



**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, MAY 5, 2016**

**6:00 PM**

- I. CALL TO ORDER
- II. ROLL CALL
- III. APPROVAL OF AGENDA
- IV. APPROVAL OF MINUTES – January 21, 2016
- V. PUBLIC COMMENT (Items not on the Agenda)
- VI. QUASI-JUDICIAL HEARING

**Application Number: ADJ 16-023 McDowell Request;** This application is a request for an adjustment of the rear yard setback standard from 10 feet to 5 feet for the construction of an addition to an existing house. The property is located at 2001 E 12th Street and is further described as 1N 13E 2CD tax lot 4100. Property is zoned RH – Residential High Density.

- VII. **Resolution** - #550-16 for ADJ 16-023; McDowell

- VIII. LEGISLATIVE HEARING

**Application Number: ZOA 92-16; City of The Dalles;** This application is a request to amend the City's Land Use and Development Ordinance 98-1222 pertaining to the Processing, Production, Retailing, and Wholesaling of Recreational Marijuana. Review criteria for this zone are contained in City Ordinance 98-1222.

- IX. **Resolution** - #551-16 for ZOA#92-16
- X. STAFF COMMENTS
- XI. FUTURE MEETING – To Be Determined
- XII. COMMISSIONER COMMENTS/QUESTIONS
- XIII. ADJOURNMENT

## CITY OF THE DALLES PLANNING COMMISSION MINUTES

**Thursday, February 4, 2016**

City Hall Council Chambers

313 Court Street

The Dalles, OR 97058

*Conducted in a handicap accessible room*

6:00 PM

### **CALL TO ORDER:**

Chair Lavier called the meeting to order at 6:00 PM.

### **COMMISSION MEMBERS PRESENT:**

Bruce Lavier, Chris Zukin, Mark Poppoff, John Nelson, Sherry DuFault

### **COMMISSION MEMBERS ABSENT:**

Jeff Stiles and Dennis Whitehouse

### **STAFF MEMBERS PRESENT:**

Director Richard Gassman, Associate Planner Nick Kraemer, City Engineer Dale McCabe, City Attorney Gene Parker, Planning Secretary Baltazar Gamez

### **APPROVAL OF AGENDA:**

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

### **APPROVAL OF MINUTES:**

It was moved by Zukin and seconded by Nelson to approve the January 21, 2016 minutes as submitted. The motion carried unanimously; Stiles and Whitehouse absent.

### **PUBLIC COMMENTS:**

There were no public comments.

### **QUASI-JUDICIAL HEARING:**

**Application Number: SPR 435-16; Tonkin Chevrolet Buick/GMC; Request: This application is for a Site Plan Review request to build a new 4,660 square foot car showroom. The property is located at 2222 W. 6th Street and is further described as 2N-13E-33 CB 100 and is zoned "CG" – General Commercial.**

Chair Lavier read the rules for a public hearing and asked the Commissioners if they had any ex-parte contact, bias or conflict of interest that would hinder them from making an impartial decision on the application. None were noted.

Lavier opened the public hearing at 6:07 PM

Associate Planner Kraemer presented the highlights of the staff report. He told the Commission that the issue at hand was that the applicant did not agree that the proposed development should trigger street improvement along West 7<sup>th</sup> Street.

There were some questions from the Commission as to what properties had sidewalks and which did not.

Nelson asked about landscaping and Kraemer stated that landscaping requirements were only applied to the new development.

DuFault asked the applicant to address their comment regarding underutilization of 7<sup>th</sup> Street.

There was a discussion about the two lots being utilized as one lot.

Kraemer continued to highlight the staff report and presented the proposed conditions of approval including the proposed amendment regarding the corner of Myrtle and 7<sup>th</sup> and the ADA ramp.

McCabe said there should be another condition to identify storm water treatment.

