



CITY of THE DALLES

313 COURT STREET
THE DALLES, OREGON 97058

(541) 296-5481 ext. 1125

FAX: (541) 298-5490
COMMUNITY DEVELOPMENT DEPT.

AGENDA
CITY OF THE DALLES PLANNING COMMISSION

CITY HALL COUNCIL CHAMBERS
313 COURT SREET

THE DALLES, OREGON 97058

CONDUCTED IN A HANDICAP ACCESSIBLE MEETING ROOM

THURSDAY, NOVEMBER 1, 2012

6:00 PM

- I. CALL TO ORDER
- II. ROLL CALL
- III. APPROVAL OF AGENDA
- IV. APPROVAL OF MINUTES
 - A. October 18, 2012
- V. PUBLIC COMMENT (Items not on the Agenda)
- VI. **QUASI-JUDICIAL HEARING**
Public Hearing Continuance
Application Number: VAR 120-12; Brian and Gloria Tuck; Request: To obtain approval for a carport with less than the required side yard setback; Property is located at 623 Sherman Drive, The Dalles, Oregon, and is further described as Township 1 North, Range 13 East, Map 1DB, tax lot 1600.
- VII. RESOLUTIONS
 - A. APL 23-12; Jennifer Blevins
 - B. ADJ 120-12; Brian and Gloria Tuck
- VIII. STAFF COMMENTS
- IX. COMMISSIONER COMMENTS/QUESTIONS
- X. NEXT SCHEDULED MEETING DATE
November 15, 2012
- XI. ADJOURNMENT

CITY OF THE DALLES PLANNING COMMISSION MINUTES

Thursday, October 18, 2012
City Hall Council Chambers
313 Court Street
The Dalles, OR 97058
Conducted in a handicap accessible room

CALL TO ORDER:

Acting Chair Zukin called the meeting to order at 6:06 PM.

BOARD MEMBERS PRESENT:

Chris Zukin, Mark Poppoff, Dennis Whitehouse, Jeff Stiles

STAFF MEMBERS PRESENT:

City Attorney Gene Parker, Senior Planner Richard Gassman, Administrative Secretary Carole Trautman

APPROVAL OF AGENDA:

It was moved by Whitehouse and seconded by Stiles to approve the agenda as submitted. The motion carried unanimously.

APPROVAL OF MINUTES:

It was moved by Whitehouse and seconded by Stiles to approve the October 4, 2012 minutes as submitted. The motion carried unanimously.

PUBLIC COMMENT:

None

QUASI-JUDICIAL HEARING:

Application Number: VAR 120-12; Brian and Gloria Tuck; Request: To obtain approval for a carport with less than the required side yard setback. Property is located at 623 Sherman Drive, The Dalles, Oregon, and is further described as Township 1 North, Range 13 East, Map 1DB, tax lot 1600.

Acting Chair Zukin read the rules for conducting a public hearing. Zukin asked the Commissioners if they had any ex-parte contact, conflict of interest, or bias that would prohibit them from making an impartial decision in the matter. None were noted.

Acting Chair Zukin opened the public hearing at 6:13 PM.

Senior Planner Gassman presented the staff report and advised the Commission that staff recommended denial of the variance request. Gassman highlighted Findings #8 and #9 in the staff report as the main basis for staff's recommendation for denial. He explained that the Land Use and Development Ordinance (LUDO) called for "exceptional or extraordinary circumstances" that apply to the property which do not apply generally to other properties in the same zone. Staff determined the Tucks' property was a typical rectangular lot, larger than some in the area, Gassman said.

Finding #9, Gassman stated, posed the suggestion of the applicant constructing a smaller carport, and he suggested the Commission discuss this with the applicants.

Commissioner Stiles asked if the applicants were asking for a permanent structure as opposed to a temporary structure. Senior Planner Gassman stated that his understanding was the applicants had plans to construct a permanent structure.

Testimony

Proponents:

Brian and Gloria Tuck, 623 Sherman Drive, The Dalles, Oregon, stated that the challenge was his, as the driver of the motor home. Tuck said he needed more space to back the RV into the carport. Mr. Tuck stated that if they observed the 5 foot setback requirement, it would only leave 6 inches between the carport structure and the house. Tuck also states that, at his age, he did not want to climb up on top of the RV to scrape off snow in the winter months, and a carport was needed to protect the RV from the weather elements.

Mr. Tuck stated that his next door neighbor was agreeable to the variance, if allowed. Mr. and Mrs. Tuck showed two photos of the carport area and one of the RV (*Exhibits #1-#3*). The applicants also presented a sketch of the carport construction plans (*Exhibit #4*).

Commissioner Zukin asked how far the roof line would extend out. Mr. Tuck said it would extend out 15 feet and that the distance from the wall of the house to the property line would be 15 feet.

Commissioner Stiles asked the Tucks if they had considered a temporary carport structure. Mr. Tuck explained that they had, but a temporary structure would be problematic due to wind, constant maintenance of snow removal, and the fact that they had not found a temporary structure that was tall enough for their RV.

Commissioner Stiles asked the applicants how they would deal with water runoff. Mr. Tuck stated the moisture would drain off into their lawn area.

Opponents:

None.

Commissioner Whitehouse asked Senior Planner Gassman if the approval of this variance request would have a larger impact in the future. Gassman stated it was, indeed, part of staff's concerns. If approved, Gassman explained, it would be difficult to distinguish this variance from other similar requests in the future. Gassman re-emphasized there was nothing unusual about this property, and that was the real stumbling block issue for staff.

Commissioner Zukin commented that he wanted to find some sort of a resolution for the applicants. Zukin asked Senior Planner Gassman what some of the options were. Gassman answered that the Commission could allow any size variance, even up to a setback of zero feet. Zukin asked if it would be better to have some setback established for the sake of the staff handling future cases. Gassman said that would help.

