

## **CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS** **Staff Presentation Worksheet**

Presentation Date: October 18, 2011      Time: 2:30 p.m.      Length: 1 Hour  
Presentation Title: Mobile Vending Units  
Department: Transportation and Development—Planning and Zoning  
Presenters: Dan Chandler, County Administration  
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### **POLICY QUESTION**

Amendments to the Zoning and Development Ordinance (ZDO) have been initiated, in order to provide for a different review process and different development standards for mobile vending units than for other commercial uses. What should be the scope of these amendments?

### **ISSUE & BACKGROUND**

In April 2011, the Board held a study session on mobile vending units, at which time the questions presented were whether the Board supported the current application of design review to mobile vending units, and whether the Board supported a public outreach process to discuss whether development standards tailored to mobile vending units should be crafted. The Board advised that design review was the correct review process under the current ZDO provisions and directed staff to pursue public outreach on the issue of developing new ZDO standards to regulate mobile vending units. Generally, the Board expressed support for a streamlined mobile vending unit review process and minimal, flexible, reasonable standards that prioritize health and safety and minimize costs to the applicant, with a goal of ensuring that county review does not impede start-up small businesses through regulation.

Subsequently, Department of Transportation and Development staff reached out to the community on the issue of mobile vending units at meetings of the Oak Lodge Community Council, the Southgate Planning Association Board, the Overland Park Coalition Against Crime, and the Development Liaison Committee. Attached is a copy of the information gathered from these meetings. In addition, discussions occurred with individuals involved in the siting of mobile vending units in the county. Finally, a study session was held with the Planning Commission. Draft study session minutes are attached, as is the staff memo provided to the PC in advance of the study session. Comments from community groups were wide ranging, but in general, there was support for allowing mobile vending units, provided sufficient regulations were in place to address concerns. The Planning Commission, however, expressed significant reservations about mobile vending units and was opposed to eliminating design review as the process for evaluating these uses. There were some indications from a few PC members that

relaxing certain development standards might be acceptable, but for the most part, they did not favor treating mobile vending units differently than other commercial uses.

Staff has written a draft of a mobile vending unit code (copy attached) and is prepared to refine that draft in time for public hearing dates before the Planning Commission and the Board in November and December, respectively. However, the Board's input on several policy considerations is important in guiding staff's efforts at this point. A notice of the upcoming hearings and a web link to the preliminary draft has been mailed to Community Planning Organizations—as required by the ZDO—and to Villages, Hamlets and other interested parties.

**Review Process:** The existing design review process results in a land use decision. Under Oregon law, this necessarily includes notice of the initial decision to neighboring landowners and recognized Community Planning Organizations. It also grants the applicant and any other interested party the right to appeal at the local level (to the Land Use Hearings Officer in the county's case). Subsequent appeals are to the Land Use Board of Appeals. An alternate process would be ministerial, meaning no notice of decision is provided and challenges to the county's decision are made at the circuit court level. By allowing mobile vending units to be reviewed at a ministerial level, the length of time needed to process the permit could be reduced due to the elimination of the formal staff decision with findings and the 12-day appeal period. Current processing time for most design review applications is approximately 40 days (including the appeal period), assuming no appeals are filed. In the past five years, only one design review decision has been appealed.

The draft mobile vending unit code provides ministerial review for two mobile vending units on a developed site. A developed site would be defined as one that received and implemented design review approval at some point in the past. Up to six mobile vending units, even on a developed site, would be reviewed as a land use decision but not through design review. More than six mobile vending units on a site would follow the current design review process.

**Development Standards:** The ZDO currently applies a wide array of standards to commercial development. Limiting the review of mobile vending units to health and safety issues would reduce the applicable standards considerably. Requirements of the health department and the Building Codes Division (e.g. electrical permits) apply independently from the ZDO. The existing ZDO standard requiring compliance with roadside clear zone and sight distance requirements could be retained. Beyond that, it becomes less clear whether applicable ZDO standards relate to health and safety. In a new mobile vending unit code, a decision must be made whether to apply the following, existing ZDO standards. In cases where a mobile vending unit proposes to locate on a developed site, many of these improvements would already be in place; however, that typically is not the case if the unit is proposed on a vacant or underdeveloped site.