### **Testimony**

#### **Proponents:**

Tim Brunner 11104 SE Stark, Portland OR, stood representing property owner Bob Stone and the Tonkin Group. He highlighted the scope and scale of the project and why he is questioning the requirement to install a sidewalk on 7<sup>th</sup> street. He believes that sidewalks should be required only when that back lot is actually developed.

#### **Opponents:**

None

#### **Questions and Discussion:**

There was a discussion regarding the number of parking spaces and if the back lot was needed for spaces so that the front lot building was conforming under current standards.

There was a general discussion regarding the condition of approval requiring the identification of what storm water treatment method is available and working with the city to address that item if one is not found. Tim Brunner asked for clarification regarding the language of the proposed condition of approval and whether the entire site would be required to have storm water treatment or just the proposed development. Lavier mentioned that the intent is to work with staff to identify how the storm water is being treated.

Jim Rohde, 1901 Golden Way, The Dalles, OR spoke regarding the parking discussion. He also stated to the Commission that during his time working for Bob Stone, there were two EPA inspections and no issues were found. He also indicated that he believed the right time to install a sidewalk would be as more development occurred along 7<sup>th</sup> street.

There was a discussion about the option of allowing them to delay the installation of the sidewalk and what would trigger that requirement.

### **Deliberation:**

It was moved by DuFault and seconded by Poppoff to approve **SPR 435-16**; Tonkin Chevrolet Buick/GMC based on the findings of fact in the staff report, and to include the amended conditions of approval including allowing the applicant to install the sidewalks within two years. Lavier, DuFault, Poppoff, and Nelson voted in favor; Zukin opposed. The motion carried. Stiles and Whitehouse absent.

### **RESOLUTION**

It was moved by Poppoff and seconded by DuFault to approve P.C. Resolution #549-16, SPR #435-16 for Tonkin Chevrolet Buick/GMC as amended. Lavier, DuFault, Poppoff, and Nelson voted in favor; Zukin opposed. The motion carried. Stiles and Whitehouse absent.

### **LEGISLATIVE HEARING - Continued**

**Application Number: ZOA 91-15; City of The Dalles; Request:** This application is a request to amend the City's Land Use and Development Ordinance 98-1222 pertaining to Recreational Vehicle Parks.

Director Gassman presented the changes that the Commission had agreed to in concept from the previous public hearing.

There was no deliberation and it was moved by Poppoff and seconded by Zukin to recommend **ZOA 91-15; City of The Dalles** to City Council for approval with the recommended changes. Lavier, DuFault, Poppoff, and Nelson voted in favor; Zukin opposed. The motion carried unanimously. Stiles and Whitehouse absent.

### **RESOLUTION**

It was moved by Nelson and seconded by Zukin to approve P.C. Resolution #547-16, ZOA #91-15 for City of The Dalles. The motion carried. Stiles and Whitehouse absent.

### **STAFF COMMENTS**

Director Gassman commented that the Commissioners whose term was expiring had mentioned that they would like to continue on the Commission. City Attorney Parker updated the Commission on the status of hiring a new city manager. McCabe reminded the Commission of the upcoming February 10 Transportation System Plan meeting.

### **NEXT MEETING:**

Gassman said there was nothing scheduled for the February 18 meeting.

### **COMMISSIONER COMMENTS/QUESTIONS**

Zukin commented on the parking near Riverside Gymnastics and the blind spot issue it poses. McCabe said he would bring it up the next Traffic Safety Committee meeting. Zukin asked about the status of what the City Council wanted to do regarding recreational marijuana. Parker stated that they would have a better idea after the upcoming Town Hall. There was a general consensus that the Planning Commission would like hear any proposed ordinance before the Council makes a final decision.

### **ADJOURNMENT:**

Chair Lavier adjourned the meeting at 8:10 PM.

Respectfully submitted by Planning Secretary Baltazar Gamez.