Commissioner Poppoff said he had fire safety issues with the request. Senior Planner Gassman reported that the applicants would still need to comply with Building Codes regulations on setbacks, and he was unsure what the building codes setback requirements were. Mrs. Tuck informed the Commissioners there was a fire hydrant at street side in between the two houses.

After further discussion, Acting Chair Zukin closed the public hearing at 6:30 PM.

Deliberation:

Commissioner Poppoff voiced an opinion that to allow this variance request would open a can of worms. He suggested the possibility of installing a cantilevered roof, and he thought building codes would require setbacks.

Commissioner Whitehouse stated he would be willing to grant them some extra feet, and he suggested parking the RV at an angle.

Commissioner Stiles concurred with Poppoff's statement that to allow the variance would open a can of worms. He also stated he had seen temporary structures that would be large enough. Commissioner Poppoff said there were some temporary structures out there that would withstand inclement weather. Commissioner Stiles commented that to build a permanent structure could possibly cause difficulties for resale of that property and the adjacent neighbor's property.

Commissioner Zukin stated he was in favor of allowing a 12-15 foot carport and still require some measure of a setback to alleviate potential difficulties with future variance cases.

It was moved by Whitehouse and seconded by Zukin to grant VAR #120-12 with a setback requirement of three feet instead of five feet. Zukin and Whitehouse voted in favor, Stiles and Poppoff voted against. The motion did not carry; Lavier, Raschio and Zingg were absent.

It was moved by Whitehouse and seconded by Stiles to continue the hearing for deliberations at the next Planning Commission meeting on Thursday, November 1, 2012 with the option to re-open the public hearing if needed. The motion carried unanimously; Lavier, Raschio and Zingg were absent.

Whitehouse asked staff to conduct further research to see if there was any alternative solution that could be found.

RESOLUTION:

P.C. Resolution #526-12, APL #23-12; Jennifer Blevins, 1215-1217 Blakely Drive
City Attorney summarized draft P.C. Resolution #526-12. Parker concluded by clarifying that a vote in favor of the Resolution in no way reflected a Commissioner's opinion on the vote of the motion from the quasi-judicial hearing. Commissioner Whitehouse stated he felt that a vote in favor of the resolution was a vote in favor of the interpretation.

After further discussion the Commissioners decided to table the vote until the next scheduled Planning Commission meeting when possibly more Commissioners would be present.

STAFF COMMENTS:

Senior Planner Gassman advised the Commissioners of a future hearing on the fence issue at 10th and Trevitt Streets. It is scheduled for November 15, 2012.

COMMISSIONER COMMENTS/QUESTIONS:

None.

NEXT MEETING:

November 1, 2012

ADJOURNMENT:

The meeting was adjourned at 6:52 PM.

Respectfully submitted by Carole J. Trautman, Administrative Secretary.

