



Planning & Community Dev.  
117 N Molalla Avenue  
PO Box 248  
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## **Staff Report – Reconsideration**

**File No.:** P45-2016  
**Legal Description:** Township 5 South, Range 2 East, Section 07D, Tax Lot 03506  
**Address:** 31816 S. Ona Way  
**Appellant:** Jim Taylor  
**Owner:** Jim Taylor  
**Appeal:** Appeal Reconsideration, regarding South Ona Way street improvements

### **1. Overview & Background**

On November 7, 2017 the City of Molalla approved an application for a proposed rebuild of an Industrial building that was destroyed by a fire. The applicant, Jim Taylor submitted an appeal letter on November 21, 2017 challenging a condition imposed as part of the City’s approval. The appeal letter challenges the City’s authority to require the applicant to sign of a waiver of remonstrance to assure that street improvements required under applicable City Code provisions will be made. The Planning Commission originally held a hearing on the appeal on January 3<sup>rd</sup>, 2017, and continued the hearing to January 17, 2017, to take evidence and testimony regarding the applicant’s challenge of Condition of Approval #2 of the original approval: “2. Applicant shall be required to sign a Waiver of Remonstrance for roadway improvements including stormwater, lighting, and any other necessary utilities or appurtenances to complete the roadway to a functional operation, as determined by the Public Works Director.”

After deliberation, the Planning Commission approved the application and imposed Condition #2 as recommended by staff. A notice of decision was sent shortly after, and the applicant appealed the decision to the Oregon Land Use Board of Appeals (LUBA). The City of Molalla thereafter withdrew its decision for reconsideration.

*The reconsideration will be reviewed based on criteria set forth by the Molalla Municipal Code:*

#### **Chapter 18.02 – Design Standards Administration**

- **18.02.02.A. Major Project Chapter 18.16 - Public Facilities.**
- **18.16.010 Purpose and applicability & 18.16.020 Transportation Standards.**

*18.02.020 Applicability.*

*A. Major Project. Major projects also include remodels with 50% or greater in tax assessed value as shown on the most recent tax assessors rolls. Major projects, including developments that require Site Design Review (Chapter 19.08), Land Division approval (Chapter 19.12), Master Planned*

*Development (Chapter 19.20), Conditional Use and amendments to the Comprehensive Plan or Zoning Map (Chapter 19.28), must conform to the applicable section of:*

- *Access and Circulation (Chapter 18.04)*
- *Landscaping, Street Trees, Fences and Wall (Chapter 18.08)*
- *Public Facilities (Chapter 18.16)*
- *Surface Water Management (Chapter 18.20)*
- *Signs (Chapter 18.32)*
- *Telecommunication Facilities (Chapter 18.24)*
- *Sensitive Lands (Chapter 18.28)*

**Staff Findings:**

The appellant is has been through numerous lands use approvals with conditions applied to each application, and through the course of those approvals various Code requirements and approval conditions have not been satisfied. Accordingly, on reconsideration, staff recommends approval of the application, subject to all applicable Code requirements and the recommended Conditions of Approval contained in Attachment A. to bring the applicant’s development into full compliance with all applicable land use regulations.

The Planning Commission shall:

- Affirm and readopt its previous approval
- Amend or Modify its previous approval and re-approve the application(staff recommendation)
- Or deny the application

**2. Public Notice**

The notice of public hearing was sent to the interested parties on April 12, 2018.

The notice of public hearing was posted on the City of Molalla Website on April 13, 2018.

**3. Attachments & Exhibits**

**Attachment A:** Recommended Conditions of Approval

**Attachment B:** Letter and Notice of Reconsideration

**Exhibit A:** 2004 Plan Review and Decision for original 60x60 shop.

**Exhibit B:** 2013 Plan Review and Decision for Partition.

**Exhibit C:** Relevant Documents for Reconsideration

### **Recommended Compliance Conditions:**

#### **Planning Conditions**

1. The applicant shall obtain any required (building) permits from Clackamas County, and comply with the requirements of the permits.
2. Final certificate of occupancy shall not be granted until all conditions of the design review approval have been met.
3. Any changes in the design review plans shall be submitted and approved prior to implementation or construction.
4. The applicant shall provide a parking plan showing nineteen (19) parking spots on (1) of which shall be handicapped. The applicant shall provide a minimum of two (2) bicycle parking spots and one (1) loading berth.
5. The applicant shall install a driveway apron that meets Public Works standards and shall pave the driveway to the business/building.
6. Applicant shall mitigate stormwater through an onsite detention system.
7. 15% minimum landscaping shall be incorporated on the site. A landscape plan shall be submitted based on the Development Code requirements 18.08.010.
8. The applicant shall acquire written approval from the local fire marshal regarding compliance with Oregon Fire Code prior to Final Occupancy.

#### **Public Works Conditions:**

##### **A. Street:**

1. The proposed development is showing the replacement of the building damaged in a fire with the same dimensions as preexisting to application. No traffic analysis is required.
2. Lowe Road Extension: Lowe Road extension is shown in the TSP as a future neighborhood street under City of Molalla jurisdiction. Current right-of-way width is 25 feet north of subject site and there are no roadway improvements. Neighborhood streets (w/TL, w PK) require 50 feet of right-of-way and 40 feet of pavement. Applicant has dedicated the required 25 feet of right-of-way and will be required to dedicate a 10 foot wide public utility easement along the south side of the right of way. Applicant will be required to construct half street improvements to City standards for 20 feet of pavement (edge of pavement to face of curb), curb and gutter, 6 foot curb tight sidewalk, and street lighting along the south side of the roadway to the west end of the parcel. Street lighting layout will assume spacing as if north side lighting was in place. Details to be worked out in design phase for final lighting location.
3. Access to public streets shall be limited to a single location approved by the Public Works Director and all accesses shall be constructed in such a manner as to eliminate turning conflicts. Access spacing shall conform to the Transportation Systems Plan. The proposed width of accesses shall meet the Molalla Standard Specifications for Public Works Construction.

4. The pedestrian crosswalk on Lowe Road extension shall be located to tie in to improvements on the north side of the roadway. The developer shall be responsible to install all associated signing for this and other crosswalks along with 25 mph speed signs.

5. Transportation SDC's – In accordance with MMC 13.14 this design review does not increase the impacts to the public improvement facility and is therefore exempt from transportation SDC charges

B. Storm:

1. Lowe Road Extension: Lowe Road extension currently has a ditch along the north side of the right of way. Applicant will be required to construct storm improvements along the south side of the right of way that tie into the north ditch assuming a future storm system with flow through catch basins.

2. Applicant will be required to construct onsite stormwater detention and water quality in conformance with the Molalla Standard Specifications for Public Works Construction.

3. Stormwater SDC's – In accordance with MMC 13.14 this design review does not increase the impacts to the public improvement facility for the existing building but will increase impact to the public improvement facility for new impervious surface associated all new paved parking areas and other impervious surfaces. SDC's shall be calculated in accordance with the City's SDC methodology.

C. Sanitary:

1. An 8-inch sanitary main exists on the Lowe Road extension that was not tested and inspected in accordance with City requirements. The sewer line has recently been identified as a problem location for infiltration and/or inflow. Sanitary main and laterals installed by applicant in the past shall be retested and repaired or lined if necessary. All sewer mains and laterals shall be pressure tested and all manholes vacuum tested in accordance with Molalla Standard Specifications for Public Works Construction down to the connection at Hwy 211. In accordance with the code, Applicant will be required to extend the sanitary system to the west end of the parcel.

2. Sanitary SDC's – In accordance with MMC 13.14 this design review does not increase the impacts to the public improvement facility and is therefore exempt from sanitary SDC charges unless SDC's for new service connections have not been paid. All new service connections shall be calculated based on domestic water meter size in accordance with the City's SDC methodology.

D. Water:

1. A 6-inch water main exists on the Lowe Road extension. In accordance with the code, Applicant will be required to extend a new 8" waterline to the west end of the parcel.

2. Water SDC's – In accordance with MMC 13.14 this design review does not increase the Impacts to the public improvement facility and is therefore exempt from water SDC charges

unless SDC's for new service connections have not been paid. All new service connections shall be calculated based on domestic water meter size in accordance with the City's SDC methodology.

E. Parks:

1. Parks SDC's – In accordance with SMC 13.70.110 this industrial design review is exempt from parks SDC charges.

F. Franchise Utility Services:

1. All utilities to the project shall be served underground services. No overhead crossings of public right of way shall be approved by the city.

**DESIGN REQUIREMENTS & POLICIES**

a. General Requirements:

A. From the materials submitted, it appears that the storm drain, domestic water and sanitary sewer facilities will be obtained from main line connections and/or extensions. Separate engineering drawings reflecting the installation of these public utilities will be required.

B. No construction of, or connection to, any existing or proposed public utility/improvements will be permitted until all plans are approved by Staff, all fees have been paid, all necessary permits, bonding, right-of-way and easements have been obtained and approved by staff, and Staff is notified a minimum of 24 hours in advance.

C. Staff reserves the right to require revisions/modifications to the public improvement construction plans and completed street improvements, if additional modifications or expansion of the sight distance onto adjacent streets is required.

D. All public utility/improvement plans submitted for review shall be based upon a 22"x 34" format and shall be prepared in accordance with the City of Molalla Public Work's Standards.

E. All survey monuments on the subject site or that may be subject to disturbance within the construction area, or the construction of any off-site improvements shall be adequately referenced and protected prior to commencement of any construction activity. If the survey monuments are disturbed, moved, relocated or destroyed as a result of any construction, the project shall, at its cost, retain the services of a registered professional land surveyor in the State of Oregon to restore the monument to its original condition and file the necessary surveys as required by Oregon State law. A copy of any recorded survey shall be submitted to Staff.

F. Plans submitted for review shall meet the requirements described in Section 1 of the Molalla Standard Specifications for Public Works Construction.

G. The applicant shall contact the Oregon Water Resources Department and inform them of any existing wells located on the subject site. Any existing well shall be limited to irrigation purposes only. Proper separation, in conformance with applicable State standards, shall be maintained between irrigation systems, public water systems, and public sanitary systems. Should the project abandon any existing

wells, they shall be properly abandoned in conformance with State standards and supply the City with a copy of the final document.

H. Sanitary sewer designs require review by Oregon Department of Environmental Quality. Applicant shall be responsible for submission of plans to state agency and all associated fees. Applicant's Engineer will be required to submit final report to DEQ and provide a copy of the report to the City.

I. All utilities will be stubbed out to the far end of each street for future extension. The project shall utilize existing water, sewer, and storm water 'stub-outs' wherever possible. Water for domestic and fire protection shall be looped through the proposed site. Any 'stub-outs' determined to be not needed for the proposed development or any future development of the subject property shall be abandoned in accordance with the Molalla Standard Specifications for Public Works Construction.

J. All public improvement designs shall meet the requirements of the Molalla Standard Specifications for Public Works Construction as amended by the Public Works Director.

K. General Easements – A 10-foot wide public utility easement shall be dedicated to the City adjacent to all public right-of-way and no structures are allowed to encroach into the easement. Applicant shall be required to submit a legal description and exhibit map for review and sign City easements. Once completed, applicant will be required to record easements with the County Recorder's Office and return the original document to the City prior to final occupancy.

L. General Erosion Control – The applicant shall install, operate and maintain adequate erosion control measures in conformance with the standards adopted by the City of Molalla and DEQ during the construction of any public/private utility and building improvements until such time as approved permanent vegetative materials have been installed. Applicant or Applicant's Contractor shall be responsible for all erosion control requirements under the 1200-C permit and shall coordinate directly with DEQ for questions related to 1200-C permit compliance.

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BEFORE THE LAND USE BOARD OF APPEALS  
OF THE STATE OF OREGON

JAMES TAYLOR,  
Petitioner,  
v.  
CITY OF MOLALLA,  
Respondent.

LUBA Nos. 2018-010 and 2018-011

NOTICE OF WITHDRAWAL OF  
DECISION FOR RECONSIDERATION

Pursuant to ORS 197.830(13)(b), the City of Molalla ("City") withdraws the decision that is the subject of this appeal for the purpose of reconsidering it. Pursuant to ORS 197.830(13)(b) and OAR 661-010-0021(1), a notice of withdrawal must be filed on or before the date the record is due. The record in this appeal is due March 19, 2018. Because this notice of withdrawal is being filed before the date the record is due, it is timely filed.

Pursuant to OAR 661-0101-0021(1), the City will file a final decision on reconsideration within 90 days of the date of this notice.

DATED this 12th day of March, 2018.

Respectfully submitted,

BEERY, ELSNER & HAMMOND, LLP



Spencer Q. Parsons, OSB #034205  
spencer@gov-law.com  
Attorneys for Respondent

1 **CERTIFICATE OF FILING AND SERVICE**

2 I certify that on the date indicated below, I filed the original and one copy of the  
3 foregoing NOTICE OF WITHDRAWAL OF DECISION FOR RECONSIDERATION with the:

4 Land Use Board of Appeals  
5 775 Summer Street NE, Suite 330  
Salem, OR 97301-1283

6 by first-class mail, postage prepaid. On the same date, I served a true and correct copy of the  
7 same, by first-class mail, postage prepaid, on the following parties:

8 T. Beau Ellis  
9 Vial Fotheringham LLP  
10 17355 SW Boones Ferry Road, Suite A  
Lake Oswego, OR 97035  
Attorneys for Petitioner

11 DATED this 12th day of March, 2018.

12 BEERY, ELSNER & HAMMOND, LLP

13 

14 \_\_\_\_\_  
15 Spencer Q. Parsons, OSB #034205  
16 spencer@gov-law.com  
Attorneys for Respondent



# CITY OF MOLALLA PLANNING DEPARTMENT

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## NOTICE OF DECISION ON DESIGN REVIEW APPROVAL WITH CONDITIONS

**DATE:** May 7, 2004  
**FILE NO:** DR – 2004 - 7  
**LEGAL DESCRIPTION:** Township 5 South, Range 2 East, Section 7D, Tax Lot 3502.  
**STAFF CONTACT:** Shane Potter, Planning Director  
**APPLICANT:** Jim Taylor  
**OWNER OF PROPERTY:** Jim Taylor  
**PROPOSAL:** Additional 60x60 shop to be added to an already existing 60x100 shop.  
**ZONING:** M-2, Heavy Industrial

**FINDINGS:** Staff has reviewed an application for design review adding on to an existing industrial use. The application is subject to Molalla Municipal Code Chapter 18.45 and 18.52.