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Bruce Lavier, Chairman

DRAFT

# City of The Dalles

## STAFF REPORT

### Adjustment 16-023

#### Rodney and Dale Sue McDowell

Prepared by: Nick Kraemer, Associate Planner

Procedure Type: Quasi-Judicial

Decision Date: May 5th, 2016

Assessor's Map: 1 North, 13 East, Map 2CD

Tax Lot: 4100

Addresses: 2001 E 12<sup>th</sup> Street

Comprehensive Plan Designation: RH Residential High Density

Zoning District: RH Residential High Density

**REQUEST:** Applicant is requesting a reduction of the rear yard setback from 10 feet to 5' for an addition to an existing single family dwelling.

**NOTIFICATION:** Property owners within 300 feet, City Departments and Franchise Utilities.

**COMMENTS RECEIVED:** No comments were received.

**RECOMMENDATION:** Approval with conditions based on the following findings of fact.

## **A. LAND USE AND DEVELOPMENT ORDINANCE 98-1222:**

### **Section 3.010.040 Applications**

#### **B. Completeness.**

**FINDING #1:** The application was found to be complete on April 8th, 2016. Criterion met.

### **Section 3.020.040 Administrative Actions**

#### **B. Decision Types (4) Adjustments.**

**FINDING #2:** This application is for an adjustment per Section 3.080. The specific request is for a 50% reduction in the rear yard setback from 10 feet to 5 feet for an addition to an existing single family home. This follows the quasi-judicial adjustment procedure – as per Section 3.080.020 (D). Criterion met.

#### **C. Notice of Application.**

**FINDING #3:** Appropriate mailings were sent to property owners within 100 feet and notice to affected departments and agencies were made on April 22nd, 2016. Criterion met.

**D. Time Limits.** All applications processed as quasi-judicial actions shall be heard at a regularly scheduled Commission or Council meeting within 45 days after the filing of a complete application.

**FINDING #4:** The 45 day deadline from April 8, 2016 is May 23, 2016. The application will be heard at the May 5<sup>th</sup> Planning Commission Meeting. Criterion met.

**E. Staff Report.** Staff shall prepare a staff report which identifies the criteria and standards that apply to the application and summarizes the basic findings of fact. The staff report will also include a recommendation for approval, with conditions or denial.

**FINDING #5:** This document serves as the staff report. Criterion met.

### **Section 3.080.040 Applications**

#### **A. Review Criteria.**

An adjustment will be approved if the review body finds that the applicant has shown that either approval criteria 1 through 5 or 6 through 8 below, has been met.

- 1. If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area.*

**FINDING #6:** The reduction in the rear yard setback will not significantly detract from the livability or appearance of the nearby residential area. The rear yard abuts two neighboring lots that have existing single family homes. A side yard setback of 5' will be required from the neighboring property at 2009 E 12<sup>th</sup> Street. In addition, the proposed

reduced setback will not put structures directly adjacent due to the layout of the parcels in this area. No comments were received from neighboring property owners. Criterion met.

2. *If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone;*

**FINDING #7:** Only one adjustment is requested with this application. The proposed development gets very close to the 60% maximum lot coverage, but our calculations show that they are just within those limits. The property is 5,500 square feet total – 60% lot coverage calculates to 3,300 square foot maximum. There is currently 2,700 square feet of lot coverage and the proposed addition is 449 square feet – for a total coverage of 3,149 square feet. Given these calculations – an additional adjustment is not required for the addition. Criterion not applicable.

3. *City designated scenic resources and historic resources are preserved;*

**FINDING #8:** There are no known scenic or historic resources in this area. Criterion not applicable.

4. *Any impacts resulting from the adjustment are mitigated to the extent practical;*

**FINDING #9:** The new addition will need to utilize building materials that fit in with the look of the existing house – this will be addressed as a condition of approval. **The eaves extend into the side and rear yard setbacks – but maintain a minimum setback of 30” from the neighboring properties.** All stormwater runoff from the addition must be maintained on the subject property and not impact neighboring properties. The applicant will need to keep all building materials on their private property. Criterion met with conditions.