Bruce Lavier, Chairman

DRAFT

Exhibit 1



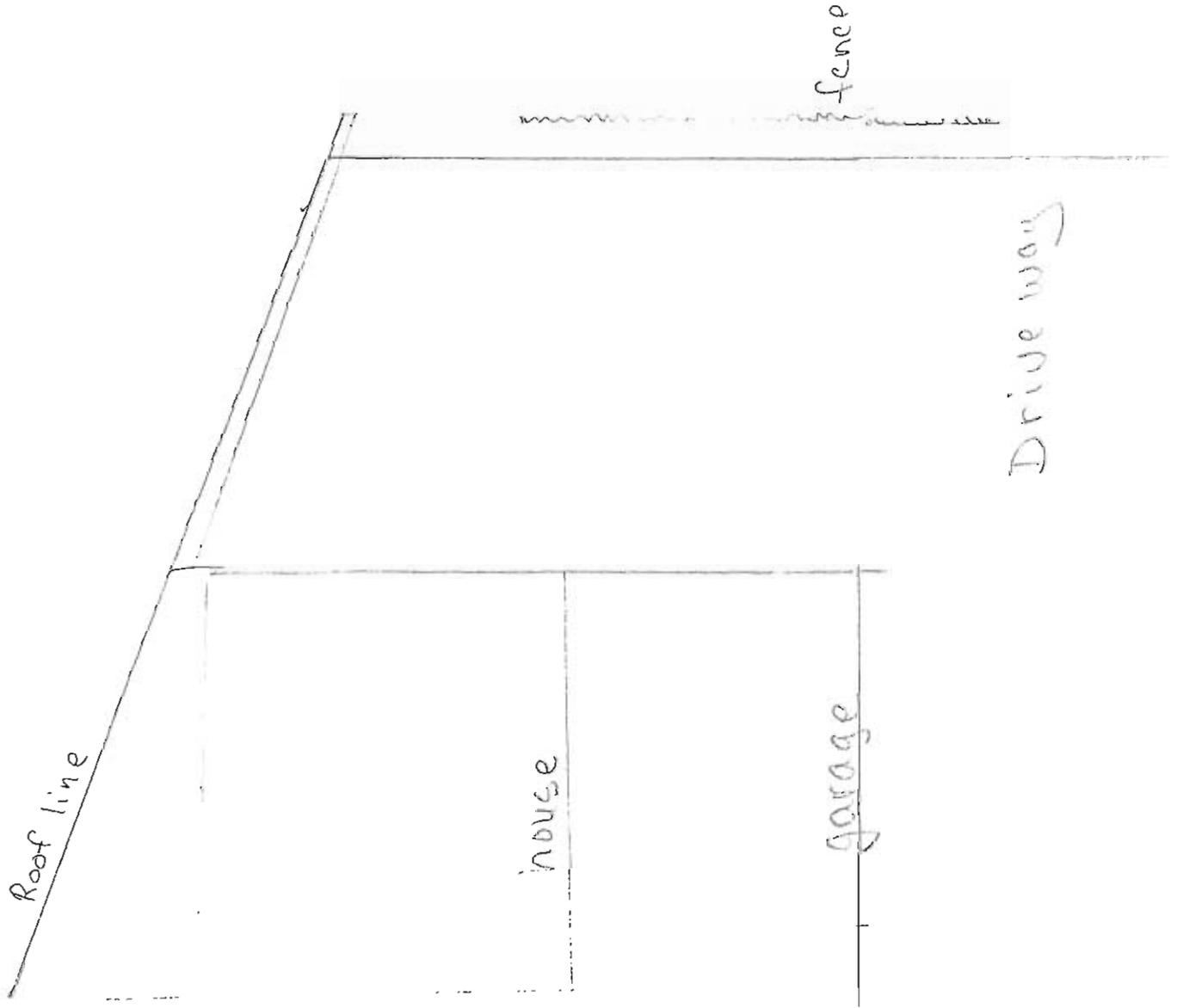
Exhibit 2



Exhibit 3



Exhibit 4



VARIANCE APPLICATION

CITY OF THE DALLES
Community Development Department
313 Court Street
The Dalles, OR 97058
(541) 296-5481, ext. 1125
Fax (541) 298-5490
www.ci.the-dalles.or.us

Date Filed 9/26/2012
File# VAR 120-12
Date Deemed Complete 9/26/2012
Hearing Date 10/18/2012
Approval Date
Permit Log #
Other Cross Reference#



APPLICANT

LEGAL OWNER (If Different than Applicant)

Name Brian & Gloria Tuck

Name

Address 623 Sherman Dr
The Dalles OR

Address

Telephone # 541 296-4942

Telephone #

E-mail Address

*If applicant is not the legal owner, attach either [1] owner consent letter, or; [2] copy of earnest money agreement, or; [3] copy of lease agreement.

PROPERTY INFORMATION

Address 623 Sherman Drive

Map and Tax Lot 1N 13E 2 DB Lot 1600

Size of Development Site

Zone District/Overlay RL

Comprehensive Plan Designation RL

REQUEST

- New Construction Expansion/Alteration Change of Use Amend Approved Plan

Brief Explanation: To add a carport.

JUSTIFICATION OF REQUEST

- 1. What are the special circumstances (size, shape or topography of lot, location of surroundings) that do not apply to other properties in the same vicinity and zone?

See attached Sheet

- 2. What difficulties and unnecessary hardships will be created without a variance to the Ordinance?

- 3. Explain why the variance will not be detrimental to the public safety, health and welfare.

- 4. Explain why this variance, if granted, would not be contrary to the intent of the Zoning Ordinance.

PARKING INFORMATION

Total Number of Spaces Proposed N/A Total Number of Handicap Spaces Proposed _____

Total Number of Compact Spaces Proposed N/A What material will be used for the surface of the parking area _____.

LANDSCAPING INFORMATION

Total Square Footage Landscaping Proposed N/A Percent of Landscaping Irrigated _____

ECONOMIC DEVELOPMENT INFORMATION

Proposed Project is located in the Enterprise Zone

_____ Full Time Equivalent (FTE) jobs are currently provided.

_____ FTE jobs are expected to be created by the proposed project.

UTILITIES

How will the site be served with water and sewer?

Water: City Water Chenoweth Irrigation Private Well

Sewer: City Sewer Private Septic

Signature of Applicant

Aloua Tuck

Date

Signature of Property Owner*

9-26-2012

Date

* Notarized Owner Consent Letter may substitute for signature of property Owner

NOTE: **This application must be accompanied by the information required in Section 3.070: Variance, contained in Ordinance No. 98-1222, The City of The Dalles Land Use and Development Ordinance.**

Site Team/Pre-Application :

- 15 copies of concept site plan.
- One 11 x 17 concept site plan.

Official Variance App.

- 4 full size copies construction detail plans
- One 11 x 17 construction detail plan
- 4 copies detailed landscape plans

INFORMATION REQUIRED WITH APPLICATION

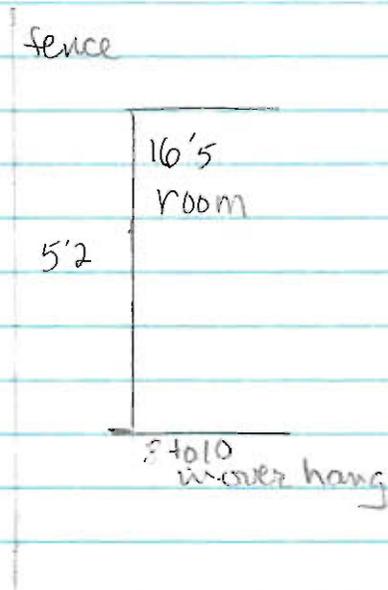
There are 3 types of plan information that can be combined on the same plan or separated onto different plans and reviewed at different times through the approval process. The minimum plan requirements which must accompany a Site Plan Review Application are those specified in the Concept Site Plan below.

1. Concept Site Plan. The concept site plan shall clearly indicate all of the following information applicable to the particular development proposal.

- Project Name
- A separate vicinity map indicating location of the proposed development.

1. Our lot and house is situated on the lot to provide parking for a R.V. and a R.V. cover.
2. So having the variance is very important to provide adequate space to safely park our R.V.
Without the variance it would make it more difficult to park the R.V. The space would be too narrow to maneuver the R.V. into the space.
3. We have a license contractor who is over seeing all the building construction on our carport. We personally want this carport to blend in with the side of the house.
4. The carport will blend in to match the house and will not have any impact on adjoining land owners. We will install gutters on carport to direct run off water from the roof away from adjacent land owners. This is just a carport without any sides.

The neighbor house:



Plot Plan

City of The Dalles

Community Development Dept

Map, Tax Lot: _____

Applicant: _____

Owner(s): _____

ADDRESS - _____

Phone #: _____

Date: _____

NOTE: Lot dimensions and setbacks must be included numerically and drawn to the scale selected below.

