)

To protect natural resources and conserve scenic and historic areas and open spaces.

Response: The existing vegetation will be preserved to the maximum extent possible, especially the large Fir and Pine trees. The tributary stream to Bear Creek will also be preserved by establishing a protected riparian margin. An extensive wetland occupies an area south of the stream. If this area is improved, the loss of wetland will be mitigated pursuant to Federal Law.

GOAL 6: AIR, WATER AND LAND
RESOURCES QUALITY

OAR 660-015-0000(6)

To maintain and improve the quality of the air, water and land resources of the state.

Response: Air quality will be enhanced because people can walk to schools and shopping areas. Residents also will have access to public transportation from the subject property to the metro area. The retention of native vegetation will also contribute to improve air quality.

The improvement of the property should not degrade the water because the site is serviced by a public sewer. The water in the stream will be protected from direct run-off because there is a storm water drainage system in Toliver Road. Water quality will also be protected through the establishment of a riparian margin.

A significant portion of the property might remain undeveloped because of the wetland and the riparian margin.

GOAL 7: AREAS SUBJECT TO NATURAL HAZARDS

To protect people and property from natural hazards.

Response: The subject property appears to be free of any natural hazards with the possible exception of flooding. The stream that bisects the property has a wide channel in most stretches, which helps reduce the potential for flooding.

GOAL 8: RECREATIONAL NEEDS

OAR 660-015-0000(8)

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

Response: Not Applicable

GOAL 9: ECONOMIC DEVELOPMENT

OAR 660-015-0000(9)

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

Response: The prospected improvement will result in the creation of jobs in the construction industry. Post construction jobs could also occur in the form of managers, maintenance and groundkeepers.

GOAL 10: HOUSING

OAR 660-015-0000(10)

To provide for the housing needs of citizens of the state. Buildable lands for residential use shall be inventoried and plans shall encourage the availability of adequate numbers of needed housing units at price ranges and rent levels which are commensurate with the financial capabilities of Oregon households and allow for flexibility of housing location, type and density.

Buildable Lands -- refers to lands in urban and urbanizable areas that are suitable, available and necessary for residential use.

Government-Assisted Housing

-- means housing that is financed in whole or part by either a federal or state housing agency or a local housing authority as defined in ORS 456.005 to 456.720, or housing that is occupied by a tenant or tenants who benefit from rent supplements or housing vouchers provided by either a federal or state housing agency or a local housing authority.

Household -- refers to one or more persons occupying a single housing unit.

Manufactured Homes -- means structures with a Department of Housing and Urban Development (HUD) label certifying that the structure is constructed in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 USC 5401 et seq.), as amended on August 22, 1981.

Needed Housing Units -- means housing types determined to meet the need shown for housing within an urban growth boundary at particular price ranges and rent levels. On and after the beginning of the first periodic review of a local government's acknowledged comprehensive plan, "needed housing units" also includes government-assisted housing. For cities having populations larger than 2,500 people and counties having populations larger than 15,000 people, "needed housing units" also includes (but is not limited to) attached and detached single-family housing, multiple-family housing, and manufactured homes, whether occupied by owners or renters.

Response: This criterion has already been addressed in question 4 on page 4 of this application.

GUIDELINES

A. PLANNING

1. In addition to inventories of buildable lands, housing elements of a comprehensive plan should, at a minimum, include:

- (1) a comparison of the distribution of the existing population by income with the distribution of available housing units by cost;
- (2) a determination of vacancy rates, both overall and at varying rent ranges and cost levels;
- (3) a determination of expected housing demand at varying rent ranges and cost levels;
- (4) allowance for a variety of densities and types of residences in each community; and
- (5) an inventory of sound housing in urban areas including units capable of being rehabilitated.

Response: This criterion has already been addressed in question 4 on page 4 of this application, And also Appendix 1, 2, and 3 plus Exhibit 1.

2. Plans should be developed in a manner that insures the provision of appropriate types and amounts of land within urban growth boundaries. Such land should be necessary and suitable for housing that meets the housing needs of households of all income levels.

Response: This criterion has already been addressed in question 4 on page 4 of this application.

3. Plans should provide for the appropriate type, location and phasing of public facilities and services sufficient to support housing development in areas presently developed or undergoing development or redevelopment.

Response: This criterion has already been addressed in question 4 on page 4 of this application.

4. Plans providing for housing needs should consider as a major determinant the carrying capacity of the air, land and water resources of the planning area. The land conservation and development actions provided for by such plans should not exceed the carrying capacity of such resources.

Response: This criterion has already been addressed in question 4 on page 4 of this application.

B. IMPLEMENTATION

1. Plans should provide for a continuing review of housing need projections and should establish a process for accommodating needed revisions.

2. Plans should take into account the effects of utilizing financial incentives and resources to (a) stimulate the rehabilitation of substandard housing without regard to the financial capacity of the owner so long as benefits accrue to the occupants; and (b) bring into compliance with codes adopted to assure safe and sanitary housing the dwellings of individuals who cannot on their own afford to meet such codes.

3. Decisions on housing development proposals should be expedited when such proposals are in accordance with zoning ordinances and with provisions of comprehensive plans.

4. Ordinances and incentives should be used to increase population densities in urban areas taking into consideration

(1) key facilities,

(2) the economic, environmental, social and energy consequences of the proposed densities and

(3) the optimal use of existing urban land particularly in sections containing significant amounts of unsound substandard structures.

5. Additional methods and devices for achieving this goal should, after consideration of the impact on lower income households, include, but not be limited to:

(1) tax incentives and disincentives;

(2) building and construction code revision;

(3) zoning and land use controls;

(4) subsidies and loans;

(5) fee and less-than-fee acquisition techniques;

(6) enforcement of local health and safety codes; and

(7) coordination of the development of urban facilities and services to disperse low income housing throughout the planning area.

6. Plans should provide for a detailed management program to assign respective implementation roles and responsibilities to those governmental bodies operating in the planning area and having interests in carrying out the goal.

GOAL 11: PUBLIC FACILITIES AND SERVICES

OAR 660-015-0000(11)

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

Response: The subject property has full access to stormwater, sanitary sewer, domestic water, and public streets. The property also has a 7200kv power line Toliver Road. All existing services are adequate for maximum build out of the property.

A. PLANNING

1. Plans providing for public facilities and services should be coordinated with plans for designation of urban boundaries, urbanizable land, rural uses and for the transition of rural land to urban uses.

2. Public facilities and services for rural areas should be provided at levels appropriate for rural use only and should not support urban uses.

3. Public facilities and services in urban areas should be provided at levels necessary and suitable for urban uses.

4. Public facilities and services in urbanizable areas should be provided at levels necessary and suitable for existing uses. The provision for future public facilities and services in these areas should be based upon:

(1) the time required to provide the service;

(2) reliability of service;

(3) financial cost; and

(4) levels of service needed and desired.

5. A public facility or service should not be provided in an urbanizable area unless there is provision for the coordinated development of all the other urban facilities and services appropriate to that area.

6. All utility lines and facilities should be located on or adjacent to existing public or private rights-of-way to avoid dividing existing farm units.

7. Plans providing for public facilities and services should consider as a major determinant the carrying capacity of the air, land and water resources of the planning area. The land Page 3 of 3 conservation and development action provided for by such plans should not exceed the carrying capacity of such resources.

GOAL 12: TRANSPORTATION

OAR 660-015-0000(12)

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

Response: Toliver Road and public transportation are already in place.

GOAL 13: ENERGY CONSERVATION

OAR 660-015-0000(13)

To conserve energy.

Response: Energy will be conserved by retaining the vegetative cover of the site, therefore; reducing the need for air conditioning. Also the proximity of this site to public transportation reduces the demand for automobiles and gas consumption. A big factor in energy conservation is the fact that two schools are within safe and close walking distance. Thus precluding the need for auto trips.

Compliance with Molalla's Comprehensive Land Use Plan.

Part I: The Land Use Planning Process (Statewide Planning Goals 1 – Citizen Involvement and 2 – Land Use Planning)

Part II: Open Space, Recreation and Community Livability (Statewide Planning Goals 5 – Natural and Cultural Resources, 6 – Air, Land, and Water Quality, 7 – Natural Hazards, and 8 – Recreational Needs)

Part III: Economic Development and Housing (Statewide Planning Goals 9 – Economic Development and 10 – Housing)

Part IV: Public Facilities and Transportation (Statewide Planning Goals 11 – Public Facilities and Services, and 12 – Transportation)

Part V: Urban Form and Growth Management (Statewide Planning Goals 13 – Energy Conservation and 14 – Urbanization)

Response: The Molalla Comprehensive Plan is based on compliance with Statewide Planning Goals and Guidelines. The Molalla Comprehensive Plan is presented in five parts, all of which are based on the Statewide Planning Goals. It is not necessary to address these factors again.

Appendix 2
Residential Lands Need Report

City of Molalla

Residential Land Needs Report

Winterbrook Planning ● July 2009



City of Molalla

Residential Land Needs Report

Winterbrook Planning • July 2009

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RESIDENTIAL LAND NEEDS

This Report determines year 2030 and 2060 housing and public / semi-public land needs for the City of Molalla, Oregon. To develop a Year 2030 housing need projection, Winterbrook relied primarily on safe harbors provided by OAR 660-024, and analysis of actual development. Based on a series of assumptions, this report determines the number and density of housing units that will be required to accommodate planned population growth over the next 20 and 50 years, and derives an acreage need for these units.

This Report also projects the need for of public and semi-public land through the Year 2060. To make this determination, Winterbrook relied on safe harbors, existing Comprehensive Plan policies, and City Staff analysis of current use-to-population ratios.

Key Findings

As described in this document and summarized below in Table 1, Molalla has residential land need of 306 gross buildable acres for the year 2030, and 1,294 gross buildable acres for the 2030-2060 URA timeframe. Total 2008-2060 residential land needs are projected at 1,600 gross buildable acres.

Table 1: Residential Land Needs Summary

Year	Housing Need (gross buildable acres)	Public / Semi-Public Need (gross buildable acres)	Total Residential Land Need (gross buildable acres)
2030	188	118	306
2030-2060	916	378	1,294
Total	1,104	496	1,600

HOUSING NEEDS ANALYSIS

The Housing Needs Analysis describes base housing need assumptions, reviews future housing type and density needs, and concludes with recommended dwelling unit types, densities, and plan district allocations for the UGB and URA timeframes.

Population Projection

In order to establish a solid future population figure on which to base analysis of housing and public / semi-public land needs, the City must have a “coordinated” population projection.

Molalla is using the population safe harbor provided by ORS 195.034(2) and OAR 660-024-0030(4) for the 2008-2030 timeframe, resulting in a population forecast of 10,532 for the UGB. Molalla is using conservative trend-based forecast for URA planning in the 2030-2060 timeframe, resulting in a 2060 forecast of 24,829. The population forecasts are explained in more detail in Appendix A: *Molalla Population Projections 2010-2060* (Winterbrook, July 2009).

Demographic Trend Analysis

Previous versions of Molalla’s Housing Needs Analysis reviewed regional and local demographic trends based on Census data, and extrapolated assumptions related to housing needs from those trends as well as City policy. Preliminary demographic findings showed that Molalla is still a relatively homogeneous community with relatively affordable housing, although this is likely to change somewhat over the next 20 years. Increased employment opportunities, young commuting households, and a growing Hispanic community, are likely push the demand for a broader range of housing.

However, while trends and local policy choices are both informative and relevant to housing needs – generally serving as the basis of most Comprehensive Planning for the past 30 years in Oregon – every assumption not explicitly protected by law exposes the City to challenges and timeframe extensions from anyone who does not agree with the end result of the analysis. And in an urban growth boundary context, there will never be a decision that everyone agrees with. Some people inside of a line will want to be outside. Some people outside of a line will want to be inside. Some people will want the line to stay the same. Some people will want the line to move.

Safe Harbor Approach

In order to provide Molalla with as much security as possible, and waste as little time as possible in an inevitable appeals process, this Housing Needs Analysis will forgo most of the trend- and policy-based analysis and assumptions in order to use OAR 660-024-0040 “safe harbors” when possible.

These safe harbors are intentionally conservative. They were not intended to be used as guidelines or standards. They may have very little to do with local concerns or objectives, or they may providently coincide. However, they are realistically the only efficient path through a long-range planning process for the City of Molalla.

Housing Need Assumptions

Basic housing land need assumptions include determination of household size and vacancy rate, and establishing a projected density for future residential development.

Household Size

The “safe harbor” provided by OAR 660-024-0040(8)(a) allows that:

“A local government may estimate persons per household for the 20-year planning period using the persons per household for the urban area indicated in the most current data for the urban area published by the U.S. Census Bureau.”

The 2000 Census determined a household size for Molalla of 2.84 persons per household. Therefore, we assumed a household size of 2.84 through 2060 for the purposes of this analysis.

Vacancy Rate

The “safe harbor” provided by OAR 660-024-0040(8)(e) allows that:

“A local government outside of the Metro boundary may estimate its housing vacancy rate for the 20-year planning period using the vacancy rate in the most current data published by the U.S. Census Bureau for that urban area that includes the local government.”

The 2000 Census determined a vacancy rate for Molalla of 3.9%. Therefore, we assumed a vacancy rate of 3.9% through 2060 for the purposes of this analysis.

Dwelling Units Projected

Using the projected populations for 2030 and 2060 and the assumptions above, projected dwelling units are 1,055 for 2030 and 5,128 for 2030-2060.

Table 2: Projected Dwelling Units

Year	2030	2030-2060
Projected Population Increase	2,942	14,297
Households @ 2.84 Persons per HH	1,014	4,928
HHs Including 3.9% Vacancy Rate	1,055	5,128

Density

The “safe harbor” provided by OAR 660-024a Table 1 allows a city planning for between 10,001 and 25,000 people to assume an overall density of 7 dwelling units per net buildable acre. Therefore, this analysis assumes an overall density of 7 dwelling units per net buildable acre.

As shown on Table 3, Molalla will require 151 net buildable acres to accommodate housing for the 2030 UGB, and 733 net buildable acres for the 2030-2060 URA timeframe.

Table 3: Net Buildable Acres Required for Housing

Year	2030	2030-2060
Households	1,055	5,128
Net Density	7	7
Net Buildable Acres Required	151	733

Net to Gross Conversion

According to OAR 660-024-0010, a “Net Buildable Acre” consists of 43,560 square feet of residentially designated buildable land after excluding future rights-of-way for streets and roads.” Molalla is assuming a 20% right-of-way factor to account for future streets and roads related to housing development.

As shown on Table 4, Molalla will require 188 gross buildable acres to accommodate housing for the 2030 UGB, and 916 gross buildable acres for the 2030-2060 URA timeframe.

Table 4: Gross Acres Required for Housing

Year	2030	2030-2060
Net Buildable Acres Required	151	733
Right of Way Assumption	20%	20%
Gross Buildable Acres Required	188	916

Public & Semi-Public Land Needs

Public and semi-public land needs consist of schools, parks, religious, group housing, and government uses. These uses typically locate on residential land, so the need for public and semi-public land is added to residential land needs.

School District Needs

The Molalla River School District does not currently have a long range facilities plan. The District currently lacks facilities for all of the students in Molalla, and some Molalla children are traveling to other jurisdictions for schooling. However, for planning purposes, and acknowledging the timeframes we have to work within, we believe it is reasonable to extend the current ratio of school land to population through the planning period.

There are currently 98 acres of land inside Molalla' UGB and owned by School District #35 (Molalla River). The current ratio of school land to population is about 13 acres per 1000 population. Extending the existing ratio results in a 2030 need for 38 additional acres, and a 2030-2060 need for 185 acres of land for schools.

Table 5: School Needs by Population Increase

Year	Population Increase	School Acreage Need
2030	2,942	38
2030 - 2060	14,297	185

Park Needs

Using the Comprehensive Plan's ratio of 10 acres of park per 1000 population, we can determine future park needs. Molalla currently has 36 acres of park or open space land. To serve its existing population, Molalla would need 76 acres, or an additional 40 acres for park lands.

Table 6 below includes the 40-acre existing park needs, and expands the park needs based on projected 2030 and 2030-2060 population increases. Total 2030 park needs are about 69 acres, while 2030-2060 park needs total about 143 acres.

Table 6: Park Needs by Population Increase

Year	Population Increase	Park Acreage Need
2030	2,942	69
2030 - 2060	14,297	143

Religious Uses

The need for land dedicated to religious uses can be projected based on existing ratios of population to religious uses in Molalla. There are currently 19 acres devoted to religious uses in Molalla, which comes out to about 3 acres per 1,000 population.