5. *If in an environmental sensitive area, the proposal has as few detrimental environmental impacts on the resource and resource values as is practicable,*

**FINDING #10:** There are no known environmentally sensitive areas at this site. Criterion not applicable.

6. *Application of the regulation in questions would preclude all reasonable economic use of the site*

**FINDING #11:** The subject parcel is still buildable without reducing the setback. However, the existing single family home on the property is situated within the rear yard setback and the addition extends the existing footprint. An addition towards the front would reduce the size of the driveway and potentially make it difficult to fit off street parking spaces on the property. Criterion not applicable.

7. *Granting the adjustment is the minimum necessary to allow the use of the site*

**FINDING #12:** The setback reduction is the minimum necessary to accommodate the current house plans and existing layout of the parcel. Criterion met.

**Section 3.080.050 Conditions of Approval:**

*If granting the adjustment, the Approving Authority may attach any reasonable conditions deemed necessary to insure that the review criteria are met.*

**FINDING #14:** Staff is recommending that the reduced setback be granted.

**Proposed Conditions of Approval**

1. The rear yard setback reduction from 10 feet to 5 feet for the construction of an addition to an existing single family dwelling will be allowed. All other setbacks will be required to be met.
2. The applicant should make efforts to landscape the area in a manner to reduce any visual impacts of the reduced setback.
3. The applicant should use building materials that fit in with the look of the existing house.
4. The applicant needs to keep all building materials on private property.
5. All stormwater runoff from the addition must be maintained on the subject property and not impact neighboring properties.
6. Except as modified by this decision, all development must be completed in accordance with Land Use Development Ordinance 98-1222, as amended.

Requested addition (home)

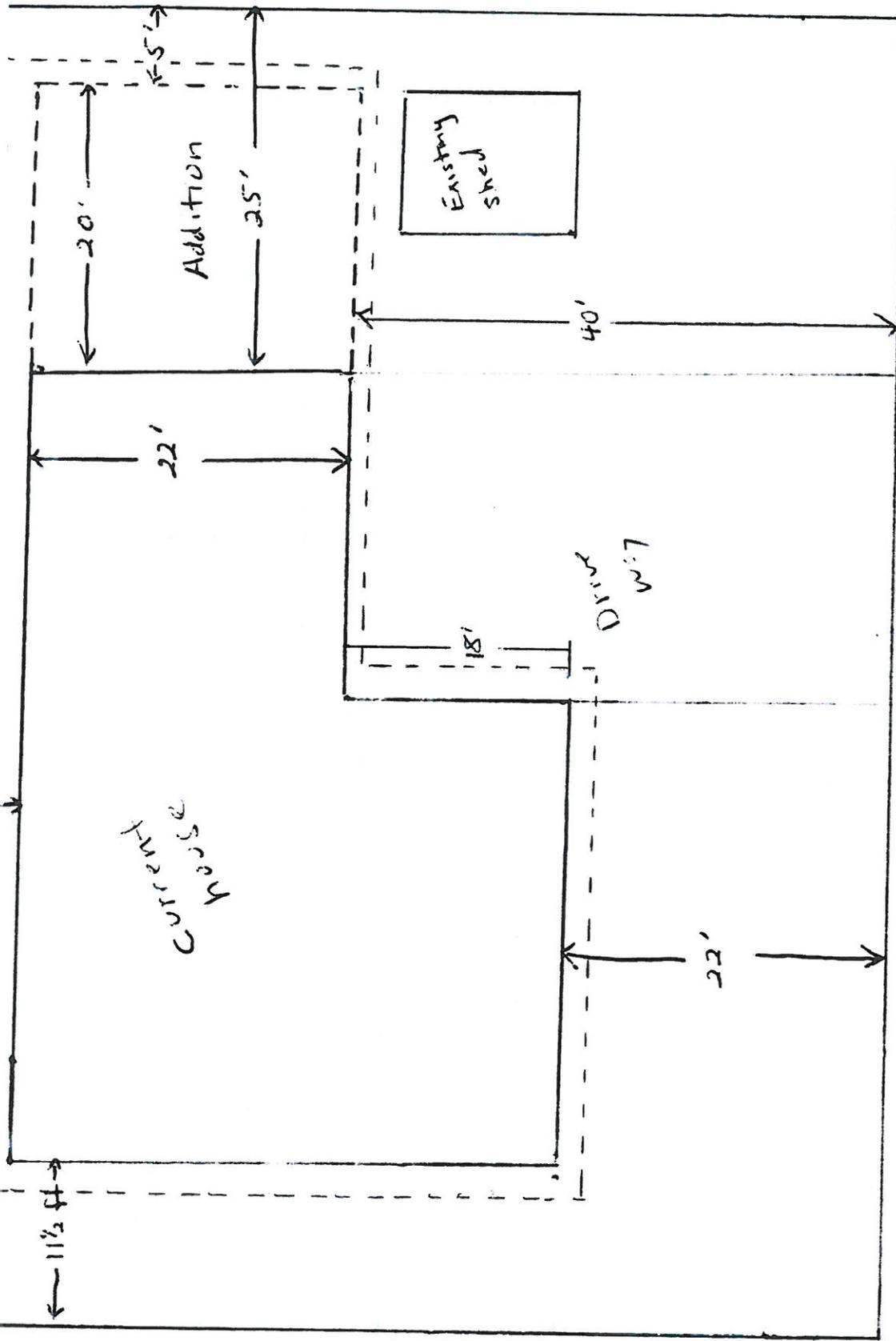
2001 E. 12th Street, The Dalles, OR 97058

