



Molalla City Council – Meeting Agenda
Meeting located at: Molalla Adult Center
315 Kennel Ave, Molalla, OR 97038
February 22, 2017

WORK SESSION BEFORE MEETING 6:00PM

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 : AFTER MEETING

1. **CALL TO ORDER – 1,773rd Regular Meeting**
 - A. Call the meeting to order – Mayor Thompson
 - B. Flag Salute and Roll Call

2. **COMMUNICATIONS, PRESENTATIONS & PUBLIC COMMENT**
 - A. Council Orientation - Chad Jacobs, City Attorney
 - B. Letter from Kiwanis – Huff
 - C. *Minutes of 02/08/17 will be presented at the next meeting*

3. **PUBLIC HEARING**

4. **CONTINUED BUSINESS**
 - A. Findings, Facts and Decision of Shirley Bank Sub-Division Appeal – Huff
 - B. *Second Friday Request – March 2017*

5. **NEW BUSINESS**
 - A. Discussion: Authorize a Change in Capital Improvement Expenditures – Fisher
 - B. ODOT Joint Letter with City of Molalla and Molalla River School Dist. – Huff
 - C. Student Liasion – Thompson/Huff
 - D. Library Board Appointment – Hadley/Thompson

6. **RESOLUTIONS**
 - A. Resolution 2017-04: Recreational Immunity Resolution – Huff

7. **REPORTS AND ANNOUNCEMENTS**
 - A. Staff and Council:
 1. Budget Meeting Dates: April 26, 2017 and May 3, 2017 at 6:30PM
 2. Molalla Avenue Street Construction – Fisher

8. **EXECUTIVE SESSION**

Under ORS 192.660 (2)(E) Real Property Transactions

9. **ADJOURNMENT**

To Whom it May Concern:

Molalla City Council % Dan Huff, Molalla Buckeroo Association, Ford Foundation Committee, and Molalla Communications Board

Greeting from The Molalla Kiwanis.

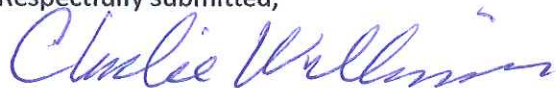
This is a FYI that because of a loss of funding from the past and the deteriorated faded 4th of July Street banners, the Molalla Kiwanis Club is informing you that we will not be putting up the street banners in the future.

We also understand that the city will be putting up the brackets for the new Ford Foundation Banners. We are asking that the city remove our two brackets and 4 lag bolts from the PGE poles from Church Street to Dibble House, North and South on Molalla Ave., East and West from the Y to Alan's Big Burger, Shirley Street from Molalla Ave. to Hwy 211 and Cole from 211 to Shirley Street. Thank you for your consideration in doing this for us at the same time you are working on Ford Foundation Banners. If you choose to help us; Please return the lag bolts and brackets to Charlie Williams, 530 N Molalla Ave., Molalla, Or 97038. Kiwanis banner Co- Chairman 503-803-5431 cell.

Note: We will be continuing the business banner rental as it is our largest fundraiser providing the funds to do Community Easter Egg Hunt, Community Ray Ferland Fishing Day for kids and sponsor two Key Clubs from both High School's. IE Molalla High School 40 member students and Country Christian H.S. 46 student members. The Molalla Kiwanis Ace Hardware Letters to Santa, The Molalla Buckeroo Kiwanis Kiddies Parade Sponsored by Country Christian Key Club and the Molalla Fire Department in Coordination with the Molalla Kiwanis Club. One Special note you need to know is that the Molalla Communication Company is awarding us grants for Student Leadership Education and for stocking the Fish for the Fishing Day

Thank you to our community partners, we will be adding to the Business Banner inventory as Molalla is growing and for your support in this fundraising effort in the past and in the future from the 36 members of The Molalla Kiwanis Club.