Extending this ratio results in a 2030 need for about 9 acres, and a 2030-2060 need for about 43 acres.

Table 7: Religious Use Need by Population Increase

Year	Population Increase	Religious Acreage Need
2030	2,942	9
2060	14,297	43

Public / Semi-Public Land Needs Subtotal

Molalla is making the conservative assumption that public and semi-public development will not require additional right of way. Table 8 shows a total public and semi-public land need of about 118 gross buildable acres by 2030, and about 378 gross buildable acres from 2030-2060.

Table 8: Public / Semi-Public Subtotal - Gross Buildable Acres

Year	2030	2030 - 2060
School	38	185
Park	69	143
Religious	9	43
Total	118	378

HOUSING AND PUBLIC / SEMI-PUBLIC LAND NEEDS SUMMARY

Table 9 summarizes the overall residential land needs, including public and semi-public needs. The total need for residential lands for 2030 is 306 gross buildable acres. The need for residential lands in the 2030 – 2060 timeframe is 1,294 gross buildable acres. Molalla will require a total of 1,600 gross buildable acres for the 2008-2060 timeframe.

Table 9: Residential Land Needs Summary

Year	Housing Need (gross buildable acres)	Public / Semi-Public Need (gross buildable acres)	Total Residential Land Need (gross buildable acres)
2030	188	118	306
2030-2060	916	378	1,294
Total	1,104	496	1,600

Molalla intends to use the safe harbor for housing mix provided in OAR 660-024a Table 1. The relationship between housing mix and zoning changes will be detailed in future analysis.

Appendix 3
Apartment Managers Interviews
and Supporting Documentation

Apartment Name

Ridings Terrace:

- 2 Bedroom Dwellings – 3 ½ year waiting list
- 3 Bedroom Dwellings – 1 ½ year waiting list
- Only HUD Property
- Full with waiting list

Toliver Terrace (Elderly/Disabled)

- Full

The Main Saw

- Full with waiting list

Arbor Terrace

- Full with waiting list

Pheasant Point Senior Living

- Waiting List

Stoneplace Apartments

- Phase 1 – 100% occupied
- Phase 2 – 95% occupied
- Only has three bedroom dwellings available
- Waiting list for one and two bedroom dwellings



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Staff Report – Application to Re-Zone Property

File No.: P44-2014

Legal Description: Township 5 South, Range 2 East, Section 07 AA, Tax Lot 2700 & 2800

Address: 1118 Toliver Rd.

Applicant: Frank Walker & Associates

Owner: Donald R. Itschner Trust

Proposal: Amend the comprehensive plan map, and re-zone the property from R-1 Low Density Residential to R-3 High Density Residential

Current Use: One single-family residence, one shop building

1. Overview & Background

Application P44-2014 proposes to re-zone two adjacent and abutting properties from R-1 low density residential to R-3 high density residential. The intention is to consolidate the two properties into one and develop the parcel with high-density housing concurrent with allowable residential standards pursuant to subsection 17.08.020 of the Molalla Development Code (MDC).

2. Public Notice

Notice was sent December 4, 2014 to all landowners within 500 feet of the parcels, as well as Oregon DLCD pursuant to requirements outlined in Title 19 of the MDC. . Notice was placed in the Molalla Pioneer under general public notices, and has three run dates prior to the hearing. Notice was placed on the City of Molalla Website on December 4, 2014 under the URL as follows: <http://www.cityofmolalla.com/planning/page/public-notices>. No public comments have been received as of the writing of this staff report.

3. Attachments & Exhibits

- Exhibit 1.** *Molalla Riparian Inventory*, Pacific Habitat Services, 2001
Exhibit 2. *City of Molalla residential Land Needs Report*, Winterbrook Planning, 2009
Exhibit 3. Copy of Notice sent to DLCD, interested parties and local landowners

Exhibit 4. Molalla Comprehensive Plan, Volume I, Amended 2014

4. Findings & Conclusions

The application has been reviewed under the requirements set forth by the MDC in subsection 19.28.030:

- i. Approval of the request is consistent with the Statewide Planning Goals; below are the applicable goals to this proposal.
 - a. GOAL 1 – CITIZEN INVOLVEMENT OAR 660-015-000(1) *To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process.*
 - i. **Staff findings:** Notification for this proposal has been adequate. Posting of the public hearing on the City of Molalla website and in the local newspaper (with three run dates). Notice has been mailed to all local landowners within 500 feet, any interested parties and Oregon DLCD.
 - b. GOAL 5 – NATURAL RESOURCES, SCENIC AND HISTORIC AREAS, AND OPEN SPACES OAR 660-015-0000(5) *To conserve open space and protect natural and scenic resources.*
 - i. **Staff findings:** Open space requirements will be upheld as per the Molalla Development Code. It is proposed that existing vegetation will be preserved to the maximum extent possible, especially larger more established trees. A riparian margin will be developed to address the potentially jurisdictional wetland on the property (reference Exhibit 1). If the area is improved, loss of the wetland will be mitigated pursuant to Federal Law.
 - c. GOAL 6 – AIR, WATER AND LAND RESOURCES QUALITY OAR 660-015-0000(6) *To maintain and improve the quality of the air, water and land resources of the state.*
 - i. **Staff findings:** The proposed zoning change would allow a higher density of residents, which would decrease the per-capita footprint of local development. There may be a higher proportion of residents who would use pedestrian or alternative transportation facilities, which may improve local air quality. Utilization of public sewer and the appropriate waste disposal facilities on-site will minimize impact on land quality. The riparian margin will assist in the protection of local waterways.
 - d. Goal 7 – AREAS SUBJECT TO NATURAL HAZARDS OAR 660-015-0000(7) *To protect life and property from natural disasters.*
 - i. **Staff findings:** The subject property, if allowed to develop at a higher density, would not change the risk to residents as the current risk is minimal. The subject property has adequate access for emergency response vehicles. The main concern is flooding on this property with a creek tributary traveling through the southern portion of the lots. Wide creek channels and established vegetation ensure flooding issues are mitigated to the highest degree. No hazardous materials would be stored on-site as a result of this proposal.
 - e. Goal 9 – ECONOMIC DEVELOPMENT OAR 660-015-0000(9) *To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare and prosperity of Oregon’s citizens.*

- i. **Staff findings:** High density development, as opposed to single-family residential, often entails long-term employment of managers and groundskeepers which can offer opportunities for the City. Other than construction and maintenance, no other economic benefits are offered by this zone-change.
- f. Goal 10 – HOUSING OAR 660-015-0000(10) *To provide for the housing needs of citizens of the state.*
 - i. **Staff findings:** The applicant has demonstrated evidence of demand for high-density housing in the City, as referenced in a 2009 Residential Lands Need Report (Exhibit 2) performed by Winterbrook Planning. The report, which studies the 20-year horizon for residential development opportunities, mentions that a ‘broader range of housing’ will be demanded by a changing demographic of residents. It cites increased employment opportunities, young commuting households and a growing Hispanic community as likely catalysts to this trend. Furthermore, the applicant has interviewed local property managers of apartment-type housing and confirmed a high demand for this type of housing, with waiting lists and a very low vacancy rate.
- g. Goal 13 – ENERGY CONSERVATION OAR 660-015-0000(13) *To provide and encourage a safe, convenient and economic transportation system.*
 - i. **Staff findings:** The subject property if developed with higher density residential dwellings would allow children to walk to school without crossing Highway 211, a major obstacle. This may lead to a lowering of average daily vehicle miles travelled by residents of this property.

The Planning Staff finds that this application is consistent with Oregon Statewide Planning Goals, and satisfies all applicable requirements.

- ii. Approval of the request is consistent with the Comprehensive Plan (see exhibit 4); below are the applicable sections of the Comprehensive Plan. The Molalla Comprehensive Plan is based on the Oregon Statewide planning Goals, thus many of the requirements exist in both documents. For this reason, Staff will discuss only the most pertinent portions of the Comprehensive Plan for this proposal.
 - a. Page 17, Water Resources Policies, number 5 states, “Provide for residential density transfer from protected water resource areas to adjacent buildable land.”
 - i. **Staff findings:** Planning staff interprets this policy to determine that when protected water resources remove buildable lands from a parcel due to riparian restrictions, adjacent buildable land will be allowed to develop at a higher density. The subject parcel meets this criteria for protected water resources as well as available adjacent lands.
 - b. Page 23, Natural Hazard Policies, number 1 states, “[...] Lowering density requirements and intensity of development from what the land is designated shall be considered appropriate limitation on a use in a natural disaster and hazard area.”
 - i. **Staff findings:** The subject parcel is not within a 100-year floodplain, and thus not considered within a natural hazard area per the Comprehensive Plan. No lowering of density should be considered on this property due to hazard concerns.

- c. Page 28, Park and Recreation Policies, number 12 states, “[...] dwelling units should be within reasonable distance of the outdoor facilities of a school or a park.”
 - i. **Staff findings:** With the proposed zone change, a higher density of dwelling units would be within a 10-minute walk (or less) to two outdoor school facilities.
- d. Page 47, Housing Policies, number 14 states, “In order to minimize the adverse impacts of higher density housing on adjacent properties, The City shall establish clear standards for: [...] Buffering by means of landscaping, fencing or distance from conflicting uses; [...] On site recreation space as well as pedestrian and bicycle access to parks, schools, mass transit stops and convenient shopping; [...].”
 - i. **Staff findings:** Due to the proximity of the subject property to industrial zones to the West a type of natural buffer can be explored through the design process to mitigate any conflict. On-site recreation opportunities can be explored in the development process as a route to complying with park service requirements. As stated before, proximity to schools also endorses this site as a high-density candidate.
- e. Page 48, Housing Policies, number 21 states, “Encourage the construction and development of diverse housing types, while maintaining a general balance according to housing type and geographic distribution, now and in the future.”
 - i. **Staff findings:** The geographic distribution of high-density housing is clustered near the downtown core of Molalla with the exception of a mostly vacant mobile home park off of Toliver near the subject property. While higher density housing is often clustered near the downtown core in order to create a progression towards the UGB, this site is a strong candidate for high-density development. Staff recommends a greater distribution of high-density housing in order to diversify housing opportunities in various parts of the city.
- f. Page 71, Energy Conservation Policies, number 6 states, “The City may use the following or similar implementation methods to encourage achievement of the energy goal: [...] reduced lots sizes and increased housing density.”
 - i. **Staff findings:** The proposed development on this site would meet this description of increased housing density.
- g. Page 72, Energy Conservation Policies, number 10 states, “Provide for higher density, encourage more common wall residential development types as an alternative to single family detached housing.”
 - i. **Staff findings:** The proposed development on this site would meet this description of increased housing density.

The Planning Staff finds that this application is consistent with the Molalla Comprehensive Plan (amended 2014), and satisfies all applicable requirements.

- iii. Approval of the request is contingent upon: The property and affected area is presently provided with adequate public facilities, services and transportation networks to support the use, or such facilities, services and transportation networks are planned to be provided in the planning period.
 - a. **Staff findings:** The public utilities existing in Toliver Road are highly adequate to accommodate a higher density of development on the parcel. The entirety of the proposed development would have frontage along Toliver Road, and thus direct access to those public utilities. Toliver Road contains:
 - i. Storm-water facilities including inlets and curb drainage.

- ii. Sanitary sewer main with enough capacity to handle increased load.
- iii. Domestic water main

The transportation network along Toliver Road has the capacity to handle maximum build-out of the property. Street improvements would be required to address safety and quality concerns along Toliver and Molalla Forest Road. Improvements in the near future to the intersection at Toliver Rd. and Highway 213 would improve upon the safety of access to the property.

The Planning Staff finds that this criterion can be met.

- iv. The change is in the public interest with regard to neighborhood or community conditions, or corrects a mistake or inconsistency in the comprehensive plan or land use district map regarding the property which is the subject of the application.
 - a. **Staff findings:** It is staff's opinion that this change of zoning is in the public interest due to the opportunities it creates for housing diversity, the proximity to existing prominent destinations (primarily schools), the long-term employment opportunities created, visual improvement and net economic growth. The applicant has provided supplemental information about housing demand in Molalla, and has interviewed local apartment managers to determine their vacancy rates. The results have shown that vacancy rates are extremely low for a small city such as Molalla. With the lack of buildable high-density zoned land this proposal is responding to market pressures.

The Planning Staff finds that this criterion can be met.

- v. The amendment conforms to applicable administrative rules of the Oregon Land Conservation and Development Commission, including the transportation planning rules. (Ord. 2010-15 §1; Ord. 2010-04 §1)
 - a. **Staff findings:** The proposal and process related to administering the application meet all applicable Oregon DLCD administrative rules.

The Planning Staff finds that this criterion can be met.

5. Recommendation

Based upon the findings in this report, the City Planning Staff recommends the Planning Commission take the following actions:

- i. Approve planning permit P44-2014 to re-zone the aforementioned property from R-1 residential to R-3 residential.



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Findings of Fact & Decision Document

File No.: P44-2014

Legal Description: Township 5 South, Range 2 East, Section 07 AA, Tax Lot 2700 & 2800

Address: 1118 Toliver Rd.

Applicant: Frank Walker & Associates

Owner: Donald R. Itschner Trust

Proposal: Amend the comprehensive plan map, and re-zone the property from R-1 Low Density Residential to R-3 High Density Residential

Current Use: One single-family residence, one shop building

1. Summary

This Findings of Fact and Decision Document is in regards to a quasi-judicial comprehensive plan map amendment to change the zoning designation of a property located at 1118 Toliver Rd. This application requires review and recommendation by the Planning Commission followed by final de novo action of the City Council. This particular action involves approval of an ordinance which, at the request of the applicant, would allow the property located at 1118 Toliver Rd to be rezoned from R-1 to R-3 (map attached). The Planning Commission found that by testing the application against Oregon Statewide Planning Goals, the Comprehensive Plan and considering the evidence presented by the applicant (Exhibit 2) that the re-zoning was allowable and in the public interest.

2. General Information

Notice was sent December 4, 2014 to all landowners within 500 feet of the parcels (exhibit 3), as well as Oregon DLCD pursuant to requirements outlined in Title 19 of the Molalla Development Code (MDC). Notice was placed in the Molalla Pioneer under general public notices with three run dates prior to the hearing. Notice was placed on the City of Molalla Website on December 4, 2014 under the URL as follows: <http://www.cityofmolalla.com/planning/page/public-notices>.

Based on the following Findings, Planning Commission finds that rezoning of the aforementioned property complies with applicable approval criteria.

3. Attachments & Exhibits

Exhibit 1. *Molalla Riparian Inventory*, Pacific Habitat Services, 2001

Exhibit 2. *City of Molalla Residential Land Needs Report*, Winterbrook Planning, 2009

Exhibit 3. Copy of Notice sent to DLCD, interested parties and local landowners

Exhibit 4. Molalla Comprehensive Plan, Volume I, Amended 2014

Exhibit 5. Site Map

4. Procedures:

A quasi-judicial hearing was required pursuant to section 19.04.040 of the MDC. The initial public hearing held on January 7, 2015 ended in a continuance to allow further discussion and public comment before a recommendation was authored. The following public hearing, held at the February 4, 2015 Planning Commission meeting, the commission received the staff report, took written and oral testimony, considered facts and criteria and rendered a decision based on the information available.

5. Party Status:

The following attendees were present during the January 7, 2015 Planning Commission proceeding:

Ben Smalley
Patrick Conley
Jeff Lewis
Scott Maloy
Carol Maloy
Mary Smalley
Judy Reasoner

The following attendees were present during the February 4, 2015 Planning Commission proceeding:

Frank Walker	1480 Jamestown St. Salem, OR
Carol Maloy	PO Box 605
Scott Maloy	PO Box 605
Patrick Conley	PO Box 130
Mary Smalley	730 Andrian Dr.
Nancy Evans	746 Andrian Dr.
Chris Griffin	715 Andrian Dr.
Chris Masoch	725 Andrian Dr.
Jeff Lewis	28242 S. Salo Rd. Mulino, OR 97042
Ben Smalley	730 Andrian Dr.

The following attendees spoke in favor of the proposal at the February 4th, 2015 Planning Commission hearing:

Carol Maloy, PO Box 605

Frank Walker, 1480 Jamestown St. Salem, OR (applicant)

The following attendees spoke in opposition of the proposal at the February 4th, 2015 Planning Commission hearing:

Patrick Conley, PO Box 130
Chris Griffin, 715 Andrian Dr.
Jeff Lewis, 28242 S. Salo Rd. Mulino, OR 97038
Ben Smalley, 730 Andrian Dr.