Date 4/7/16 By Rodney & Dale Sue MSD

Subject

Addition to include expanding family room and adding 2 bedrooms

1 square = 3' approximately



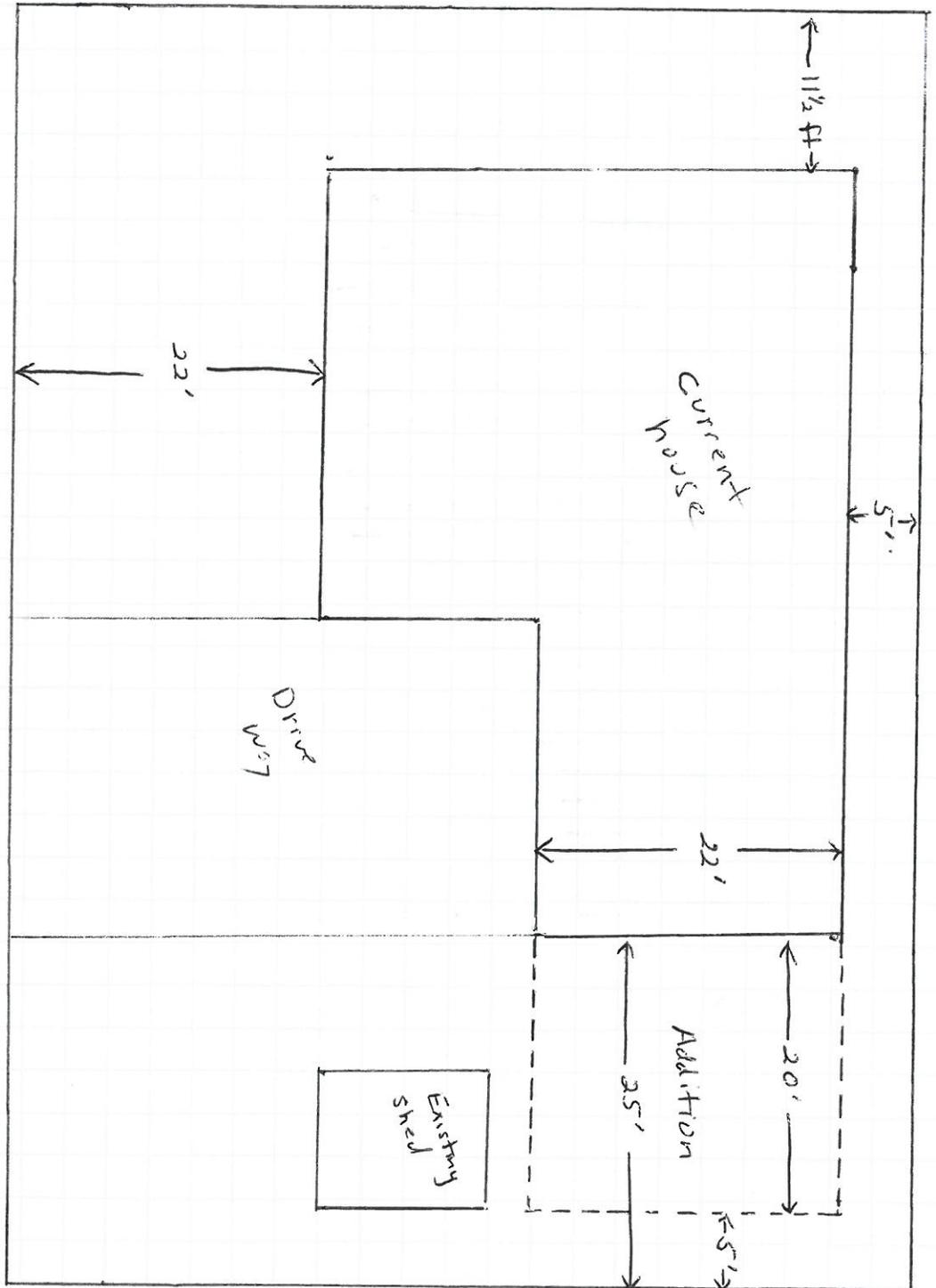


Requested addition (home)

2001 E. 12<sup>th</sup> Street, The Dalles, OR 97058