Staff has approved the application with conditions barring any appeals.

This decision may be appealed to the Molalla City Council by filing an appeal within fourteen (14) days from the date of this notice. Appeals must be filed at the City of Molalla Planning Department by filling out the appropriate forms. Copies of the report in full may be reviewed at the Planning Department for free or purchased for \$10.50.



Shane Potter  
Planning Director



Geographic Information Systems  
 121 Library Court  
 Oregon City, OR 97045

# Property Report

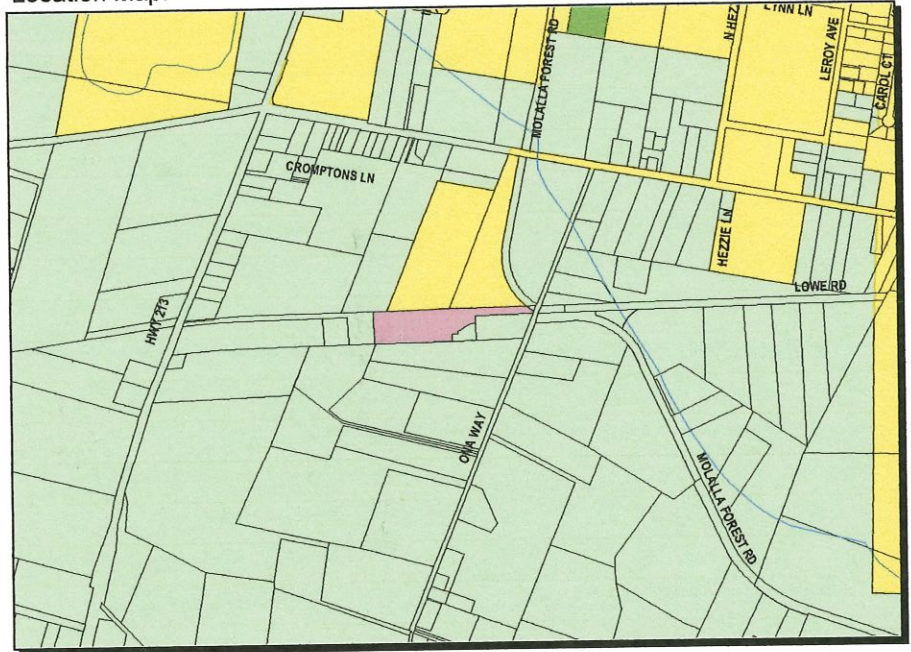
**TAYLOR JAMES M & DENISE L**  
**PO BOX 1140**  
**MULINO, OR 97042**

Site Address: **31816 S ONA WY**  
 Taxlot Number: **52E07D 03502**

Land Value: **67620**  
 Building Value: **101820**  
 Total Value: **169440**

Acreage: **5.03**  
 Year Built:  
 Sale Date: **1/1/1997 0:00:00**  
 Sale Amount: **275000**  
 Sale Type:

Location Map:



Land Class:  
**Industrial land improved**

Building Class:

Neighborhood:  
**Area 02 industrial**

Taxcode Districts: **35013**

Fire **Molalla RFPD #73**  
 Park **Unknown**  
 School **Molalla River**  
 Sewer **Unknown**  
 Water **Unknown**  
 Cable **Willamette Broadband (Molalla)**  
 CPO **Molalla**  
 Hauler **Molalla Sanitary**  
 Jurisdiction **Clackamas**

Site Characteristics:

UGB: **In**  
 Flood Zone: **No**

Zoning Designation(s):

Zone Code:	Overlay:	Acreage:
RRFF5		5.03

This map and all other information have been compiled for preliminary and/or general purposes only. This information is not intended to be complete for purposes of determining land use restrictions, zoning, title, parcel size, or suitability of any property for a specific use. Users are cautioned to field verify all information before making decisions.

# MOLALLA PLANNING DEPARTMENT

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## ADDITIONAL DESIGN REVIEW CRITERIA NEEDED

### *18.45.030 B.1.a.i*

No general information about the site such as location, demographics and need.

### *18.45.030 B.1.a.iii*

Nothing showing how the public will travel by foot or bicycle ways.

### *18.45.030 B.1.a.iv*

Need to identify if there are any transit stops. Where is the closest transit stop if not located there?

### *18.45.030 B.1.a.vii*

Are there any other easements on the property?

### *18.45.030 B.1.d*

Nothing showing contour lines.

### *18.45.030 B.1.f*

You don't say whether you have any natural hazard areas within one hundred (100) feet of the property.

### *18.45.030 B.1.g*

Put on the drawing the location of wetlands within one hundred (100) feet.

### *18.45.030 B.1.h*

Nothing showing the location of cultural resources within one hundred (100) feet.

### *18.45.030 B.1.i*

The existing and proposed structures are shown but there dimensions and setback distances are not shown.

18.45.030 B.1.k

There is no lighting plan included there must be one that shows the type, height, and areas of illumination.

18.45.030 B.1.l

There is no mention of signs. If there are some then there needs to be information supplied here.

18.45.030 B.1.m

There is no parking, circulation, loading and service areas, including the locations of all carpool, vanpool and bicycle parking spaces.

18.45.030 B.1.n

Nothing showing an auto, bicycle, and pedestrian access.

18.45.030 B.1.o

Onsite pedestrian and bicycle circulation.

18.45.030 B.1.p

The trash area is identified but no mention of how it is enclosed. Mail, loading and delivery areas are also not identified.

18.45.030 B.2

There is no landscape plan. We need one that shows all of this section.

18.45.040 A

Again no landscape plan this section needs to be answered.

18.45.040 B

Most of this information has not been provided.

18.45.040 C

No pedestrian circulation and access are shown.

18.45.040 E

No parking and loading plan must meet this section.

18.45.040 F.2.a

Need to provide evidence that facilities shall be sufficient.

18.45.040 F.2.b

Service providers are not listed or shown.

18.45.040 F.2.d

There is no mention of whether extensions shall occur or not. Since we know they will we need more information about what you want.

18.45.040 G

If there is storm water detention then you need to address this if not address why not.

18.45.040 H

No information on wetlands please provide there are some close by.

18.45.040 I

If there is signage it must meet this criterion. If not note that it does not.

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## -DESIGN REVIEW REPORT-

**DATE:** May 7, 2004

**FILE NO.:** DR 2004 - 1

**LEGAL DESCRIPTION:** Township 5 South, Range 2 East, Section 7D, Tax Lot 3502. The address of this site is 31816 S. Ona Way.

**APPLICANT:** Jim Taylor

**OWNERS:** Jim Taylor

**PROPOSAL:** The applicant is proposing an expansion of their existing facility, which builds automotive replica parts.

**ZONE:** M-2 Heavy Industrial

**STAFF:** Shane Potter, Planning Director

The following Chapters shall be reviewed during this Design Review:

*Chapter 18.45 Design Review*  
*Chapter 18.52 Parking Standards*

### **CHAPTER 18.45: DESIGN REVIEW**

#### **18.45.010 Purpose.**

The purposes of design review are to:

- A. Encourage site planning in advance of construction;

*This design review encourages planning in advance of construction by bringing the standards of a City to this property, which was recently annexed to the City. This area is being designed as an industrial area.*

- B. Protect persons and property from potential adverse impacts of development;

*This Design Review aids in lessening the impact of industrial development to surrounding persons and property.*

- C. Consider natural or man-made hazards, which may impose limitations on development;

*The applicant and staff have reviewed the property for hazards. The applicant has stated no hazards, natural or man made, exist. Staff has reviewed what limited information the City has and would concur with the applicant's statements.*

- D. Conserve the City's natural beauty and visual character and minimize adverse impacts of development on the natural environment as much as is reasonably practicable;

*The City is trying to capitalize on the recreation look and feel of the town and its surrounding area. The City is attempting to move its industrial development to the southwest portion of town. Staff also has worked to minimize problems associated with impacts to natural hazard areas. Staff is not aware of any natural areas such as wetlands in the area.*

- E. Assure that development is supported with necessary public facilities and services;

*The development does not have much of an impact to the City water and sewer. The Transportation, electric and other facilities will see only a slight change in their use.*

- F. Assure that structures and other improvements are properly related to their sites and to the surrounding sites and structures; and,

*Throughout this Design Review report we shall discuss positioning and relations of entities to the property.*

- G. Implement the City's Comprehensive Plan and land use regulations with respect to development standards and policies.

*Throughout the report we shall implement the Comprehensive Development Standards and Policies.*

**18.45.020 Applicability and Procedure.**

- A. All commercial, industrial, public semi public, multi family, row house, and condominium development shall be subject to design review. Duplex residential and single-family detached dwelling development shall not be subject to design review.

*This application is for a substantial increase to the existing industrial activity which currently exists on the property. This property was annexed into the City approximately one (1) year ago.*

- B. Design review applications shall be processed pursuant to a Type II land use procedure.

*This application is being processed pursuant to a type II application. The following is the list of activities associated with this application:*

1. *The applicant recently annexed the subject parcel into the City and changed the zone from RRF-5 (Rural Residential Farm Forest Five Acre Minimum) to M-1 (Heavy Industrial).*

2. *The applicant has submitted a building permit, however this permit shall not be issued until the design review process has been fully satisfied.*

C. No building permit will be issued until the design review process is completed.

*The applicant has applied for a building permit, but staff shall not release the permit until an application for Design Review has been approved and all appeal periods have ended.*

**THIS CRITERION HAS BEEN MET**

**18.45.030 Submittal Requirements.**

- A. The applicant shall submit five (5) sets of the diagrams, plans and drawings specified in Section B, including the information specified.

*The applicant has submitted five (5) sets of diagrams, plans and drawings.*

1. One additional set is required that is conveniently reproducible and legible, not to exceed eight and one half (8.5) inches by eleven (11) inches.

*The applicant has not submitted an 8 ½ by 11 version of the drawing, however the existing plans are on sheets small enough to work therefore this criterion is not met, and staff has approved this change to the application.*

2. Plans shall be drawn to scale and fully dimensioned.

*The applicant has submitted drawings, which were not drawn to scale, and staff has waived this requirement due to the type of application and the location of this property.*

B. Diagrams, Plans and drawings.

1. Site Plan(s) containing the following:

- a. A vicinity map covering an area two hundred and fifty (250) feet from the boundary of the development site and a map of the subject property showing existing and proposed:

*The applicant has submitted a vicinity map, which covers the amount of space required by code.*

- i. General information about the location;

*The application provides general information about the location.*

- ii. Dimensions and names of all existing, platted and proposed streets and access points;

*The application shows several streets all of which are outside the two hundred and fifty foot requirement.*

- iii. Other public ways, sidewalks, bicycle routes and bikeways, pedestrian/bicycle access ways and other pedestrian connections;

*The applicant is providing access via Molalla Forest Road and Ona Way down a right-of-way to the subject property.*



- iv. Transit streets, facilities and stops (if any);

*The application shows a transit stop approximately twenty five hundred (2500) feet from the subject property. Due to the rather small employment base the City will not require the applicant to provide additional transit stops.*

- v. Neighborhood activity centers;

*No recognized neighborhood activity centers exist on or near the subject property.*

- vi. Schematic placement of public utility locations; and,

*The application shows all the public utility locations.*

- vii. Location of easements affecting the development site.

*The application shows all easements known by the City to exist on this property.*

- b. Legal description of the lot.

*The applicant has provided a survey map, which shows the legal description of the property on the lower left corner of the map.*

- c. Site dimensions and total area of the lot, including tax map and tax lot numbers for the development site.

*The applicant has provided dimensions as well as the total lot area (5.03) acres on the map and in the materials.*

- d. Topography with contour lines at two-foot contour intervals for grades 0 to 10 (0%-10%) percent and five (5) foot intervals for grades over 10 (10%) percent.

*Staff by-passed this criterion since the property is very flat with no slopes within the immediate area. The applicant has provided drainage areas.*

- e. Natural drainage; and arrows indicating the direction of the natural drainage.

*The plan shows the drainage of the property.*

- f. The location of natural hazard areas on and within one hundred (100) feet of the boundaries of the site, including:

- i. Areas indicated on floodplain maps as being within the one hundred (100)-year floodplain.

- ii. Areas subject to soil instability, slumping or earth flow, landslide or erosion, or for which field investigation, performed by a geo technical engineer or engineering geologist who is licensed by the State of Oregon, confirms the existence of or potential for severe hazard.

*Staff is unaware of any hazards existing. The applicant has stated that there are no natural hazards located on the property.*

- g. The location of natural resource areas on and within one hundred (100) feet of the boundaries of the site, including fish and wildlife habitat, natural areas, wooded areas, areas of significant trees or vegetation, wetlands, water resources, and riparian areas that are identified by the Comprehensive Plan.

