



DLCD REVIEW OF THE DEVELOPMENT CODE FROM MARCH 31, 2009

This staff report covers comments received by the City of Molalla from DLCD (Department of Land Conservation and Development) in a letter dated March 31, 2009. Staff has taken the comments from their report and put into this format. The following represents the staff report to the Planning Commission. Staff comments and suggestions are made in ***Bold Italic*** print.

COMMENTS AND EXPLANATIONS

Thank you for the opportunity to review and comment on the revised development code changes. Please add this memo to the letter that was submitted the 19 March, 2009. The code amendments are a major improvement over previous versions; however, there are still some issues. The comments are broken down into; (1) goal, rule or statute issues; (2) other substantive issues and recommendations; or (3) housekeeping issues. Please also note that where there are recommended revisions, text in [brackets] would be deleted, and text in **boldface** would be added.

Goal, rule or statute issues

Title 17, HDR Overlay zone: This is an optional zone that may be applied to land zoned R3 (MDR) if the owner applies and receives approval. No other Molalla zone allows housing at 25 to 34 units per [net or gross?] acre. Unless Molalla's current Housing Land Needs Analysis does not indicate any need for high-density housing in the next 20 years, the revised code **fails to provide land for high density housing types** in violation of **Goal 10, OAR 660 division 8, and the needed housing statutes in ORS chapter 197.**

The Housing Needs Analysis does address this issue and speaks to Molalla's housing needs. While the City has gone a long way to ensure housing densities are increases high density housing is not shown as a need for Molalla. The question becomes how does Molalla want to grow and how does it fall within the guidelines of the state?

Staff would recommend referencing net acre as the calculation method in the development code.

16.3 Definitions, Minimum Residential Density: "Where there are significant natural resources, the minimum is 50% of maximum." **This standard is not consistent with Goal 10 and it's implementing rules.** Land containing natural resources protects under Goal 5 (and significant hazards under Goal 7) is excluded from the city's buildable lands inventory, and the rest of the parcel or site, the "buildable" land, is subject to the base zone density. Allowing a 50% of maximum density for buildable portions of sites with

protected resources (or hazards) accounts for those resource areas twice: first, by removing these areas from land considered buildable, and second, by reducing density on the buildable land that is left. The result is a reduction below the base zone density for the site. Reducing residential density is **consistent with Goal 14**, and it isn't necessary in order to preserve and protect resource and hazard areas.

The BLI (Buildable Lands Inventory) is an important tool for planning. This tool helps planning address the needs of a community and use the land in the most efficient way possible. State code explains how these types of lands are removed from the BLI. However planning should look at how to best utilize those lands which have constraints and provide for the most development possible on these lands. Staff does agree that we are not required to use these lands. While staff agrees with the state for long range planning, since there is no requirement to utilize these lands, staff believes the City should continue to work with these properties to ensure that they are developed to their maximum potential.

Table 17.2120 – Dev stds, Density ranges: Please see our recent comments on the comprehensive plan amendments. The proposed residential density ranges are **not consistent with Goals 10 and 14**.

Table 17, R3 zone (MDR): The department strongly recommend deleting detached single-family homes from this zone. The city has the ER, R1 and R2 zones for detached housing (and duplexes); **to comply with Goal 10**, Molalla should preserve R3 land for needed attached housing types.

17.2.120 – Dev stds: Allowing detached single-family housing in R4/HDR, R5, and CPA (possibly also R3), even on smaller lots, invites use of land in these zones for detached housing instead of the higher density and attached housing types that these zones are needed for. We strongly recommend that you prohibit detached single-family housing in R4/HDR, R5, and CPA.

17.2150A3 Res. Density Std.: This provision requires partitions and construction of homes on lots larger than 22,000 square feet to be planned for future efficient development. **This is a good provision**, but since the minimum lot size for detached single family homes is in the range of 5,000-7,000 square feet, **it would be better if** the threshold is set lower to achieve a more efficient use of land. For example, locating a home in the middle of a 15,000-20,000 square foot lot is likely to prevent future infill development through partition or subdivision, with the city losing the potential for an additional 3-5 residential lots.