**** See back for required plot plan information

Scale: (select one)

One Inch = 10 Feet

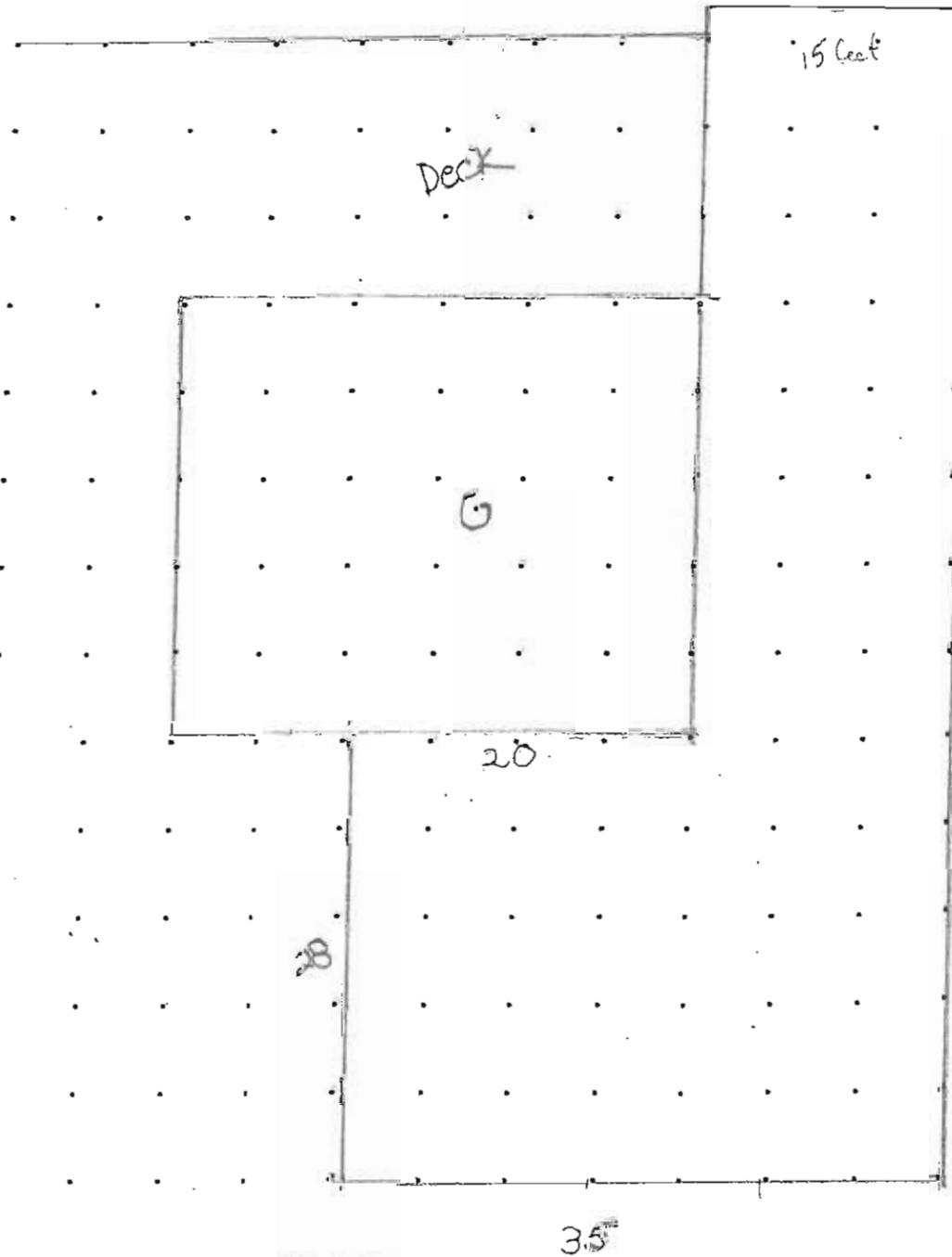
One Inch = 20 Feet

One Inch = 50 Feet

Planning Dept Only:

File #: _____

Approval Date: _____



side walk

RESOLUTION NO. P.C. 526-12

**A RESOLUTION OF THE PLANNING COMMISSION
AFFIRMING THE PLANNING DIRECTOR'S WRITTEN
INTERPRETATION OF JULY 3, 2012 CONCERNING
OFF-STREET PARKING REQUIREMENTS FOR THE
PROPERTY AT 1215 AND 1217 BLAKELY DRIVE**

WHEREAS, Section 1.090 of the City's Land Use and Development Ordinance ("LUDO") provides the Planning Department Director is authorized to interpret the provisions of the LUDO when the language is ambiguous or unclear, and request for an interpretation shall be submitted in writing on a form provided by the City; and

WHEREAS, pursuant to Section 1.090, a request was submitted on behalf of Jennifer Blevins for an interpretation as to whether the property located at 1215 and 1217 Blakely Drive complied with the off-street parking requirements set forth in Section 3.090.070(A)(3)(c); and

WHEREAS, on July 3, 2012, the Planning Director issued a written interpretation that the property complied with the off-street parking requirements of Section 3.090.070(A)(3)(c); and

WHEREAS, on July 16, a Notice of Appeal of the Planning Director's July 3, 2012 written interpretation was filed on behalf of Ms. Blevins; and

WHEREAS, the Planning Commission conducted public hearings on September 20, 2012 and October 4, 2012, and following the close of the public hearing, the Planning Commission voted 4 to 2, with one abstention, to affirm the Planning Director's written interpretation of July 3, 2012;

WHEREAS, the Planning Commission has reviewed the proposed findings of fact and conclusions of law set forth in Exhibit "A", and desires to adopt a resolution approving the proposed findings of fact and conclusions of law.