5. Procedural Findings:

1. The City of Molalla is processing the quasi-judicial rezoning of the property at 1118 Toliver Rd, tax lots 2700 and 2800. The process includes a change in zoning and an amendment of the comprehensive plan map associated with the comprehensive plan (see Exhibit 5).
2. Notice of the proposal was sent to the Department of Land Conservation and Development (DLCD) via physical mail on December 4, 2014.
3. The Planning Commission finds that on December 4, 2014 Notice of Public Hearing before the Planning Commission was mailed to all owners within 500 feet of the property in question, and posted on the City of Molalla website. The Notice was published in the Molalla Pioneer three times between December 10th and 24th, 2014.
4. The City of Molalla received three letters of written testimony or correspondence concerning the proposed zoning change.
5. This matter came before the Molalla Planning Commission for consideration January 7th, 2015 and February 4th, 2015. The Planning Commission received the staff report, and heard public testimony at each meeting.

Conclusion: The procedural findings noted above are adequate to support the Planning Commission's decision to adopt the proposed zone change.

6. Decision Criteria and Substantive Findings of Fact

The application is subject to the criteria set forth by the MDC in subsection 19.28.030:

- i. Approval of the request is consistent with the Statewide Planning Goals;
- ii. Approval of the request is consistent with the Comprehensive Plan;
- iii. The property and affected area is presently provided with adequate public facilities, services and transportation networks to support the use, or such facilities, services and transportation networks are planned to be provided in the planning period; and
- iv. The change is in the public interest with regard to neighborhood or community conditions, or corrects a mistake or inconsistency in the comprehensive plan or land use district map regarding the property which is the subject of the application; and
- v. The amendment conforms to applicable administrative rules of the Oregon Land Conservation and Development Commission, including the transportation planning rules. (Ord. 2010-15 §1; Ord. 2010-04 §1)

Compliance with Oregon Statewide Planning Goals:

The Planning Commission finds that the proposed change in zoning complies with the policies as follows:

- a. GOAL 1 – CITIZEN INVOLVEMENT OAR 660-015-000(1) *To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process.*
 - i. **Findings:** Posting of the public hearing on the City of Molalla website and in the local newspaper (with three run dates). Notice was mailed to all local landowners within 500 feet, interested parties and Oregon Department of Land Conservation on December 4, 2014 and again on January 9, 2015.
 - ii. **Conclusion:** Statewide goal of citizen involvement has been met through the mechanisms described above.

- b. GOAL 2 – LAND USE PLANNING OAR 660-015-0000(2) *To establish a land use planning process and policy framework as a basis for all decisions and actions related to land use and to ensure a factual base for such decisions and actions.*
 - i. **Findings:** This goal does not apply because it refers to the creation and establishment of the process as opposed to the execution of the process.
 - ii. **Conclusion:** The proposed zone change does not conflict with or adversely impact Goal 2 and is consistent with Goal 2.

- c. GOAL 3 – AGRICULTURAL LANDS OAR 660-015-0000(3) *To preserve and maintain agricultural lands.*
 - i. **Findings:** This goal does not apply because the land in question contains no agricultural lands.
 - ii. **Conclusion:** The proposed zone change does not conflict with or adversely impact Goal 3 and is consistent with Goal 3.

- d. GOAL 4 – FORESTED LANDS OAR 660-015-0000(4) *To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.*
 - i. **Findings:** This goal does not apply because the land in question contains no forest lands.
 - ii. **Conclusion:** The proposed zone change does not conflict with or adversely impact Goal 4 and is consistent with Goal 4.

- e. GOAL 5 – NATURAL RESOURCES, SCENIC AND HISTORIC AREAS, AND OPEN SPACES OAR 660-015-0000(5) *To conserve open space and protect natural and scenic resources.*
 - i. **Findings:** Open space requirements will be upheld at the time of development as per the Molalla Development Code. It is proposed that existing vegetation will be preserved to the maximum extent possible, especially larger more established trees. A riparian margin will be developed to address the potentially jurisdictional wetland on the property (reference Exhibit 1). If the area is improved, loss of the wetland will be mitigated pursuant to Federal Law.

- ii. **Conclusion:** Statewide goal of preserving and conserving natural resources can be met.

- f. GOAL 6 – AIR, WATER AND LAND RESOURCES QUALITY OAR 660-015-0000(6) *To maintain and improve the quality of the air, water and land resources of the state.*
 - i. **Findings:** The proposed zoning change would allow a higher density of residents, which if developed as such would decrease the per-capita footprint of local development. There may be a higher proportion of residents who would use pedestrian or alternative transportation facilities, which may improve local air quality. Utilization of public sewer and the appropriate waste disposal facilities on-site will minimize impact on land quality. The riparian margin will assist in the protection of local waterways.
 - ii. **Conclusion:** Statewide goal of maintaining air water and land resource quality can be met.

- g. Goal 7 – AREAS SUBJECT TO NATURAL HAZARDS OAR 660-015-0000(7) *To protect life and property from natural disasters.*
 - i. **Findings:** The subject property, if allowed to develop at a higher density, would not change the risk to residents as the current risk is minimal. The subject property has adequate access for emergency response vehicles. The main concern is flooding on this property with a creek tributary traveling through the southern portion of the lots. Wide creek channels and established vegetation ensure flooding issues are mitigated to the highest degree. No hazardous materials would be stored on-site as a result of this proposal.
 - ii. **Conclusion:** Statewide goal of protecting development in disaster-prone areas can be met.

- h. GOAL 8 – RECREATIONAL NEEDS OAR 660-015-0000(8) *To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.*
 - i. **Findings:** This goal does not apply because the land in question is not eligible to be considered a recreation destination.
 - ii. **Conclusion:** The proposed zone change does not conflict with or adversely impact Goal 8 and is consistent with Goal 8.

- i. Goal 9 – ECONOMIC DEVELOPMENT OAR 660-015-0000(9) *To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare and prosperity of Oregon’s citizens.*
 - i. **Findings:** Zoning designation R3 allows for a larger variety of uses compared to R1, including adult care centers, educational facilities and boarding facilities. These types of higher density developments, as opposed to single-family residential developments, supply more opportunity for employment.
 - ii. **Conclusion:** Statewide goal of economic development can be met.

- j. Goal 10 – HOUSING OAR 660-015-0000(10) *To provide for the housing needs of citizens of the state.*
 - i. **Findings:** The applicant has demonstrated evidence of demand for high-density housing in the City, as referenced in a 2009 Residential Lands Need Report

(Exhibit 2) performed by Winterbrook Planning. The report, which studies the 20-year horizon for residential development opportunities, mentions that a 'broader range of housing' will be demanded by a changing demographic of residents. It cites increased employment opportunities, young commuting households and a growing Hispanic community as likely catalysts to this trend. Furthermore, the applicant has interviewed local property managers of apartment-type housing and confirmed a high demand for this type of housing, with waiting lists and a very low vacancy rate.

- ii. **Conclusion:** Statewide goal of providing housing opportunities can be met.

- k. GOAL 11 – PUBLIC FACILITIES AND SERVICES OAR 660-015-0000(11) *To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.*
 - i. **Findings:** This goal does not apply because a change in zoning does not place a nexus on service availability.
 - ii. **Conclusion:** The proposed zone change does not conflict with or adversely impact Goal 11 and is consistent with Goal 11.

- l. GOAL 12 – TRANSPORTATION OAR 660-015-0000(12) *To provide and encourage a safe, convenient and economic transportation system.*
 - i. **Findings:** This goal does not apply because a zone change does not involve transportation system development.
 - ii. **Conclusion:** The proposed zone change does not conflict with or adversely impact Goal 12 and is consistent with Goal 12.

- m. Goal 13 – ENERGY CONSERVATION OAR 660-015-0000(13) *To conserve energy.*
 - i. **Findings:** The subject property if developed with higher density residential dwellings would allow children to walk to school without crossing Highway 211, a major obstacle. This may lead to a lowering of average daily vehicle miles travelled by residents of this property. Higher density development may also lower the net cost of heating and cooling the dwellings,
 - ii. **Conclusion:** The Planning Commission finds that the allowable uses in R-3 zoning may lend to a lower net use in energy of various types.

Oregon Statewide Planning Goals 14-19 do not apply to this proposal due to various reasons. These goals are as follows:

- i. *Urbanization*
- ii. *Willamette River Greenway*
- iii. *Estuarine Resources*
- iv. *Coastal Shorelands*
- v. *Beaches and Dunes*
- vi. *Ocean Resources*

The Planning Commission finds that this application is consistent with Oregon Statewide Planning Goals, and satisfies all applicable requirements.

Compliance with City of Molalla Comprehensive Plan:

- i. Page 17, Water Resources Policies, number 5 states, “Provide for residential density transfer from protected water resource areas to adjacent buildable land.”
 - a. **Findings:** Planning commission recognizes this policy applies to the subject parcel, and obligates the remaining available buildable land to be considered developable at a higher density. The subject parcel meets this criteria for protected water resources as well as available adjacent lands.
- ii. Page 23, Natural Hazard Policies, number 1 states, “[...] Lowering density requirements and intensity of development from what the land is designated shall be considered appropriate limitation on a use in a natural disaster and hazard area.”
 - a. **Findings:** The subject parcel is not within a 100-year floodplain, and thus not considered within a natural hazard area per the Comprehensive Plan. No lowering of density should be considered on this property due to hazard concerns.
- iii. Page 28, Park and Recreation Policies, number 12 states, “[...] dwelling units should be within reasonable distance of the outdoor facilities of a school or a park.”
 - a. **Findings:** With the proposed zone change, a higher density of dwelling units could be within a 10-minute walk (or less) to two outdoor school facilities.
- iv. Page 47, Housing Policies, number 14 states, “In order to minimize the adverse impacts of higher density housing on adjacent properties, The City shall establish clear standards for: [...] Buffering by means of landscaping, fencing or distance from conflicting uses; [...] On site recreation space as well as pedestrian and bicycle access to parks, schools, mass transit stops and convenient shopping; [...].”
 - a. **Findings:** Due to the proximity of the subject property to industrial zones to the West a type of natural buffer can be explored through the design process to mitigate any conflict. On-site recreation opportunities can be explored in the development process as a route to complying with park service requirements. As stated before, proximity to schools also endorses this site as a high-density candidate.
- v. Page 48, Housing Policies, number 21 states, “Encourage the construction and development of diverse housing types, while maintaining a general balance according to housing type and geographic distribution, now and in the future.”
 - a. **Findings:** The geographic distribution of high-density housing is clustered near the downtown core of Molalla with the exception of a mostly vacant mobile home park off of Toliver near the subject property. While higher density housing is often clustered near the downtown core in order to create a progression towards the UGB, this site is a strong candidate for high-density development. The Planning Commission finds a greater distribution of high-density housing in order to benefit the community, and the R3 zoning designation may allow this type of development.
- vi. Page 71, Energy Conservation Policies, number 6 states, “The City may use the following or similar implementation methods to encourage achievement of the energy goal: [...] reduced lots sizes and increased housing density.”
 - a. **Findings:** The R3 zoning designation allows smaller lots and a higher density of dwelling units to be developed on a site.
- vii. Page 72, Energy Conservation Policies, number 10 states, “Provide for higher density, encourage more common wall residential development types as an alternative to single family detached housing.”
 - a. **Findings:** The R3 zoning designation allows common-wall developments as an outright permitted use, which may obligate the development to utilize the opportunity for a higher density of development.

The Planning Commission finds that this application is consistent with the Molalla Comprehensive Plan (amended 2014), and satisfies all applicable requirements.

Compliance with availability of public services: *(The property and affected area is presently provided with adequate public facilities, services and transportation networks to support the use, or such facilities, services and transportation networks are planned to be provided in the planning period.)*

Findings: The public utilities existing in Toliver Road are highly adequate to accommodate any density of development on the parcel. The entirety of the proposed development would have frontage along Toliver Road, and thus direct access to those public utilities. Toliver Road contains:

- iii. Storm-water facilities including inlets and curb drainage.
- iv. Sanitary sewer main with enough capacity to handle increased load.
- v. Domestic water main

The transportation network along Toliver Road has the capacity to handle maximum build-out of the property at the time of development with either an R1 or R3 zoning designation. Street improvements would be required to address safety and quality concerns along Toliver and Molalla Forest Road. Improvements in the near future to the intersection at Toliver Rd. and Highway 213 would improve upon the safety of access to the property.

The Planning Commission finds that this criterion can be met.

Compliance with the consideration of public interest: *(The change is in the public interest with regard to neighborhood or community conditions, or corrects a mistake or inconsistency in the comprehensive plan or land use district map regarding the property which is the subject of the application.)*

Findings: The Planning Commission finds this change of zoning is in the public interest due to the opportunities it creates for housing diversity, the proximity to existing prominent destinations (primarily schools), the potential long-term employment opportunities created and potential economic growth. The applicant has provided supplemental information about housing demand in Molalla, and has interviewed local apartment managers to determine their vacancy rates. The results have shown that vacancy rates are extremely low for a small city such as Molalla. With the lack of buildable R3-zoned land this proposal responds to market pressures.

The Planning Commission finds that this criterion can be met.

Compliance with Oregon DLCDC administrative rules: *(The amendment conforms to applicable administrative rules of the Oregon Land Conservation and Development Commission, including the transportation planning rules.) (Ord. 2010-15 §1; Ord. 2010-04 §1)*

Findings: The proposal and process related to administering the application meet all applicable Oregon DLCDC administrative rules.

The Planning Commission finds that this criterion can be met.

7. DECISION

The City of Molalla Planning Commission unconditionally **APPROVES** proposed zone change and comprehensive plan map amendment identified in planning file P44-2014 and recommends that the Molalla City Council consider affirming this decision by Ordinance adoption.

DATED this _____ Day of February, 2015.

X

Laura Ferris
Chair

X

Nicolas Lennartz
Secretary

City Of Molalla

City Council Meeting

Agenda Category: Ordinance Adoption

Subject: *Zone Change – 1118 Toliver Road (P44-2014)*

Recommendation: *City Council Approval*

Date of Meeting to be Presented: *March 25, 2015*

Fiscal Impact: N/A

Background:

Included with this memo is the record regarding a zone change application filed by Frank Walker representing the Donald Itschner Trust for property located at 1118 Toliver Road. The Planning Commission held two public hearings regarding this matter and has rendered a decision to recommend approval to the City Council.

The property consists of 5.28 acres and is currently zoned R-1. The applicant has requested a rezone to R-3 which would allow residential development ranging from single family to multi-family redevelopment. There is an intermittent water course and potential wetlands on the property that will need to be addressed at the time of development. Other development standards will also be addressed at that time.

SUBMITTED BY: Dan Huff, City Manager

APPROVED BY: Dan Huff, City Manager



Community Dev. & Planning
117 N Molalla Avenue
PO Box 248
Molalla, Oregon 97038
Phone: (503) 829-6855
Fax: (503) 829-3676

Notice of Hearing for Re-zoning Property

Date of Notice: December 4, 2014

Date of Hearing: January 7th, 2015 6:30 P.M.

Location of Hearing: 117 N. Molalla Ave., Molalla, OR 97038

File No.: P44-2014

Legal Description: Township 5 South, Range 2 East, Section 07 AA, Tax Lot 2700 & 2800

Address: 1118 Toliver Rd.

Applicant: Frank Walker & Associates

Owner: Donald R. Itschner Trust

Proposal: Amend the comprehensive plan map, and re-zone the property from R-1 Low Density Residential to R-3 High Density Residential for the property located at 1118 Toliver Rd.

Current Use: One single-family residence, one shop building

This application is to re-zone two adjacent and abutting properties from R-1 low density residential to R-3 high density residential. The applicant's intention is to consolidate the two properties into one, and then develop the parcel with high-density housing. Pursuant to subsection 17.08.020 (R-3) permitted uses include, but are not limited to: single-family, duplex, multifamily, group homes, group facilities and parks. A full list of permitted, accessory and conditional uses can be found in the Molalla Development Code at www.qcode.us/codes/molalla/.