Many of the comments listed here do not provide citations of statute which address the concerns that are listed here. The concerns that staff have are the general locations provided such as Goal 10 and Goal 14 do not provide statutory guidelines on many of the

comments that have been made. However there is a responsibility to provide the best product for each individual community within the guidelines of these two communities.

There are no density minimums in Goal 10 or Goal 14. It appears that this report used Metro requirements which is in OAR 660-007. Even using Metro standards which the City of Molalla is not required to meet the City still meets the requirements of 660-007-0035(1) which states: "The Cities of Cornelius, Durham, Fairview, Happy Valley and Sherwood must provide for an overall density of six or more dwelling units per net buildable acre. These are relatively small cities with some growth potential (i.e. with a regionally coordinated population projection of less than 8,000 persons for the active planning area). Molalla is meeting these minimum requirements with net density of just over 6 units per acre which shows how much Molalla has moved to achieve better densities than those practiced in the past.

Goal 10 requires housing for the types and densities to meet a communities needs. The City has done housing needs analysis studies to ensure the needs of Molalla are met. No report nor citations of what laws are not being followed have been provided to show how Molalla is not addressing Goal 10. Molalla feels the housing needs analysis completed as part of this process addresses Molalla's needs and satisfies Goal 10.

Molalla's current makeup of single-family to multi-family is vastly one-sided. Currently Molalla has over 90% of its population in single-family homes with 3% or fewer in multi-family residences. This simple statistic would provide a small piece of insight of why high density would not work in Molalla. As previously mentioned single-family currently occupies 90% of the residential land in town. To attempt to set aside 40%-50% of the lands for high density now would not meet what Molalla as a community is.

Goal 14 addresses efficiency measures on how to regulate land. No efficiency measures have been cited which address where the state feels Molalla has not met the requirements of Goal 14. After reviewing Goal 14 in detail with the cities attorney and planning consultants we are comfortable in saying staff has met the requirements of Goal 14. If you look closely at the goal it talks about making better use of land. The new plan proposes an increase in densities of 40% which shows a drastic improvement in the use of lands.

Staff will further address this issue with a staff report on all the supporting documents (i.e. buildable lands inventory, housing needs analysis, etc..) that is being prepared by Winterbrook Planning and will be released during this hearing process.

16.3 Definitions, Net acre: This definition isn't consistent with the definition in **OAR 660, definitions 8 and 24.**

Staff has reviewed OAR 660 definitions 8 and 24 and there are no definitions for a net acre. However in 660-007-0005(1) there is a definition for net buildable acre. This definition is from the Metro standards which do not apply to Molalla. However after further review the way that each of our definitions repeat much of the information may be confusing to the reader. For that reason staff would recommend adopting the definitions for Net Buildable Acre and Buildable Land into the definitions section of Title 16 to lessen the confusion.

16.3 Definitions, Net buildable area: This definition isn't consistent with the definition in **OAR 660-008-0005.** Because the Division 8 definition includes the term "generally" a community is not required to exclude flood plains and slopes over 25% from its building lands, but it may choose to do so.

Staff reviewed this OAR and this citation addresses Multiple Family Housing. Staff reviewed other sections of Division 8 and did not see any citations to buildable area. However staff recommended in the statement above that staff would like to use the definitions from Metro standards in OAR 660-007-0005.

17.2 Residential District, ER Overlay and R-1 Districts: The density range of 2-8 units per acre should be revised to 4-8 because fewer than four dwellings per acre is not **consistent with Goal 14**, and the city already has land at that very low density.

There is not citation made nor was staff able to identify any requirement that densities between 2-8 units is inconsistent with Goal 14. Staff is requesting verification from the state on where this citation can be found and will supply you with comments as soon as they become available.

17.2.110 Permitted Residential Uses:

Group home: **ORS 197.665** requires permitting residential homes in all zones that permit single family housing, and it doesn't distinguish between detached and attached single-family. Molalla permits detached single family is permitted in ER, R1 and R2, and attached single family in R3, HDR, R5, and CPA. **Please revise** Table 17.2.110 to permit group homes outright in ER, R1, R3, HDR, R5 and CPA.

Staff concurs with this comment and recommends the change as discussed in this section should be made.