*The application shows some wetlands outside of the one hundred (100) foot requirement. No buildings are proposed nor shall they be placed within one hundred (100) feet of any wetland without first obtaining written permission to do so from the City of Molalla and the Division of State Lands.*

- h. The location of cultural resources on and within one hundred (100) feet of the boundaries of the site that are identified on the City's cultural resources inventory.

*No known cultural resources are known to exist by the City. The applicant has stated that no cultural resources exist either.*

- i. The location, dimensions, and setback distances of all existing permanent structures, improvements and utilities on or within twenty-five (25) feet of the site, and the current or proposed uses of the structures.

*The applicant shows only one existing and one proposed structure. The setback distances from each structure are shown.*

- j. The location, dimensions, square footage and setback distances of proposed structures, improvements, and utilities, and the proposed uses of the structures by square footage.

*See (i) above.*

- k. Exterior lighting including the type, height and areas of illumination.

*The applicant has submitted a partial lighting plan. The plan shows the spread of the lighting but does not illustrate the illumination of the lighting to be displayed. In no way shall any lighting be intrusive to surrounding properties or along rights-of-ways.*

- l. Location, size, materials, colors and method of illumination of all signs.

*The applicant has stated that there are no signs proposed or existing. The City shall require that the applicant obtain sign permits at no cost for any sign that exists. If the applicant fails to obtain such permits within sixty (60) days from the date of this report the City may require all signs to be removed.*

- m. All parking, circulation, loading and servicing areas, including the locations of all carpool, vanpool, and bicycle parking spaces as required by Chapter 18.52.

*The applicant has shown all parking, circulation, loading and service areas including the locations of bicycle parking. Due to the size of the current use staff does not believe a carpool or vanpool spot will be necessary. The applicant has failed to provide a detailed map showing parking details.*

- n. Site access points for automobiles, pedestrians, bicycles and transit.

*The application shows the access points for automobiles, pedestrians, bicycles, and transit.*

- o. On-site pedestrian and bicycle circulation.

*The drawing shows on site pedestrian and bicycle circulation.*

- p. Service areas for uses such as mail delivery, trash disposal, loading and delivery.

*The drawing shows many of the service areas. Mail delivery is shown to exist as it currently is and that is by mailbox or PO Box. Currently the trash area is shown to be located within the right-of-way where the City will require dedication. This trash area must be moved and staff must approve its location. Loading and delivery areas are shown on the drawing. Staff will require the applicant to expand the area so trucks will have adequate room to turn around.*

- q. Outdoor common areas proposed as open space.

*Currently no open space is required for this development, however currently much of the property will remain open and natural until such time as additional development is proposed.*

- r. Other site elements, which will assist in the evaluation of site development.

*No other site elements appear to exist which might assist in the evaluation of site development.*

## 2. Landscape Plan.

- a. Location of existing trees with a circumference of twenty-five (25) inches (8 inches diameter) or greater measured at a point four and one half (4.5) feet above the ground on the upslope side of the tree.

*The application shows trees lining the southern and western property lines. However there are no mention of whether these trees have a circumference greater than twenty five (25) inched (eight (8) inches in diameter) for this reason staff will require that the applicant provide the City with a list anytime they cut these trees.*

- i. When trees are in clusters, they may be indicated by the number and general location within the cluster of trees with a circumference of twenty-five (25) inches (8 inches diameter) or greater measured at a point four and one half (4.5) feet above the ground on the upslope side of the tree.

*Staff will require the applicant to provide the City with a listing showing all trees, which meet the criteria above.*

- ii. Indication if trees are evergreen or deciduous.

*In this report they must indicate if trees are evergreen or deciduous.*

- iii. Location and identification of any designated significant tree or grove.

*This information must be supplied on the report.*

- b. Location and type of vegetation proposed to be removed and to be retained on the site.

*No drawings or report was put with this plan therefore this information must be supplied on the landscape plan.*

- c. The size, species (identifying both botanical and common names) and location of existing and proposed plant materials and other landscaping materials.

*No information was supplied. Staff will require this information on a report to be submitted and approved by the Planning Director.*

- d. Site dimensions, outline of structure(s), scaled location of windows and doors.

*The dimensions of the building are located on the plan. It shows a sixty (60) by sixty (60) extensions to the current building. Neither scaled dimensions nor the location of windows or doors exist.*

- e. Buffering and screening materials, when required.

*The applicant shall maintain trees, which buffer the properties to the south. In the case that adequate buffering by this property and the subject properties to the south become inadequate staff may require additional buffering materials.*

- f. Tree staking details.

*No new trees are being proposed therefore this criterion does not apply.*

- g. Proposed types and locations of irrigation systems to maintain plant materials.

*Do to the size of the property staff is not requiring development of an irrigation system. At such time more development occurs and the minimum or close to the minimum landscaping exists staff will require the applicant to install an irrigation system.*

- h. Architectural drawings, including floor plans, elevations and details drawn to scale.

*The applicant submitted engineered drawings of the building to be erected.*

- i. Grading and erosion control plan.

*No grading other than the small area where the building is to be placed shall occur. Erosion should not be a concern due to the flat surface of the area.*

### 3. Drainage Plan.

*The applicant shows the drainage plan as all drainage flowing towards the north property line and then flowing west. This is currently the natural drainage for the area. Staff will require the applicant to obtain an engineers study stating where and how storm detention shall be kept.*

4. Such special studies or reports as the Director may require to obtain information to ensure that the proposed development does not adversely affect the surrounding community or identified natural resource areas or create hazardous conditions for persons or improvements on the site.

*The applicant shall provide the City with a letter from DEQ stating that the business conducted at this facility meets all conditions and requirements as set forth by state code. If a report comes back showing any concern the City shall require the applicant to provide reports, at the applicants expense, stating how these adverse situations may affect the City and surrounding properties. At that time staff may reverse the decision of this application if any adverse impacts towards the city are found. The City also reserves the right to request a report at any time the City feels the use may be causing adverse impacts to the area.*

**SOME OF THIS CRITERION MUST BE MET WITH ADDITIONAL REPORTS AND STUDIES AS PART OF A CONDITION OF APPROVAL.**

**18.45.040 General design review approval criteria.**

A design review application must comply with the requirements of this title and the following general provisions.

A. Landscaping.

1. A minimum of fifteen (15%) percent of the lot area being developed shall be landscaped wherever practicable.
2. This landscaping requirement may be satisfied by providing landscaping only, or in combination with pedestrian plazas, pedestrian connections or water quality facilities.
3. Natural existing landscaping may be used to meet the landscaping requirement.
4. The development shall be designed in such a manner that as many trees as possible can be preserved and the preserved trees shall be protected during construction.
5. Landscape design and landscaping areas shall serve their intended functions and shall not adversely impact surrounding areas.
6. The required amount of landscaping shall include a mix of vertical (trees) and horizontal elements (grass, ground cover, etc.).
7. Newly planted trees shall be supported (by use of stakes and wire) to prevent damage by the strong winds.
8. All landscaped areas shall be irrigated by an underground system. Row house and Condominium developments are exempt from this requirement.
9. For developments in the R3, M1 and M2 districts, the development shall have a perimeter buffer a minimum of four (4) feet in width.
  - a. The buffer shall consist of permanently maintained vegetation and may be enclosed by a sight-obscuring fence.
  - b. Such vegetation and fence shall not exceed a height of six (6) feet, and shall be subject to the provisions of Section 18.44.080, 18.48.020, 18.52.060, 18.52.150 and 18.52.160.

10. The Planning Director shall approve the trees, shrubs and vegetation proposed for landscaping.

*Staff will require that the applicant provide a landscape report within thirty (30) days from the date of this report. This section shall be deemed complete and approved once the criteria from this section are satisfied.*

B. Structures.

1. The siting, construction and design of buildings and other improvements shall be appropriate to protect natural and cultural resources identified by the Comprehensive Plan and to avoid or minimize adverse impacts on other natural and cultural resources to the extent practicable.

*No natural or cultural resources were identified on the property.*

2. The size, shape, height, and spatial and visual arrangement of uses, structures, fences, and walls, including color and material selection, shall be compatible with existing surroundings and future allowed uses.

*Staff finds the structure to be compatible with the existing structure. Staff is unaware of the color and will require that the color match the surrounding area.*

3. Building facades that face a public street shall extend no more than thirty (30) feet without providing a variation in building materials, a building offset of at least two (2) feet, or a wall area, which is entirely separated from other wall areas by a projection such as a porch or a roof over a porch.

*This criterion does not apply since there is not a road directly in front of building. Staff understands that a road may exist in the future. The time frame for this road is unknown at this time. Much of the development will depend on future development in the area.*

4. Grading and contouring shall not create an adverse effect on neighboring properties, public rights-of-way or the public storm drainage system.

*Minimal grading exists therefore this criterion does not exist.*

5. All outdoor storage areas, garbage collection, exterior vents and mechanical devices and noise-generating equipment areas shall be screened by sight obscuring fencing or materials or by or vegetation and located away from abutting residential development.

*The applicant shows the garbage area. The applicant does not state the nature in which the trash is enclosed. Staff shall require this material to be made of wood, mason, or cinder block.*

6. Rooflines shall establish a distinctive "top" to a building.

*The application shall maintain a roofline consistent with the existing building.*

- a. When flat roofs are proposed, a cornice a minimum twelve (12) inches high projecting a minimum six (6) inches from the wall at the top of the wall or parapet shall be provided.
- b. Roof-line offsets, at a minimum of eight (8) feet variation measured either vertically from the gutter line or horizontally, shall be provided at intervals of one hundred (100) feet or less to relieve the effect of a single, long roof.

- c. Roof-mounted equipment, including satellite dishes and other communication equipment, must be screened from view from adjacent public streets with the exception of solar heating panels.

*Staff is unaware of any roof top supplies. Any future installation of roof top material shall be screened from site.*

7. All ground floor common entries or individual unit entries shall be sheltered with a minimum four (4) foot overhang projection which shall not project more than four (4) feet into a required yard setback.

*No entries are shown to exist. Staff was informed that the existing building would connect to the new building which already has an opening.*

8. All structures shall be located and constructed in order to promote passive energy conservation.

*The building meets the minimum energy requirements set by law as far as staff has been informed.*

9. Outdoor lighting shall be provided in a manner that enhances security, is appropriate for the use, and avoids adverse impacts on surrounding properties.

*The application shows lighting, which shall project, from the building and light the surrounding area without adding "adverse" lighting to surrounding properties.*

10. The site design shall promote crime prevention and public safety.

*Since the lighting plan was not provided by a professional. Staff is unable to determine whether or not crime prevention will be possible.*

C. Pedestrian Circulation and Access.

1. All new commercial, industrial, institutional, and multifamily residential developments shall provide on-site pedestrian circulation systems that provide safe and convenient connections between buildings and existing public rights-of-way, pedestrian/bicycle access ways and other on-site pedestrian facilities while minimizing out-of direction travel.

*The application states the location of its pedestrian circulation and access. Due to the remote location of this business staff finds that the area set aside for future access will suffice for extension to surrounding properties.*

2. On-site pedestrian circulation systems that comply with this subsection in the most practicable manner possible shall be approved.

*See one (1) above for a description of this area.*

3. On-site vehicular circulation systems and required pedestrian walkways shall be designed to minimize vehicular/pedestrian conflicts through measures such as minimizing driveway crossings, creating separate pedestrian walkways through the site and parking areas, and designating areas for pedestrians by marking crossings with changes in textural material.

*Again due to the location of this property staff believes pedestrian traffic will be minimized when the access way develops.*

4. On-site pedestrian walkways shall be well drained, hard surfaced and at least five (5) feet in unobstructed width.

*Staff will require this for the areas developed during construction.*

5. Walkways without stairs shall have a maximum slope of eight (8%) percent and a maximum cross slope of two (2%) percent.

*No walkways are being proposed for this application.*

6. Walkways shall be increased to seven (7) feet in width when bordering parking spaces other than parallel parking spaces, and surface material shall contrast visually with adjoining surfaces.

*This criterion must be built to these standards when development occurs.*

7. Marked crossings shall have a continuous, detectable marking not less than thirty-six (36) inches wide using textural material that is firm, stable, slip-resistant, and consistent with the Federal Americans with Disabilities Act and Chapter 11 of the State of Oregon Structural Specialty Code (1996 Edition).

*Due to the remote location this criterion cannot exist at this time.*

8. The internal pedestrian and bicycle circulation system for the proposed development must connect to other areas of the site.

*Due to the remote location this criterion cannot exist at this time.*

- a. Pedestrian connections shall connect main building entrances to the nearest sidewalk or other walkway leading to a sidewalk.

*Staff shall require the applicant to provide these connections when the access way is approved in the future.*

- b. Pedestrian connections also shall connect to other building entrances, to adjacent streets and to nearby transit stops.

*No other adjacent streets or buildings exist at this time therefore this criterion does not apply.*

- c. Pedestrian connections also shall connect to outdoor activity areas such as parking lots and recreational or play areas and plazas.

*The pedestrian connections shall connect to the parking lot of this business.*



9. Walkways shall be designed to minimize out-of-direction travel.

*This criterion would be met by placing the walkways along the building from the parking to the entrance.*

10. Unless impracticable or exempted by any provisions of this code, buildings which are set back from the sidewalk more than 75 feet shall have pedestrian walkways which are capable of connecting to existing pedestrian walkways in adjacent developments or stubbed to the adjacent side yard property line if the adjacent land is vacant or is developed without pedestrian walkways.

