



Oregon

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February 5, 2007

Mr. Shane Potter
City of Molalla
117 N. Molalla Avenue
P.O. Box 248
Molalla, OR 97038

RE: Molalla Comprehensive Plan update

Dear Shane:

Thank you for the opportunity to review both the Comprehensive Plan rewrite and Development Code update for the City of Molalla. As both these documents are extremely lengthy and both are full re-writes of existing documents, DLCD is providing separate comment letters on them. This letter addresses the Comprehensive Plan rewrite only. Please enter this letter into the record for proceedings on the Comprehensive Plan update. A letter on the development code will follow.

First, the City should be commended for undertaking such a broad project outside the auspices of the state Periodic Review process. The draft document represents countless hours by staff and volunteer hours by the Planning Commission/Citizen Involvement Committee (CIC) to identify the direction the City shall move. It clearly demonstrates the importance of recreation to the community and the role this element will play in the future development of the City.

While the Comprehensive Plan represents a broad and bold undertaking by the City of Molalla and its CIC, there are many facets of the Comprehensive Plan that should be reviewed, reconsidered and revised. The following comments highlight these points.

Suggestions

Goals 5 and 6: Neither Statewide Goals 5 or 6 are addressed as effectively as they could in the proposed Comprehensive Plan update. It is unclear how the City has addressed Goal 5 and if it meets the current Rule for this goal (OAR 660-023). Policies on land, air

and water quality are not integrated with the rest of the Comprehensive Plan or relevant to other policies. Section R on page 118 of 175 seems to be crafted to address Goal 6, but its contents are difficult to follow. DLCD suggests the City revisit this section and ensure its readability and applicability. Specific suggestions related to natural resources and air, land and water quality are attached to this correspondence for your further consideration. Last, the City may want to consider relying on the Water Quality Model Code published in 2000 by DLCD and DEQ. This is available on the DLCD website at: <http://www.oregon.gov/LCD/waterqualitygb.shtml>

Goal 9: Economic Development

DLCD believes this section on page 134 of 175 entitled Section F. Commercial may be misnamed given that it discusses both industrial and commercial lands. DLCD suggests the City revise the title of the section to "Employment".

DLCD is concerned about the new C-3 Highway Commercial district. Without clear substantiation by the Economic Opportunities Analysis (referenced but not submitted with the proposal), it is impossible to determine if this new district is needed. Assuming it is needed, the scope and requirements for this district are not clear. State policy supports commercial uses integrated into the community and not concentrated along highways.

Last, Implementation Measures 8, fourth bullet on page 148 does not conform with the Goal 9 administrative rule, OAR 660-009. As of January 1, 2007, all urban growth boundaries in Oregon must contain a long-term (20-year) supply of employment land (commercial, industrial, and other employment uses). Only jurisdictions in Metro must also provide a short-term supply. If Molalla wants to maintain a three-year supply of industrial land, it may do so by revising the second sentence to read: "The City of Molalla shall maintain, in addition to the 20-year supply required by Goal 9 and its implementing rules, a three-year short-term supply of vacant industrial land."

Goal 10: Housing: There are multiple housing policies that may be in violation of ORS 197.307(3)(b) and OAR 660-008-0015. Landscape/livability policy B-3 on page 125 may violate these statutes and rules since it may discourage needed housing in Molalla through development standards, conditions or procedures.

Similarly, some of the policies related to mobile home parks violate ORS 197.307(3)(b), ORS 197.314 and OAR 660-008-0015. Mobile home parks may not have conditions above those specified in statute (see ORS 197.314(6)). Further, it may be in violation of statute and rule to only allow mobile home parks as conditional uses.

The City is proposing new residential plan designations, and changing the purpose of the R-1 designation. The city will need to update its Comprehensive Plan map at the time of Plan adoption so that the R-1 district applies to land that meets the new R-1 definition. Additionally, DLCD recognizes this proposed plan district has an extremely low density for an urban area. Its application, should the City choose to maintain it, should only apply to lands already developed at this density.

With the R-5 and TTCPA residential districts, there is no indication if these planning areas would allow only detached or attached housing units. This should be clarified. Further, there is some ambiguity about the expected density in the R-5 district. This should be clarified.

On page 155, section entitled Lands Designated for Residential Purposes, the last two words in the first sentence should be changed to "occur" from "be encouraged". Also, it is noted that all housing should be located near schools and parks. The wording of the last sentence in this section is confusing and should be revised.

On page 150, some of the Implementation Measures are unsubstantiated. It is unknown if a housing mix of 30% multi-family and 70% single-family is appropriate without examining the residential land needs analysis. The same applies for other measures, such as aiming future subsidized housing towards the elderly population. Rather than putting this directive in the comprehensive plan, the city should look at its needed housing analysis to determine what needs exist in the city, then strive to meet them.