Group facility: ORS 197.667 requires permitting residential facilities in any zones that permit multifamily housing. Molalla permits multifamily housing in R3, HDR, R5 and CPA. **Please revise** Table 17.2.110 to permit residential facilities outright in R3, HDR, R5, and CPA.

Staff agrees with this comment and recommends that these changes should be made. However additional state requirements do allow for these types of uses to go through a design review if the City requires other multi-family to go through design review. Currently the city requires these types of applications to go through a design review.

17.2.200E4: Manufactured homes, garages: A residential development standard elsewhere in this code requires *all* dwellings to have a garage. However, ORS 197.307(5)(f) states that the manufactured home “shall have a garage **or carport.**” Because manufactured homes on their own lots may not be treated differently than stick-built detached homes (except for the limited list of standards in ORS 197.307(5)), the best solution for Molalla is to require a garage **or carport for all housing.** This change would also remove an unintended consequence. As written, this standard appears to require all apartments to have garages. Many apartment complex developers provide carports, which are less expensive to provide, instead of or with some garages. Not having the option providing carports **could discourage the development of a needed housing type in a manner inconsistent with ORS 197.307(6)**

17.2.200F10 Mobile home parks, parking: Requiring only a covering for the parking area is consistent with statute in ORS chapter 197, but isn’t consistent with the residential dev. std earlier in the code that requires a garage for all residences. We recommend the same fix: the option of a garage or a carport for all housing.

Staff concurs with both of these comments and recommends changes be made as stated. Staff would suggest using the same language for garage/carports as we do in our code.

17.2.200F7 Mobile home parks, approval process: The code proposes a conditional use permit under a Type III procedure. However, this is a needed housing type. **ORS 197.307 requires that this use be permitted outright using clear and objective approval standards and criteria, and reviewed using a clear and objective process (Type I or II).**

Staff has received information from Hood River on this issue and will present a copy at the hearing for further discussion. Staff agrees with the comments made by the state and would request further review of this code by the Planning Commission.

17.2.200 I Community Planning Area (CPA) district design standards: They include both discretionary/subjective criteria and clear and objective standards. Including the discretionary/subjective criteria for the needed housing permitted in this zone **probably violates ORS 197.307.** We recommend either (1) revising the subjective criteria to clear and objective

standards, and using a Type II procedure, or (2) adding a second procedural “track” for CPA housing with clear and objective standards and a Type II procedure; developers would choose which “track” they want to use. “Theme” design standards can be clear and objective. Molalla may want to take a look t the theme design standards for Oakridge’s downtown.

Staff concurs that some of the criteria are not clear and objective. Staff will provide examples to the Planning Commission in future hearings of communities such as Oakridge and Sisters for further review with comments. Staff will make recommended changes at a future hearing.

Other substantive issues and recommendations

17.2 Residential Districts: Please indicate, wherever residential densities or density ranges are mentioned, whether they are units per gross buildable acre or units per net buildable acre. As currently drafted, this aspect of the code is to ambiguous for the department to adequately review, and for the city to properly administer.

Staff has looked over all the documents and these densities are net figured at net density calculations.

16.3 Definitions:

Family: For consistency with the federal Fair Housing Act of 1988, zoning regulations may not address blood or other relationships between people. We strongly recommend revising this definition to: **“One individual residing in a dwelling unit, or two or more individuals who reside together in a dwelling unit.”** The City of Tualatin recently adopted an almost identical definition to the one we recommend.

After much debate and discussion staff concurs with the states opinion to use an established definition from the state level of family which is listed in the comment above.

Infill: This definition is missing one of the key components of infill development: the division of existing over-sized lots into lots of parcels consistent with contemporary code standard. We therefore recommend amending this definition as follows: **“The division or development of vacant or underdeveloped lots or parcels located in an area that is mainly developed.”**

Staff concurs with DLCD’s comment and recommends making the changes as stated to the definition of infill.

Minimum Residential Density: “The minimum residential density shall generally be 80% of maximum density. **This is a very good standard, and the city should apply it to all of its residential zones.** The minimum densities in the Title 17 residential land use districts are different and too low (see comments for Title 17).

Staff recommends removing this definition as it conflicts with Title 17 which talks about housing density. This section states densities shall be between the minimum and maximum densities.