- a. The location of such a walkway stub shall take into consideration topography and the eventual development or redevelopment of the adjacent property.
- b. Pedestrian connection linkage to adjacent developments shall not be required within industrial developments or to industrial developments or to vacant industrially zoned land.

*This criterion does not apply since the sidewalk sits adjacent to the building.*

11. Public and private schools, and parks over one (1) acre in size, shall provide safe and convenient access to adjacent neighborhoods, that minimize out of direction travel between such schools or parks and adjacent neighborhoods.

*This criterion does not apply.*

12. Within automobile parking areas, or when the pedestrian circulation system is parallel and adjacent to an auto travel lane, pedestrian safety shall be improved by raising the walkway or separating it from the auto travel lane by a raised curb, bollards, landscaping or other physical barrier.

*There are not enough parking spots to justify a raised sidewalk.*

13. If a raised walkway is used, the ends of the raised portions shall be equipped with curb ramps.

*This criterion does not apply since there are no raised curbs.*

14. Driveway crossings shall be minimized and in no case exceed thirty (30) feet in width.

*This criterion does not apply since no crossings are being placed on the property.*

15. When crossing driveways and parking areas, pedestrian crossings and walkways may be built at the same elevation as the driveways and walkways if they are constructed of permanent materials, including paving or markings in a manner which contrasts and clearly delineates the crossing or walkway at any time of day or night.

*This criterion does not apply since the applicant is accessing the property from an unimproved right-of-way.*

16. Lighting shall be provided along all walkways and must be lighted to a level where employees, residents, customers or the public to a minimum foot-candle of three (3) can use the system at night.

*No extensive walkways are being required therefore the light, which will come from the building, should be sufficient for the area.*

17. Walkways along building frontages shall be covered with awnings, or building overhangs with a minimum vertical clearance of nine (9) feet for awnings and twelve (12) feet for building overhangs.

*Staff has decided to alleviate this criterion since the building is used by a minimal amount of employees and there are not any customers to the site.*

18. A walkway from a building entrance to a public street shall be provided for every three hundred (300) feet of street frontage or for every eight (8) rows of vehicle parking, whichever is the greater distance.

*The applicant is required to provide an access to the street once a street is developed along this access way.*

19. Pedestrian pathways must also connect to adjacent development, when mutually agreed upon between uses and developments must not preclude eventual site-to-site pedestrian connections, even if not feasible at the time of development.

*No adjacent development exists or is proposed therefore this criterion does not apply.*

D. Pedestrian/Bicycle Access ways.

1. Pedestrian/bicycle access ways are intended to provide safe and convenient connections within and from new multi-family developments, shopping centers and commercial districts to adjacent and nearby residential areas, transit stops and neighborhood activity centers where public street connections between such uses for automobiles, bicycles and pedestrians are unavailable.

*Currently the applicant is proposing bicycle and pedestrian access via the access way from Ona Way and Molalla Forest Road. Staff concurs with this requirement since the applicant is responsible for providing the City with the future right-of-way staff believes bicycle lanes installed at the time this street develops would be more timely with future development.*

2. Pedestrian/bicycle access ways shall only be used in areas where such public street connections are unavailable or impracticable or inappropriate as determined by the Director.

*The access way shall be via Ona Way and the entrance, which is currently flagged to the property.*

3. Pedestrian/bicycle access ways shall be provided in the following situations:

- a. Access ways are required between discontinuous street rights-of-way; through mid-block locations where blocks are longer than one thousand (1000) feet; or where the lack of street continuity creates inconvenient or out-of-direction travel patterns for local pedestrian or bicycle trips.

- b. In all residential districts, access ways shall be included:

- (1) To provide reasonably direct access to nearby neighborhood activity centers, transit trunk routes and other transit facilities.
- (2) Where practicable, to provide reasonably direct access to other adjacent developments and to adjacent undeveloped property likely to be subdivided or otherwise developed in the future.

- (3) To provide reasonably direct connections from cul-de-sacs and internal private drives to the nearest available street or neighborhood activity center.
- (4) To provide reasonably direct connections from cul-de-sacs or local streets to arterial or collector streets.

c. In nonresidential districts, access ways shall be included:

- (1) To connect with all existing or approved access ways which abut the site, or to provide future connection(s) to abutting underdeveloped and undeveloped properties.
- (2) To provide reasonably direct access to nearby neighborhood activity centers, transit trunk routes and other transit facilities.
- (3) To provide reasonably direct connections from cul-de-sacs to the nearest available street or neighborhood activity center.

*This criterion shall not apply since the location of the street is not being improved. At such time the roadway is installed there will be a planned bicycle access to the property.*

4. Wherever practicable, the entry points of required access ways shall align with pedestrian crossing points along adjacent streets and with adjacent street intersections.

*This criterion does not apply.*

5. The length of pedestrian/bicycle access ways between public streets shall not exceed three hundred (300) feet.

*This temporary access way does not extend more than three hundred (300) feet long.*

- a. Such access ways shall be free of horizontal obstructions and have a nine (9) foot, six (6) inch high vertical clearance.

*This access is free of obstructions.*

- b. To safely accommodate both pedestrians and bicycles, the right-of-way widths of such access ways shall be as follows:

- (1) The access ways shall have a minimum fifteen (15) foot wide right-of-way with a minimum ten (10) foot wide paved surface.

*The right-of-way is approximately twenty (20) feet wide.*

- (2) If an access way also provides secondary fire access or a public utility corridor, its right-of-way width shall be at least twenty (20) feet with a minimum fifteen (15) foot wide paved surface.

*No secondary access is proposed or appears to exist.*

6. Access ways shall be direct with both end points of the access way always visible from any point along the access way.

*The temporary access way is visible from any point along the access way.*

7. To enhance pedestrian and bicycle safety, access ways shall be lighted.
  - a. Lighting shall be provided at each entrance to an access way and may also be required at intermediate points along the access way as may be deemed necessary for public safety by the City Engineer.

*The access way shall be lighted via streetlights. Due to the right-of-way being unimproved staff waives this requirement. The right-of-way will be lit when the street is improved.*

8. Wherever practicable, access ways shall have a maximum slope of five (5%) percent and shall avoid the use of stairways as part of the access way.

*The access way is relatively flat therefore this criterion does not apply.*

9. The Director may require access way fencing and screening along adjacent property lines by:
  - a. A thick vegetation screen at least 42 inches high with an additional four (4) feet high evergreen vegetation screen; or
  - b. A minimum five (5) foot high fence with a row of three (3) to four (4) foot high evergreen shrubs or climbers planted along the fence; if a wooden fence is used, then the fence shall be constructed with pressure-treated structural members including a pressure treated cap; or
  - c. If there is an existing fence on private property adjacent to the access way, a four (4) foot high evergreen vegetative screen.
  - d. In satisfying the requirements of this Section, evergreen plant materials that grow over four (4) feet in height shall be avoided.
    - (1) All plant materials shall be of a low maintenance variety and shall be reviewed and approved by city staff.
    - (2) Plants used, as a thick vegetation screen shall reach forty-two (42) inches in height within three (3) years of planting without irrigation.

*Since there is no access way feeding other properties at this time staff will not require this criterion at this time.*

10. Access ways shall be designed to prohibit motorized traffic within their rights-of way with materials such as curbs, removable lockable posts and bollards.

*This criterion does not apply.*

11. Access way surfaces shall be paved with all weather materials and designed to drain storm water runoff from the paved surfaces of the access ways.

*Since this access is temporary staff does believe this criterion should apply.*

12. In parks, greenways or other natural resource areas, access ways may be approved with a five (5) foot wide gravel path with wooden, brick or concrete edgings.

*This criterion does not apply since there are no parks or green ways attached to the subject parcel.*

13. An exception to the access way requirement established by this Section may be granted by the Director where the Director determines that construction of a separate access way would not be feasible or practicable due to evidence of physical or jurisdictional constraints received by the Director. Such evidence may include but is not limited to:
  - a. That other federal, state or local requirements prevent construction of an access way.
  - b. That steep slopes, wetlands or other bodies of water, freeways, railroads, or other physical or topographic conditions make an access way connection impracticable.
  - c. That the access way would cross an area affected by an overlay district in a manner incompatible with the purposes of the overlay district.
  - d. That buildings or other existing development on adjacent lands physically preclude a connection now or in the future considering the potential for redevelopment.
  - e. That the access way would terminate at the urban growth boundary.
  - f. That the access way would violate provisions of leases, easements, covenants, restrictions or other agreements existing as of November 1, 1999 which preclude a required access way connection.

*Staff does not feel that there is a possibility for an additional access way for this property.*

14. To enable access and allow maintenance over time for all pedestrian/bicycle access ways, the Director can require one of the following:
  - a. That the access ways be dedicated to the public and accepted by the City as public right-of-way prior to the final approval of the development; or
  - b. That approval of the development shall be contingent upon granting to the public access easements to such access ways; or
  - c. That the developers incorporate the access way into recorded easements or tract(s) of common ownership which specifically requires the property owners and future property owners who are subject to such easements or are owners of such tracts to provide for the ownership, liability and maintenance of the access way.

*This criterion does not apply.*

E. Parking and Loading.

1. All developments shall comply with Chapter 18.52.

*The following is Chapter 18.52 requirements:*

## Chapter 18.52: OFF-STREET PARKING

### 18.52.010 Policy.

- A. In all zoning districts, there shall be provided at the time of erecting new structures, or at the time of enlarging, moving, or increasing of capacity by creating or adding dwelling units, commercial or industrial floor space, or seating facilities, minimum off-street parking space, other than in required front set back, with adequate provision for ingress and egress to the street, in accordance with the requirements of this chapter.

*The applicant is expanding an already existing industrial panel. This parcel was only recently annexed into the City limits of Molalla.*

- B. The provision and maintenance of off-street parking and loading spaces are continuing obligations of the property owner.

*The applicant is responsible for upkeep to the parking lot and any improved impervious surface.*

- C. No building or other permit shall be issued until plans are presented that show property that is and will remain available for exclusive use as off-street parking and loading space.

*The applicant has applied for permits but staff will not release those permits until the approval of this application is complete.*

- D. The subsequent use of property for which the building permit is issued shall be conditional upon the unqualified continuance and availability of the amount of parking and loading space required by this title.

*The applicant is required to provide adequate parking even if it is additional to that required by the Municipal Code.*

- E. Use of property in violation of this hereof shall be a violation of this title.

*The applicant must adhere to the criteria and conditions of this report as well as the Molalla Municipal Code.*

- F. Should the owner or occupant of a lot or building change the use to which the lot or building is put, thereby increasing off-street parking or loading requirements, it shall be unlawful and a violation of this title to begin or maintain such altered use until the required increase of off-street parking or loading is provided.

*The applicant is currently increasing there parking and loading due to the increase in building space size.*

### 18.52.020 Plans to be submitted.

- A. Every tract or lot hereafter used as a public or private parking area, having a capacity of five (5) or more vehicles, shall be developed and maintained with all weather asphalt or concrete pavement in accordance with the requirements and standards of this title.

*The applicant must provide an all weather asphalt or concrete pavement.*

- B. The plan of the proposed parking area shall be submitted to the Director as part of the supporting documentation accompanying the design review application and said plan shall clearly indicate the proposed development, including location, size, shape, design, curb cuts, lighting, landscaping, and other features and appurtenances required.

*Due to the size of the development staff does not believe a full drawing of the area is necessary.*

**18.52.030 Area of spaces.**

Each off-street parking space shall have a net area of not less than one hundred forty-three (143) square feet exclusive of access drives or aisles, and shall be of usable shape and condition (see Appendix I, Section 18.52.190). If determined on a gross area basis, three hundred (300) square feet shall be allowed per vehicle.

*This criterion does not apply since no curb cuts are being proposed or are needed.*

**18.52.050 Curb cuts for access driveways.**

- A. Curb cuts for access driveways in residential areas shall be eleven (11) feet for one (1) car garages and twenty-two (22) feet for two (2) car garages.
- B. No more than two (2) curb cuts per lot are allowed.
- C. Circular driveways shall be allowed twenty-two (22) feet of curb cuts for access driveways per lot.
- D. Flag lot access ways are excluded from this provision.

*This criterion does not apply.*

**18.52.060 Review and approval of access to facilities.**

Access to off-street parking facilities shall be reviewed and approved by the Director. Consideration shall be given to:

- A. Vision clearance area requirements as specified in Section 18.44.080;

*The way the plan currently shows would not create any vision clearance obstructions.*

- B. Distance from intersections; and

*The parking is at a minimum two hundred (200) feet away from Ona Way, which lies at an intersection of Molalla Forest Road, and Ona Way.*

- C. Interior vehicular and pedestrian circulation.

This criterion was covered in the vehicle and pedestrian access area previously discussed in this report.

**18.52.061 Drainage.**

- A. Drainage shall be as approved by the City to accepted engineering standards.

*The applicants drainage system is adequate for the size of the development currently operating.*

- B. Provisions shall be made for the on-site collection of drainage waters to eliminate sheet flow of such waters onto sidewalks, public rights-of-way and abutting private property.

No waters should flow through rapidly due to the development of this application.

**18.52.062 Landscaping.**

In order to reduce the visual impact of glare, headlights and parking lot lights and to reduce the area of impervious surfaces, and in order to provide shade, all parking lots and maneuvering areas shall be landscaped.

*The applicant is responsible for providing a buffer to surrounding properties from the impact of glare from headlights and parking lot lights.*

**18.52.065 Carpool and vanpool parking.**

New office or industrial development with one hundred (100) or more parking spaces shall designate at least five (5%) percent of the parking spaces for carpool or vanpool parking.