NOW, THEREFORE, THE PLANNING COMMISSION RESOLVES AS FOLLOWS:

Section 1. The Planning Commission hereby approves and adopts the findings of fact and conclusions of law set forth in Exhibit "A", attached hereto and incorporated herein by this reference. The written interpretation of the Planning Director dated July 3, 2012, that the property located at 1215 and 1217 Blakely Drive, complies with the off-street parking requirements of Section 3.090.070(A)(3)(c) is hereby affirmed.

Section 2. This resolution shall be considered effective as of November 1, 2012.

Section 3. The Secretary of the Planning Commission shall certify to the adoption of the resolution, and transmit a copy of the resolution to the City Council of the City of The Dalles.

Chairman, Planning Commission

ATTEST:

Daniel Durow, Secretary

Ayes: _____

Nays: _____

Absent: _____

Abstaining: _____

EXHIBIT "A"

FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR APPEAL #23-12

BACKGROUND INFORMATION

On May 15, 2012, a Petition for Enforcement of City Code was filed on behalf of the Appellant requesting a determination whether the property located at 1215 and 1217 Blakely Drive could accommodate four "legitimate" off-street parking spaces (without the single car garage space) as required by Section 3.090.070(A)(3)(c) of the Land Use and Development Ordinance ("LUDO"). Appellant was advised that the request for interpretation needed to be submitted to the Planning Director pursuant to Section 1.090 of the LUDO. On July 3, 2012, the Planning Director issued a written interpretation that the driveway on the property at 1215 and 1217 Blakely Drive did provide the four off-street parking spaces required by Section 3.090.070(A)(3)(c). Appellant filed a Notice of Appeal of the Director's Decision on July 16, 2012. Section 1.090 of the LUDO provides that interpretations of the Planning Director may be appealed to the Planning Commission pursuant to the provisions of Section 3.020.080.

The property located at 1215 and 1217 Blakely Drive is a duplex, and is further described as Township 1 North, Range 13 East, Assessor's Map No. 5 AA Tax Lot 200. The City's Comprehensive Plan designates the property as "R-L" Low Density Residential, and the property is located within the "R-L" Low Density Residential zoning district.

REVIEW OF APPLICABLE CRITERIA

LAND USE AND DEVELOPMENT ORDINANCE NO. 98-1222

Chapter 3. Application Review Procedures

Section 3.020.080(A). De Novo. Appeals shall be a de novo evidentiary hearing. A De Novo hearing allows for the introduction of additional evidence on issues raised at a lower level and included in the notice of appeal, and for arguments or testimony based on those issues. It does not allow for new issues to be raised, nor does it allow for evidence, arguments or testimony to be presented on issues not raised in the appeal notice.

FINDING #1: The Planning Commission conducted the initial evidentiary hearing on September 20, 2012. Following the introduction of evidence and testimony at that hearing, the Planning Commission voted to continue the public hearing to October 4, 2012 to allow for the introduction of additional evidence concerning the parking area, specifically including a map or diagram of the parking area, and to consider additional evidence concerning the width of the driveway. The Planning Commission had the opportunity to review the entire application for the requested interpretation and to make a new decision.

CONCLUSION: The criteria in Section 3.020.080(A) have been satisfied.

Section 3.020.080(B)(1). Right to Appeal Decisions. The following may file an appeal to decisions resulting from planning actions described in this Section:

1. *Any party of record to the particular action.*

FINDING #2: The appeal of the Planning Director's written interpretation of July 3, 2012 was filed on July 16, 2012, by the applicant, who is a party of record.

CONCLUSION: The criteria in Section 3.020.080(B)(1) have been satisfied.

Section 3.020.080(C). Filing Appeals.

1. *To file an appeal, an appellant must file a completed notice of appeal on a form prescribed by the Department. The standard appeal fee shall be required as part of the notice of appeal.*
2. *The notice of appeal and appeal fee must be received at the Community Development Department office no later than 5:00 PM on the tenth day following the date of mailing of the notice of decision. (See Section 1.110: Computation of Time for an explanation of how days are counted).*

FINDING #3: The appeal with the information required under Section 3.020.080(C)(1) was filed on July 16, 2012, within the ten day period set forth in Section 3.020.080(2), along with the required filing fee.

CONCLUSION: The criteria in Section 3.020.080(C) have been satisfied.

Section 3.020.080(G). Notification of Appeal Hearing. The notice of appeal, together with notice of the date, time and place of the appeal hearing shall be mailed to all parties at least 14 days prior to the hearing.

FINDING #4: For appeals from the Planning Director's interpretation, there is no requirement for notice, other than to the appellant who is also the applicant in this proceeding.

CONCLUSION: The criteria in Section 3.020.080(G) have been satisfied.

Section 3.020.080(H). Decision of Appeal.

1. *The Commission or Council may affirm, reverse, or modify the planning action decision being appealed, including approving, approving with conditions, or denying a particular application.*
2. *The Commission or Council shall make findings and conclusions, and make a decision based on the hearing record.*

3. *A Notice of Appeal Decision shall be sent to the all parties participating in the appeal.*

FINDING #5: A copy of Petition for Enforcement of City Code dated May 15, 2012, the Planning Director's written interpretation dated July 3, 2012, and a copy of the appeal notice submitted on July 16, 2012 was included with the Agenda Staff Report, On October 4, 2012, following the close of the public hearing, the Planning Commission voted 4 to 2, with one abstention, to affirm the Planning Director's interpretation regarding the off-street parking requirements for the property at 1215 and 1217 Blakely Drive. With the adoption of Resolution No. 526-12 which includes the proposed findings of fact and conclusions of law, the provisions of Section 3.020.080(H) will be addressed.

CONCLUSION: The criteria in Section 3.020.080(H) have been satisfied.