Table 17.2.110 Permitted residential uses:

Golf course: This is a land-extensive use that is not appropriate or needed in a residential area. This use should be moved to the “Public/Semi Public zone.”

Staff would disagree that this type of a use is not needed or appropriate in a residential zone however staff does feel that these types of uses should be considered under a Planned Unit Development which should be a conditional use. This will allow a lot of oversight by the City to address concerns upon development of such a use. Staff is currently working on language to address these types of uses. Staff is also working on Planned Unit Development language which will be presented to the Planning Commission at an upcoming hearing.

Housing above commercial: Because the Community Planning Area is intended to provide medium density mixed use development, housing above commercial **should be permitted outright** and not require a conditional use permit.

Please see comments under ODOT staff report dated March 13, 2009.

Cemetery: This is land-extensive use that should not use needed residential land, especially in the R2, R3 (MDR), and R5 (historic) zones.

Staff will be consulting with legal to discuss what limitations exist on limiting location of cemeteries and will present these findings to you in a future staff report.

Private nursery school daycare: This is an important family service that should be conveniently available in residential neighborhoods. We recommend permitting them in ER and removing the conditional use permit requirement in R1, R2, R3I, HDR and R5.

Staff concurs with this comment made by DLCD and recommends allowing such uses in residential zones.

Schools: The revised code prohibits schools in the ER and R1 zones and makes them a conditional use in R2, R3, HDR, and R5. We urge the city to **permit schools outright in all residential zones** to enable children to walk or bike to school, and to shorten vehicle trips to and from schools, both of which will reduce traffic, save time and fuel, and create less of the “greenhouse gases” scientists believe are primarily responsible for global warming.

Staff agrees somewhat but has some reservations with regards to outright allowance. Staff concurs with DLCD that schools should be allowed in all residential zones since they: address issues that are a critical need for a community; close placement to residential neighborhoods; conserves energy by allowing children to use alternate modes of transportation or provides for shorter travel by automobile. However staff believes allowing such a use as an outright use could be detrimental to pockets in the community. Schools are highly visited areas both during school hours and after hours when containing sports facilities and event areas. Staff would maintain that conditional uses provide a city the most ability to work through potential traffic issues that could arise because of the location factors involved in siting a school.

RV Camping Park: This is a **commercial** use, not a residential use, and it uses land needed for housing for permanent residents. We recommend deleting this use in R3 (MDR) and HDR, even as a conditional use.

Staff concurs with DLCD staff that this use is best placed in the commercial and public/semi-public zones rather than in the residential zones.

Religious institutions/houses of worship: Requiring a conditional use permit for religious uses could subject the city to a federal RLUPA claim. We recommend running this by your City Attorney. Even if this zoning standard doesn’t violate RLUPA, a better planning practice would be a set of clear and objective building and site development standards for religious uses.

Staff will work with legal on this issue because of the RLUPA rules prior to making a recommendation to the Planning Commission.

17.2.150B2 Res Density Calculation: We recommend including the “flag pole” area of a flag lot in the minimum density calculation, as **more consistent with the Goal 14 requirement** to use urban land efficiently than not including the flag pole.

There are no citations that staff is aware of nor that have been provided to the City to be in violation of Goal 14. For more in depth discussion see previous comments made at the beginning of this report.

17.3 Commercial districts, EZ Employment Zone: Fits better with the industrial zones in 17.4 than the commercial zones. Even though it permits limited commercial uses, the primary use is industrial. (Commercial uses may be only up to 35% of the area.)

Staff concurs see report from ODOT dated March 13, 2009.

17.3 Commercial district uses:

Cemetery: This is not an appropriate and efficient use of land in C1 downtown, even with a conditional use permit.

Staff concurs and recommends removing allowance of cemeteries in the CBD.

Schools should be located in residential areas, not necessarily in commercial areas.

Staff will disagree to a point. Staff believes that K-12 should be located in residential zones, however colleges would be much more suitable in commercial and/or public/semi-public zones.

Medical Center: If this use includes hospitals, it shouldn't be permitted downtown (C1); it is too land-intensive; it creates a lot of vehicle traffic; and downtown traffic volumes and speed will hinder effective ambulance service.