Goal 11: Public Facilities: The implementation measures for Public Facilities, D-5, item #3 (page 55 of 175), may not be consistent with the Public Facilities and Services statewide planning goal. Goal 11 states that establishment or extension of sewer systems outside urban growth boundaries or unincorporated community boundaries shall not be allowed except where the new or extended system is the *only practicable alternative to mitigate a public health hazard and will not adversely affect farm or forest land*. The proposed language in the comprehensive plan allows for extension of sewer systems under additional circumstances. The City should examine this language with the Goal 11 rule to ensure that it is not in violation of the rules.

Additionally, some of the findings from *Dolan v City of Tigard* (US Supreme Court, 1995) apply to the public facility policies. This case found that:

"...when [feasible] the City is able to make findings of (1) an essential connection between the condition and approval and a legitimate governmental purpose, and (2) rough proportionality, both in nature and extent, between the condition of approval and the public impact of the proposed development, the City [shall] may impose a condition of approval that requires a develop[s] to pay for the cost of major public facility expansions to serve new development."

Dolan must also be implemented in the development code. This *Dolan* finding should be incorporated in Implementation Measure D-5 #2, page 55, D-5, #4, page 55 and Policy D-6, #6 on page 56. Local governments are limited in the extent to which they may require developers to pay for off-site improvements.

Regarding school planning, policy D-5 #2 on page 54, the last sentence is incorrect. School planning should not follow land use planning; it should be coordinated with land

Proofreading: Generally, the entire plan would benefit from a professional proofreading prior to adoption. Having a professional proofreader look for corrections such as: spelling, punctuation, sentence structure, repetitive sections, capitalizations, section and subsection numbering agreement, missing words, etc. would make this a better and easier to use document.

Another category of proofreading would be by a planner to ensure proper citations of state statute. For example, in the Plan Elements and Implementation section (p 146 of 175), the wrong ORS is referenced. It should read 197, not 238.

Word choices: On page 153 on 175, there is an implementation measure suggesting the city favor a particular type of development. DLCD suggests that the City "encourage" rather than "favor" a particular type of development, as favor suggests the city will discriminate against unfavorable developments.

The Comprehensive Plan references a "planning area" in various sections including but not limited to Measure M-1 beginning on page 137 and pages 15-19. Since "planning area" is not defined in state rule and statute, Molalla should define what is meant by "planning area". Does this mean "UGB"? If so, replace "planning area" with "UGB".

There are multiple references through the comprehensive plan to "Urban Growth Boundaries". A city may have a single urban growth boundary. Please revise this phrase accordingly where it occurs. Some places where it occurs include: page 157, implementation measure M-1, fourth bullet and on page 143. Additionally, DLCD staff recommends changing the language of implementation measure M-1 on page 138 to "An urban growth boundary shall be established and maintained to identify and separate urban and urbanizable lands from rural lands."

Last, there is a reference to "area of interest" on pages 146 and 153. It is unclear what the City means by this. Does this refer to the UGB?

Place Holders: Towards the end of the document, there are a lot of "XXX" place holders. Be sure to address these prior to adoption.

Functional Plans: There is a small discussion on pages 33 and 167 of the proposed comprehensive plan regarding functional plans. It should be noted that functional plans may not be adopted by resolution as per ORS 227.186(2), which states: "All legislative acts relating to comprehensive plans, land use planning or zoning adopted by a city shall be by ordinance." Revise these sections accordingly.

You should be aware that the State provides free technical assistance with revising plan policies and code regulations through the TGM Code Assistance Program. Call Steve Oulman at 503.373.0050, extension 259 for more information.

**DLCD comments on Molalla's Proposed Population Forecast, Residential Land
Needs Analysis, Urban Reserve Area, Comp Plan, and Development Code
May 6, 2008**

The following comments, questions and observations are prepared in an effort to help the City of Molalla fine tune its ongoing work toward an updated comprehensive plan and toward establishing an urban reserve area and urban growth boundary expansion. Comments and observations are roughly categorized according to plan element, although there is some cross referencing between sections.

Population forecast

Earlier this year, department staff met with the city, the county, and the city's consultants about the city's proposed population forecast. We followed up with a letter advising the city that, because Clackamas County is not currently prepared to update its 11-year old coordinated county population forecast within the city's planning time frame, Molalla should use the ORS 195.034(3) / OAR 660-024-0030(4) safe harbor specifically designed to assist cities in this situation.

The city appears instead to use the E. D. Hovee 2025 forecast to both:

- (1) calculate a 2050 population forecast for the proposed URA, and
- (2) calculate a 2027 forecast on which to base the city's 20-year residential land needs. The Hovee forecast is significantly higher than a 2025 forecast using the legally defensible safe harbor.