- Underground utilities, as opposed to overhead connections
- Traffic impact analysis—denial of the application or requirements for roadway improvements if the system is operating below the acceptable level of service in the affected area
- Frontage improvements (e.g. road widening, curbs, sidewalks)
- Street lighting
- Onsite lighting for security, as well as standards limiting offsite glare and regulating the design of light fixtures

- Onsite pedestrian connections
- Onsite parking for employees/customers, including minimum parking space numbers and dimensions
- Hard-surfaced parking in urban areas, as opposed to gravel parking lots
- Drive-thru queuing, siting and buffering standards
- Landscaping
- Trash enclosure specifications
- Special design district standards (e.g. Government Camp, Fuller Road Station Community) or location criteria (i.e. Should there be a difference between locating units on a Neighborhood Commercial corner, as opposed to locating them along a major commercial corridor, such as 82<sup>nd</sup> Avenue?)

In addition, standards specific to mobile vending units may be appropriate:

- Appearance: limit on size of units, type of vehicles permitted (e.g. a travel trailer vs. a tour bus), outdoor storage of items associated with the unit, seating for patrons, trash receptacles, signage, decoration of the unit (flags, lights, paint), buffering from neighboring residential zones, setbacks from streets and neighboring properties
- Restrooms: should portable toilets be permitted

Mobile vending units may be viewed as an economical entry point to the market for entrepreneurs, an element of a lively commercial streetscape, or a transitory use to be replaced with more substantial development when the market dictates. However, waiving accepted community standards for commercial development is a tradeoff.

The draft mobile vending unit code establishes four levels of mobile vending unit development with corresponding levels of applicable development standards. For example, at Level 3, up to six units could be placed on an undeveloped site but would not be subject to existing ZDO requirements for traffic impact analysis, frontage improvements, street lighting, and onsite pedestrian connections. Required landscaping would be reduced. However, more than six units on a site would require full compliance with existing commercial development standards.

Setting the bar at six units is a starting point for discussion, but in staff's view, there is some point at which mobile vending unit development becomes less transitory and has greater impacts on the community. A "pod" of units may function somewhat like an RV park, where units come and go; however, a concentration of units remains, common seating areas and restroom facilities are provided, and consumers come to view the pod as an entertainment destination, rather than just a place to grab a quick lunch on the go.

### **QUESTIONS PRESENTED FOR CONSIDERATION**

1. Should a ministerial review process be established for mobile vending units?
2. Should development standards be reduced and/or tailored to mobile vending units, as distinct from other commercial uses?
3. If a ministerial process is established or development standards reduced or tailored for mobile vending units, should the process and standards apply to all mobile vending units or should distinctions be drawn based on defined criteria?

## **OPTIONS AVAILABLE**

### **For the review process:**

1. Retain design review as the process for evaluating mobile vending units
2. Establish a ministerial review process for some or all mobile vending units
3. Establish a land use review process, distinct from design review, for some or all mobile vending units

### **For development standards:**

1. Continue to apply the existing commercial development standards to mobile vending units
2. Reduce and/or tailor the development standards applicable to mobile vending units. The options for reducing or tailoring the standards are myriad, as discussed above.

### **Generally:**

1. Exempt mobile vending units from regulation under the ZDO, which would render both the review process and the development standards inapplicable

## **RECOMMENDATIONS**

Staff respectfully recommends that the Board direct staff to proceed with public hearings on the current draft ZDO amendments to address mobile vending units. Minor edits to the draft may occur based on additional public and staff review before the hearings. The current draft may be summarized broadly as providing for:

- Exemption from land use regulation for mobile vending units that move from place to place as part of normal business practices (e.g. the neighborhood ice cream truck or a lunch truck that visits office parks)
- Two mobile vending units allowed on a developed commercial site under a ministerial review process with limited development standards to address health and safety, prevent conflicts with the existing development on the site, buffer adjacent residences from impacts, and minimize the potential for unsightly development
- Land use review, with reduced development standards, for three to six units on a developed commercial site and one to six units on an undeveloped commercial site
- Design review and full compliance with development standards for more than six units on a site

### **SUBMITTED BY:**

Division Director/Head Approval \_\_\_\_\_

Department Director/Head Approval \_\_\_\_\_

County Administrator Approval \_\_\_\_\_

For information on this issue or copies of attachments, please contact Jennifer Hughes @ 503-742-4518