Section 6.060.020 Driveways and Entrance Standards; General Standards. This section provides in part as follows:

No approach/entrance shall be built closer than 5 feet to any property line except as authorized below in Subsection 6.060.050: Shared Driveways. The length of driveways shall be designed to accommodate the anticipated storage length for entering and existing vehicles to prevent vehicles from backing up into the flow of traffic on a public street or causing unsafe conditions with on-site circulation.

FINDING #6: The Appellant asserted that the provisions of Section 6.060.010 Purpose should provide applicable review criteria for this matter. This section provides as follows:

This section establishes driveway and entrance standards to ensure that traffic congestion and hazards are avoided, vehicular and public safety are protected, and adequate vehicular circulation is maintained at connections to City streets and alleys.

Purpose statements such as those in Section 6.010.010 are often generally worded expressions of goals or objectives. In these cases, such purpose statements do not create approval standards or criteria. *Beck v. City of Tillamook*, LUBA No. 90-056, 20 Or LUBA 178, 186-186 (1990) *affirmed*, 105 Or App 276 (1991). The Planning Commission finds and concludes that Section 6.060.010 does not present any applicable review criteria for this appeal.

The Appellant testified that Exhibit 2, a diagram of the parking area prepared by City Staff and received into evidence at the October 4th hearing, did not include a delineation of parking spaces and walkways, the type and location of these connections to the residential duplex located on the property, the location of the garbage areas, and location of emergency exit routes. There are no provisions in the City's LUDO that would have required this information to be shown on Exhibit 2, or to have been required to be submitted by the owner of the property located at 1215 and 1217 Blakely Drive.

Mr. Rich Williams, testifying on behalf of the Appellant, asserted it was not mathematically possible to stack four standard sized vehicles in the parking area. Mr. Williams also testified that

the LUDO required that cars parked in the driveway be parked in a perpendicular manner, and that the LUDO did not allow for vehicles to be parked in a parallel manner in the driveway. Concerning this second argument, the Planning Commission finds and concludes that Mr. Williams has incorrectly interpreted the LUDO. Section 6.060.020(B)(3)(a) concerning maneuvering within the street provides as follows for residential local streets and alleys:

1 and 2 Family Dwellings. 90 degree in/back out vehicular movements will be allowed for single family and duplex dwellings with 4 or fewer parking spaces only. Other angles may be allowed with the approval of the City Engineer, based on unique topographic conditions that may exist on site.

The Planning Commission interprets the provisions of Section 6.060.020(B)(3)(a) to apply vehicular movements of entering and existing driveways, and nothing in this section would prevent the stacking of vehicles in the driveway for the duplex at 1215 and 1217 Blakely Drive. There is no provision in Section 6.060.020(B)(3)(a) that requires vehicles to park in a perpendicular manner.

The Appellant testified at the October 4, 2012 hearing that the LUDO required parking space dimensions of 18.5 feet by 9 feet. Section 7.030.010 of the LUDO notes that Section 7.310 which describes the minimum design standards for all at grade surface vehicle parking areas, does not apply to one and two family dwellings. The Planning Director finds and concludes that Appellant's testimony concerning the dimension requirements for parking spaces is correct in part, but that the dimension requirements cited by Appellant are not required for parking spaces in a driveway which serves a residential duplex. The Planning Commission notes that these dimensions were used as part of a "practical approach" by City staff in reviewing the issue as to whether the driveway provided the four required off-street parking spaces, and that such use of the parking dimensions was reasonable.

The Appellant also testified at the October 4, 2012 hearing that the driveway area shown on Exhibit 2 was inadequate because it failed to show there was a landing area for the exterior stairs, which Appellant claimed should have measured 36 inches by 36 inches to comply with fire code requirements. Appellant also testified Exhibit 2 failed to show "buffer areas" between the residential structure.

Appellant did not cite any specific authority for the provisions of the fire code which she claimed required the installation of 36 inch by 36 inch landing area next to the exterior staircase. The Planning Commission finds and concludes that testimony concerning the lack of a landing space for the exterior stairs fails to address any relevant approval criteria. Appellant did not cite any authority for the requirement for Exhibit 2 to show "buffer areas", which apparently would show an unobstructed pathway between the vehicles and the duplex, and between the vehicles and the entrances to the duplex. The Planning Commission finds and concludes there is no provision in the LUDO which would have required the showing of "buffer areas" on the diagram of the parking area.

In the Notice of Appeal submitted on July 16, 2012, the Appellant asserted that subject property violated Section 6.060 of the LUDO, due to a failure provide a driveway design which prevented

the vehicles from causing unsafe conflicts with on-site circulation by blocking unobstructed ingress and egress. Section 6.060.020 of the LUDO does not specifically require that driveways be designed to prevent vehicles from having unobstructed ingress or egress to the parking area. The photographs submitted as Exhibit 2 for the Petition for Enforcement of City Code dated May 15, 2012, which appear to show vehicles parked in the driveway in such a manner that portions of some vehicles appeared to be parked in the public right-of-way, are not dated. It is uncertain if these photographs accurately reflect the actual use of the parking area at the present time. The Planning Commission finds and concludes that there was insufficient substantial evidence presented by Appellant to establish that the design of the parking area for the property at 1215 and 1217 Blakely Drive would cause unsafe conflicts with on-site circulation.

Appellant presented a large volume of evidence concerning the alleged non-conforming history of the property. At the September 20, 2012 hearing, Appellant testified that as a result of the development of non-conforming additions to the residential structure, unspecified traffic and parking impacts had occurred. Appellant also asserted that the impacts of this increased density created an unreasonable interference with the rights of surrounding residents. Appellant also testified that the additional dwelling space created by these additions not only increased the number of additional drivers to the residence, they removed one off-street parking space in the garage.