The application will be reviewed based on criteria set forth by the MDC section 19.28.030:

1. Approval of the request is consistent with the Statewide Planning Goals;
2. Approval of the request is consistent with the Comprehensive Plan;
3. The property and affected area is presently provided with adequate public facilities, services and transportation networks to support the use, or such facilities, services and transportation networks are planned to be provided in the planning period; and
4. The change is in the public interest with regard to neighborhood or community conditions, or corrects a mistake or inconsistency in the comprehensive plan or land use district map regarding the property which is the subject of the application; and

5. The amendment conforms to applicable administrative rules of the Oregon Land Conservation and Development Commission, including the transportation planning rules. (Ord. 2010-15 §1; Ord. 2010-04 §1)

Additional information about this application can be found by:

1. Visiting Molalla City Hall, 117 N. Molalla Ave., Molalla OR 97038
2. Contacting Community Planner Nicolas Lennartz, 503-759-0219, nlennartz@cityofmolalla.com (email is preferred to reduce car trips and save on paper)

Failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes appeal to LUBA based on that issue.

A copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at a reasonable cost.

A copy of the staff report will be available for inspection at no cost at least 7 days prior to the hearing. Copies shall be provided at a reasonable cost upon request.

You may attend, offer testimony or seek information at the hearing. Any correspondence received in advance of the meeting will be forwarded to the hearing body.

Written testimony will be received by the City of Molalla until the day of the hearing, and should be addressed or emailed to: Nicolas Lennartz, 117 N. Molalla Ave, Molalla OR, 97038, nlennartz@cityofmolalla.com; note that email is preferred. Please ensure your name and address are included in the written testimony.

Oral testimony may be offered during the hearing. The Planning Commission may set reasonable time limits for oral presentations and may limit or exclude cumulative, repetitious, irrelevant or personally derogatory testimony or evidence. Oral testimony will not be accepted after the close of the public hearing. Written testimony may be received after the close of the public hearing as allowed by the Planning Commission.

Site characteristics:

The site in total is 5.28 acres residing in NW Molalla, with frontage along Toliver Road to the North and Molalla Forest Road to the West. Currently the site has one single family residence and one shop building on the north side of taxlot 2700 with access off of Toliver Rd. The site is relatively level, yet there is a small creek running through the center of both properties, with a potentially jurisdictional wetland occupying a portion of both properties. The surrounding areas are zoned and used as follows:

North: R-1 (Low Density Residential) across from Toliver Rd.

South: R-1 (Low Density Residential)

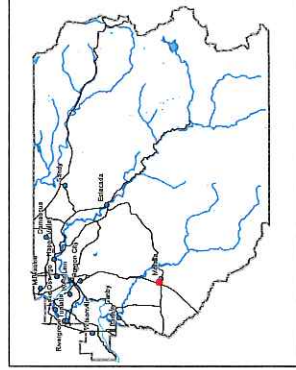
East: PSP (Public and Semi-Public)

West: M-1 (Light Industrial) across from Molalla Forest Rd.

Map on following page:

Cancelled Tracts
200
201
202
203
204

- Parcel Boundary
- Private Road ROW
- Historical Boundary
- Railroad Centeline
- Tax Code Lines
- Map Index
- Water Lines
- Land Use Zoning
- Plats
- Water
- Corner
- Section Center
- 1/16th Line
- Govt Lot Line
- D.C. Line
- Meander Line
- PLSS Section Line
- Historic Corridor 4D
- Historic Corridor 2D



THIS MAP IS FOR ASSESSMENT
PURPOSES ONLY



January 6, 2015

Re: P44-2014, Molalla re-zoning request 1118 Toliver Road

Dear Molalla Planning Commission,

My concern is the need for the City of Molalla to consider, under Goal 5, the extent of the wetlands connected to the subject property.

Molalla's Comp Plan Goal 5, pages 16-17 "Water Resources", states: "Maintain natural wildlife corridors along protected creeks and drainage ways; Give priority to preservation of contiguous parts of that network which will serve as natural corridors throughout the city for the protection of watersheds and wildlife; Conserve significant trees and vegetation within protected water resource areas..."

Molalla's official wetlands map and report list the subject property as the site of "BC-6A" an approximately 1.35 acre wetlands. However, it is easy to see on the map that BC-6A is part of a "contiguous network" of wetlands that stretch from Toliver Road south to Bear Creek at Main Street. These wetlands – BC-6B, BC 5A, BC-5B – combined with BC-6A total almost 10 acres of "potentially jurisdictional" wetlands.

Attached are excerpts from the wetlands report on file at Division of State Lands that outline the wildlife, vegetative and other aspects of BC-6A. Similar pages are devoted to all the numbered wetlands on Molalla's wetlands survey. Has the Planning Commission read the wetlands survey on file at Division of State Lands as well as ORS Chapter 660, Division 23, to understand the complexity surrounding development of properties with "potentially jurisdictional" wetlands?

Per Division of State Lands, the process to develop would require the owner or developer to hire a wetland consultant to perform a formal detailed survey that reports and maps the extent of the actual wetlands. Only when the required wetlands report on BC-6A is accepted by the Division of State Lands (after an opportunity for public comment) could development occur.

Given that wetlands exist on subject property and that the wetlands are part of a "contiguous network" of wetlands that serve as a "natural corridor" with "significant trees" (60% Oregon white oak, 40% Oregon ash are listed as vegetation on BC-6A survey sheet), it would seem premature to re-zone subject property until the formal, detailed wetlands survey that is required by Division of State Lands when "potentially jurisdictional" wetlands are present is approved by Division of State Lands.

How can the Planning Commission make an informed decision when it does not have the facts about how much of this property can actually be developed as multi-family?

Susan Hansen
PO Box 50, Molalla Oregon 97038

January 5, 2015

Re: P44-2014, 1118 Toliver Road, Molalla re-zoning request

Dear Molalla Planning Commission,

Bear Creek Recovery, an environmental non-profit which advocates for the protection and enhancement of local watersheds, wishes to express its concern about the “potentially jurisdictional wetlands” on the subject property.

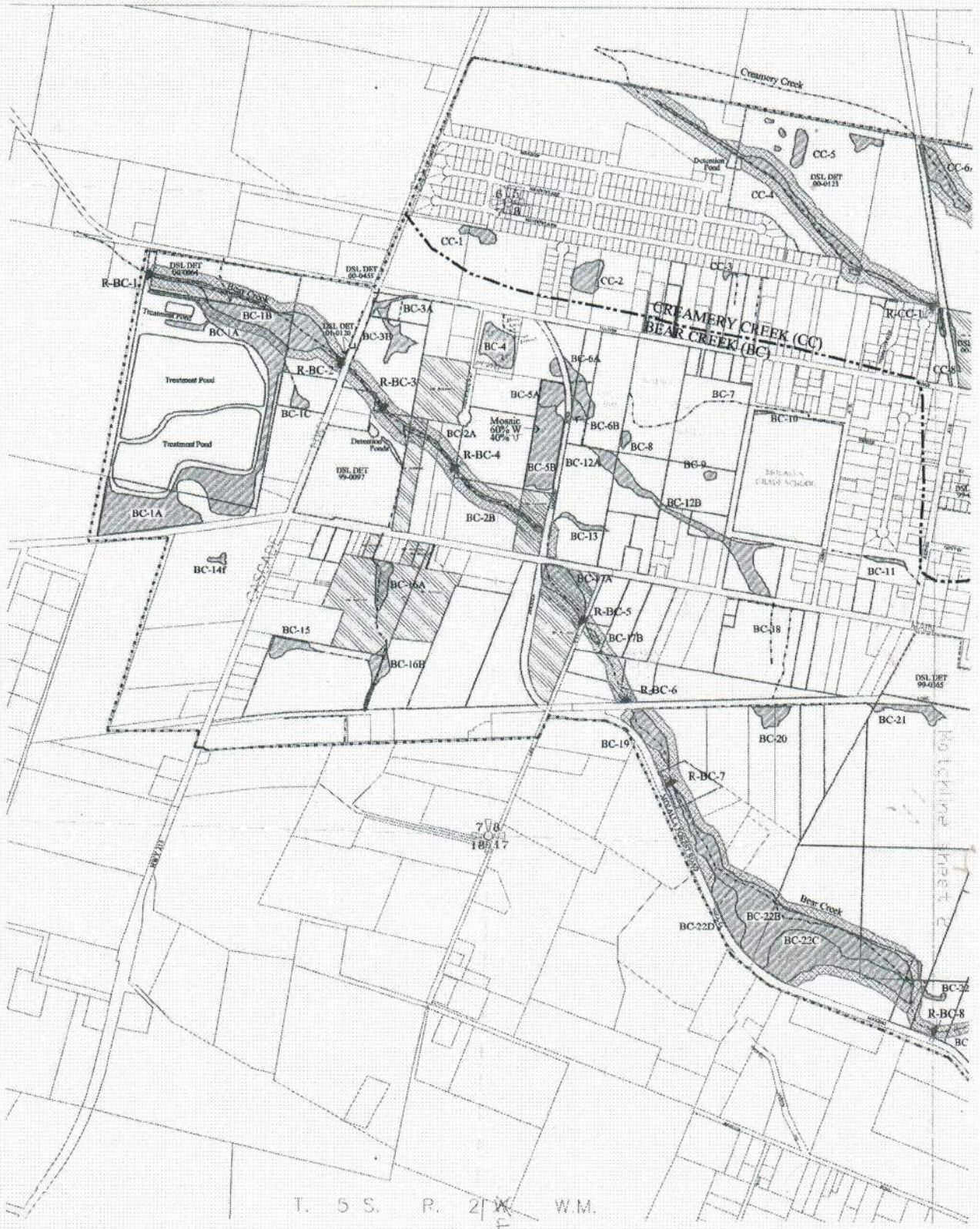
Wetlands are addressed as natural resources under State Goal 5, Molalla’s Goal 5 and ORS Chapter 660, Division 23. The board of Bear Creek Recovery urges the Planning Commission to study the location and functions of the wetlands in the area of the proposed re-zoning to ensure that the Division of State Lands wetlands process is followed and all natural resource goals are respected.

Thanks for your consideration of these comments.

Sincerely,

Bear Creek Recovery Board of Directors

Bear Creek Recovery c/o PO Box 50, Molalla Oregon 97038
BCR@inbox.com



LEGEND

Project Boundary	Division of State Lands Information
Watershed Boundary	Potentially Jurisdictional Wetland



THIS MAP IS FOR PLANNING PURPOSES ONLY
 WETLAND BOUNDARIES ARE APPROXIMATE
 AND SUBJECT TO CHANGE

Table 6. Cowardin classification of wetlands identified in the Molalla LWI

Wetland Code	USFWS Wetland Classification						Total Acreage
	PFO	PSS	PEM	PEMf	POW	POWx	
MR-1			0.05				0.05
MR-2	0.81		0.09				0.90
MR-3f				0.30			0.30
CC-1		0.61					0.61
CC-2			1.25				1.25
CC-3			0.08				0.08
CC-4			3.06				3.06
CC-5			1.32				1.32
CC-6A	0.40		1.22				1.62
CC-6B	0.72		2.18				2.90
CC-7A	0.63						0.63
CC-7B			0.81				0.81
CC-7C	1.04	0.26					1.30
CC-8			0.26				0.26
CC-9A			0.44				0.44
CC-9B			1.02				1.02
CC-9C			1.15				1.15
CC-10			0.52				0.52
CC-11			0.27				0.27
BC-1A			13.92				13.92
BC-1B	4.00		0.44				4.44
BC-1C	0.25		0.13				0.38
BC-2A	1.05						1.05
BC-2B	0.83						0.83
BC-3A			0.33				0.33
BC-3B			1.01				1.01
BC-4			1.82				1.82
BC-5A		0.40	0.60				1.00
BC-5B			3.68				3.68
BC-6A	1.11		0.24				1.35
BC-6B			0.40				0.40
BC-7			0.24				0.24
BC-8			0.05			0.13	0.18
BC-9			0.15				0.15
BC-10			0.08				0.08
BC-11			0.23				0.23
BC-12A	0.55						0.55
BC-12B			3.34				3.34
BC-13			0.35				0.35





Wetland Determination Data Form Routine Onsite Method

Pacific Habitat Services, Inc.

Project: Molalla LWI		Number: 2250		Sample Site BC-6A-31			
Applicant: City of Molalla		County: Clackamas		Date: 6/6/01			
Investigators: SE/PF		Township: SS Range: 2E		Section: 7			
Do Normal Circumstances exist on this site? Yes			Is the area a potential Problem Area? No				
Is this an Atypical Situation? No							
HYDROLOGY		Primary Indicators		Secondary Indicators			
		Inundated Sat. in Upper 12" Water Marks Drift Lines Sediment Deposits Drainage patterns Yes		Ox. rhizospheres Yes H2O-stained leaves Local Soil Survey FAC Neutral Test Other			
Depth of Surf. H2O		Inches					
Depth to Free H2O	>12	Inches					
Depth to Saturation	>12	Inches					
SOILS		Mapped Series: Wapato silty clay loam		Hydric Soil?: Yes			
		Classification: Fluvaquentic Endoaquolls		Drainage Class: poorly drained			
Depth (Inches)	Matrix Color	Soil Texture*	Redox Concentrations		Other Hydric Soil Field Indicators	Comments	
			Color	abundance/size/contrast			
0-12	10YR 3/2	SL	7.5YR 3/4	many, medium, distinct			
*SD=Sand, SDL=Sandy Loam, L=Loam, SDCL=Sandy Clay Loam, S=Silt, SL=Silt Loam, SCL=Silty Clay Loam, CL=Clay Loam, C=Clay							
Criteria Met: <input checked="" type="checkbox"/>							
VEGETATION							
Tree Stratum (10%)		Status	% Cover	Herbaceous Stratum (70%)		Status	% Cover
<i>Fraxinus latifolia</i> *		FACW	40	<i>Phalaris arundinacea</i> *		FACW	50
<i>Quercus garryana</i> *		UPL	60	<i>Galium aparine</i>		FACU	5
				<i>Geranium molle</i>		UPL	15
				<i>Vicia sativa</i>		UPL	5
				<i>Carex unilateralis</i> *		FACW	25
Shrub Stratum (15%)		Status	% Cover	Woody Vine Stratum (5%)		Status	% Cover
<i>Fraxinus latifolia</i> *		FACW	40	<i>Rubus discolor</i> *		FACU	60
<i>Crataegus monogyna</i>		FACU+	5	<i>Rubus laciniatus</i> *		FACU+	40
<i>Populus trichocarpa</i> *		FAC	55				
*Percent of dominant species FAC, FACW, or OBL: 63%				Criteria Met: <input checked="" type="checkbox"/>			
Comments:							
Determination: <input checked="" type="checkbox"/> Wetland							



Wetland Determination Data Form Routine Onsite Method

Pacific Habitat Services, Inc.

Project: Molalla LWI		Number: 2250		Sample Site: BC-6A-32	
Applicant: City of Molalla		County: Clackamas		Date: 6/6/01	
Investigators: SE/PF		Township: 5S Range: 2E		Section: 7	
Do Normal Circumstances exist on this site?		Yes		Is the area a potential Problem Area?	
Is this an Atypical Situation?		No		No	
HYDROLOGY		Primary Indicators		Secondary Indicators	
		Inundated		Ox. rhizospheres Yes	
		Sat. in Upper 12"		H2O-stained leaves	
Depth of Surf. H2O Inches		Water Marks		Local Soil Survey	
Depth to Free H2O >12 Inches		Drift Lines		FAC Neutral Test	
Depth to Saturation >12 Inches		Sediment Deposits		Other	
		Drainage patterns		-Yes	
SOILS		Mapped Series: Wapato silty clay loam		Hydric Soil?: Yes	
		Classification: Fluvaquentic Endoaquolls		Drainage Class: poorly drained	
Depth (Inches)	Matrix Color	Soil Texture*	Redox Concentrations		Other Hydric Soil Field Indicators
			Color	abundance/size/contrast	Comments
0-5	10YR 2/1	SL			
5-12	10YR 2/1	SCL	10YR 3/6	many, medium, distinct	
*SD=Sand, SDL=Sandy Loam, L=Loam, SDCL=Sandy Clay Loam, S=Silt, SL=Silt Loam, SCL=Silty Clay Loam, CL=Clay Loam, C=Clay					
Criteria Met: Yes					
VEGETATION					
Tree Stratum (45%)		Status	% Cover	Herbaceous Stratum (30%)	
<i>Fraxinus latifolia</i> *		FACW	100	<i>Phalaris arundinacea</i>	
				<i>Myosotis laxa</i> *	
				<i>Holcus lanatus</i>	
				<i>Rumex crispus</i>	
				<i>Poa trivialis</i>	
				<i>Callitriche stagnalis</i> *	
Shrub Stratum (20%)		Status	% Cover		
<i>Fraxinus latifolia</i> *		FACW	100		
				Woody Vine Stratum (5%)	
				<i>Rubus discolor</i> *	
				<i>Solanum dulcamara</i>	
				Status % Cover	
				FACU 90	
				FAC+ 10	
*Percent of dominant species FAC, FACW, or OBL: 80%				Criteria Met: Yes	
Comments:					
Determination: Wetland					

Oregon Freshwater Wetland Assessment Methodology

(Revised Edition, April 1996)

Wetland Assessment Summary Sheet



Pacific Habitat Services, Inc.