Date 4/7/16 By Rodney & Dale Sue McDowell

Subject \_\_\_\_\_



Addition to include expanding family room and adding 2 bedrooms

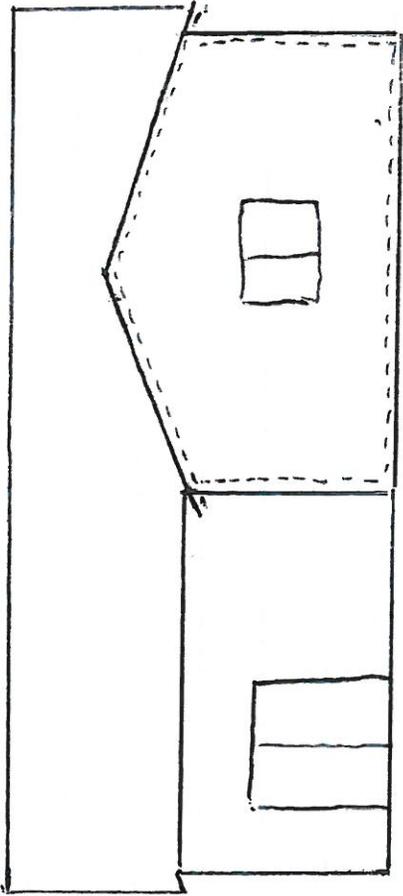
1 square = 3' approximately

Requested addition (home)