Respectfully submitted,



Charlie Williams

CO- Chair Banner Fundraising

CC: Bob Yoder

CC: Byron Wakefield

**CITY OF MOLALLA CITY COUNCIL
FINDINGS OF FACT AND DECISION DOCUMENT**

APPEAL HEARING

In the Matter of an Appeal of)	File No. P-45-2016
Language used in conditions of)	Oregon Department of
Approval regarding a Subdivision)	Transportation (ODOT)
Located within the city limits of)	Appeal of a Planning
Molalla.)	Commission Decision

A. SUMMARY

This Findings of Fact and Decision Document is in regards to a City Council decision regarding an ODOT Appeal of a Molalla Planning Commission Decision pursuant to MMC Chapter 18 and Chapter 19. The Molalla Planning Commission approved a 7-lot subdivision located in the NE corner of the City and applied certain conditions of approval to the subject subdivision (Exhibit B). ODOT appealed the language of specific conditions of approval pertaining to pedestrian access (Exhibit A) based on the argument that the decision did not comply with the Transportation System Plan or MCC Chapter 18. Council found that the Planning Commissions decision to approve the subdivision should be Affirmed but conditions regarding pedestrian access and in addition, frontage improvement along Highway 211 should be Altered.

B. GENERAL INFORMATION

The Shirley Bank Subdivision is a proposed 7-lot subdivision located in the very northeastern corner of the City. The applicant (Stafford Development Company LLC) has proposed to create 7 residential lots on a parcel lying between State Highway 211 and Coho Street in Northeast Molalla. The subject parcel is 1.52 acres in size. Adequate infrastructure exists adjacent to the parcel to facilitate the expansion of the existing subdivision to the west, Molalla River Estates.

This application was reviewed by the Molalla Planning Commission using a Type III (quasi-judicial) review process as directed by the Molalla Municipal Code (MMC). The Planning Commission held a public hearing for this matter on October 5, 2016.

After reviewing items submitted by the applicant, testimony provided by the applicant as well as testimony from interested individuals, the Planning Commission voted to approve application P45-2016 pursuant to conditions as identified in the Planning Commission Findings of Fact (Exhibit B). The Planning Commission found that each criterion for approval was or could be met through certain conditions.

The City received an appeal of the Planning Commission's Decision on December 21, 2016. ODOT's appeal (Exhibit A) is intended to focus on condition of approval No. 7 and to a lesser degree condition No. 13(A)(2). Within their statement ODOT contends that the elimination of the pedestrian connection to Highway 211 is in violation of the Transportation System Plan (TSP) and MCC Section 18.16.030(A)(2) as well as Section 18.04.030(B)(10)(b)(iii).

Based on the following Findings, Council finds that the Shirley Bank Subdivision complies with approval criteria with the exception of pedestrian access and frontage improvements.

C. PROCEDURES

This action is specific to the application for Shirley Bank Subdivision (File No. P45-2016). This is a quasi-judicial action that has been appealed to the City Council under MMC Section 19.04.040 (H). During their respective hearings, the Planning Commission and City Council received staff reports, took written and verbal testimony, considered facts and criteria and rendered a decision based on the information available.

D. PARTY STATUS

The following affected residents participated in the Planning Commission process and were recognized as part of the City Council proceeding:

- Tim and Jody Newland 321 Chinook Street
- Heather and Chris Phillips 1021 Coho Street
- Pam Ward/Mario McCray 311 Chinook Street
- Robin Eastlick 1011 Coho Street
- Patricia Torsen 104 S. Hezzie Lane
- Susan Hansen 33381 S. Sawtell Road
- Joan Zuber 44731 S. Elk Prairie Road
- Marylyn Bloch 206 Berkley Avenue
- Shirley Inman 32745 S. Mathias Road

E. PROCEDURAL FINDINGS

This application was originally reviewed using a Type III procedure pursuant to section *19.04.040* of the Molalla Municipal Code. Approval criteria for Preliminary Plat approval (in italics), and City Council findings, are as follows:

19.12.080 Approval criteria.

1. *General Approval Criteria. The City may approve, approve with conditions or deny a preliminary plat based on the following approval criteria:*