Staff would concur with DLCD that a reference to not allowing hospitals should be made in the CBD to ensure a hospital locates on better road network in other areas of the City.

Nursery schools/daycare should be permitted in commercial zones for the convenience of working parents.

Staff would concur with this statement and allow nursery schools/daycare in the C-1 and C-2 zones but not in the C-3 (Highway Commercial) overlay zone.

Religious uses should be in residential areas and not use the city's land supply for city's employment needs.

Staff would disagree with this comment. Religious uses in Molalla are vital to the current business community of downtown. Many of the churches are located in the CBD. Staff believes that the RALUPA law also would place barriers on the city for requesting such a limitation for religious uses. The churches located in the downtown provide a steady flow of citizens into an area that is trying to attract business. These attendees use the banks, gas stations, grocery stores, other miscellaneous stores as well as the restaurants in the downtown which all benefit greatly from these uses. Now they can be land intensive however, the City by doing more regular updates will ensure adequate land supplies of all types of maintained better in Molalla's future than they have been in the past.

Housing above or behind commercial uses: The code requires a conditional use permit in C1 (downtown) and prohibits this use in all other C zones. It should be permitted outright at least in the downtown.

Staff wrote an extensive review of this in a staff report on the ODOT March 13, 2009 letter please review for more details.

Restaurants: Prohibited in the EZ zone. This is a good use to permit but limit in size for the convenience of employees and customers.

Staff concurs with this comment and has recommended changes that can be found in the staff report on the ODOT letter dated March 13, 2009.

Retail sales and service in C1 downtown and (C2) should have a size limit. “Big box” businesses should locate in the city’s Highway Commercial zone. Downtown is for smaller, pedestrian-oriented businesses, especially local businesses, and C1 land should be preserved for them.

See staff comments made on the ODOT letter dated March 13, 2009.

Vehicle sales: As proposed this use would be permitted in C1 downtown. The large, auto-oriented buildings, parking lots, and vehicle storage areas for this use should be limited to GC and HC, and preferably HC.

See staff comments made on the ODOT letter dated March 13, 2009.

17.4 Industrial district, uses:

Agriculture is not an urban uses, and, except on land designated EFU (generally land in agriculture use before a UGB was adopted), **should not be permitted within a UGB for constituency with Goal 14.** (Commercial agriculture is not the same as agricultural product sales.)

Staff feels that these uses would be adequate as it talks about them being accessory uses to a main industrial use. Such as a bamboo processing plant could grow bamboo on side as an accessory use to the bamboo plant itself. Staff will consult with legal to find out what there feelings are on this matter. After further thought not allowing such a use could have an impact on uses like mills for logging.

Religious uses: it is not a good idea to allow religious uses in the LI, even with a conditional use permit. They are more compatible in neighborhoods, not on cheaper industrial land in the city’s needed industrial supply. Also, industrial uses have more specialized site needs than religious uses, which can locate on almost any type of land.

Staff would concur with DLCD’s assessment that religious uses are not appropriate for industrial zoning and recommends changes to remove religious uses from the industrial zones all together.

17.5 Overlay & Public, Support Commercial: In order to ensure that this overlay is used only for its intended purpose – developing small M-2 parcels that are unlikely to develop with industrial uses – we recommend adding a maximum lot size standard, and prohibiting partitions or subdivisions of lots over a specified size, so that only pre-existing small lots are developed with new commercial uses.

Staff concurs with DLCD regarding this comment as the whole intent is to reduce the number of hard to develop industrial lots and thereby providing opportunities for these lots to develop. Staff has made a recommendation in Title 17 to place a minimum partition size on all lots within this zone. Staff did this by looking at the potential properties and taking the average size lot to ensure that these lots would not be split any further. There are 28 properties that would be prime candidates for this type of zoning. These properties range in size from .26 acres to 1.14 acres with an average size of .56 acres. The most logical way to address this issue is to place a minimum requirement of ½ acre. Created a new chapter as 17.5.140 that states no lot shall be reduced to less than ½ acre in size.

