



# City of Tualatin

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**OFFICIAL**

## **TUALATIN PLANNING COMMISSION -**

**MINUTES OF September 15, 2016**

### **TPC MEMBERS PRESENT:**

Alan Aplin  
Kenneth Ball  
Angela Demeo  
Travis Stout  
Mona St. Clair  
Janelle Thompson

### **STAFF PRESENT**

Aquilla Hurd-Ravich  
Charles Benson  
Tony Doran  
Lynette Sanford

**TPC MEMBER ABSENT:** Bill Beers

**GUESTS:** None.

### **1. CALL TO ORDER AND ROLL CALL:**

Alan Aplin, Chair, called the meeting to order at 6:30 pm and reviewed the agenda. Roll call was taken.

### **2. APPROVAL OF MINUTES:**

Mr. Aplin asked for review and approval of the May 19, 2016 TPC minutes. MOTION by Thompson SECONDED by Demeo to approve the minutes as written. MOTION PASSED 6-0.

Aquilla Hurd-Ravich, Planning Manager, introduced our two new Planning Commissioners, Kenneth Ball and Travis Stout.

### **3. COMMUNICATION FROM THE PUBLIC (NOT ON THE AGENDA):**

None

### **4. ACTION ITEMS:**

**A. Consideration to Amend the Tualatin Development Code Chapter 70: Flood Plain District to meet minimum National Flood Insurance Program requirements. Plan Text Amendment 16-0001 is a legislative matter.**

Tony Doran, Engineering Associate, presented consideration of a Plan Text Amendment to update Tualatin Development Code Chapter 70: Flood Plain District,

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which included a PowerPoint presentation. Staff recommends the Planning Commission consider the staff report, draft language, and analysis and findings to make a recommendation to the City Council.

Mr. Doran stated that he is representing Jeff Fuchs, City Engineer, to present Plan Text Amendment 16-01 to update the Tualatin Development Code to meet new Federal Emergency Management Agency's (FEMA) minimum National Flood Insurance Program requirements. Mr. Doran noted that FEMA mailed a notice to the Mayor on May 4, 2016. The letter was from the Chief Engineering Management Branch, Federal Insurance and Mitigation Administration. Staff sent the Department of Land Conservation Development (DLCD) notice of the proposed code changes on August 31, 2016. The Planning Commission recommendation will be brought to City Council on September 15, 2016.

Mr. Doran stated that the codes to be amended are: Section 70.050 and Section 70.180. Section 70.050 will be amended to adopt the Flood Insurance Rate Map with an effective date of November 4, 2016. Section 70.180 will be amended to provide specifics as how residential construction with fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.

Mr. Doran added that the proposed Plan Text Amendment will add TDC Chapter 70.135. This will require the City Engineer to provide the Base Flood Elevation and Freeboard to the Building Official. Section 70.200 will be added to require alterations to Floodplain, Drainage, or Watercourses increasing the Base Flood Elevation or alter watercourses to obtain a Conditional Letter of Map Revision.

Mr. Doran presented a map that compared the FEMA Flood Insurance Rate Maps (FIRM) from 1987 vs. 2016. There are areas that are now recognized to be in the flood plain that were previously not known. Mr. Doran also presented a map that shows the new FEMA FIRM map which showed approximately 556 tax lots containing 755 acres which are in the floodplain.

Mr. Doran stated that there are two directions for the Commission – recommend approval or denial. If approved, the proposed Plan Text Amendment will make changes to TDC Chapter 70: Flood Plain District. If denied, Tualatin will be suspended from the NFIP. If suspended:

- Flood insurance will no longer be available.
- No federal grants or loans for buildings within floodplain. This includes all federal agencies such as Housing and Urban Development, Economic Development Administration, Small Business Administration, and the Department of Health and Human Services.
- No federal disaster assistance loans for repair or reconstruction of building within floodplain.