Project Name:	Molalla LWI	Wetland:	BC-6A
Project Location:	Clackamas County	Wetland Type(s):	PFO
Date(s) of field work:	6/6/01	Approx. Area (acres):	1.11
Onsite Assessment?:	Yes	Investigator(s):	PF/SE
Wetland Location:	East of Molalla Forest Road, south of Toliver Road		

Function and Condition Assessment Answers:

Wildlife Habitat		Fish Habitat		Water Quality		Hydrologic Control		Sensitivity to Impact	
Q	A	Q	A	Q	A	Q	A	Q	A
Q-1	A	Q-1		Q-1	A	Q-1	B	Q-1	A
Q-2	A	Q-2		Q-2	A	Q-2	A	Q-2	B
Q-3	B	Q-3		Q-3	B	Q-3	B	Q-3	C
Q-4	C	Q-4		Q-4	B	Q-4	C	Q-4	A
Q-5	A	Q-5		Q-5	A	Q-5	A	Q-5	A
Q-6	A	Q-6		Q-6	C	Q-6	A	Q-6	A
Q-7	A					Q-7	A		
Q-8	C								
Q-9A									
Q-9B	A								

Results:

Wildlife Habitat	Wetland provides habitat for some wildlife species
Fish Habitat	Fish habitat was not assessed for this wetland
Water Quality	Wetland's water-quality function is impacted or degraded
Hydrologic Control	Wetland's hydrologic control function is intact
Sensitivity to Impact	Wetland is potentially sensitive to future impacts

Function and Condition Assessment Answers:

Enhancement Potential		Education		Recreation		Aesthetic Quality	
Q	A	Q	A	Q	A	Q	A
Q-1	A	Q-1	B	Q-1	B	Q-1	A
Q-2	A	Q-2	A	Q-2	C	Q-2	B
Q-3	A	Q-3	B	Q-3	C	Q-3	A
Q-4	B	Q-4	C	Q-4	B	Q-4	B
Q-5B	A	Q-5	B	Q-5	B	Q-5	A
Q-6	B	Q-6	B	Q-6	B	Q-6	A

Results:

Enhancement Potential	Wetland has high enhancement potential
Education	Wetland has potential for educational use
Recreation	Wetland has the potential to provide recreational activities
Aesthetic Quality	Wetland is considered to be pleasing

Oregon Freshwater Wetland Assessment Methodology

Functions and Conditions Summary Sheet



Project:	Molalla LWI	Wetland:	BC-6A
Location:	Clackamas County	Approx. Area (acres):	1.11
Date:	6/6/01	Wetland Types(s):	PFO
Result:	Wetland provides habitat for some wildlife species		
Rationale:	More than one Cowardin class	No adjacent Water Quality limited streams	
	Dominated by woody vegetation	Adjacent land is mostly developed	
	Less than 0.5 acres of open water	Wetland buffer is greater than 40%	
Result:	Fish habitat was not assessed for this wetland		
Rationale:			
Result:	Wetland's water-quality function is impacted or degraded		
Rationale:	Primary water source is surface flow	Surface water connection to other wetlands	
	Wetland floods/ponds in growing season	Adjacent land is mostly developed	
	Moderate vegetation cover	No adjacent Water Quality Limited streams	
Result:	Wetland's hydrologic control function is intact		
Rationale:	Wetland is not within 100 year floodplain	Dominated by woody vegetation	
	Wetland floods/ponds in growing season	Development downslope of wetland	
	Water has unrestricted flow out of wetland	Development upslope of wetland	
Result:	Wetland is potentially sensitive to future impacts		
Rationale:	Stream modified or isolated wetland	Adjacent land is mostly developed	
	Water not taken out	Adjacent zoning is primarily development	
	No adjacent Water Quality Limited streams	Dominated by woody vegetation	
Result:	Wetland has high enhancement potential		
Rationale:	Wetland functions are impacted or degraded	Wetland is between 0.5 and 5 acres	
	Primary water source is surface flow	Wetland buffer is greater than 40%	
	Flow into wetland is not restricted	Potentially sensitive to future impacts	
Result:	Wetland has potential for educational use		
Rationale:	Wetland access by landowner permission	Unmaintained public access within 250 feet	
	No visible hazards to public	Wetland is not limited mobility accessible	
	No access or observation of other habitats		
Result:	Wetland has the potential to provide recreational activities		
Rationale:	Unmaintained public access within 250 feet	Wetland provides habitat for some wildlife	
	No boat launching can be developed	No fishing is allowed	
	No trails or viewing areas exist	No hunting is allowed	
Result:	Wetland is considered to be pleasing		
Rationale:	More than two Cowardin classes are visible	Wetland surrounded by landscaped areas	
	25 - 50% of wetland can be seen	Natural odors present at wetland	
	No visual detractors are present	Some traffic and natural noises are present	

Molalla's usual haphazard planning, putting developers' demands above sound and orderly planning and zoning, is on display with the proposal to re-zone a Toliver Road parcel from single family to multi-family.

City Manager Huff claims that Molalla needs more multi-family. If that is true, why did Huff advocate to re-zone a big chunk of land in Big Meadow from multi-family to single family this summer? In sound urban planning, multi-family is integrated into residential areas so traffic filters out onto multiple neighborhood feeder roads. The property on Toliver would dump multi-family traffic onto already busy Toliver, right next to the Grade School.

The Toliver property hosts wetlands outlined on Molalla's official Wetland Inventory (BC-6A). Before any development can occur, a property owner must hire wetlands experts to produce a wetland delineation report and submit it to the Division of State Lands. How can Molalla's Planning Commission make an informed decision about re-zoning to multi-family before that required study is submitted and approved? No one knows how much of the subject property could actually be developed and what constrictions will be imposed because of the wetlands.

The subject property's wetlands are part of a 10 acre Toliver Road to Main Street wetlands complex that feed Bear Creek. The Inventory notes the wetlands have high enhancement potential, provide wildlife habitat and have potential for educational use and recreational activities. The wetlands feature a mature forest of Oregon white oak and ash. A segment of the Forest Road runs through these wetlands and the area would make a fantastic park for the woefully underserved west side of Molalla.

Molalla's Comp Plan Goal 5 (pages 16-17 "Water Resources") states: *"Maintain natural wildlife corridors along protected creeks and drainage ways; Give priority to preservation of contiguous parts of that network which will serve as natural corridors throughout the city for the protection of watersheds and wildlife; Conserve significant trees and vegetation within protected water resource areas..."*

Will Molalla respect the value of the wetlands by following its Water Resources mandate and step up to provide quality of life enhancing parks? Or will Molalla's unthinking, greedy march to stuff in ill planned development continue unabated? A hearing on Feb. 4 will consider what path to take; citizen input is critical.

Susan Hansen

Dear City Council,

I am writing this letter to voice my detest for the rezoning of 117 N. Molalla Ave (File No. P44-2014) from R-1 to R-3. I feel that by rezoning this property will result in many negative and adverse conditions to the surrounding areas and neighborhoods. The surrounding area right now is mainly comprised of single family housing and quiet close nit neighborhoods. I feel that by building Multifamily housing within underlying property will take away from the confluence of the surrounding neighborhoods and impede the outside activities of some people in the area regarding safety and family activities. Multifamily housing within the direct vicinity of these neighborhoods will produce lower market values for our homes as well as produce a less than desirable selling market when the time comes to sell our homes. Multifamily homes create an atmosphere not conducive to the city and neighboring communities of Molalla. I feel that the city of Molalla is trying to move in a community and family based atmosphere and that Multifamily housing does not fit within those confines and standards in which I based my decision for myself and my family to move to the city. I also feel that this will increase the traffic and congestion on an already busy Toliver St. and raising another safety concern and problematic area to the surrounding roads that are within the area. Multifamily housing also puts an overburden on neighboring schools within a school district that already is struggling with funding and school closures. Multifamily housing also produces less revenue for local governments and city municipalities.

In conclusion, if this rezoning is approved I feel it will open the door for other developers to try and rezone other parcels within the area to accommodate Multifamily housing. Not only does this raise many concerns and conflicts within the neighboring areas with the residents as well as me, but I feel that this would be a bad decision for the city and surrounding community.

Sincerely,

Chris Griffin

Planning Commission Meeting Minutes – January 7, 2015; 6:30 p.m.

Molalla City Hall – 117 N. Molalla Ave, Molalla OR 97038

- Commission Attendance:
 - Pat Torsen - Commissioner
 - Laura Ferris - Commissioner
 - Mary Lynn Jacob – Commissioner
 - Joe Harris – Commissioner
 - Jason Griswold – City Council liaison
- Staff in attendance
 - Nicolas Lennartz – Planner, City of Molalla
 - Dan Huff – City Manager
- Audience members
 - Ben Smalley
 - Patrick Conley
 - Jeff Lewis
 - Carol Maloy
 - Judy Reasoner
 - Mary Smalley
- Call to order
- Roll Call
- Flag Salute
- Laura Ferris begins with the decision to hold off on the selection of a commission chair and vice chair due to the absentee commissioners.
- Application P44-2014 – Application to rezone property at 1118 Toliver Rd from R1 to R3.
 - Staff Report – Nicolas Lennartz delivers the staff report to the commission (attached). Mr. Lennartz explains why the staff is recommending approval of the application to rezone the property to a higher density designation. He illustrates how the proposal complies with Oregon Statewide Planning Goals and the Comprehensive Plan. He cites research conducted by the applicant which revealed a high demand for apartment-style housing in Molalla, a residential land needs report conducted in 2009 which endorsed future development to provide a broader range of housing types, proximity to schools, residential density transfer due to unbuildable land and opportunity to utilize existing infrastructure.
 - An audience member asks if the rezone would constrain all development to apartment-style housing. Mr. Lennartz answers that R-3 zoning does not require high density, but only allows a broader range of density in development.
 - Commissioner Ferris asks if the applicant is the owner of the property. Mr. Lennartz answers that yes, the owner is the applicant.
 - City Manager Dan Huff mentions that the development process is something that will come later, and that a rezone is separate from development.
 - City Council liaison asks if the two parcels are both being rezoned together. Mr. Lennartz answers yes, they are being rezoned together and that if and when development happens the lots will have to be consolidated.

- An audience member asks if rezoning will improve the property value. Staff responds that it is not possible to tell at this time.
- Jason Griswold questions the adequacy of the notice sent out to local property owners. Notice is to be sent to all property owners within 500 feet of the subject parcel. Some property owners, he claims, did not receive the proper notice. Mr. Lennartz promises to double check the address list, and if a problem has occurred to erect the issue for future meetings.
- An audience member asks what the difference is between R1 and R3 in terms of dwelling units per acre. R1 allows 12 units per buildable acre while R3 allows 24 units per acre.
- An audience member asks what would happen to adjacent property owners in terms of their property values. Carol Maloy responds that it is difficult to tell, but she knows that the property has been for sale for a long time, and that the rezone is being proposed in order to provide more options for potential developers.
- Acting commission chair Laura Ferris opens the public hearing.
 - Jeff Lewis 2422 Salo Rd. - With Bear Creek Recovery, concerned about maintaining the creek as an asset. OPPOSED
 - Patrick Conley S Sawtell Rd. PO Box 130 - Concerned about sewer capacity at the wastewater treatment plant, concerned about traffic on Toliver Rd. and capacity for vehicles. OPPOSED
 - Ben Smalley 730 Andrian Dr. – Concerned about cars parking on the street, increased foot traffic and safety. OPPOSED
 - Commissioner Laura Ferris closes the public hearing
- Commissioner Pat Torsen comments that traffic concerns are valid. Cites Toliver as a problem area in terms of congestion. Would like to see parks expansion with this property, ideally. Would like to see other areas developed as multi-family and have this property remain R1.
- Commissioner Mary Lynn Jacob contends that actually we don't have enough R3 land. Believes that the commission should allow the zone change in order to allow a greater diversity of development on the property. She claims that all we are doing here is affording the owners a greater range of possibilities for development.
- Commissioner Joe Harris mentions that he is on the fence on the issue, but reiterates that we are not approving any development at this time, but only considering a rezone. He states that he sees both sides of the equation in terms of concerns about apartment housing, but also the tremendous benefit that apartment style housing provides to the residents and to the city at large.
- Commission Mary Lynn Jacob motions to approve application P44-2014.
 - Joe Harris seconds motion
 - Motion fails 2-2
- Dan Huff reminds the council that denial of the application requires a separate document to illustrate how the application fails the criteria listed in the development code. Also proposes that the hearing be continued at a future public planning commission meeting.

- Laura Ferris cites concerns that approving the application now may constrain their ability to impose conditions on future development. Dan Huff responds that a development proposal will involve another public hearing and planning commission meeting, so that an approval now will not change their ability to impose conditions later.
- Dan Huff also explains that the problems brought up by audience members and certain members of the commission are valid, however, those problems can't be fixed without the proper resources. Those resources required to perform upgrades, such as utility or street upgrades, are available only if a development is occurring. He also speaks about the riparian concerns, and states that an inventory will have to be performed prior to any development.
- Pat Torsen states that traffic will increase if this application is approved. Mr. Lennartz states that this is not a development, and thus no traffic impacts can be measured if there is no development proposal.
- Jason Griswold reiterates his concern over the adequacy of notification.
- Pat Torsen motions to postpone the public hearing.
 - Joe Harris seconds motion
 - Motion passes 4-0
- Reports and announcements
 - Mr. Lennartz updates the commission on the grants process. States that the city has successfully been awarded a grant for updating the development code, and that the process will likely start sometime in March, 2015.
 - Commissioner Harris announces the Ford Foundation grant.
 - Mr. Lennartz states that the city has applied for a grant from the county for updating unimproved streets. Also the Oregon Parks and Recreation grant opening for the potential trail project.
 - Mr. Lennartz also updates the commission on the upward trend of development in the city, and that many development projects will be underway in 2015.
 - Also briefly, Mr. Lennartz mentions traffic safety improvements that are to occur on 211.
- Motion to adjourn
 - Motion seconded.

Adjournment

Planning Commission Meeting Minutes – February 4, 2015; 6:30 p.m.

Molalla City Hall – 117 N. Molalla Ave, Molalla OR 97038

- Commission Attendance:
 - Pat Torsen - Commissioner
 - Laura Ferris - Chair
 - Mary Lynn Jacob – Commissioner
 - Joe Harris – Commissioner
- Staff in attendance
 - Nicolas Lennartz – Planner
 - Dan Huff – City Manager
- Audience members
 - Frank Walker
 - Carol Maloy
 - Scott Maloy
 - Mary Smalley
 - Nancy Evans
 - Chris Griffin
 - Chris Masoch
 - Jeff Lewis
 - Ben Smalley
- Call to order
- Roll Call
- Flag Salute
- Commission Chair Laura Ferris convenes the planning commission meeting. The commission decides to vote on a chair and vice chair for the 2015 calendar year.
 - Pat Torsen motions to make Laura Ferris Commission Chair
 - Mary Lynn Jacob motion second
 - Motion passes 4-0
 - Pat Torsen motions to make Mary Lynn Jacob Commission Vice Chair
 - Joe Harris seconds motion
 - Motion passes 4-0
- Application P44-2014 – Application to rezone property at 1118 Toliver Rd from R1 to R3.
 - Staff Report – Nicolas Lennartz delivers the staff report to the commission (attached). Mr. Lennartz explains why the staff is recommending approval of the application to rezone the property to a higher density designation. He illustrates how the proposal complies with Oregon Statewide Planning Goals and the Comprehensive Plan. He cites research conducted by the applicant which revealed a high demand for apartment-style housing in Molalla, a residential land needs report conducted in 2009 which endorsed future development to provide a broader range of housing types, proximity to schools, residential density transfer due to unbuildable land and opportunity to utilize existing infrastructure.
 - Frank Walker, on behalf of the applicant, is allowed time to provide further background information on the proposal. Mr. Walker speaks about the changing demographics of a

younger generation of Oregon residents that desire a different style of housing than the traditional single-family detached housing. He also mentions the legislative history of exclusionary housing, involving potential federal intervention if a city excludes diversity in development. He talks about the research they had performed to prepare the application proposal, involving the interviews conducted with local apartment managers which revealed a tremendous demand for multi-family housing. He makes the point that Molalla's supply of multi-family housing is exhausted. He cites that capacity of the infrastructure in Molalla is not the issue of this proposal, but the adequacy of land availability. He makes the case that multi-family dwellings are the biggest building boom occurring at this time in the state of Oregon.