18.4.250 A 6: Future Division of Lots: This provision is inconsistent with 19.3.110C Future Re-Division Plan. **19.3.110C is the better provision**, and we strongly recommend that 18.4.250A6 be deleted. **The city should retain 19.3110C and delete 18.4.A.6.**

Staff concurs with DLCD's assessment here and recommends the appropriate changes. The language in Title 19 better protects land to be divided properly in the future. This is an issue the City has struggled with in its existing code. By ensuring lots, which are split over time, are of adequate size to meet the density if they are to be split in the future DLCD's recommendation makes the most sense.

18.4.330B Entrances to Subdivisions: **We recommend that Molalla not adopt** these physical site requirements, which will visually and psychologically separate residential subdivisions from the rest of their neighborhoods and the city.

Staff would continue to recommend these requirements. Staff would recommend that the Planning Commission continue to monitor these types of code requirements to ensure that separation in the community does not occur. Staff believes that these types of enhancements to subdivisions in Molalla enhance the look of the community and provide notification of areas. While gated communities can create separation of a community requiring signs at entrances to a subdivision is more of an identifier for the area than a gated community.

18.4.400 Parks: It doesn't make sense to apply the land dedication requirement (1.25 acres per 100 residents) to all developments. Must a developer of 4 home lots, or a tri-plex, or a grocery store, provide a miniscule amount of unusable land that the city has to maintain? We assume this requirement also isn't consistent with the city's Park Master Plan.

Our new parks code allows the city to have several different options for park improvements/in lieu of payments. Staff would concur with DLCD that the City does not want to maintain a lot of small unusable parks. However our parks plan requires a certain amount of park space in certain areas. When a development can provide such park space that will benefit a combined park area then that park space would be required for smaller

staffs. Staff also feels the fee in lieu of parks set out as (2) in the parks requirements would provide an option for the hearing body to determine what type of parks requirements are the most suitable for an area. Staff feels after reading the Parks and Recreation Master Plan that answers to park space should be based on locational factors not specific property locations.

20.3.200 Lots of Record, Criteria: The proposed definition of lot of record legalized a lot or parcel through mere recording of a deed. Recording does not give a document any legality it doesn't already have; the county clerk may record anything on paper and does not review the document for legality, accuracy, or anything else. We believe that the definition in Title 20 is **an incentive for people to avoid the City's (and County's) land division procedures**. Why pay the fee and wait the time for the local land use process, when you can prepare a deed with the description you desire, record it with the Clackamas County Clerk, and later ask the City Planning Department to recognize it as a legal lot of record? A legal lot of record should be consistent with the city's requirement at time of creation, even if it did not go through the partition or subdivision procedure, and a property owner should not be able to ask for a lot of record determination after his/her land use application is denied. **We recommend revising the 1st sentence in 20.3.200 to: "A lot of record is a [plot of land] lot of parcel that was not created through an approved subdivision or partition, was created and recorded before [date], [and] for which the deed or other instrument dividing the land is recorded with Clackamas County, that satisfied the land use requirements of [insert here the local government with jurisdiction at time of creation – "City of Molalla" or Clackamas County"] at the time the deed was recorded, and for which no owner has received notice of denial of a land use application from the appropriate local government."**

Staff concurs with DLCD's comments and recommends changes to section 20.3.200.

Housekeeping issues:

16.2.500B. If the code is adopted on a different date than July 2009, the date here should be changed.

20.3.200 Lots of Record, Criteria: This provision applies to lots created before January 2010. If the code is adopted before 2010, this date should be changed to the date that the code amendments are effective.

Staff concurs with these comments and has made comments into the code where these types of dates are listed. There are approximately 5 references to the adoption dates throughout the development code sections.

16.3 Definitions, Minimum Residential Density: This is actually a combination of definitions and standards. The standards in it should be moved to the appropriate portions of the code: "The minimum residential density shall generally be 80% of maximum density," and "Where there are significant natural resources, the minimum is 50% of maximum."

Staff recommends removal of this code section as it is repeated in density requirements under Title 17.

16.3 Definitions, Residential: Dwelling unit: The current definition doesn't allow one person to live in a dwelling unit. It should be revised to: "...that is designed for residential occupancy by [group of people] **one or more persons.**"

Staff concurs with DLCD's comment and recommends changes to Title 16.

16.3 Definitions, Residential: Attached House, Rowhouse, and Townhouse: All three are the same use and should be combined into one.