The Planning Commission finds and concludes that the evidence presented by Appellant of the history of alleged non-conforming use, and alleged improper modifications of the use upon the property, and the Appellant's request that as part of a determination that the Planning Director's interpretation was incorrect, that the Planning Commission enforce the requirement for four off-street parking spaces by requiring that the lost parking garage space be restored, reflects an attempt by Appellant to ask the Commission to address issues which are beyond the scope of the issues presented in this appeal.

Concerning Mr. Williams' assertion that it was mathematically impossible to place four standard sized vehicles in the parking area, the Planning Commission notes that Exhibit 2 includes a list of vehicles and their dimensions including width and length. As a hypothetical configuration for placement of the vehicles on the driveway, Vehicles #1 and #2 could be placed together adjacent to each other and in front of the duplex, and Vehicles #3 and #4 could be stacked behind Vehicles #1 and #2. The total width of Vehicles #1 and #2 is 11 feet, 2 inches. The width of the driveway adjacent to the house initially measures 20 feet, 6 inches, which leaves a distance of 9 feet four inches, and this distance increases to 14 feet, 10 inches when the driveway measures 26 feet in width. The total width of Vehicles #3 and #4 is 12 feet, 4 inches. Where the width of the driveway measures 26 feet, this leaves a distance of 13 feet, 8 inches. This additional distance increases as the driveway approaches Blakely Drive, where the width of the driveway measures 36 feet.

The length of Vehicle #1 measured 15 feet, 6 inches, and the length of Vehicle #3 measured 15 feet, 6 inches for a total length of 31 feet. The length of this portion of the driveway measures 35.5 feet. The length of Vehicle #2 measures 15 feet, and the length of Vehicle #4 measures 17 feet, for a total of 32 feet. The length of the portion of the driveway where Vehicles #2 and #4 would be parked totals 35.5 feet. The Planning Commission finds and concludes that Exhibit 2

constitutes substantial evidence that four standard size vehicles can be placed in the parking area shown in the driveway for the duplex.

CONCLUSION: The criteria in Sections 6.060.020 concerning the design of the driveway and 3.090.070(A)(3)(c) concerning the requirement for four off-street parking requirements have been satisfied.

RESOLUTION NO. P.C. 528-12

**A RESOLUTION OF THE PLANNING COMMISSION
DENYING VARIANCE NO. 120-12 OF BRIAN AND
GLORIA TUCK TO OBTAIN APPROVAL FOR A
CARPORT WITH LESS THAN THE REQUIRED
SIDE YARD SETBACK**

WHEREAS, Gloria Tuck submitted an application for a variance for the property located at 632 Sherman Drive to allow for the construction of a carport up to their property line; and

WHEREAS, on October 18, 2012, the Planning Commission conducted a public hearing, and following the public hearing, the Planning Commission voted to deny the requested variance, because the applicant had not submitted substantial evidence establishing that all of the criteria required for granting a variance had been satisfied; and

WHEREAS, the Planning Commission has reviewed the proposed findings of fact and conclusions of law set forth in Exhibit "A", and desires to adopt a resolution approving the proposed findings of fact and conclusions of law.

**NOW, THEREFORE, THE PLANNING COMMISSION RESOLVES AS
FOLLOWS:**

Section 1. The Planning Commission hereby approves and adopts the findings of fact and conclusions of law set forth in Exhibit "A", attached hereto and incorporated herein by this reference. The requested variance to obtain approval for the construction of a carport in the property located at 632 Sherman Drive, with less than the required five foot side yard setback, is hereby denied.

Section 2. This resolution shall be considered effective as of November 1, 2012.

Section 3. The Secretary of the Planning Commission shall certify to the adoption of the resolution, and transmit a copy of the resolution to the City Council of the City of The Dalles.

Chairman, Planning Commission

ATTEST:

Daniel Durow, Secretary

Ayes: _____

Nays: _____

Absent: _____

Abstaining: _____

Exhibit "A"

FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR VARIANCE #120-12

BACKGROUND INFORMATION

The subject property is developed with a single family residence. The Applicant is proposing to add a carport on the north side of the property owned by Applicant and her husband, to connect to their house. The Land Use and Development Ordinance ("LUDO") requires a five foot setback for buildings on the side property line. The Applicant is requesting a variance to allow for placement of a carport up to the property line.

The address of the subject site is 632 Sherman Drive, The Dalles, Oregon, and the property is more particularly described as Assessor's Map Township 1 North, Range 13 East, Map 1DB, Tax Lot 1600. The Comprehensive Plan designation and Zoning District is described as "RL" Low Density Residential District..

REVIEW OF APPLICABLE CRITERIA

A. LAND USE AND DEVELOPMENT ORDINANCE #98-1222

Chapter 3. Application Review Procedures

Section 3.010.040(B) Completeness. An application shall be considered complete when it contains the information required by this Ordinance, addresses the appropriate criteria for review and approval of the request, and is accompanied by the required fee, unless waived by the City Council per Section 1.120: Fees, of this Ordinance. Complete applications shall be signed and dated by the Director.

FINDING #1: The application was found to be complete on September 27, 2012. The 120 day state mandated decision deadline is January 25, 2013. The hearing will be held within the required time line.

CONCLUSION: The criteria in Section 3.010.040(B) have been satisfied.

Section 3.020.050(A)(4). Variances.

FINDING #2: This application is for a Variance pursuant to Section 3.070 of the LUDO. Variances are processed as quasi-judicial hearings pursuant to Section 3.070.020(B).

CONCLUSION: The criteria in Section 3.020.050(A)(4) have been satisfied.

Section 3.020.050(B). Staff Report. The Director shall prepare and sign a staff report for each quasi-judicial action, which identifies the criteria and standards applying to the application and summarizes the basic findings of fact. The staff report may also include a recommendation for approval, approval with conditions, or denial.