- a. *The proposed preliminary plat complies with the applicable Development Code sections and all other applicable ordinances and regulations. At a minimum, the provisions of this title, and the applicable chapters of Title 17 (Land Use Districts) and Title 18 (Design Standards) apply. Where a variance, annexation, or zone change is necessary to receive preliminary plat approval, the application shall also comply with the relevant sections of Title 20;*
2. The City of Molalla considered this appeal pursuant to MMC 19.04.040(H). The ODOT appeal information is identified in Exhibit A. The City Council accepts as their own the Planning Commission Findings of Fact document as well as the record of the Planning Commission proceedings (Exhibit B).
3. Original public notice for the Shirley Bank Subdivision was provided on August 4, 2016 and posted on the City Website and printed with the Molalla Pioneer. Notice of the Appeal Hearing was also provided to all participants in the Planning Commission proceedings.
4. The City Council finds that this matter came before the Planning Commission on October 5, 2016, November 2, 2016 and Findings were adopted on December 7, 2016. Notice for each of these proceedings was posted in the newspaper and posted on the City website.
5. The City Council takes notice of the interested parties identified previously in this document and includes their testimony and document submittal as part of the record.
6. This matter came before the Molalla City Council on February 8, 2017. The City Council received the staff report, and heard public testimony.

Conclusion: The procedural findings noted above are adequate to support the City Council's decision on the appeal.

F. DECISION CRITERIA AND SUBSTANTIVE FINDINGS OF FACT

MMC 19.04.040 (H) provides procedures for an appeal of a Type III Planning Commission decision.

ODOT contends that the removal of the requirement to secure a pedestrian connection between the new subdivision and Highway 211 is in violation of the Molalla TSP and Section 18.16.030 (A) and 18.04.030(B)(10)(b)(iii) as these sections relate to pedestrian access ways. ODOT has requested that the City Council consider altering condition No. 7 and indirectly Condition No. 13 within the Planning Commission Findings of Fact.

Finding - The City Council finds that the appeal filed by ODOT has merit and that Planning Commission Finding of Fact conditions No. 7 and No. 13(A)(2) should be altered as follows:

7. The applicant shall provide a 15 foot wide easement or right-of-way to the City of Molalla for future pedestrian access to Highway 211 at the time of final plat. The applicant shall provide an opening or a gate in the perimeter wall allowing for the future path. The City of Molalla shall be responsible for the future timing and construction of the pedestrian connection.
- 13(A)(2). Highway 211 is an arterial street under Oregon Department of Transportation (ODOT) jurisdiction. Current right-of-way width is 60 feet and approximate pavement width is 30 feet. Arterial streets (w/travel lanes, w/median, w/bike lanes, w/sidewalks, w/o parking) require 64 feet of right-of-way and 50 feet of pavement for areas with 6' wide curb tight sidewalk. Applicant will be required to dedicate 2.5 feet of right-of-way and construct road improvements to State standards for 25 feet of pavement (CL to face of curb), curb and gutter, and 6 foot curb tight sidewalk. If required during design review by ODOT, additional striping and pavement tapers may be necessary to allow for pavement transitions and striping. Specific frontage design requirements to be determined during construction design phase.

DECISION

The Molalla City Council **AFFIRMS** the Planning Commission decision to approve P45-2016/Shirley Bank Subdivision pursuant to the following **ALTERATIONS** to Condition 7 and Condition 13 (A)(2):

7. The applicant shall provide a 15 foot wide easement or right-of-way to the City of Molalla for future pedestrian access to Highway 211 at the time of final plat. The applicant shall provide an opening or a gate in the perimeter wall allowing for the future path. The City of Molalla shall be responsible for the future timing and construction of the pedestrian connection.
- 13(A)(2). Highway 211 is an arterial street under Oregon Department of Transportation (ODOT) jurisdiction. Current right-of-way width is 60 feet and approximate pavement width is 30 feet. Arterial streets (w/travel lanes, w/median, w/bike lanes, w/sidewalks, w/o parking) require 64 feet of right-of-way and 50 feet of pavement for areas with 6' wide curb tight sidewalk. Applicant will be required to dedicate 2.5 feet of right-of-way and construct road improvements to State standards for 25 feet of pavement (CL to face of curb), curb and gutter, and 6 foot curb tight sidewalk. If required during design review by ODOT, additional striping and pavement tapers may be necessary to allow for pavement transitions and striping. Specific frontage design requirements to be determined during construction design phase.

DATED this _____ Day of February, 2017.