- No federal mortgage insurance for buildings within floodplain. This includes FHA, VA, and Farmers Home.
- No Fannie Mae, Freddie Mac, or Government National Mortgage Association purchase of mortgages in the secondary market may be made if the properties that are the subject of these mortgages are located in Special Flood Hazard Areas of nonparticipating communities.
- Lenders of conventional loans must notify that: property is within the floodplain; and the property is not eligible for federal disaster relief in a declared disaster
- If flooding occurs, it is possible that the local government could be held liable.

Mr. Doran explained that the next steps include a Public Hearing to City Council on October 10<sup>th</sup>. On October 24, the second City Council meeting is scheduled to adopt the Ordinance. On November 4, the Ordinance will be in effect.

Mr. Aplin asked if the 1996 flooding affects the main map with a 100 year flood plain. Mr. Doran answered that the 1996 flood was actually an 84 year flood, which is a 1.2 percent chance per year of occurrence. The 100 year flood is a 1 percent chance of occurrence per year. Mr. Doran explained that Clean Water Services was given a half million dollars to survey the 1996 flood in 2005 in order to provide information to FEMA to update the FIRM maps.

Mr. Ball asked if it would affect utilities such as substations and railroads that cross the flood plains. Mr. Doran answered affirmatively that the code would need to be followed and that current and proposed code would have similar affect.

MOTION by St. Clair to approve and recommend adoption, SECONDED by Ball.  
MOTION PASSED 6-0.

## **5. COMMUNICATION FROM CITY STAFF:**

### **A. Mobile Food Units (Food Carts): Research Results and Regional Examples.**

Charles Benson, Associate Planner, provided an update to the Planning Commission on food cart activity in Tualatin since adoption of temporary rules per Ordinance 1393-16, and to review and discuss research results from recently adopted ordinances in the Portland metro area.

Mr. Benson stated that late last year one of the businesses in town wanted to start a food cart business but our code did not allow it at the time. That business asked the City Council to enact an ordinance to allow food carts. Mr. Benson added that Portland is known for their food carts and Tualatin wanted to look at what other jurisdictions are doing and get an idea of what could work for our City.

Mr. Benson noted that at the June 2016 City Council meeting, staff presented a project framework including a timeline with milestones. The Council agreed that the

timeline seemed appropriate and directed staff to move forward with the steps necessary to bring an ordinance for mobile food units to the Council by the end of the calendar year.

Mr. Benson stated that after adoption of Ordinance 1393-16 in June 2016, staff created a frequently asked questions (FAQ) web page on the City of Tualatin web site to inform the public about temporary mobile food cart provisions included in the Tualatin Municipal Code. Information regarding these new provisions was also highlighted in the August 2016 issue of Tualatin Today.

With the exception of the PuPu Shack, staff is not aware of other food carts or pods operating in the City at this time. Mr. Benson noted that we received a few calls, but no permit applications have been submitted.

Mr. Benson stated that staff identified five cities that have recently adopted ordinances regulating mobile food carts: Beaverton, Gresham, Hillsboro, Milwaukie, and Tigard. These ordinances were reviewed to determine the status of the most recent regulatory examples and similarities for mobile food arts. Some generalizations among these five ordinances include the following:

- Local business licenses required.
- County health or food handler licenses required.
- Food cart operations allowed in commercial, industrial, and mixed-use planning districts.
- All jurisdictions emphasize the “vehicular” and “eating and drinking establishment” characteristics of mobile food carts.
- Food cart/pod sites must have paved/improved surfaces.
- Few restraints on hours of operations.

The five ordinances differ in the following manner:

- Regulations incorporated within municipal codes vs. development codes.
- Legal definition of mobile food unit/cart/pod.
- Accessory use requirements.
- Utility/Infrastructure connection guidelines.
- Signage regulations.
- Site conditions, on-site restrictions, and operational interactions with adjacent uses.

Mr. Benson noted that based on review of the regional examples presented above, staff has the following suggestions:

- Add food cart/pod regulations to Tualatin Municipal Code as opposed to the Development Code.
- Adopt operational definition as found in current temporary Ordinance 1393-16.