- Commission Chair Laura Ferris asks what the density standards are for R3 zoning. Mr. Lennartz responds that R3 allows for anywhere between 8 and 24 dwelling units per buildable acre. He also asks to keep in mind that net-buildable acres do not necessarily include the entire parcel, but only the remaining land in acreage after subtracting required setbacks, wetlands, wetland buffers, required landscaping and fire safety access.
- Mr. Walker notes the high cost of building high density on this parcel given the relatively large amount of wetlands on the property. He mentions that they have not had any offers as the zoning is today, but they have had inquiries as to the change in zoning, and anticipate offers to follow if the zone change becomes accepted.
- Ms. Ferris opens public hearing
 - Carol Maloy, PO Box 605 – Ms. Maloy attests to the quality of the owners of this property, that they have been stewards of the city of Molalla, and that they deserve the right to try to do something with this property. She speaks about the site in context, and how it's a tough site to build on due to the surrounding area. Ms. Maloy provides a document for consideration. – IN FAVOR
 - Patrick Conley, PO Box 130 – He questions the sewer capacity, and wants the commission to wait until there is a wetland study done, and traffic considerations be taken into account before the commission acts on the proposal. He claims that since the city is hiring an engineer that there must be a sewer capacity issue. He accuses the applicant Mr. Walker of threatening the city, and accuses the City Manager and Planner of giving the applicant special treatment. – OPPOSED
 - Chris Griffin, 715 Andrian Dr. – Mr. Griffin believes that changing the zoning does not adequately address the concerns of the city. He states his concern about the kind of demographics that an apartment complex would invite. – OPPOSED
 - Chris Masoch, 725 Andrian Dr. – Does not wish to provide public testimony, but is opposed.
 - Nancy Evans, 746 Andrian Dr. – Cites traffic concerns because Toliver is already at capacity. Opposes any development on that site of any kind due to the capacity of local streets and also the overly crowded schools. OPPOSED
 - Jeff Lewis, 28242 Salo Rd, Mulino – Concerned about maintaining the potential for Bear Creek being a healthy waterway. – OPPOSED

- Jeff Lewis asks about the decision making process, and whether or not the City Council could override any decision made by the planning commission. Mr. Huff confirms that the decision made at tonight's meeting is simply a recommendation to the higher body of the city council.
 - Mr. Walker is invited back up for rebuttal. Mr. Walker reiterates the federal law standards that must allow for housing types for all socioeconomic groups, and states that it is not a threat, but if it was construed that way, it isn't him making the threat, but the system of law. He confirms that the applicant intends on appealing any denial of the proposal. He also states that in the past in other municipalities that planning commission members have been threatened with suit.
 - Pat Torsen asks what mitigation means with regards to the wetland. Mr. Lennartz answers that mitigation essentially means to avoid negative impacts upon a protected wetland. He explains that no matter what happens with the development, the developer will have to go through a specific mitigation process.
 - Ms. Ferris closes the public hearing.
- Mary Lynn Jacob states that she believes most of the testimony given at the public hearing were pertinent to the next step in the development process, and not the zone change itself. She reminds the commission that another hearing will occur when development is proposed.
- Chair Laura Ferris states that her concern is with lack of park space, and is concerned that adding residents near the area that currently has a park deficit is a poor decision.
- Commissioner Mary Lynn Jacob states that this is not the appropriate time to consider park adequacy with a zone change.
- Mary Lynn Jacob motions to approve the zone change
 - Joe Harris seconds the zone change
 - Motion fails 2-2
- Dan Huff states that it is not a good idea to punish this property due to past failures. He also states that the city is pursuing other options for park land. He explains to the commission what a denial of the application would mean, and how it would require a document explaining clearly how the criteria are not met with this application. He also reminds that the commission could approve the application with conditions. Those conditions would be part of the recommendation to the city council.
- Joe Harris asks if the commission could wait until they have a 5-person commission. Mr. Huff responds that since the 120 day rule applies, the commission must make a decision this evening.
- Chair Laura Ferris contends that the parks issue is something that she doesn't want to regret ten years from now, and that failure to consider the adequacy of park space would be a mistake. Mr. Huff explains that sometimes new development is the only way to erect a problem created by past development.
- Ms. Ferris ask where Toliver sits on the list for road improvements. Mr. Huff explains that it sits in the same place as every other high-priority street, and that in the end,

traffic capacity is not something that is a valid consideration when making a decision for a re-zoning application.

- Commission Chair Laura Ferris asks if the commission would like to place any conditions on the application for approval. Pat Torsen again brings up traffic concerns. Mary Lynn Jacob points out that traffic can't be condition of a re-zoning application. Joe Harris states that the commission's job in this application is to ensure that the application passes the test against the comprehensive plan and the criteria in the development code, and not necessarily to make everybody happy.
- Laura Ferris asks about Stoneplace apartments and what the issue is with the parks requirements. Mr. Huff responds that the parks requirement is still not met, and that they are still obligated to provide dedicated space and park SDC's. Mr. Huff relates this point to the present by reiterating that conditions on park development come during the development stage, and not during a re-zoning process. He points out that almost all the concerns of the audience and commission should be addressed during the development stage, when those conditions can hold weight.
- Laura Ferris points out a comprehensive plan goal regarding parks, and how she is concerned with the adequacy of parks in the area near the subject parcel. Joe Harris points out that the parcel is sitting vacant, and has been sitting idle for some time, and that in order for the commission to get to the point where they can address these concerns such as parks they must consider approving the rezone. He argues that approving the proposed rezone only opens the door for future opportunities, and doesn't relinquish the power of the commission in any way to ensure future development can meet city standards.
- Laura Ferris voices concern over the staff report for mentioning dwelling units when the proposal doesn't involve development yet. Dan Huff reminds her that she can remove that from the staff report if she pleases, but that it was added to the report to directly address community concerns.
- Joe Harris states that approving this application is essentially saying to the owner that we would like to see more ideas. Mr. Huff reminds the commission that any development proposal will come right back before the commission in the future.
- Laura Ferris asks again about potential conditions to be placed on the application. Mary Lynn Jacob mentions that there are rarely situations in which zone changes have conditions. Joe Harris adds to that saying that those conditions should come with development. Laura Ferris says that she stands on her previous vote for denying the application due to the potential for what it could lead to.
- Mr. Huff reminds the commission that they may re-vote with a new motion, but at the end of the process the application will go before the city council regardless.
- Laura Ferris states that she is concerned about what a zone change could lead to. Mary Lynn states that the commission will never know what it could lead to without providing more opportunities with a zone change.
- Mr. Huff mentions to the council that the motion failing essentially sends the application straight to the city council without a recommendation.
- Joe Harris says that he thinks the commission shouldn't be scared of change. He states that he doesn't want a town of 20,000, but that having 1,500 more people come to

town would allow us to meet the threshold for funding that would open up many more opportunities for the city. He says that the city shouldn't sit here scared while we have empty storefronts, not enough parks and not enough recreation amenities, and to consider this zone change if only for the opportunity to fix these problems. Pat Torsen agrees that things are changing in town rapidly.

- Laura Ferris says that she is mostly concerned about meeting our goal of the comprehensive plan regarding parks and trails and recreational opportunities. Mr. Huff reminds that those can be conditions placed on future development, and that approving a zone change does nothing to improve or diminish the adequacy of park space. Joe Harris states that the argument is somewhat placing the cart before the horse, and that these problems can only be fixed during development.
- Dan Huff states that he doesn't think the answer to the problem is telling people what they can't do on their land. He thinks that if we want to correct past mistakes, it is done through development because everything costs money. Laura Ferris states that she is still concerned that with a zone change we could have 100 units there, and growth in an area that already lacks parks.
- Pat Torsen motions to approve the proposal to rezone the property.
 - Motion seconded.
 - Vote passes 4-0.
- Dan Huff states that there will be a specific findings of fact document that will address the concerns presented in the hearing to the city council.
- Proposed Ordinance – Medical Marijuana Dispensaries – Discussion item.
 - Discussion item regarding a proposed ordinance to add medicinal marijuana dispensaries to the commercial zone as a permitted use subject to conditions.
 - Mr. Huff provides background on the process. Currently a moratorium on these facilities ends May 1st. If that moratorium ends and the city has failed to add specifics for how the facilities are to be administered, the city loses its power in this regard and state standards are applied, which are less strict. Mr. Huff explains how this ordinance would allow the city to place conditions on proposed medicinal marijuana facilities.
 - Mr. Lennartz describes how the ordinance was written, and how he had used examples from other municipalities, and tried to find the simplest one which would make it easiest on staff to apply conditions to proposed dispensary developments. He also states that the next planning commission meeting will have a proposed ordinance for commission consideration. That proposed ordinance will go before the City Council for final approval.
- Mr. Huff briefly discusses the application process for future meetings, and stresses the accessibility of the staff for questions regarding the application, the application process or land-use specifics.
- Motion to adjourn
 - Motion seconded.

Adjournment

Clackamas County Coordinating Committee (C4) 2015 Retreat

When: Friday, June 12 (1pm) – Saturday, June 13 (5pm)

Where: **The Resort at the Mountain**
68010 E Fairway Ave.
Welches (Mt. Hood), Oregon

Directions: <http://www.theresort.com/getthere.php>

Who: C4 members, alternates and their staff

Cost: Registration fee is \$195 per person, which covers one-night single accommodation, meeting venue, and meals (Friday dinner and Saturday breakfast & lunch).

Registration fee is \$90 per person for those who choose not to stay overnight at the resort.

Hamlet, Village, & CPO Reps: Please contact Stacy Davenport for separate registration (details below).

To register, please complete this form and return with payment by Monday, May 04.

MAIL TO:

Stacy Davenport
Clackamas County, Public & Government Affairs
2051 Kaen Road
Oregon City, OR 97045

Questions?
Email: sdavenport@clackamas.us
Phone: 503-655-8751

Personal Information:

Name: _____ Organization: _____
Email: _____ Phone #: _____

Registration Fee:

- I plan to stay overnight - \$195 (one-night single accommodation, meetings & meals)
 I do not plan to stay overnight - \$90 (meetings & meals only)

Payment:

- Check (Payable to Clackamas County)

Additional Information (please check applicable boxes)

- I require vegetarian meals
 I require ground-level/accessible accommodation

Comments:

City of Molalla

RESOLUTION No. 2015-04

**A RESOLUTION DECLARING THE COUNCIL POSITION
HELD BY DENNIS WOLFE TO BE VACANT**

WHEREAS, Section 19 B. 6. Of the Molalla City Charter provides that the City Council shall declare a vacancy on the Council in the event of an incumbent's resignation from the office, and

WHEREAS, Councilor Chris Cook has submitted his resignation as a member of the Council, effective March 25, 2015:

NOW, THEREFORE, the City Council of the City of Molalla resolves that:

1. The Council position held by Chris Cook is declared vacant.
2. This resolution shall take effect immediately.

Adopted by the City Council, governing body of the City of Molalla, Clackamas County, Oregon this 8th day of April, 2015.

Attest:

City of Molalla

Sadie Cramer, City Recorder

By _____
Debbie Rogge, Mayor

City of Molalla

ORDINANCE NO. 2015-__

AN ORDINANCE AMENDING THE MOLALLA LAND USE AND DEVELOPMENT CODE TO IMPOSE REASONABLE REGULATIONS ON THE PLACEMENT OF MEDICAL MARIJUANA DISPENSARIES IN THE CITY AND DECLARING AN EMERGENCY

WHEREAS: The Oregon Legislature enacted House Bill 3460 that created a medical marijuana dispensary registration system and which purported to allow medical marijuana facilities to be located in areas of the City zoned for commercial, industrial, or mixed use; and

WHEREAS: The Molalla Land Use and Development Code does not currently expressly allow medical marijuana facilities to be located in any areas of the City; and

WHEREAS: The Oregon Legislature also enacted Senate Bill 1531, which permits Molalla to impose reasonable regulations on medical marijuana dispensaries in the City, including reasonable limitations on where medical marijuana facilities may be located within the City; and

WHEREAS: The City Council desires to utilize its home rule authority and the authority granted to it by Senate Bill 1531 to adopt this proposed ordinance, which expressly sets forth those areas of the City in which a medical marijuana dispensary may be located thereby prohibits the location of medical marijuana dispensaries in other areas of the City; and

WHEREAS: Consistent with the terms of Senate Bill 1531, the City imposed a moratorium on medical marijuana dispensaries locating within the City, which will expire on May 1, 2015; and

WHEREAS: The City Council finds that it is necessary for the immediate preservation of the public peace, health and safety to have in place and effective before May 1, 2015 reasonable regulations on where medical marijuana dispensaries may be located within the City; and

WHEREAS: At its meeting of _____ 2015, the Molalla Planning Commission held a hearing as required by section 19.04.050 of the Molalla Municipal Code on this proposed ordinance, received public testimony, discussed the issues, and recommended approval of this proposed ordinance to the City Council; and

WHEREAS: At its meeting of _____ 2015, the Molalla City Council held a hearing as required by section 19.04.050 of the Molalla Municipal Code on this proposed ordinance, received public testimony, discussed the issues, and considered the Planning Commission recommendation.

NOW, THEREFORE, THE CITY OF MOLALLA ORDAINS as follows:

- Section 1.** On the basis of the facts contained in the record, the City Council finds there is sufficient justification and need to accept the Planning Commission recommendation and hereby adopts as its own the Findings of Fact of the Planning Commission which are included herein by this reference.
- Section 2.** The Land Use and Development Code is hereby amended as set forth in Exhibit 1, which is attached hereto and incorporated herein by this reference as if it were set forth verbatim in full.
- Section 3.** This Ordinance is necessary for the immediate preservation of the public peace, health and safety, and, pursuant to section 18 of the Molalla City Charter, an emergency is declared to exist, and this Ordinance takes effect upon its passage.

Adopted this _____ day of _____, 2015.

Deborah Rogge
Mayor

ATTEST:

Sadie Cramer
City Recorder

Exhibit 1

Section 16.12.030 of the Molalla Municipal Code is hereby amended by adding a definition for the term, "Medical Marijuana Dispensary" as follows:

MEDICAL MARIJUANA DISPENSARY: Any facility or operation designed, intended or used for purposes of delivering, dispensing, or transferring marijuana to Oregon medical marijuana registry identification card holders pursuant to ORS 475.300-475.346.

Section 17.12.020 of the Molalla Municipal Code is hereby amended by adding a Medical Marijuana Dispensary as a permitted use in the Central Business District and in the C-2 General Commercial District as follows (new language in **bold/italics**):

17.12.020 Land uses and development standards.

CBD, CENTRAL BUSINESS DISTRICT

Development Standards

- A. None - Minimum lot area (sq ft) *Development must conform to lot width, depth, yard setback and coverage standards
- B. 50 ft - Minimum lot width
- C. 100 ft - Minimum lot depth
- D. 45 ft - Maximum building height
- E. Yes - Building height transition
- F. 100% - Maximum lot coverage
- G. 5% - Minimum landscape area (% of site)
- H. Minimum Setback (ft)¹

Front	Side	Street Side	Rear	Along Arterials
0	0	0	0	See TSP

I. Fences and Gardening/Retaining Walls²

Max Height - Front	Max Height - Side	Max Height - Street Side	Max Height - Rear
42 in	6 ft	6 ft	6 ft

J. Permitted Uses

1. Basic utilities
2. Brewery
3. Commercial indoor recreation (under 25,000 sq ft)
4. Community service

5. Daycare (adult or child)
6. Educational services, not a school (e.g., tutoring or similar services)
7. Governmental buildings
8. Hotel or motel
9. Indoor recreation facilities (under 25,000 sq ft)
10. Laundromat not including dry cleaning on site
11. Medical centers
- 12. *Medical Marijuana Dispensary*¹⁷**
13. Mortuary (not crematory)
14. Offices
 - a. Cafeterias
 - b. Health facilities
 - c. Other facilities primarily for the use of employees of the firm or business
15. Parks and open space
16. Private club, lodge, convent, social or recreational building or community assembly hall
17. Public park, playground, or recreational area, and buildings used in connection therewith
18. Quick vehicle servicing or vehicle repair (see also drive-up/drive-in/drive-through uses, per Section 17.12.090) - fully enclosed
19. Religious institutions and houses of worship
20. Restaurants (not including drive-through)
21. Retail sales and service (see also drive-up uses)
22. Small animal veterinary office or hospital
23. Studios including music, dancing, art, photography, or health
24. Television and radio studios
25. Temporary uses (limited to “P” and “CU” uses)
26. Theater, except drive-in
27. Transportation facilities (operation, maintenance, preservation, and construction)
28. Use customarily incidental and subordinate to a PRINCIPLE use permitted outright

K. Accessory Uses

1. Accessory structures (with a permitted use)
2. Accessory uses for retail sales
 - a. Manufacturing or repackaging of goods for on-site sales
 - b. Parking
 - c. Storage of goods
3. Signs (subject to requirements of Chapter 18.32)

L. Conditional Uses

1. Bars and taverns³
2. Bed and breakfast inns
3. Buildings and structures exceeding the height limits in Table 17.12.2
4. Bus depot but not a bus garage or storage yard
5. Colleges and schools
6. Commercial indoor recreation (25,000 sq ft or greater)
7. Commercial outdoor recreation
8. Commercial parking
9. Condominium developments (commercial)
10. Drive-up/drive-in/drive-through (drive-up windows, kiosks, ATMs, similar uses/facilities) per Section 17.12.090
11. Entertainment, major event
12. Motion picture production studios and allied services
13. Multifamily (4 or more) residential⁴
14. Private nursery school, kindergarten, or daycare center⁵
15. Quick vehicle servicing or vehicle repair (see also drive-up/drive-in/drive-through uses, per Section 17.12.090) - not enclosed
16. Public utility and communication facilities, such as a branch telephone exchange, static transformer, booster station, or pumping station
17. Radio frequency transmission facilities
18. Rail lines and corridors
19. Residential uses above and behind storefronts
20. Senior housing
21. Swimming pools
22. Telecommunication facilities
23. Uses operating between 10:00 p.m. and 6:00 a.m.