Staff concurs with DLCD and recommends a change to remove the definition of attached house and combine Rowhouse and Townhouse into one definition as shown for a rowhouse currently.

16.3 Definition, Steep slopes: Defining them as greater than 20% is fine if consistent with the code's definitions for net buildable acre and net acre, and the city's regulations for development on steep slopes. Otherwise, to be consistent with OAR 660-0098-0005, it should be revised to 25%.

Staff recommended earlier using OAR 660-007-0005(2) as a definition for buildable land therefore this should be changed to 25% to be consistent with that change.

17.2 Residential Districts, Equestrian Residential Overlay District: Please note that Molalla doesn't have planning jurisdiction over land currently outside its UGB. We recommend amending or deleting the location requirement.

Staff has recommended deleting the last sentence under the purpose for the ER zone. Zoning will be placed on properties at a later date which is the appropriate time to discuss where the appropriate location for equestrian residential lie.

Title 17 internal inconsistency: Sometimes R4 is used, sometimes HDR, which I think are the same zone.

Staff will make changes to all R-4 references since the new description for what was R-4 in previous versions is HDR (High Density Residential).

Table 17.2.110 Permitted residential uses: Single-family Attached, Rowhouses, and Townhouses: These are all the same use and should be treated as such in the code, instead of as three separate uses. There are combined as a single use in 17.2.200 Special stds, but not in Table 12.2.110.

Staff concurs with DLCD on this comment and has recommended a change by removing the line for attached housing, combining Rowhouses and Townhouses and adding a new line for duplexes which are similar to rowhouse allowances except they are allowed on corner lots in the R-1 zone.

17.3 Commercial district, Commercial Indoor Recreation and Indoor Recreation Facilities: Is there is difference between them? If not the same, how? Why is one Permitted outright and the other requires a CUP?

These two are the same and staff recommends removing the line on Indoor Recreation Facilities but making all indoor recreation facilities conditional uses.

Table 17.3.120 Commercial dev stds, Building height transition: Make sure that such standards are limited to buildings that abut residential areas.

Staff has a call into DLCD to discuss this comment more. Details will be supplied in a future staff report to address this comment.

Table Industrial district uses: An apparent oversight. The “bus depot” category has not been completed.

Staff discovered that this section was not filled out. Due to the nature of the impacts to these areas for Molalla staff recommends a conditional use process for both M-1 and M-2 zones. Having said that bus depots can serve as transportation points to work designations and should be considered carefully for designation in these zones. Staff's feelings are that they can be achieved with a conditional use process which protects the industrial properties as well as surrounding neighborhoods in these areas from potential high traffic impacts.

17.4.120 Industrial Dev stds, Lot Coverage: Please indicate whether this standard is a maximum height or a set required height.

Staff recommended a change in its staff report for ODOT dated March 13, 2009.

17.5 Overlay & Public zones, Support Commercial: This zone could be clearer. 17.5.120 states that the permitted uses are those in M-2. 17.5.130 states that commercial uses that support industrial uses are the primary use. We recommend combining 17.5.120 and 17.5.130.

Staff concurs with DLCD's comment and has combined the two sections.

17.5 Overlay & Public zones, Public/Semi-Public zone: As drafted, this overlay zone duplicated other zones: the same uses are permitted in residential, commercial, and/or industrial zones. **We support establishing a special zone for these uses** because it makes it is easier for the city to inventory and maintain accurate supplies of land for each urban use, instead of not knowing exactly how much residential land will be used for non residential uses in the next 20-years. At the same time, these uses should be prohibited in other zones.

Staff has identified those uses which seem to address the public/semi-public zones. These uses include parks, government buildings, schools and the like. Staff feels that these uses are also capable of being located in other zones. Libraries, museums and many other private ventures are successful in zones other than that for public.

Internal inconsistency: In table 19.1.100, a code interpretation is a Type I procedure, but in 19.1.790 and 19.8.100E, it's a Type II procedure.

Staff concurs with DLCD's comment and recommends changing 19.1.790 to a type I land use decision.

4.5 Master Planned Development: Because it is an overlay zone (see 4.5.110), this chapter should be moved to Title 17 with the other overlay zones.

Staff will consult with DLCD on this comment and report back in a later staff report.