FINDING #3: The staff report will detail criteria and standards relevant to a decision, all facts will be stated, and explanations given. This will be detailed through a series of findings directly related to relevant sections and subsections of the ordinance as they relate to the request.

CONCLUSION: The criteria in Section 3.020.050(B) have been satisfied.

Section 3.020.050(C). Public Hearings. The quasi-judicial process requires a public hearing within 45 days from the date the application is deemed complete.

FINDING #4: The application was deemed complete on September 27, 2012. The 45 day period ends on November 11, 2012. The public hearing is scheduled for October 18, 2012.

CONCLUSION: The criteria in Section 3.020.050(C) have been satisfied.

Section 3.020.050(D) Notice of Hearing. At least 10 days before a scheduled quasi-judicial public hearing, notices shall be mailed to property owners within 300 feet of the subject property.

FINDING #5: Appropriate mailings to property owners within 300 feet and notice to affected departments and agencies were made on October 5, 2012. A public notice was published in The Dalles Chronicle on September 28, 2012.

CONCLUSION: The criteria in Section 3.020.050(D) have been satisfied.

Section 3.070.020(A). Applications. Variance applications shall be accompanied by at least 15 copies of the concept site plan, and a written statement which specifically addresses the review criteria.

FINDING #6: The required number of plans and the written statement has been submitted.

CONCLUSION: The criteria in Section 3.070.020(A) have been satisfied.

Section 3.070.030. Review Criteria. A variance to the requirements of this Ordinance shall be granted only in the event that each of the following circumstances is found to exist:

- A. The proposed variance will not be contrary to the purposes of this Ordinance, policies of the Comprehensive Plan, or any other applicable policies and standards adopted by the City.*
- B. Exceptional or extraordinary circumstances apply to the subject property which does not apply generally to other property in the same zone or vicinity. Such circumstances are a result of lot size or shape, topography, or circumstances over which the applicant has no control.*
- C. The variance is necessary for the preservation of a property right of the applicant which is substantially the same as owners of other property in the same zone or vicinity.*
- D. The conditions or circumstances justifying the variance have not been willfully or purposely self-imposed, and do not result from a violation of this Ordinance since its effective date.*
- E. The proposed variance will not substantially reduce the amount of privacy enjoyed by users of neighboring land uses if the variance were not allowed.*
- F. The proposed variance is the minimum variance which would alleviate the difficulty.*

FINDING #7: In the application, the Applicant noted that the carport would be designed to match the house and would not have any impact upon adjoining landowners. The Applicant proposed to install gutters on the carport to direct runoff water from the roof away from adjacent landowners. These statements focusing upon avoidance of impact to adjacent landowners does not address the issue as to whether the requested variance is contrary to the purposes of the LUDO, the policies of the City's Comprehensive Plan, or any other applicable policies and ordinances adopted by the City.

Section 5.010.050 of the LUDO contains the development standards for the "RL" Low Density Residential Zoning District. The side yard setback is five feet. Other than variances or adjustments, the only code exception is an allowance in Section 6.030.020(C)(1) of the LUDO to place detached accessory structures up to three feet from a side yard property line. Placing a carport on or near the property line would be contrary to the purpose of the LUDO.

CONCLUSION: The criteria in Section 3.070.030(A) have not been satisfied.

FINDING #8: Concerning the criteria regarding exceptional or extraordinary circumstances, the Applicant noted granting the variance was very important to provide adequate space to park a recreational vehicle on the property in a safe manner. The Applicant's property is a typical lot, larger than some other lots in the area. The property is substantially developed with a house, leaving about 15 feet on the side for a carport. The property between the house

and the property line is concrete, providing an extra parking space. However, there are no unusual features related to the size or shape of the property which would justify the granting of a variance.

CONCLUSION: The criteria in Section 3.070.030(B) have not been satisfied.

FINDING #9: Concerning the criteria which addresses the issue of preservation of property rights of the Applicant, the Planning Commissions finds that the Applicant did not specifically address this criteria in the application for the variance. Without the variance or an adjustment, the Applicant would be able to construct a small carport which may not provide sufficient width for a recreational vehicle, but there is no restriction on parking a recreational vehicle on the property without a carport. There has not been sufficient showing that the variance is necessary to preserve a property right of the Applicant, which is substantially the same as owners of other property in the same zone or vicinity.

CONCLUSION: The criteria in Section 3.070.030(C) have not been satisfied.

FINDING #10: Concerning the criteria which addresses the issue as to whether the circumstances justifying the variance have been willfully or purposely self-imposed, the Applicant has indicated the variance is being requested to allow them to park a recreational vehicle upon their property. Whether an owner builds a carport is a discretionary decision on the part of the property owner. The Planning Commission finds that such a decision falls within the characterization of a self-imposed hardship.

CONCLUSION: The criteria in Section 3.070.030(D) have not been satisfied.

FINDING #10: Concerning the criteria regarding the loss of privacy enjoyed by users of neighboring land uses if the variance were allowed, a comment was received from the owners of the property immediately to the south of the Applicant's property that they had no objection to the requested variance. The Planning Commission finds although there is evidence that granting approval of the variance might not reduce the amount of privacy enjoyed by neighboring users, as the proposed structure would be built very close to the neighboring property, there is sufficient evidence to establish the proposed variance will not substantially reduce the amount of privacy enjoyed by the neighboring uses if the variance were not allowed.

CONCLUSION: The criteria in Section 3.070.030(E) have been satisfied

FINDING #11: Concerning the criteria whether the proposed variance is the minimum variance which would alleviate the difficulty, the Planning Commission finds that a lesser setback might be sufficient to allow a large vehicle such as a recreational vehicle to be parked on the side of the garage. The viability of this option would depend upon the size of the vehicle and the skill of the driver, and in the opinion of the Planning Commission, would not likely be a viable option.

CONCLUSION: The criteria in Section 3.070.030(F) have been satisfied