C-2, GENERAL COMMERCIAL DISTRICT

Development Standards

- A. 10,000 sq ft - Minimum lot area (sq ft) *Development must conform to lot width, depth, yard setback and coverage standards
- B. 60 ft - Minimum lot width
- C. 120 ft - Minimum lot depth
- D. 45 ft - Maximum building height
- E. Yes - Building height transition
- F. 80% - Maximum lot coverage
- G. 15% - Minimum landscape area (% of site)

H. Minimum Setback (ft)⁶

Front	Side	Street Side	Rear	Along Arterials
10 ft	10 ft	20 ft	10 ft	See TSP

I. Fences and Gardening/Retaining Walls⁷

Max Height - Front	Max Height - Side	Max Height - Street Side	Max Height - Rear
42 in	6 ft	6 ft	6 ft

J. Permitted Uses

1. Basic utilities
2. Brewery
3. Commercial indoor recreation (under 25,000 sq ft)
4. Community service
5. Daycare (adult or child)
6. Drive-through restaurant
7. Drive-up/drive-in/drive-through (drive-up windows, kiosks, ATMs, similar uses/facilities) per Section 17.12.090
8. Educational services, not a school (e.g., tutoring or similar services)
9. Hotel or motel
10. Indoor recreation facilities (under 25,000 sq ft)
11. Laundromat not including dry cleaning on site
12. Medical centers
- 13. *Medical Marijuana Dispensary*¹⁷**
14. Mortuary (not crematory)
15. Motion picture production studios and allied services
16. Offices
 - a. Cafeterias
 - b. Health facilities
 - c. Other facilities primarily for the use of employees of the firm or business
17. Parks and open space
18. Public park, playground, or recreational area, and buildings used in connection therewith
19. Quick vehicle servicing or vehicle repair (see also drive-up/drive-in/drive-through uses, per Section 17.12.090) - fully enclosed
20. Recreational vehicle camping parks

21. Religious institutions and houses of worship
 22. Restaurants (not including drive-through)
 23. Retail sales and service (see also drive-up uses)
 24. Self service storage
 25. Small animal veterinary office or hospital
 26. Studios including music, dancing, art, photography, or health
 27. Temporary uses (limited to “P” and “CU” uses)
 28. Theater, except drive-in
 29. Transportation facilities (operation, maintenance, preservation, and construction)
 30. Vehicle repair⁸
 31. Vehicle sales⁹
 32. Use customarily incidental and subordinate to a PRINCIPLE use permitted outright
- K. Accessory Uses
1. Accessory structures (with a permitted use)
 2. Accessory uses for retail sales
 - a. Gasoline, parts, tire sales and vehicle washing when accessory to vehicle sales or repair
 - b. Manufacturing or repackaging of goods for on-site sales
 - c. Parking
 - d. Storage of goods
 3. Signs (subject to requirements of Chapter 18.32)
- L. Conditional Uses
1. Bars and taverns¹⁰
 2. Buildings and structures exceeding the height limits in Table 17.12.2
 3. Bus depot but not a bus garage or storage yard, except as provided in subsection (L)(21) of this section
 4. Cemetery
 5. Colleges and schools
 6. Commercial indoor recreation (25,000 sq ft or greater)
 7. Commercial outdoor recreation
 8. Commercial parking
 9. Condominium developments (commercial)
 10. Drive-in movie theatre
 11. Entertainment, major event
 12. Governmental buildings
 13. Indoor recreation facilities greater than 25,000 sq ft

14. Laundromat, including dry cleaning on-site
15. Private club, lodge, convent, social or recreational building or community assembly hall
16. Public utility and communication facilities, such as a branch telephone exchange, static transformer, booster station, or pumping station
17. Quick vehicle servicing or vehicle repair (see also drive-up/drive-in/drive-through uses, per Section 17.12.090) - not enclosed
18. Radio frequency transmission facilities
19. Rail lines and corridors
20. Telecommunication facilities
21. Television and radio stations
22. Uses operating between 10:00 p.m. and 6:00 a.m.
23. Senior housing

Table 17.12.1 identifies the land uses that are allowed in the Commercial Districts. The specific land use categories are described and uses are defined in Title 16.

Table 17.12.1 - Commercial Districts—Allowed Land Uses

Uses	Status of Use in District	
	C-1	C-2
Accessory structures (with a permitted use)	AU	AU
Bars and taverns ¹¹	CU	CU
Basic utilities	P	P
Bed and breakfast inn	CU	N
Brewery	P	P
Buildings and structures exceeding the height limits in Table 17.12.2	CU	CU
Bus depot but not a bus garage or storage yard	CU	CU
Colleges and schools	CU	CU
Commercial indoor recreation (under 25,000 sq ft)	P	P
Commercial indoor recreation (25,000 sq ft and over)	CU	CU
Commercial outdoor recreation	CU	CU
Commercial parking	CU	CU
Community service	P	P
Condominium developments (commercial)	CU	CU
Daycare (adult or child)	P	P
Drive-in movie theatre	N	CU

Drive-up/drive-in/drive-through (drive-up windows, kiosks, ATMs, similar uses/facilities) per Section 17.12.090	CU	P
Educational services, not a school (e.g., tutoring or similar services)	P	P
Entertainment, major event	CU	CU
Governmental buildings	P	CU
Hotel or motel	P	P
Indoor recreation facilities	P	P
Laundromat, including dry cleaning on-site	N	CU
Laundromat, not including dry cleaning on-site	P	P
Medical centers	P	P
<i>Medical Marijuana Dispensary</i>	<i>P¹⁷</i>	<i>P¹⁷</i>
Mortuary (not crematory)	P	P
Motion picture production studios and allied services	CU	P
Multifamily (4 or more units)	P	N
Offices	P	P
Cafeterias	AU	AU
Health facilities	AU	AU
Other facilities primarily for the use of the employees of the firm or business	AU	AU
Parks and open space	P	P
Private club, lodge, convent, social or recreational building or community assembly hall	P	CU
Private nursery school, kindergarten, or daycare center ¹²	CU	N
Public park, playground, or recreational area, and buildings used in connection therewith	P	P
Public utility and communication facilities, such as a branch telephone exchange, static transformer, booster station, or pumping station	CU	CU
Quick Vehicle Servicing or Vehicle Repair (See also Drive-Up/Drive-In/Drive-Through Uses, per Section 17.12.090)		
Fully enclosed	P	P
Not enclosed	CU	CU
Radio frequency transmission facilities	CU	CU
Rail lines and corridors	CU	CU
Recreational vehicle camping parks	N	P
Religious institutions and houses of worship	P	P
Residential uses above and behind storefronts	CU	N

Restaurants (not including drive-through)	P	P
Retail sales and service (see also drive-up uses)	P	P
Accessory Uses for Retail Sales		
Gasoline, parts, tire sales and vehicle washing when accessory to vehicle sales or repair	N	AU
Manufacturing or repackaging of goods for on-site sales	AU	AU
Parking	AU	AU
Storage of goods	AU	AU
Self service storage	N	P
Senior housing	CU	CU
Signs (subject to requirements of Chapter 18.32)	AU	AU
Small animal veterinary office or hospital	P	P
Studios including music, dancing, art, photography, or health	P	P
Swimming pools	CU	N
Telecommunication facilities	CU	CU
Television and radio studios	P	CU
Temporary uses (limited to “P” and “CU” uses)	P	P
Theater, except drive-in	P	P
Transportation facilities (operation, maintenance, preservation, and construction)	P	P
Use customarily incidental and subordinate to a PRINCIPLE use permitted outright	P	P
Uses operating between 10:00 p.m. and 6:00 a.m.	CU	CU
Vehicle repair ¹³	N	P
Vehicle sales ¹⁴	N	P

Key:

P = Permitted, subject to site/development review

CU = Conditional Use Permit required

N = Not permitted

AU = Accessory Uses

The development standards in Table 17.12.2 apply to all new structures, buildings, and development, and major remodels, in the Commercial Districts.

Table 17.12.2 - Commercial Districts—Development Standards

Standard	C-1	C-2
Minimum Lot Area (sq ft) *Development must conform to lot width, depth, yard setback and coverage standards	None	10,000
Minimum Lot Width (ft)	50	60

Minimum Lot Depth (ft)	100	120
Maximum Building Height (ft)	45	45
Building Height Transition	Yes	Yes
Maximum Lot Coverage (%)	100	80
Minimum Landscape Area (% of site)	5	15
Minimum Setback (ft)¹⁵		
Front	0	10
Side	0	10
Street Side	0	20
Rear	0	10
Setbacks Along Arterials	See TSP	See TSP
Fences and Gardening/Retaining Walls¹⁶		
Max Height - Front	42 in	42 in
Max Height - Side	6 ft	6 ft
Max Height - Street Side	6 ft	6 ft
Max Height - Rear	6 ft	6 ft

Notes:

- 1 No balconies may extend into the public right-of-way.
- 2 See also Sections 18.04.020 Vision Clearance and 18.08.050 Fences and Walls.
- 3 Bars and taverns established after the effective date of this Code shall not be located within 500 feet of another use classified as a bar or tavern.
- 4 Setbacks for multifamily development in this district shall comply with the standards of Section 17.08.030 through Section 17.08.100 as well as to meet the development standards of Section 17.08.020.
- 5 On lots having a minimum of 10,000 sq ft, provided there is established in connection therewith, a play lot having a minimum area of 400 sq ft plus an additional 40 sq ft for each child in excess of 10, which play lot is separated from adjoining properties by a sight-obscuring security fence.
- 6 No balconies may extend into the public right-of-way.
- 7 See also Sections 18.04.020 Vision Clearance and 18.08.050 Fences and Walls.
- 8 Includes passenger vehicle, light and medium truck, motorcycle, boat and recreational vehicle sales and repair in an enclosed building, quick lubrication services, transmission or muffler services, auto body services, detailing and upholstery shops. Does not include junking, wrecking, storage, towing, or salvaging operations.
- 9 Does not include junking, wrecking, storage, towing, or salvaging operations.
- 10 Bars and taverns established after the effective date of this Code shall not be located within 500 feet of another use classified as a bar or tavern.
- 11 Bars and taverns established after the effective date of this Code shall not be located within 500 feet of another use classified as a bar or tavern.
- 12 On lots having a minimum of 10,000 sq ft, provided there is established in connection therewith a play lot having a minimum area of 400 sq ft plus an additional 40 sq ft for each child in excess of 10, which play lot is separated from adjoining properties by a sight-obscuring security fence.
- 13 Includes passenger vehicle, light and medium truck, motorcycle, boat and recreational vehicle sales and repair in an enclosed building, quick lubrication services, transmission or muffler services, auto body services, detailing and upholstery shops. Does not include junking, wrecking, storage, towing, or salvaging operations.
- 14 Does not include junking, wrecking, storage, towing, or salvaging operations.
- 15 No balconies may extend into the public right-of-way.
- 16 See also Sections 18.04.020 Vision Clearance and 18.08.050 Fences and Walls.

17 Location shall not be within 1000 feet of another medicinal marijuana dispensary, school, pre-school, or licensed daycare. Prohibited in all properties zoned Residential (R-1, R-2, R-3 & R-5). In addition, any and all Medical Marijuana Dispensaries must be registered with the Oregon Health Authority under ORD 475.314 and comply with all OHA rules.

All new developments shall:

1. Always avoid utility easements when building is near property lines;
2. Porches, balconies, and patios must be less than 50 percent enclosed on side elevations;
3. On street side fences, retaining/garden walls the six-foot height may be expanded to eight feet with approval through a building permit. (Ord. 2011-04; Ord. 2010-15 §1; Ord. 2010-04 §1)

ORDINANCE 2015-02

AN ORDINANCE OF THE CITY OF MOLALLA FOR ZONE CHANGE 1118 Toliver Road (P44-2014)

The City of Molalla ordains as follows:

Section 1. That property described as Township 5 South, Range 2 East, Section 07, Tax Lots 2700 and 2800. Said properties being described in Exhibit “A”, which is the Clackamas County map depicting tax lots of said properties and surrounding properties.

Section 2. The zoning designation of said properties, Tax Lots 2700 and 2800, is changed from R-1 (Low Density Residential) to R-3 (Medium Density Residential).

Section 3. The findings in Exhibit “B” attached hereto and incorporated by reference herein are hereby adopted as the findings of the Molalla City.

Duly adopted by the City Council of the City of Molalla this 8th day of April, 2015 by a vote of ___ ayes and ___nays.

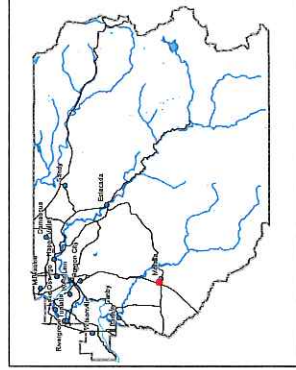
Mayor Debbie Rogge

ATTEST this 8th day of April 2015

Sadie Cramer, City Recorder

Cancelled Tracts
200
201
202
203
204
205

- Parcel Boundary
- Private Road ROW
- Historical Boundary
- Railroad Centeline
- Tax Code Lines
- Map Index
- Wetland Lines
- Land Use Zoning
- Plats
- Water
- Corner
- Section Center
- 1/16th Line
- Govt Lot Line
- D.C. Line
- Meander Line
- PLSS Section Line
- Historic Corridor 4D
- Historic Corridor 2D



THIS MAP IS FOR ASSESSMENT
PURPOSES ONLY





Community Dev. & Planning

117 N Molalla Avenue

PO Box 248

Molalla, Oregon 97038

Phone: (503) 829-6855

Fax: (503) 829-3676

Findings of Fact & Decision Document

File No.:	<i>P44-2014</i>
Legal Description:	<i>Township 5 South, Range 2 East, Section 07 AA, Tax Lot 2700 & 2800</i>
Address:	<i>1118 Toliver Rd.</i>
Applicant:	<i>Frank Walker & Associates</i>
Owner:	<i>Donald R. Itschner Trust</i>
Proposal:	<i>Amend the comprehensive plan map, and re-zone the property from R-1 Low Density Residential to R-3 High Density Residential</i>
Current Use:	<i>One single-family residence, one shop building</i>

1. Summary

This Findings of Fact and Decision Document is in regards to a quasi-judicial comprehensive plan map amendment to change the zoning designation of a property located at 1118 Toliver Rd. This application requires review and recommendation by the Planning Commission followed by final de novo action of the City Council. This particular action involves approval of an ordinance which, at the request of the applicant, would allow the property located at 1118 Toliver Rd to be rezoned from R-1 to R-3 (map attached). The Planning Commission found that by testing the application against Oregon Statewide Planning Goals, the Comprehensive Plan and considering the evidence presented by the applicant (Exhibit 2) that the re-zoning was allowable and in the public interest.