- A. These designated spaces shall be the closest parking spaces to the building entrance normally used by employees, with the exception of handicapped parking spaces.
- B. The carpool/vanpool spaces shall be clearly marked "Reserved - Carpool/Vanpool Only" along with specific hours of use.
- C. Any other use establishing car and vanpool spaces may reduce the minimum-parking requirement by three (3) spaces for each carpool/vanpool space created.

*This criterion does not apply due to number of parking spots required.*

**18.52.068 Bicycle parking.**

Bicycle Parking shall be required in all multi-family, public and semi-public, commercial and industrial development as well as park-and-ride lots.

*The application is for industrial development.*

- A. The locations of bicycle parking spaces shall be indicated in an off-street parking and loading plan which shall be submitted for review by the review authority during site plan and design review or as otherwise required by City regulations.

*The application does not show a bicycle-parking plan. Staff has reviewed the site plan and feels any spot, which does not block any entries, exits, doors, or windows along the east, or north sides would be adequate for bicycle parking.*

- B. Bicycle parking development requirements:

- 1. Space Size - Each bicycle parking space shall be a minimum of six (6) feet long and two (2) feet wide and be accessible by a minimum four (4) foot aisle.

*The applicant must meet this criterion.*



2. Location.

- a. All bicycle parking areas shall be within one hundred (100) feet of a building entrance and located within a well-lit area; and,

*Due to the location of this site staff finds the parking must be located near the building on the North or East side.*

- b. All bicycle parking areas shall be located to avoid conflicts with pedestrian and motor vehicle movement

*This criterion must be met when deciding on the location of the bicycle parking.*

3. Rack Design.

- a. Bicycle racks must be designed to secure the bicycle frame and at least one (1) wheel, and, accommodate a locking device.

*The applicant must provide a rack, which meets this criterion.*

- b. Racks, lockers or other related facilities shall be securely anchored to the ground or to a structure.

*The applicant must secure the rack by one of the methods mentioned above.*

- c. As an alternative, the bicycle spaces can be provided within a secured compound.

*The applicant must provide staff with a detailed analysis of this information prior to completion of this application.*

4. Access.

- a. Access to a public right-of-way and pedestrian access from the bicycle parking area to the building entrance must be provided.

*There shall be adequate access.*

- b. Areas set aside for required bicycle parking shall be clearly marked and reserved for bicycle parking only.

*The applicant must meet this criterion.*

5. Number of Spaces.

- a. For any expansion of an existing use subject to this section, the number of required bicycle parking spaces shall be determined based on the entire use rather than the incremental increase in floor space.

*Staff shall review the required amount of bicycle parking spots and address this later in this report.*

- b. For any change in use, the number of required bicycle parking spaces shall be calculated based upon requirements for the new use as shown in the Table of Minimum Standards in 18.52.080.

Staff will use this table to determine the correct number of spots.

- c. For any change in use or expansion of an existing use subject to this section, the review authority may reduce or waive requirements of this section to the extent the review authority determines that compliance with those requirements is not practicable due to existing development patterns or that application of these standards is not reasonably related to the scale and intensity of the development.

*Staff is bringing the use up to standards due to an expansion.*

6. Covering.

- a. Bicycle parking may be uncovered, although cover is encouraged.
- b. Cover can be accommodated through building or roof overhangs, awnings, bicycle lockers or bicycle storage within buildings.

*Staff does not have a requirement either way on this due to the location of this business.*

C. Exemptions - The following uses are exempt from the bicycle parking requirements:

1. Seasonal or temporary businesses.
2. Drive-in theaters.
3. Self-storage facilities.
4. Automobile oriented businesses such as automobile service stations, automobile repair shops, and restaurants without seating facilities (either indoors or outdoors), or oil and lubrication services, but excluding automobile retail businesses such as dealers or auto parts stores.
5. Other uses as determined by the Director.

*The applicant does not meet any of these exemptions therefore staff will require bicycle parking.*

**18.52.070 Dimensional standards.**

The minimum dimensional standards for parking areas and spaces are provided in Appendix I, codified in Section 18.52.190.

*The applicant shall meet the standards as set forth in this table.*

**18.52.080 Table of minimum standards.**

Required auto and bicycle parking spaces (where alternative standards prevail, the greater applies in conflicting computations) are as follows:

*There is 9,600 square foot of building space which means nineteen (19) parking spots are required. This would equate to one (1) bicycle parking spot being required. The application did not show this many spots. This criterion must be met as part of a condition of approval.*

**TABLE 6: PARKING MINIMUM STANDARDS**

Item	Type of Use	Required Parking Spaces (Motor Vehicles)	Required Parking Spaces (Bicycles)
A	Single-family and Two-family dwellings	2 per dwelling unit 1 must be covered	N/A
B	Multi-family dwellings	1.5 per dwelling unit	1 per unit
C	Rooming, lodging house or Bed and Breakfast Inn	1 per sleeping room, plus 1 per owner	1 per 10 guest rooms
D	Hotel or motel	1 per sleeping room	1 per 10 guest rooms
E	Elderly or disabled dwelling	.75 per dwelling unit	N/A
F	Hospital, nursing home or Sanitarium	1 per two beds	1 per 20 beds
G	Public parks	N/A	1 per 10 auto parking spaces
H	Commercial surface parking lots and Parking structures	N/A	1 per 20 auto parking spaces
I	Theater	1 per 3 seats, plus 1 per 6 seats in excess of 800 seats	1 per 20 auto parking spaces
J	Church, auditorium or similar Open space assembly	Fixed seating: 1 per 4 seats Other: 1 per 25 sq.ft. gross floor area	1 per 20 auto parking spaces
K	Library or museum	1 per 250 sq.ft. gross floor area	1 per 10 auto parking spaces
L	Dance hall or skating rink	1 per 75 sq.ft. gross floor area	1 per 15 auto parking spaces
M	Bowling alley	5 per lane	1 per 15 auto parking spaces
N	Medical or dental clinic	1 per 300 sq.ft. gross floor area	1 per 20 auto parking spaces
O	Bank, business or professional office with on-site customer service	1 per 400 sq.ft. gross floor area	1 per 15 auto parking spaces
P	Office not providing customer service on-site	1 per 800 sq.ft. gross floor area	1 per 30 auto parking spaces
Q	Funeral Home	1 per 4 seats	N/A
R	Warehouse, storage or wholesale business	1 per 1,000 sq.ft. gross floor area	1 per 40 auto parking spaces
S	Food and beverage place with sale and consumption on premises	1 per 150 sq.ft. gross floor area	1 per 20 auto parking spaces
T	Pre-school, child care facilities or Kindergarten	3 per 1,000 sq.ft. gross floor area	1.5 per classroom
U	Elementary or middle school	2 per classroom	8 per classroom
V	High school	10 per classroom	8 per classroom
W	College	3 per 1,000 sq.ft. gross floor area	1 per 15 auto parking spaces
Y	Furniture, appliance, hardware, clothing, shoe, personal service store, motor vehicle, machinery, plumbing, heating, ventilating, building supplies, stores and services	1 per 500 sq. ft. of gross floor area	1 per 40 auto parking spaces
Z	Retail store less than 5,000 sq. ft. gross floor area	1 per 300 sq. ft. of gross floor area	1 per 40 auto parking spaces
AA	Retail store more than 5,000 sq. ft. gross floor area	20 plus one per 1,500 sq. ft. in excess of 5,000 sq. ft. of gross floor area	1 per 40 auto parking spaces
BB	Manufacturing uses including laboratories	1 per 500 sq. ft. of gross floor area	1 per 40 auto parking spaces

**18.52.090 Uses not specified.**

In the case of a use not specifically mentioned in Section 18.52.080, the Director shall determine the requirements for off-street parking facilities. Such determination shall be based upon the requirements for the most comparable use listed.

*The use was listed as manufacturing use.*

**18.52.100 Units of measurement.**

- A. In a stadium, sports arena, church, or other place of assembly, each twenty (20) inches of bench seating shall be counted as one (1) seat for the purpose of determining requirements for off-street parking facilities.
- B. For purposes of determining off-street parking as related to floor space of multilevel structures and buildings, the following formula shall be used to compute gross floor area for parking determination:

*This criterion does not apply.*

**TABLE 7: GROSS FLOOR AREA FORMULA**

<b>Number of Floor Levels</b>	<b>Percentage to Determine Parking Spaces</b>
Main Floor	100%
Basement and Second Floor	50%
Additional Stories	23%

**18.52.110 Special provisions for temporary parking.**

In the case of special activities such as sports events, circuses and carnivals, rodeos, where the activity is not part of the community's general pattern, the Director may waive those requirements for off-street parking which pertain to location, joint use, enclosure, and areas required, provided the waiving of such requirements does not have effect for more than five (5) days.

*This criterion does not apply.*

**18.52.120 Location.**

Off-street facilities shall be located as specified in this section. Where a distance is specified such distance shall be the maximum walking distance measured from the nearest point of the parking facility to the nearest point of the building that such facility is required to serve.

- A. For one-family or two-family dwellings and motels, on the same lot with the structure they are required to serve;
- B. For multiple dwellings, rooming or lodging house, two hundred (200) feet;
- C. For hospital, sanitarium, home for the aged, or building containing clubrooms, three hundred (300) feet;

*This criterion does not apply.*

- D. For use other than those specified above in this section, four hundred (400) feet.

*This criterion must be met.*

**18.52.140 Joint use.**

Owners of two (2) or more buildings or lots may agree to utilize jointly the same parking space, subject to such conditions as may be imposed by the Director. Satisfactory legal evidence shall be presented the Director in the form of deeds, leases or contracts to establish the joint use. Evidence shall be required that there is no substantial conflict in the principal operating hours of the buildings or uses for which joint off-street parking is proposed.

*This criterion does not apply since there are not two uses.*

**18.52.150 Enclosure when property line adjoins street.**

A parking barrier of harmonious material and design at least six (6) inches, and no more than twenty-four (24) inches, in height shall be provided along each property line that adjoins a street.

*The applicant must provide screening along the east and south portion of the parking lot in order to provide screening from headlight glare to surrounding property owners.*

**18.52.160 Screening when adjoining residential district.**

Except in the R-1 and R-2 zoning districts, any portions of an off-street parking area which adjoins a residential zoning district shall be screened by a sight-obscuring fence or evergreen hedge to a minimum height of five (5) feet and maximum height of six (6) feet.

*This criterion shall apply along the south and east partners of the property since these areas are still zoned RRFF-5 (Rural Residential Farm Forest Five Acre Minimum). This area while not zoned City residential is zoned County residential*

**18.52.165 Pedestrian circulation/walkways**

A protected, raised, accessible route, walk and circulation path a minimum of five (5) feet wide shall be installed through any parking lot of fifty (50) or more spaces, designed to connect to the front building sidewalks.

- A. All walks constructed within parking lots shall be raised to standard sidewalk height except when a walk crosses a vehicular way.
- B. All surface treatment of walks shall be firm, stable and slip resistant.
- C. Where an accessible route/walk crosses or adjoins a vehicular way (where there are no curbs, railings or other elements separating the pedestrian and vehicular areas detectable by a person who has a severe vision impairment), the walkway area shall be defined by a marked crossing that has a continuous, detectable marking not less than thirty-six (36) inches wide.
- D. Where walkways cross-driving aisles, they shall be clearly marked with contrasting materials
- E. Where walkways abut parking, the minimum walkway width shall be seven (7) feet.
- F. Accessible routes must comply with the Uniform Building Code on Accessibility.
- G. The more restrictive walkway standards shall apply when there is a conflict.

*The application does not show any of these walkways. Staff will require that this information is supplied to the areas which are referenced by this code.*

**18.52.170 Additional requirements.**

In addition to the basic standards and requirements established by other sections of this title, the Director or City Engineer may make such other requirements or restrictions as shall be deemed necessary in the interest of safety, health and general welfare of the City, including, but not limited to, lighting, joint development of parking facilities, entrances and exits, accessory uses, and conditional uses. Further, performance bonds may be required in such cases where the Director or Council determines that such shall be necessary to guarantee proper completion of improvements within time periods specified.

*The applicant must provide vegetation around the parking areas. This must be submitted to staff for approval.*

**18.52.180 Off-street loading policy and standards.**

- A. In all districts except the CI district, buildings or structures to be built or substantially altered which receive and distribute material and merchandise by trucks shall provide and maintain off-street loading berths in sufficient numbers and size to adequately handle the needs of the particular case.

*The applicant has stated and staff concurs that there is only need for one (1) loading berth.*

- B. The following standards shall be used in establishing the minimum number of berths required:

*The applicant meets the criteria for one (1) loading berth.*

**TABLE 8: OFF-STREET LOADING BERTHS**

**Number of Berths Gross Floor Area of Building**

<b>Number of Berths</b>	<b>Gross Floor Area of Building</b>
1	Up to 20,000 square feet
2	20,000 to 50,000 square feet
3	50,000 to 100,000 square feet
1 additional	For each 50,000 sq. ft. in excess of 100,000 sq.ft.

- C. No loading berth shall be located closer than fifty (50) feet to a lot in any residential zoned district unless wholly within a completely enclosed building or unless screened from such lot in the residential district by a wall, fence, or sight-obscuring evergreen hedge not less than six (6) feet in height.