- Restrict food cart/pod operations to sites that have previously undergone Architectural Review and prohibit operations on vacant/unimproved sites.
- Require food carts to be self-contained and not require connections to City infrastructure.
- Require food carts/pods to be responsible for their own trash/recycling collection and removal.
- Restrict signage to vehicle itself.

Other policy considerations include adopting specific permit/license for food cart operation, requiring accessory uses such as restrooms, seating and parking, restrict number of food carts at any one location, regulate overall hours of operation, or to adopt City of Gresham's food and beverage cart design guidelines. Mr. Benson noted that the City of Gresham seemed to have the most robust guidelines.

Aquilla Hurd-Ravich, Planning Manager, added that the timeline has changed. Our next step is wrapping up the public outreach which will include local businesses and manufacturers along with the collecting responses from the online survey. In October we will be incorporating policy recommendations from both City Council and the Planning Commission. In November, we will ask for a recommendation on an ordinance. In December, there will be a public hearing at City Council.

Ms. Hurd-Ravich noted that staff presented to the Commercial Citizen Involvement Organization (CIO) group, which consists of small business and restaurant owners. The general sentiment was that food carts would be unfair competition because they would not be paying the same taxes as the small business owners.

Mr. Aplin inquired if the Commercial CIO was against having the food carts in the industrial areas where there is a limited supply of places to eat. Ms. Hurd-Ravich responded that they were not in favor of food carts in general.

Mr. Ball asked if Tualatin Valley Fire & Rescue (TVF&R) is involved. He noted that food carts in Portland have to relocate every 90 days to avoid fire protection systems. Ms. Hurd-Ravich responded that there have been discussions with the Building department, but not the fire department with that detail. Mr. Ball suggested that fire safety requirements on temporary structures should be written in the code. Mr. Benson added that out of the five cities he researched, the City of Gresham was the only City that addressed fire safety.

Mr. Aplin noted that the food pods in Happy Valley are different from the Portland food carts. Ms. Hurd-Ravich acknowledged that Happy Valley Station is on a privately owned lot with outdoor seating. Mr. Benson stated that we are currently focusing on having food trucks on private property, not public property, and it doesn't affect typical catering trucks that usually serve for three hours or less.

Mr. Aplin inquired if the other cities had a limit on how large a pod can be. Mr. Benson replied that it is self-regulating, but they have to meet setbacks on the site.

Mr. Aplin asked if there is something written in the current code that regulates a company setting up an outdoor cafeteria. Ms. Hurd-Ravich responded that under current code, they can have a temporary catering truck. In the proposed ordinance, part of the reason to look at sites with a previous architectural review is because landscaping, parking, and storm water, and impervious surface conditions have to be met.

Ms. Demeo asked about the signage on the food trucks and if it will have to conform to current City sign regulations. Ms. Hurd-Ravich responded that we do have code that addresses signs on vehicles, but we'll have to explore it further. Mr. Aplin added that it should conform to the same standards.

Ms. Thompson inquired about restrooms for the food cart employees and patrons. Mr. Benson replied that they have temporary restrooms (honey buckets) for the Portland food carts. Ms. Hurd-Ravich noted that there are state and county health rules around that and in order to get a health permit there has to be a restroom within a five minute walk.

**6. FUTURE ACTION ITEMS**

Ms. Hurd-Ravich stated that we will be busy in the upcoming months. In October, there will be an update on Basalt Creek land uses. There will also be a presentation on public outreach of food carts. At some point, we may be bringing a preview on a Plan Map Amendment for the RV Park of Portland site. They have to rezone the southern portion of the property to high-density residential, which is approximately 5-10 percent of the site. Mr. Ball asked if the site was medium-high density. Ms. Hurd-Ravich answered that the rest of the site is high-density. Ms. Hurd-Ravich added that in November, we intend to have an action item on the food cart amendment and possibly a recommendation on the Plan Map Amendment.

**7. ANNOUNCEMENTS/PLANNING COMMISSION COMMUNICATION**

None.

**8. ADJOURNMENT**

MOTION by Mr. Aplin to adjourn the meeting at 7:36 pm.



Lynette Sanford, Office Coordinator