2. General Information

Notice was sent December 4, 2014 to all landowners within 500 feet of the parcels (exhibit 3), as well as Oregon DLCD pursuant to requirements outlined in Title 19 of the Molalla Development Code (MDC). Notice was placed in the Molalla Pioneer under general public notices with three run dates prior to the hearing. Notice was placed on the City of Molalla Website on December 4, 2014 under the URL as follows: <http://www.cityofmolalla.com/planning/page/public-notices>.

Based on the following Findings, Planning Commission finds that rezoning of the aforementioned property complies with applicable approval criteria.

3. Attachments & Exhibits

Exhibit 1. *Molalla Riparian Inventory*, Pacific Habitat Services, 2001

Exhibit 2. *City of Molalla Residential Land Needs Report*, Winterbrook Planning, 2009

Exhibit 3. Copy of Notice sent to DLCD, interested parties and local landowners

Exhibit 4. Molalla Comprehensive Plan, Volume I, Amended 2014

Exhibit 5. Site Map

4. Procedures:

A quasi-judicial hearing was required pursuant to section 19.04.040 of the MDC. The initial public hearing held on January 7, 2015 ended in a continuance to allow further discussion and public comment before a recommendation was authored. The following public hearing, held at the February 4, 2015 Planning Commission meeting, the commission received the staff report, took written and oral testimony, considered facts and criteria and rendered a decision based on the information available.

5. Party Status:

The following attendees were present during the January 7, 2015 Planning Commission proceeding:

Ben Smalley
Patrick Conley
Jeff Lewis
Scott Maloy
Carol Maloy
Mary Smalley
Judy Reasoner

The following attendees were present during the February 4, 2015 Planning Commission proceeding:

Frank Walker	1480 Jamestown St. Salem, OR
Carol Maloy	PO Box 605
Scott Maloy	PO Box 605
Patrick Conley	PO Box 130
Mary Smalley	730 Andrian Dr.
Nancy Evans	746 Andrian Dr.
Chris Griffin	715 Andrian Dr.
Chris Masoch	725 Andrian Dr.
Jeff Lewis	28242 S. Salo Rd. Mulino, OR 97042
Ben Smalley	730 Andrian Dr.

The following attendees spoke in favor of the proposal at the February 4th, 2015 Planning Commission hearing:

Carol Maloy, PO Box 605

Frank Walker, 1480 Jamestown St. Salem, OR (applicant)

The following attendees spoke in opposition of the proposal at the February 4th, 2015 Planning Commission hearing:

Patrick Conley, PO Box 130

Chris Griffin, 715 Andrian Dr.

Jeff Lewis, 28242 S. Salo Rd. Mulino, OR 97038

Ben Smalley, 730 Andrian Dr.

5. Procedural Findings:

1. The City of Molalla is processing the quasi-judicial rezoning of the property at 1118 Toliver Rd, tax lots 2700 and 2800. The process includes a change in zoning and an amendment of the comprehensive plan map associated with the comprehensive plan (see Exhibit 5).
2. Notice of the proposal was sent to the Department of Land Conservation and Development (DLCD) via physical mail on December 4, 2014.
3. The Planning Commission finds that on December 4, 2014 Notice of Public Hearing before the Planning Commission was mailed to all owners within 500 feet of the property in question, and posted on the City of Molalla website. The Notice was published in the Molalla Pioneer three times between December 10th and 24th, 2014.
4. The City of Molalla received three letters of written testimony or correspondence concerning the proposed zoning change.
5. This matter came before the Molalla Planning Commission for consideration January 7th, 2015 and February 4th, 2015. The Planning Commission received the staff report, and heard public testimony at each meeting.

Conclusion: The procedural findings noted above are adequate to support the Planning Commission's decision to adopt the proposed zone change.

6. Decision Criteria and Substantive Findings of Fact

The application is subject to the criteria set forth by the MDC in subsection 19.28.030:

- i. Approval of the request is consistent with the Statewide Planning Goals;
- ii. Approval of the request is consistent with the Comprehensive Plan;
- iii. The property and affected area is presently provided with adequate public facilities, services and transportation networks to support the use, or such facilities, services and transportation networks are planned to be provided in the planning period; and
- iv. The change is in the public interest with regard to neighborhood or community conditions, or corrects a mistake or inconsistency in the comprehensive plan or land use district map regarding the property which is the subject of the application; and
- v. The amendment conforms to applicable administrative rules of the Oregon Land Conservation and Development Commission, including the transportation planning rules. (Ord. 2010-15 §1; Ord. 2010-04 §1)

Compliance with Oregon Statewide Planning Goals:

The Planning Commission finds that the proposed change in zoning complies with the policies as follows:

- a. GOAL 1 – CITIZEN INVOLVEMENT OAR 660-015-000(1) *To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process.*
 - i. **Findings:** Posting of the public hearing on the City of Molalla website and in the local newspaper (with three run dates). Notice was mailed to all local landowners within 500 feet, interested parties and Oregon Department of Land Conservation on December 4, 2014 and again on January 9, 2015.
 - ii. **Conclusion:** Statewide goal of citizen involvement has been met through the mechanisms described above.

- b. GOAL 2 – LAND USE PLANNING OAR 660-015-0000(2) *To establish a land use planning process and policy framework as a basis for all decisions and actions related to land use and to ensure a factual base for such decisions and actions.*
 - i. **Findings:** This goal does not apply because it refers to the creation and establishment of the process as opposed to the execution of the process.
 - ii. **Conclusion:** The proposed zone change does not conflict with or adversely impact Goal 2 and is consistent with Goal 2.

- c. GOAL 3 – AGRICULTURAL LANDS OAR 660-015-0000(3) *To preserve and maintain agricultural lands.*
 - i. **Findings:** This goal does not apply because the land in question contains no agricultural lands.
 - ii. **Conclusion:** The proposed zone change does not conflict with or adversely impact Goal 3 and is consistent with Goal 3.

- d. GOAL 4 – FORESTED LANDS OAR 660-015-0000(4) *To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.*
 - i. **Findings:** This goal does not apply because the land in question contains no forest lands.
 - ii. **Conclusion:** The proposed zone change does not conflict with or adversely impact Goal 4 and is consistent with Goal 4.

- e. GOAL 5 – NATURAL RESOURCES, SCENIC AND HISTORIC AREAS, AND OPEN SPACES OAR 660-015-0000(5) *To conserve open space and protect natural and scenic resources.*
 - i. **Findings:** Open space requirements will be upheld at the time of development as per the Molalla Development Code. It is proposed that existing vegetation will be preserved to the maximum extent possible, especially larger more established trees. A riparian margin will be developed to address the potentially jurisdictional wetland on the property (reference Exhibit 1). If the area is improved, loss of the wetland will be mitigated pursuant to Federal Law.

- ii. **Conclusion:** Statewide goal of preserving and conserving natural resources can be met.

- f. GOAL 6 – AIR, WATER AND LAND RESOURCES QUALITY OAR 660-015-0000(6) *To maintain and improve the quality of the air, water and land resources of the state.*
 - i. **Findings:** The proposed zoning change would allow a higher density of residents, which if developed as such would decrease the per-capita footprint of local development. There may be a higher proportion of residents who would use pedestrian or alternative transportation facilities, which may improve local air quality. Utilization of public sewer and the appropriate waste disposal facilities on-site will minimize impact on land quality. The riparian margin will assist in the protection of local waterways.
 - ii. **Conclusion:** Statewide goal of maintaining air water and land resource quality can be met.

- g. Goal 7 – AREAS SUBJECT TO NATURAL HAZARDS OAR 660-015-0000(7) *To protect life and property from natural disasters.*
 - i. **Findings:** The subject property, if allowed to develop at a higher density, would not change the risk to residents as the current risk is minimal. The subject property has adequate access for emergency response vehicles. The main concern is flooding on this property with a creek tributary traveling through the southern portion of the lots. Wide creek channels and established vegetation ensure flooding issues are mitigated to the highest degree. No hazardous materials would be stored on-site as a result of this proposal.
 - ii. **Conclusion:** Statewide goal of protecting development in disaster-prone areas can be met.

- h. GOAL 8 – RECREATIONAL NEEDS OAR 660-015-0000(8) *To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.*
 - i. **Findings:** This goal does not apply because the land in question is not eligible to be considered a recreation destination.
 - ii. **Conclusion:** The proposed zone change does not conflict with or adversely impact Goal 8 and is consistent with Goal 8.

- i. Goal 9 – ECONOMIC DEVELOPMENT OAR 660-015-0000(9) *To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare and prosperity of Oregon’s citizens.*
 - i. **Findings:** Zoning designation R3 allows for a larger variety of uses compared to R1, including adult care centers, educational facilities and boarding facilities. These types of higher density developments, as opposed to single-family residential developments, supply more opportunity for employment.
 - ii. **Conclusion:** Statewide goal of economic development can be met.

- j. Goal 10 – HOUSING OAR 660-015-0000(10) *To provide for the housing needs of citizens of the state.*
 - i. **Findings:** The applicant has demonstrated evidence of demand for high-density housing in the City, as referenced in a 2009 Residential Lands Need Report

(Exhibit 2) performed by Winterbrook Planning. The report, which studies the 20-year horizon for residential development opportunities, mentions that a 'broader range of housing' will be demanded by a changing demographic of residents. It cites increased employment opportunities, young commuting households and a growing Hispanic community as likely catalysts to this trend. Furthermore, the applicant has interviewed local property managers of apartment-type housing and confirmed a high demand for this type of housing, with waiting lists and a very low vacancy rate.

- ii. **Conclusion:** Statewide goal of providing housing opportunities can be met.

- k. GOAL 11 – PUBLIC FACILITIES AND SERVICES OAR 660-015-0000(11) *To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.*
 - i. **Findings:** This goal does not apply because a change in zoning does not place a nexus on service availability.
 - ii. **Conclusion:** The proposed zone change does not conflict with or adversely impact Goal 11 and is consistent with Goal 11.

- l. GOAL 12 – TRANSPORTATION OAR 660-015-0000(12) *To provide and encourage a safe, convenient and economic transportation system.*
 - i. **Findings:** This goal does not apply because a zone change does not involve transportation system development.
 - ii. **Conclusion:** The proposed zone change does not conflict with or adversely impact Goal 12 and is consistent with Goal 12.

- m. Goal 13 – ENERGY CONSERVATION OAR 660-015-0000(13) *To conserve energy.*
 - i. **Findings:** The subject property if developed with higher density residential dwellings would allow children to walk to school without crossing Highway 211, a major obstacle. This may lead to a lowering of average daily vehicle miles travelled by residents of this property. Higher density development may also lower the net cost of heating and cooling the dwellings,
 - ii. **Conclusion:** The Planning Commission finds that the allowable uses in R-3 zoning may lead to a lower net use in energy of various types.

Oregon Statewide Planning Goals 14-19 do not apply to this proposal due to various reasons. These goals are as follows:

- i. *Urbanization*
- ii. *Willamette River Greenway*
- iii. *Estuarine Resources*
- iv. *Coastal Shorelands*
- v. *Beaches and Dunes*
- vi. *Ocean Resources*

The Planning Commission finds that this application is consistent with Oregon Statewide Planning Goals, and satisfies all applicable requirements.

Compliance with City of Molalla Comprehensive Plan:

- i. Page 17, Water Resources Policies, number 5 states, "Provide for residential density transfer from protected water resource areas to adjacent buildable land."
 - a. **Findings:** Planning commission recognizes this policy applies to the subject parcel, and obligates the remaining available buildable land to be considered developable at a higher density. The subject parcel meets this criteria for protected water resources as well as available adjacent lands.
- ii. Page 23, Natural Hazard Policies, number 1 states, "[...] Lowering density requirements and intensity of development from what the land is designated shall be considered appropriate limitation on a use in a natural disaster and hazard area."
 - a. **Findings:** The subject parcel is not within a 100-year floodplain, and thus not considered within a natural hazard area per the Comprehensive Plan. No lowering of density should be considered on this property due to hazard concerns.
- iii. Page 28, Park and Recreation Policies, number 12 states, "[...] dwelling units should be within reasonable distance of the outdoor facilities of a school or a park."
 - a. **Findings:** With the proposed zone change, a higher density of dwelling units could be within a 10-minute walk (or less) to two outdoor school facilities.
- iv. Page 47, Housing Policies, number 14 states, "In order to minimize the adverse impacts of higher density housing on adjacent properties, The City shall establish clear standards for: [...] Buffering by means of landscaping, fencing or distance from conflicting uses; [...] On site recreation space as well as pedestrian and bicycle access to parks, schools, mass transit stops and convenient shopping; [...]."
 - a. **Findings:** Due to the proximity of the subject property to industrial zones to the West a type of natural buffer can be explored through the design process to mitigate any conflict. On-site recreation opportunities can be explored in the development process as a route to complying with park service requirements. As stated before, proximity to schools also endorses this site as a high-density candidate.
- v. Page 48, Housing Policies, number 21 states, "Encourage the construction and development of diverse housing types, while maintaining a general balance according to housing type and geographic distribution, now and in the future."
 - a. **Findings:** The geographic distribution of high-density housing is clustered near the downtown core of Molalla with the exception of a mostly vacant mobile home park off of Toliver near the subject property. While higher density housing is often clustered near the downtown core in order to create a progression towards the UGB, this site is a strong candidate for high-density development. The Planning Commission finds a greater distribution of high-density housing in order to benefit the community, and the R3 zoning designation may allow this type of development.
- vi. Page 71, Energy Conservation Policies, number 6 states, "The City may use the following or similar implementation methods to encourage achievement of the energy goal: [...] reduced lots sizes and increased housing density."
 - a. **Findings:** The R3 zoning designation allows smaller lots and a higher density of dwelling units to be developed on a site.
- vii. Page 72, Energy Conservation Policies, number 10 states, "Provide for higher density, encourage more common wall residential development types as an alternative to single family detached housing."
 - a. **Findings:** The R3 zoning designation allows common-wall developments as an outright permitted use, which may obligate the development to utilize the opportunity for a higher density of development.

The Planning Commission finds that this application is consistent with the Molalla Comprehensive Plan (amended 2014), and satisfies all applicable requirements.

Compliance with availability of public services: *(The property and affected area is presently provided with adequate public facilities, services and transportation networks to support the use, or such facilities, services and transportation networks are planned to be provided in the planning period.)*

Findings: The public utilities existing in Toliver Road are highly adequate to accommodate any density of development on the parcel. The entirety of the proposed development would have frontage along Toliver Road, and thus direct access to those public utilities. Toliver Road contains:

- iii. Storm-water facilities including inlets and curb drainage.
- iv. Sanitary sewer main with enough capacity to handle increased load.
- v. Domestic water main

The transportation network along Toliver Road has the capacity to handle maximum build-out of the property at the time of development with either an R1 or R3 zoning designation. Street improvements would be required to address safety and quality concerns along Toliver and Molalla Forest Road. Improvements in the near future to the intersection at Toliver Rd. and Highway 213 would improve upon the safety of access to the property.

The Planning Commission finds that this criterion can be met.

Compliance with the consideration of public interest: *(The change is in the public interest with regard to neighborhood or community conditions, or corrects a mistake or inconsistency in the comprehensive plan or land use district map regarding the property which is the subject of the application.)*

Findings: The Planning Commission finds this change of zoning is in the public interest due to the opportunities it creates for housing diversity, the proximity to existing prominent destinations (primarily schools), the potential long-term employment opportunities created and potential economic growth. The applicant has provided supplemental information about housing demand in Molalla, and has interviewed local apartment managers to determine their vacancy rates. The results have shown that vacancy rates are extremely low for a small city such as Molalla. With the lack of buildable R3-zoned land this proposal responds to market pressures.

The Planning Commission finds that this criterion can be met.

Compliance with Oregon DLCD administrative rules: *(The amendment conforms to applicable administrative rules of the Oregon Land Conservation and Development Commission, including the transportation planning rules.) (Ord. 2010-15 §1; Ord. 2010-04 §1)*

Findings: The proposal and process related to administering the application meet all applicable Oregon DLCD administrative rules.

The Planning Commission finds that this criterion can be met.

7. DECISION

The City of Molalla Planning Commission unconditionally **APPROVES** proposed zone change and comprehensive plan map amendment identified in planning file P44-2014 and recommends that the Molalla City Council consider affirming this decision by Ordinance adoption.

DATED this 4th Day of March, 2015.

X

Laura Ferris
Chair

X

Nicolas Lennartz
Secretary