*This application meets this criterion.*

**18.52.190 Appendix I-Parking Table.**

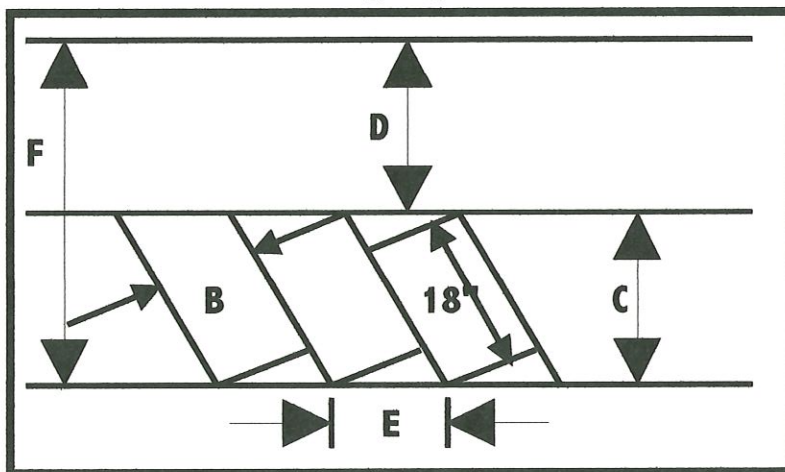
The following table and diagram provide the minimum dimensional standards for parking areas and spaces.

**TABLE 9: PARKING SPACE DIMENSIONS**

PARKING ANGLE	STALL WIDTH	MINIMUM STALL DEPTH	MINIMUM CLEAR ISLE WIDTH	MINIMUM CLEAR STALL	CLEAR DISTANCE ISLE/STALL WIDTH
Parallel	8 ft. 0 in.	--	12 ft.	22 ft.	20 ft.
20 °	9 ft. 6 in. 10 ft. 0 in.	15 ft. 1 in. 15 ft. 5 in.	12 ft. 0 in. 12 ft. 0 in.	27 ft. 8 in. 29 ft. 2 in.	27 ft. 1 in. 27 ft. 5 in.
30 °	9 ft. 6 in. 10 ft. 6 in.	17 ft. 3 in. 17 ft. 7 in.	12 ft. 0 in. 12 ft. 0 in.	19 ft. 0 in. 20 ft. 0 in.	29 ft. 3 in. 29 ft. 7 in.
45 °	9 ft. 6 in. 10 ft. 0 in.	19 ft. 4 in. 19 ft. 8 in.	13 ft. 0 in. 13 ft. 0 in.	13 ft. 4 in. 14 ft. 1 in.	32 ft. 4 in. 32 ft. 8 in.
60 °	9 ft. 6 in. 10 ft. 0 in.	20 ft. 5 in. 20 ft. 8 in.	18 ft. 0 in. 18 ft. 0 in.	11 ft. 0 in. 11 ft. 5 in.	38 ft. 5 in. 38 ft. 8 in.
70 °	9 ft. 6 in. 10 ft. 0 in.	20 ft. 6 in. 20 ft. 9 in.	18 ft. 5 in. 18 ft. 0 in.	10 ft. 5 in. 10 ft. 6 in.	39 ft. 1 in. 38 ft. 9 in.
80 °	9 ft. 6 in. 10 ft. 0 in.	19 ft. 5 in. 19 ft. 6 in.	24 ft. 0 in. 24 ft. 0 in.	9 ft. 6 in. 10 ft. 2 in.	43 ft. 5 in. 43 ft. 6 in.
90 °	9 ft. 6 in. 10 ft. 0 in.	18 ft. 0 in. 18 ft. 0 in.	24 ft. 0 in. 24 ft. 0 in.	9 ft. 5 in. 10 ft. 0 in.	42 ft. 0 in. 42 ft. 0 in.

The following diagram is explanatory to the above Parking Table.

**Parking diagram**



**KEY to PARKING DIAGRAM**

A = the parking angle
B = the stall width
C = the minimum stall depth
D = the minimum clear aisle width
E = the minimum clear stall distance at bay side
F = the minimum clear distance of aisle and stall

The applicant must meet this criteria.

- In addition, parking and loading areas should be designed to:

- a. Provide safe and convenient entrances and exits;  
*Staff feels the application provides safe and convenient entrances and exits.*
  - b. Provide a safe and convenient on-site circulation system for vehicles and pedestrians;  
*The applicant has not shown an adequate on-site circulation plan.*
  - c. Minimize the amount of paved surface;  
*The applicant is providing parking all in one spot, which helps to, minimized the amount of paved space.*
  - d. Preserve on-street parking opportunities;  
*Staff does not feel there is any adequate on street parking.*
  - e. Screen residential uses from vehicle headlights;  
*The applicant must screen the north and east sides fo the property from headlights.*
  - f. Soften the impact of parking areas on adjacent public and private spaces through the use of landscaping and screening;  
*As discussed earlier the applicant must provide this buffer in order to soften the impact.*
  - g. Promote energy conservation through the use of vegetation to shade and cool parking areas;  
*The applicant currently has larger trees along the border of there property. Staff will require the applicant to maintain all trees, which provide shade in order, conserve energy.*
  - h. Have vehicles enter and exit in a forward motion; and,  
*The applicant has enough room to provide entering and exiting in a forward motion.*
  - i. Be of sufficient size and number to adequately handle the delivery or shipping of goods and people.  
*The parcel is of sufficient size to adequately handle the shipping of goods and the influx of people entering the site.*
3. For developments in R3, C1, C2, M1 and M2 districts having parking areas with ten (10) or more spaces, the parking area shall be improved with defined, continuously maintained landscaping totaling at least twenty (20) square feet of landscaping for each parking space.  
*The applicant did not show this information but will be required to meet this criteria due to the number of parking spaces required.*



F. Utilities.

1. New utility services will be placed underground wherever possible.

*The applicant is responsible for placing utilities underground if new lines are ran.*

2. The development shall have adequate public water, sanitary sewer and storm drainage facilities sufficient to serve the level of development approved shall be provided.
  - a. The applicant shall demonstrate that adequate facilities and services are presently available or can be made available concurrent with development construction. Service providers shall be presumed correct in the evidence, which they submit relating to the adequacy and availability of such facilities and services to the development.
  - b. Service providers shall be presumed correct in the evidence, which they submit.
  - c. All facilities shall be designed to comply with adopted City standards.
  - d. A development may be required to extend, modify or replace an existing off-site public water, sanitary sewer or storm drainage facility or system to the extent necessary to provide adequate public facilities or services to the development site.
  - e. The development applicant may request from the City System Development Charge credits and/or City reimbursements for utility improvements or over sizing of facilities as may be required under this provision.

*The applicants have stated the addition will add no more stress on the system than that of their current system. There are already bathrooms, which will remain and shall not be expanded.*

*The applicant must connect to the water and sewer system. This connection shall be made within one year from the date of this report. Staff shall require the connection even if the applicants adjoining neighbor is not able to connect prior to this time. The applicant shall assume full financial responsibility of the extension at the end of one (1) full year from the date of this report.*

G. Storm water Detention Facilities.

1. Storm water detention facilities shall be screened and/or fenced and located on the site to minimize impacts to traffic circulation and pedestrian movements.

*The applicant must provide staff a report from a certified engineer stating whether or not additional storm detention is required. In the case that additional storm detention is required the applicant must provide such detention as specified by code and approved by DEQ (Department of Environmental Quality). The applicant must provide such information through a certified engineer.*

2. Proof of consultation with the Oregon Department of Environmental Quality for storm water discharge shall be required prior to the approval of the development.

*The applicant must provide this information as stated by this code.*

H. Wetland and Waterways.

1. Developments shall be designed so as to protect, as much as possible, on-site wetlands including wetlands not yet included in the City's inventory of wetlands.

*No wetlands have been identified by staff or the applicant on the property.*

2. Proof of consultation with the Oregon Division of State Lands regarding wetlands and waterways shall accompany the design review application.

*This criterion does not apply since no wetlands are shown.*

3. The application shall also demonstrate compliance with the applicable requirements in Chapters 18.68 (Stream Corridors) and 18.69 (Wetlands).

*This criterion does not apply.*

I. Signs. All signage shall comply with Chapter 18.50.

*No signs are shown. Staff asked the applicant about signage and was told that there will not be any signage.*

## CONDITIONS OF APPROVAL

1. The City shall require the applicant to dedicate to the City a fifty (50) foot right-of-way along the entire northern portion of the property. This area is identified as a future right-of-way in the Molalla Transportation Systems Plan.
2. The applicant must provide a parking plan showing nineteen (19) parking spots one (1) of which must be handicapped. The applicant must also show the minimum of two (2) bicycle parking spots and one (1) loading berth.
3. The applicant must move the trash building out of the right-of-way and move it to a location, which shall be approved by staff. Staff prior to construction of this site must also approve the type of building. The trash containment area must be made of wood, brick, or cinder block.
4. The applicant must provide staff with a report showing all trees with a circumference greater than twenty four (24) inches. This list must also state whether the trees are evergreen or deciduous.
5. Currently no traffic study is required. If at such time staff feels more traffic is occurring at a higher rate than what the applicant stated staff might require a traffic study to be completed.
6. The applicant shall be responsible for providing a sign application to the Planning Department at such time they erect any sign on the property.
7. The applicant must provide a lighting plan, which shows the illumination of each light for approval prior to installing the lighting on the building.
8. The applicant must submit an engineered study to support the drainage that is being proposed. Because of the location of the property near adjacent wetlands and the potential flow of the storm into Bear Creek staff will require a report to make sure neither the creek nor the wetlands are impacted by this additional drainage.

9. The applicant must provide a letter from DEQ (Department of Environmental Quality) stating the business is in compliance with all DEQ standards.
10. Staff reserves the right to require a report on at any time on any subject if adverse impacts to surrounding properties on the City occur.
11. Provide a landscape report within thirty (30) days from the date of this report. In this report the applicant shall identify the types of landscaping. The landscape plan shall follow section 18.45.040(A) of this code page eight (8) of this report.
12. The applicant must connect to the City water and sewer within one (1) year from the date of this report. Currently the applicant is waiting for an adjacent property owner to provide water and sewer to an area which the applicant can make a connection to. If this has not occurred within one (1) year from the date of this report the applicant is responsible for providing water and sewer services to their property at the applicant's expense.

Sincerely,

Shane Potter  
Planning Director

# CITY OF MOLALLA PLANNING DEPARTMENT

P.O. Box 248  
MOLALLA, OR 97038  
Phone (503)829-PLAN (7526) Fax (503)829-6872  
[planner@molalla.net](mailto:planner@molalla.net) or [planningassist@molalla.net](mailto:planningassist@molalla.net)

## NOTICE OF DECISION ON DESIGN REVIEW APPROVAL WITH CONDITIONS

**DATE:** May 7, 2004  
**FILE NO:** DR – 2004 - 7  
**LEGAL DESCRIPTION:** Township 5 South, Range 2 East, Section 7D, Tax Lot 3502.  
**STAFF CONTACT:** Shane Potter, Planning Director  
**APPLICANT:** Jim Taylor  
**OWNER OF PROPERTY:** Jim Taylor  
**PROPOSAL:** Additional 60x60 shop to be added to an already existing 60x100 shop.  
**ZONING:** M-2, Heavy Industrial  
**FINDINGS:** Staff has reviewed an application for design review adding on to an existing industrial use. The application is subject to Molalla Municipal Code Chapter 18.45 and 18.52.

Staff has approved the application with conditions barring any appeals.

This decision may be appealed to the Molalla City Council by filing an appeal within fourteen (14) days from the date of this notice. Appeals must be filed at the City of Molalla Planning Department by filling out the appropriate forms. Copies of the report in full may be reviewed at the Planning Department for free or purchased for \$10.50.

Shane Potter  
Planning Director

# City of Molalla

## FINDINGS AND DECISION LAND PARTITION

**DATE:** May 8, 2013

**LAST DATE TO APPEAL:** May 22, 2013

**FILE NO.:** M004-13-MP

**LEGAL DESCRIPTION:** Township 5 South, Range 2 East, Section 07D, Tax Lot 3502

**ADDRESS:** 31816 S Ona Way

**APPLICANT:** James and Denise Taylor

**OWNERS:** same

**PROPOSAL:** partition subject property into three (3) parcels, one for the existing shop on approximately one (1) acre and two vacant parcels of one (1) acre and three (3) acres each.

**CURRENT ZONE:** M-2, Heavy Industrial

**CURRENT USE:** industrial

### FINDINGS:

Subject to Chapter 19.12, Land Divisions and Property Line Adjustments, of the Molalla Municipal Code. City of Molalla Planning Staff has reviewed this application and finds:

1. The subject property is approximately five (5) acres in size, fronts on S. Ona Way and is occupied with a shop building. This proposal involves partitioning into three (3) parcels, one for the existing shop and two new, vacant parcels for future industrial use.
2. Zone designation for the property is M-2, Heavy Industrial. Minimum size for new parcels in the M-2 Zone is 25,000 square feet. The zone has no minimum lot width/depth requirements.
3. Subsection 19.12.050 of the Molalla Development code states that review of a partition plat shall be processed using the Type III procedure (Public hearing before the Planning Commission.) Subsection 19.04.1 along with 19.12.100 both state instead that partitions are processed using the Type II land use process. Staff does not know how this discrepancy occurred, but as this is a relatively straight-forward land division will use the Type II process – which is appealable to the Planning Commission.