Jimmy Thompson, Mayor

Sadie Cramer, City Recorder



City of Molalla
Application for Appointment to Citizen Committee

Date: 1-30-2017

Board/Committee of Interest: LIBRARY BOARD

Name:
Address:
State/Province:
Zip/Postal Code:
Home Phone:
Work Phone:
*E-Mail

VALERIE COY	
MOLALLA OR 97038	
N/A	
N/A	
Years of Residence Inside City	1 yr

Current or Previous Community Affiliations or Activities:

CURRENT- MACC MEMBER AND PINOCCHLE HOST
CURRENT- DRIVE AND PLAN LUNCHEES FOR COLTON SENIORS
PREVIOUS- LIBRARY CLERK AT MOLALLA PUBLIC LIBRARY

Why would you like to serve on this committee and give any other background you might have in this area.

I AM INTERESTED IN SUPPORTING LIBRARY SERVICES & STAFF.
I HAVE BEEN EMPLOYED AND VOLUNTEERED AT COLTON SCHOOLS
LIBRARY, WFH MEDICAL LIBRARY and MOLALLA PUBLIC LIBRARY.

If applying for re-appointment to this Commission/Board/Committee/Task Force, please indicate what has been the key accomplishment of the group during your service.

N/A.

If you could make any improvement to the Commission/Board/Committee/Task Force, what would it be?

FIND MEANS FOR BETTER COMMUNICATION TO
THE COMMUNITY.

*Signature:

Valerie Coy

117 Molalla Ave/PO Box 248 Molalla Oregon 97038
Ph: 503.829.6855 Fax: 503.829.3676 www.cityofmolalla.com

RESOLUTION 2017-04

A RESOLUTION OF THE CITY OF MOLALLA - MOLALLA CITY COUNCIL FOR RECOMMENDING RESTORING RECREATIONAL IMMUNITY RIGHTS

WHEREAS, in 1995, the Legislative Assembly declared it to be the public policy of the State of Oregon to encourage landowners to make their land available to the public for recreational purposes by limiting their liability toward persons entering thereon for such purposes, and;

WHEREAS, recreations purposes includes, but are not limited to, outdoor activities such as hunting, fishing, swimming, boating, camping, picnicking, hiking, nature study, outdoor educational activities, water sports, winter sports, viewing or enjoying historical, archaeological, scenic or scientific sites or volunteering for any public purpose project, including the above aforementioned activities, as well as: gardening, woodcutting and for the harvest of special forest products, and;

WHEREAS, the Public Use of Lands Act has increased the availability of land for free recreation by citizens and visitors alike by limiting liability to cities, counties, park districts, irrigation districts, schools and private landowners, including property-owner associations, farmers and timber companies that, by virtue of this act, allow members of the public to use or traverse their lands at no charge for recreation purposes, and;

WHEREAS, for twenty years, the Public Use of Lands Act has been broadly interpreted to extend this immunity from liability to apply not only to landowners but also to the landowner's employees agents, and volunteers, and;

WHEREAS, in *Johnson v. Gibson*, the Oregon Supreme Court held that when the Legislature passed the Public Use of Lands Act, it intended to immunize only the landowner, otherwise the Legislative Assembly would have included employees, agents and volunteers in the Act, and;

WHEREAS, this ruling effectively undermines a landowner's recreational immunity from tort liability under the Act because public employers are statutorily required to represent and indemnify their employees and most, if not all, landowners who allow access to their lands free of charge will ultimately be responsible for the negligence of their employees that results in injury to a member of the public or property, and;

WHEREAS, landowners will likely face substantially increased insurance premiums for this new risk exposure and/or have to close their property or amenities to Oregonians trying to recreate due to the result of this decision.

NOW, THEREFORE, let it be known that the City of Molalla supports legislation in the 2017 Oregon Legislative Assembly promulgated to restore recreational immunity to landowners and their officers, employees, agents or volunteers who are acting within

RESOLUTION 2017-04

**A RESOLUTION OF THE CITY OF MOLALLA - MOLALLA CITY COUNCIL FOR
RECOMMENDING RESTORING RECREATIONAL IMMUNITY RIGHTS**

the scope of their employment or duties so to allow Oregonians to access their lands for recreational use and enjoyment.

ADOPTED by the Molalla City Council on **February 22, 2017**.

Jimmy Thompson, Mayor

Attest:

Sadie Cramer, City Recorder