In any case, Clackamas County must adopt a revised population forecast consistent with the statute and rule process for population forecast coordination prior to Molalla's use of the forecast for planning purposes.

Draft comp plan

Population forecast: As mentioned above, the E D Hovee 2025 forecast is not consistent with Clackamas County's existing county-wide population forecast and is not consistent with the safe harbor provisions in ORS 195.034(3) and OAR 660-024-0030(4).

UGMA: According to the plan, the city's Urban Growth Management Agreement (UGMA) with Clackamas County is more than 25 years old (1982). The proposed plan amendments suggest that the agreement will be updated in 2009. The city and county need a current UGMA in order to designate urban reserves, expand Molalla's UGB, or adopt new growth management policies.

Goal 9 policies:

- Does the city *need* policies to retain or maintain commercial sites?
- Cities of Molalla's size typically do not need multiple "automobile-oriented commercial zones"; in fact, the city and its business community are likely to

be better served with a single auto-oriented commercial area that is closely integrated into its other commercial and residential areas. The proposed plan amendments propose 3 auto-oriented zones (Highway Commercial, General Commercial, and Commercial/Industrial). Those designations are inconsistent with the following other city policies and with the foundations of Goal 9:

- Commercial Development Policy #10: "Inefficient strip development patterns that increase congestion and therefore waste energy resources shall be avoided" (p. 37);
 - "Revitalizing the Central Business District" (p. 34); and
 - "Developing small-scale mixed-use development areas" (p. 35).
- Economic Development Policies #5 and #10 (pp. 32, 39) appropriately attempt to preserve industrial sites from conversion to commercial uses, but the policies are inconsistent and do not appear adequate to accomplish their objective:
 - Policy #10: "Commercial and service uses in the City's industrial zones should be *limited to small-scale* retail and service uses *that cater primarily to local area employees and customers.*" (emphasis added) This is good. Replacing "should" with "shall" (and implementing in the development code) will enable this policy to work effectively.
 - Policy #5, on the other hand, *prohibits all* commercial uses in M-1 and M-2; the city should carefully consider this language for consistency with other economic development policies.
 - There is no policy to prohibit or discourage city approval of quasi-judicial applications for industrial land zone changes to commercial or residential.
 - Policy #22 (p. 40) "Large scale agricultural or nursery processing industries" are not urban uses. The city may permit existing uses to continue operating until the land is urbanized, but new ag and nursery processing uses should not be permitted inside the UGB.

Goal 10 policies:

- Draft Residential Land Needs Report

Population forecast: As mentioned above, the E D Hovee 2025 forecast should not be used for this analysis.

Densities and mix: Residential development has not achieved the density or mix anticipated in the city's existing comp plan. The proposed densities and housing types for the 20-year planning period are not enough to "catch up" or to ensure future development efficiency inside the UGB:

- Housing mix (pp. 5-6):
1986 comp plan = 70% SF / 30% MF.

2002-2006 built = 97% SF / 3% MF.

The report provides no housing mix for the future planning period (possibly in the missing Appendix 1).

o Housing densities (p 6):

Zone	1986 plan	2001-2006
LDR	4.3 – 5.8	3.1
MDR	4.9 – 9.8	6.1
HDR	15 - 18	5.3
	Zone	Gross density
1986 comp plan	LDR	4.3 – 5.8 dwelling units/acre
	MDR	4.9 – 9.8
	HDR	15 - 18
2001-2006 built	LDR	3.1
	MDR	6.1
	HDR	5.3
	<i>Average</i>	4.1
Proposed for 2050	LDR	4
	MDR	7
	HDR	14
	<i>Average</i>	5.6 ¹

Housing types: Permitting duplexes on corner lots in R-2 is a good step to provide a variety of housing to meet residents' needs and develop more efficiently within the UGB in accordance with Housing Policy #3 (p. 43) and Statewide Planning Goals 10 and 14, but it's not enough. We recommend, consistent with Winterbrook Planning's recommendations, as follows:

- o R-1: Allow small-lot detached single-family on any lot and duplexes on corner lots;
- o R-2: Allow small-lot detached, single-family attached, and duplexes on any lot;
- o R-3 and R-4: Remove large-lot detached single-family;
- o Permit small-lot single-family detached in R-1 and R-2, or in R-2 and R-3;
- o R-4: Prohibit detached single-family housing.

Vacancy rate: The safe harbor vacancy rate in the 2000 Census for Molalla was 3.9% (see OAR 660-024-0040(7)(a)). The city may use a different vacancy rate, such as the proposed 5%, but only if it provides adequate findings to justify using another rate.

¹ The report states that the proposed 5.6 du/acre average translates into an average housing unit size of 6,000 square feet (see p. 7, footnote 2). This makes sense if SF types constitute 90% or more of total housing units, but not if the city needs a future housing mix more like the 70/30 in its 1986 comp plan.