4. Chapter 19.12 of the MDC provides direction on land partitions. Subsection 19.12.110 details submittal requirements. Applicant has satisfied these requirements.
5. Subsection 19.2.100 outlines the approval process for a land partition. Such decisions follow Type II procedures of the Molalla Municipal Code, as noted. In addition, this subsection states that approval of a land partition is effective for a period of two (2) years from the date of approval, during which time the final plat must be submitted.
6. Subsection 19.12.120 (A) lists approval criteria for a partition. The Planning Director or designee shall approve or deny a request for a land partition based on all of the following criteria:
  - a. *The proposed partition complies with the applicable development Code sections and all other applicable ordinances and regulations.* No specific development is being proposed through this application for partition. An industrial use is in place on the property, and will remain. Setbacks and other dimensional standards for that development are met as shown on the submitted site plans. The underlying M-2 Zone does not have lot width or depth requirements. The submitted preliminary partition map indicates all three (3) parcels will share the same access. Proper easements shall be provided for on the final plat. Future development for the proposed vacant parcels is only generally described. This proposal does not prevent the remainder from developing. At time of specific application for the vacant parcels applicable standards will be applied through site design review. **This criterion is met.**
  - b. *The proposed plat name is not already recorded for another partition and satisfies the provisions of ORS Chapter 92.* This criterion can be satisfied through a condition of approval. **This criterion can be met as a condition of approval.**
  - c. *The proposed streets, roads sidewalks, bicycle lanes, pathways, utilities and surface water management facilities are laid out so as to conform or transition to the plats of subdivisions and maps of major partitions already approved for adjoining property as to width, general direction and in all other respects. All proposed public improvements and dedications are identified on the preliminary plat.* Notice of this application was sent to the Public Works Director for Molalla. No comments have been received as of this decision. As conditioned, below, **this criterion can be satisfied.**
  - d. *All proposed common areas and improvements are identified on the preliminary plat.* No common areas or improvements are planned. **This criterion does not apply.**
  - e. *Evidence that any required state and federal permits have been obtained, or shall be obtained before approval of the final plat.* **As conditioned, below, this criterion can be met.**

- f. *Evidence that improvements or conditions required by the City, road authority, Clackamas County, special districts, utilities, and/or other service providers, as applicable to the project, have been or can be met.* Staff is unaware of any required improvements or conditions as described. **As conditioned, this criterion can be met.**
  - g. *If any part of the site is located within a Specific Area Plan District, Overlay Zone or previously approved Master Planned Development, it shall conform to the applicable regulations and/or conditions.* No part of the site is located as described. **This criterion does not apply.**
7. Notice of this application was sent to area land owners, the City of Molalla, and Molalla Fire District. One nearby landowner phoned in suggesting approval of the application. No other comments were received.

**DECISION:** Planning staff is authorized to approve applications for land partitions pursuant to Subsection 19.12.120 of the Molalla Municipal Code. Based on the submitted application materials and the findings, above, Staff **APPROVES** this application for partition, subject to the following conditions:

1. Applicant shall record the partition within two (2) years of the date of this approval.
2. Any changes from that approved through this decision shall receive approval from the Planning Department.
3. Applicant shall submit a copy of the recorded plat map to the City within 15 days of recording and prior to issuance of any building permits on the re-configured lots.
4. Applicant to satisfy any required conditions from the Molalla Public Works Director, relative to frontage improvements or other public works (contact Marc Howatt, at 503 829-6855.)
5. Access easement(s) to all parcels shall be of a width acceptable to the Molalla Public Works Director, and shall be property detailed on the final plat and other recorded documents describing the parcels.
6. Required state and federal permits, if any, to be obtained prior to approval of the final plat.
7. The proposed plat name shall not already recorded for another partition and satisfies the provisions of ORS Chapter 92

Pursuant to Subsection 19.04.030(H) of the Molalla Municipal Code, this decision may be appealed to the Planning Commission within 14 days of this Decision. Those eligible to appeal are the applicant, any person who was entitled to written notice of the Type II administrative decision and any other person who participated in the proceeding by submitting written comments. The filing fee for an appeal is \$100.00. If no appeal is filed within 14 days, the decision of Planning Staff shall be final.



**Planning & Community Dev.**  
117 N Molalla Avenue  
PO Box 248  
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Phone: (503) 759-0219  
communityplanner@cityofmolalla.com

## Planning Permit Review & Decision

**Date of Review:** November 7, 2017

**File No.:** P62-2017

**Parcel or Taxlot:** 52E07D 03506

**Address:** 31816 S. Ona Way

**Applicant:** James Taylor

**Owner:** James Taylor

**Proposal:** New Industrial Building (Replacement)

**Current Use:** vacant

### **Planning Permit Review:**

The City is authorized to approve Type I planning applications pursuant to section 19.08.030 *Type I procedure (administrative)* of the Molalla Municipal Code (MMC); the criteria and staff findings are as follows:

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

1. *The proposed land use or development is permitted by the underlying land use district (Title 17);*

**Staff Findings:** As stated in the applicant's submission the parcel is located in M-2 (Heavy Industrial) zone. The development proposal is a permissible (Manufacture and production) in the underlying zoning district. This criteria has been met.



*2. The land use, building/yard setback, lot area, lot dimension, density, lot coverage, building height and other applicable standards of the underlying land use district and any applicable overlay district(s) are met (Title 17)*

**Staff Findings:** The application is for a replacement building, the proposal aligns with the Title 17 standards for land use, building height, setback and lot coverage. The proposal does not expand on the previous development footprint, therefore the existing height, setback and lot coverage will not change. This criteria has been met.

*Title 18 standards apply as follows:*

**Staff Findings:** Chapter 18.04 ACCESS AND CIRCULATION. The proposal contains access to a public street via access easement. No traffic study was required as a result of this proposal because the anticipated trip generation fell below threshold requirements. This criteria has been met.

**Staff Findings** Chapter 18.08 LANDSCAPING, STREET TREES, FENCES AND WALLS. The applicant met the conditions landscape requirements during the original construction of the building. This criteria has been met.

**Staff Findings:** Chapter 18.12 PARKING AND LOADING. The applicant did not meet its original parking standards during the original construction of the building. As illustrated in the original site plan. The applicant will be required to facilitate parking on the site. Adequate access has been provided as illustrated on applicant's submittal to facilitate parking within the project. The applicant shall provide a parking plan showing nineteen (19) parking spots on (1) of which shall be handicapped. The applicant shall provide a minimum of two (2) bicycle parking spots and one (1) loading. All development shall comply with the requirements of the current version of the Public Works Standards. This section will be satisfied once the conditions are met.

**Staff Findings:** Chapter 18.20 SURFACE WATER MANAGEMENT. The Public Works Director/City Engineer review the preliminary plans and has no objections so long as the applicant follows the conditions of approval.

**Staff Findings:** Chapter 18.16 PUBLIC FACILITIES. The lot has been provided adequate access to a public right of way, either through extension of right of or thorough access permits that meet dimensional requirements. It will be conditions the applicant shall be required to sign waiver of remonstrance for future roadway/public improvements. All engineered specification shall be required to meet the City of Molalla Public Works Design Standards. The Public Works Director/City Engineer reviewed the proposal and has no objections as long as the attached conditions of approval are satisfied.

Planning Staff hereby **approves** this application, based on the submitted application materials and subject to the following conditions:

1. This approval shall remain valid from one year following the date of approval. If a building permit has not been issued by that date, this approval shall expire unless an extension is granted pursuant to subsection 19.04.160 of the MMC.
2. The applicant shall obtain any required (building) permits from Clackamas County, and comply with the requirements of the permits.
3. Final certificate of occupancy shall not be granted until all conditions of the design review approval have been met.
4. Any changes in the design review plans shall be submitted and approved prior to implementation or construction.
5. The applicant shall provide a parking plan showing nineteen (19) parking spots on (1) of which shall be handicapped. The applicant shall provide a minimum of two (2) bicycle parking spots and one (1) loading berth.
6. The applicant shall acquire written approval from the local fire marshal regarding compliance with Oregon Fire Code prior to Final Occupancy.

#### **Public Works Conditions**

Specific Requirements To This Site:

1. Applicant shall be required to dedicate right of way meeting the road classification requirement as specified in the Transportation System Plan.
2. Applicant shall be required to sign a Waiver of Remonstrance for roadway improvements including stormwater, lighting, and any other necessary utilities or appurtenances to complete the roadway to a functional operation, as determined by the Public Works Director.

**X**

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Aldo Rodriguez  
Community Planner

11/21/17

NOTICE OF APPEAL: P62-2017 31816 S. Ona Way, Molalla Or. 97038

Molalla Planning Department, Public Works.

This letter serves as the James Taylor notice of appeal of the Superior Glass Works Fire rebuild of the property located at 31816 S. Ona Way Molalla Or. The intent of this appeal is regarding the Conditions of Approval, specifically the Public Works Condition #2 which should not apply to the rebuild of a building that is a fire rebuild.

A. City planning file number and date was issued:

P62-2017, November 7, 2017

B. Name, mailing address and phone number of appellant.

James Taylor

Po Box 490

Colton, Or. 97017

971-285-7255

C. Statement of the Basis for Appeal:

The rebuilding of the building located at 31816 S. Ona way was due to the fact that the building was partially destroyed by fire. It required replacing 2/3rds of the structure with a new building. The new structure was replaced exactly on the same footings that it was on originally. The building falls under a Type 1 application. The rebuild of this structure in no way has any impact on the city or its utilities. It is a straight forward fire rebuild.

Pleas feel free to contact me if you need any other information.

Thank You



DATE

11-21-17

James Taylor



Planning & Community Dev.  
117 N Molalla Avenue  
PO Box 248  
Molalla, Oregon 97038  
Phone: (503) 759-0219  
communityplanner@cityofmolalla.com

## **Staff Report – Appeal**

**File No.:** P45-2016

**Legal Description:** Township 5 South, Range 2 East, Section 07D, Tax Lot 03506

**Address:** 31816 S. Ona Way

**Appellant:** Jim Taylor

**Owner:** Jim Taylor

**Appeal:** Appeal is **limited to** Public Works Condition #2, regarding South Ona Way street improvements

### **1. Overview & Background**

The City has received an appeal of an Administrative Decision to approve an application for a proposed rebuild an Industrial Building. The appeal is **limited to** a Public Works condition regarding signing a Waiver of Remonstrance that will require the applicant to pay a portion of street and utility improvements at a future date rather than construct the improvements now as a condition of approval #2. The condition of approval is as follows:

“2. Applicant shall be required to sign a Waiver of Remonstrance for roadway improvements including stormwater, lighting, and any other necessary utilities or appurtenances to complete the roadway to a functional operation, as determined by the Public Works Director.” (EXHIBIT A)

(Located on pg. 2 of Planning Permit Review & Decision)

The appellant is requesting that the Planning Commission remove this condition from the review. The appellant states that the condition does not have a correlation with the current review and deems it unnecessary.

The appeal will be reviewed based on criteria set forth by the Molalla Municipal Code, **Chapter 18.16 Public Facilities. 18.16.020 Transportation Standards.**

**A. Development Standards.** *The following standards shall be met for all new uses and developments:*

- 1. All new lots created, consolidated, or modified through a land division, partition, lot line adjustment, lot consolidation, or street vacation must have frontage or approved access to a public street.*
- 2. Streets within or adjacent to a development shall be improved in accordance with the Transportation System Plan and the provisions of this chapter.*

**Staff Findings:** The applicant did not complete the Right-of- way (ROW) dedication or construction of the frontage improvements during the original construction of required building File No: DR- 2004- 7 (ATTACHMENT 2). As shown in Chapter 18.16.020 “streets adjacent shall be improved adjacent to a development.” During Plan Review any applicable requirements, including any applicable requirements of a road authority is considered.

The Planning Commission shall:

- Affirm Condition #2
- Amend or Modify Condition #2
- Or, delete condition #2

## **2. Public Notice**

Planning Permit Review and Decision were given to appellant on November 7, 2017.

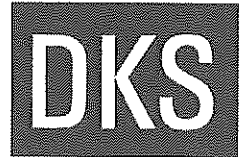
## **3. Attachments & Exhibits**

**Attachment 1.** Appellants Letter

**Attachment 2.** Original Planning Review and Conditions of Industrial Building (File No: DR-2004-7).

**Exhibit A.** Current Planning Permit Review and Decision

**Exhibit B.** Map



117 Commercial Street NE  
Suite 310  
Salem, OR 97301  
503.391.8773  
www.dksassociates.com

## MEMORANDUM

**DATE:** January 17, 2018  
**TO:** Gerald Fisher, P.E.  
**FROM:** Scott Mansur, P.E., PTOE  
**SUBJECT:** Taylor Appeal Frontage Improvements Summary

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DKS is the on-call transportation engineer for numerous cities in Oregon. DKS assists agency staff in identifying both frontage improvements (typically condition of development) and off-site improvements (typically required through a transportation impact study).

Most city codes require developments to, at a minimum, construct half street improvements consistent with the street standards and classification of roadway as identified in the City code or the City's Transportation System Plan (TSP). The development typically bears full burden for construction of their portion of the half street improvement.

The only cases I am familiar with where the City contributed to the developers frontage improvements was a situation where the City requested the developer construct improvements above and beyond the adopted street standards (the City wanted the full left turn constructed so the City paid the developer to construct half of the left turn lane that was not covered in their half street requirement).

Review of the current City of Molalla Code, Section 17-3.6.020.A.1 requires proposed developments to construct half street improvements as stated below:

Except as provided by subsection A.5, existing substandard streets and planned streets within or abutting a proposed development shall be improved in accordance with the standards of Chapter 17-3.6 as a condition of development approval.

The City attorney also provided the code language that was applicable at the time of the previous approval. Old Code Section 18.16.020.A.2 provided as follows:

Streets within or adjacent to a development shall be improved in accordance with the Transportation System Plan and the provisions of this Chapter.

Based on my review of the existing and past Molalla Code requirements, I concur with the City attorney that either the remonstrance waiver or requiring construction of frontage improvements by the City are justified

Planning Commission – January 17, 2018

Public Hearing (Continued from January 3, 2018)

Thank you Madam Chair. To summarize, tonight we have a Public Hearing for an Appeal that was continued to this date certain in the matter of an Appeal filed by Jim Taylor in regards to a condition of approval for a rebuild of an industrial building damaged by fire.

Staff applied the condition of signing a Waiver of a Remonstrance to a future LID or street improvement project to the Site Design approval of a rebuild of an existing industrial building addressed as 31816 South Ona Way.

Following the presentation of the Staff Report, Staff comments and the appellant's testimony as well as the appellant's attorney – the Planning Commission moved to continue the Hearing until tonight.

Staff has contacted our City Attorney, provided the Attorney with the record of this proceeding and the comments are listed within your packet of information. We also have comments from our Traffic Engineer to address the issue of justification.

With me tonight is Public Works Director, Gerald Fisher as well as City Manager, Dan Huff. I would like the Public Works Director to address the Attorney's comments as well as the traffic engineer's comments.

The conclusion from the City Attorney is that the City does indeed have the authority to require a "waiver of Remonstrance" or require that the applicant build a half street improvement.

We believe that the issue for the Planning Commission to consider is whether or not a waiver of remonstrance or street improvements should be applied. We also concur with our City Attorney and Traffic Engineer that Case Law presented by Dolan, Nolan and Koontz do not apply in this case. The City has not asked for public property donation or dedication for public access. Nor has the City applied System Development (SDC) requirements that the rough proportionality component is referring.

The access improvements are along the applicant's frontage and do in fact benefit the property owner. This improvement is not an off-site improvement nor is it a payment for SDC's.

Staff would indicate that this particular owner and property is a more than 10-year old development that has not complied with not only original conditions of approval but current conditions applied to the development. Staff does recommend that the Planning Commission uphold Condition No. 2 requiring that the applicant sign a "waiver of remonstrance" for participation in future street improvements.

Once again the Planning Commission may do the following:

1. Uphold Condition No. 2
2. Modify the Condition
3. Delete the Condition



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

**City of Molalla Planning Commission  
 Corrected Notice of Decision and Order**

**Appeal Hearing**

<b>In the Matter of</b> an Appeal of	)	File No. P62-2017
a Condition of Approval	)	Jim Taylor
Requiring a Waiver of	)	Appeal of an Administrative
Remonstrance for Roadway	)	Decision
Improvements	)	

**A. Summary**

The Findings of Facts contained in this Notice of Decision and Order pertain to a Planning Commission decision regarding the appeal of an Administrative Decision pursuant to MMC Chapter 18. The City of Molalla Administration approved the rebuild of a partially burnt down building located on Lowe Rd. and applied certain conditions of approval to the subject application (Exhibit A). Applicant Jim Taylor appealed the decision regarding the imposition of an approval condition requiring the applicant to sign a Waiver of Remonstrance (Exhibit B) on the basis that it was not applicable to the review, and specifically that street improvements could not be required the City as a condition of approval of the application. The Planning Commission concluded that the application supported requiring the waiver of remonstrance.

**B. General Information**

The parcel is located on the southwestern part of the City. The applicant (Jim Taylor) proposed to rebuild a section of the building abutting Lowe Rd. The subject parcel is 1.66 acres in size.

This application was reviewed by Administration using a Type I (Administrative Review) review process as directed by the Molalla Municipal Code (MMC). The Administration made its decision on November 7, 2017.

After reviewing items submitted by the applicant, the Administration approved the application P62-2017 pursuant to conditions as identified in the November 7, 2017 Planning Permit Review & Decision (Exhibit A). The Administration found that each criterion for approval was or could met through certain conditions.



The City received an appeal of the Administrative Decision on November 21, 2017. The Applicant's appeal (Exhibit B) is based solely on the City's authority to impose condition of approval No. 2 of the Public Works Requirements, which provides the following: "Applicant shall be required to sign a Waiver of Remonstrance for roadway improvements including stormwater, lighting, and any other necessary utilities or appurtenances to complete the roadway to a functional operation, as determined by the Public Works Director."

The applicant contends that the application does not justify the condition based on section 19.04.020 (D). Based on the following Findings, the Planning Commission concluded that File No. P62-2017 complies with approval criteria, as conditioned, including Public Works Condition No. 2, and that the application does support the requirement imposed by Public Works Condition No. 2 as part of the conditional approval, as evidenced by the substantial evidence in the record of this proceeding.

### **C. Procedure**

This action is specific to the condition of approval No. 2 of the Public Works Requirements (File No. P62-2017), initially imposed as part of the application's administrative approval that was appealed to the Planning Commission. On appeal, the Planning Commission received staff reports, took verbal testimony, considered facts and criteria prior to rendering its decision based on the information available in the record.

### **D. Party Status**

The following parties participated in the Planning Commission process and were recognized as part of the Planning Commission proceeding:

- Jim Taylor PO BOX 490 COLTON, OR 97017
- T. Beau Ellis 17355 SW BOONES FERRY RD, SUITE A,  
LAKE OSWEGO, OR 97035

### **E. Procedural Findings**

This application was initially reviewed using a Type I procedure pursuant to MMC Section 19.04.020. Pursuant to MMC Section 19.02.020.F.3, appeals of Type I decisions "shall be heard by the Planning Commission de novo and the Planning Commission shall allow any person to submit evidence, testimony or argument concerning any relevant standard, criterion, condition or issue." Under MMC 19.04.020.F.4, the Planning Commission's decision is final and may thereafter be appealed to the Land Use Board of Appeals.

## **F. APPLICABLE CRITERIA**

The applicable criteria are listed below:

### **19.08.030 Land Use Review procedure and approval criteria.**

1. *The proposed land use or development is permitted by the underlying land use district (Title 17);*

2. *The land use, building/yard setback, lot area, lot dimension, density, lot coverage, building height and other applicable standards of the underlying land use district and any applicable overlay district(s) are met (Title 17)*

*Title 18 standards apply as follows:*

*Chapter 18.04 ACCESS AND CIRCULATION.*

*Chapter 18.08 LANSCAPING, STREET TREES, FENCES AND WALLS.*

*Chapter 18.12 PARKING AND LOADING.*

*Chapter 18.20 SURFACE WATER MANAGEMENT.*

*Chapter 18.16 PUBLIC FACILITIES.*

## **G. PLANNING COMMISSION DECISION AND SUBSTANTIVE FINDINGS OF FACT**

1. The City of Molalla considered this appeal pursuant 19.04.020 (F). Jim Taylor's appeal information is identified in Exhibit B.
2. Jim Taylor (appellant) requested the Planning Commission to remove the Public Works condition #2 located within Administration Plan Review & Decision. The Requires Jim Taylor to sign a Waiver of Remonstrance, a contract to pay a proportion of the future road improvements on Lowe Rd.
3. The public notice of the appeal hearing was provided on December 14, 2017 and posted on the City Website and printed with the Molalla Pioneer. Notice was all provided to all participants in the proceedings.
4. This matter came before Molalla Planning Commission January 3, 2017. The Planning Commission received the staff report, and heard public testimony.
5. The hearing was continued to the January 17, 2018 Planning Commission meeting. The Planning Commission was able to hear additional information and public testimony.
6. The staff findings included in the November 7, 2017 Planning Permit Review and Decision are hereby adopted by the Planning Commission and incorporated herein by this reference.

7. MMC Section 18.16.020.A.2 requires that “[s]treets within or adjacent to a development shall be improved in accordance with the Transportation System Plan and the provisions of this Chapter.” The Planning Commission finds that MMC Section 18.16.020.A.2 provides a valid basis for requiring that street improvements be constructed consistent with the City’s Transportation Plan and the Public Facilities Chapter of the MMC, and the road adjacent to the development is shown as an improved Neighborhood Street in the Transportation Plan.

8. The Planning Commission finds that the substantial evidence in the record shows that the applicant never constructed the street improvements required by MMC 18.16.020.A.2, either at the time of the original permit was granted, or any time thereafter. Accordingly, the Planning Commission finds that, in order to comply with MMC 18.16.020.A.2, the applicant must either construct the improvements required by that Code provision or, pursuant to MMC Section 19.04.140, that any approval must be conditioned to ensure that the provision’s requirement can otherwise be met.

9. The Planning Commission finds that Public Works Condition No. 2 adequately ensures that the requirement that the streets adjacent to the development will be improved in accordance with the Transportation System Plan and applicable provisions of the MMC.

10. Pertaining to the applicant’s argument that requiring street frontage improvements are unconstitutional, the Planning Commission finds that the MMC requirement of frontage improvements, effective and applicable at the time of the applicant’s original approval, and unchallenged by the applicant at that time, does not amount to an unconstitutional taking. Requiring a waiver of remonstrance allows for approval without requiring street frontage improvements now by ensuring that the roadway improvements will be completed consistent with the requirement imposed by MMC Section 18.16.020.A.2. Accordingly, the Planning Commission concludes that the condition requiring a waiver of remonstrance for roadway improvements to City standards is not unlawful.

## DECISION

Based on the foregoing, as well as the findings in the November 7, 2017 Planning Permit Review and Decision, the Molalla Planning Commission **UPHOLDS** staff decision to require the appellant to meet Public Works condition No. 2 for Planning File No. P62-2017:

2. Applicant shall be required to sign a Waiver of Remonstrance for roadway improvements including stormwater, lighting, and any other necessary utilities or appurtenances to complete the roadway to a functional operation, as determined by the Public Works Director.

This decision represents the City's final decision. Persons receiving this Notice of Decision and Order and who appeared before the City in relation to this application may appeal this decision to the Land Use Board of Appeals in accordance with ORS 197.830. If no appeal is filed, this decision will become final 21 days from the date of this notice.

Dated this \_\_14\_\_ Day of February, 2018



\_\_\_\_\_  
Rae-Lynn Botsford, Planning Commission Chair

RECEIVED  
FEB 22 2018

BY: .....

BEFORE THE LAND USE BOARD OF APPEALS  
OF THE STATE OF OREGON

5	JAMES TAYLOR,	)	
		)	LUBA No. _____
6	Petitioner,	)	
	v.	)	<b>NOTICE OF INTENT TO APPEAL</b>
7		)	
	CITY OF MOLALLA,	)	
8		)	
	Respondent.	)	
9		)	
10		)	

**NOTICE OF INTENT TO APPEAL**

I.

Notice is hereby given that petitioner, James Taylor, intends to appeal the land use decision or limited land use decision of the City of Molalla Planning Commission entitled "In the Matter of an Appeal of a Condition of Approval Requiring a Waiver of Remonstrance for Roadway Improvements [Appeal P62-2017]," which became final on February 14, 2018 (purportedly a "Corrected Notice of Decision and Order"), and which requires Applicant to sign a Waiver of Remonstrance for roadway improvements including stormwater, lighting, and any other necessary utilities or appurtenances to complete the roadway to a functional operation, as determined by the Public Works Director.

II.

Petitioner, James Taylor, is represented by: T. Beau Ellis, 17355 SW Boones Ferry Road, Suite A, Lake Oswego, Oregon 97035 and telephone number of (503) 594-8116.

1 III.

2 Respondent, City of Molalla, has its mailing address as P.O. Box 248, Molalla, Oregon  
3 97038 and telephone number of (503) 829-6855. Counsel for Respondent is Spencer Q. Parsons,  
4 Beery Elsner Hammond LLP, 1750 SW Harbor Way, STE 380, Portland, Oregon, 97201.

5 IV.


6 Other persons mailed written notice of the land use decision or limited decision by City  
7 of Molalla, as indicated by its records in this matter: T. Beau Ellis, 17355 SW Boones Ferry  
8 Road, Suite A, Lake Oswego, Oregon, 97035.

9 NOTICE:

10 Anyone designated in paragraph IV of this Notice who desires to participate as a party in  
11 this case before the Land Use Board of Appeals must file with the Board a Motion to Intervene  
12 in this proceeding as required by OAR 661-010-0050.

13  
14 Dated this 20<sup>th</sup> day of February, 2018.

**VIAL FOTHERINGHAM LLP**

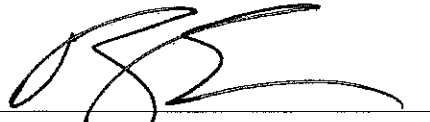
15   
16 T. Beau Ellis, OSB #093437  
17 17355 SW Boones Ferry Road, Suite A  
18 Lake Oswego, OR 97035  
19 T: (503) 684- 4111  
20 F: (503) 598-7758  
21 E: beau.ellis@vf-law.com  
22 *Of Attorneys for Petitioner*

1 **CERTIFICATE OF SERVICE**

2  
3 I hereby certify that on February 20, 2018, I served a true and correct copy of this Notice  
4 of Intent to Appeal on all persons listed in paragraph III and IV of this notice pursuant to OAR  
5 661-010-0015(2) by first class mail.  
6

7 Dated: February 20, 2018

**VIAL FOTHERINGHAM LLP**

8 

9  
10 T. Beau Ellis, OSB #093437  
11 17355 SW Boones Ferry Road, Suite A  
12 Lake Oswego, OR 97035  
13 T: (503) 594-8116  
14 F: (503) 598-7758  
15 E: beau.ellis@vf-law.com  
16 *Of Attorneys for Petitioner*  
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