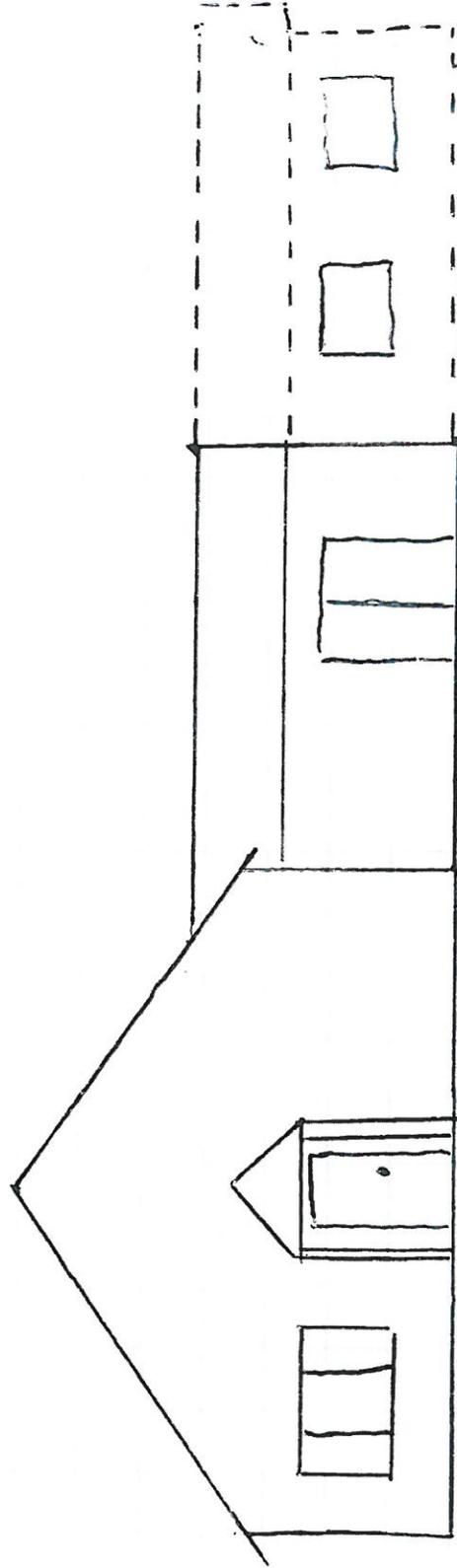
2001 E. 12th Street, The Dalles, OR

Date 4/27/16 By Rodney Rodriguez

Subject



side Elevation



Front Elevation

Behind fence

Addition

Current home





ROBERTS

1212

2001

2009

2013

12TH



## **RESOLUTION NO. P.C. 550-16**

Approval of Adjustment Application 16-023 of Rodney and Dale Sue McDowell to reduce the rear yard setback from 10 feet to 5 feet for a proposed addition.

### **I. RECITALS:**

- A. The Planning Commission of the City of The Dalles has on May 5, 2016 conducted a public hearing to consider the above request. A staff report was presented, stating the findings of fact, conclusions of law, and a staff recommendation.
- B. Staff's report of Adjustment 16-023 and the minutes of the May 5, 2016 Planning Commission meetings, upon approval, provide the basis for this resolution and are incorporated herein by reference.

### **II. RESOLUTION:**

Now, therefore, be it FOUND, DETERMINED, and RESOLVED by the Planning Commission of the City of The Dalles as follows:

- A. In all respects as set forth in Recitals, Part "I" of this resolution. Adjustment 12-016 is hereby approved with the following conditions of approval:
  - 1. The rear yard setback reduction from 10 feet to 5 feet for the construction of an addition to an existing single family dwelling will be allowed. All other setbacks will be required to be met.
  - 2. The applicant should make efforts to landscape the area in a manner to reduce any visual impacts of the reduced setback.
  - 3. The applicant should use building materials that fit in with the look of the existing house.
  - 4. The applicant needs to keep all building materials on private property.
  - 5. All stormwater runoff from the addition must be maintained on the subject property and not impact neighboring properties.
  - 6. Except as modified by this decision, all development must be completed in accordance with Land Use Development Ordinance 98-1222, as amended.

### **III. APPEALS, COMPLIANCE, AND PENALTIES:**

- A. Any party of record may appeal a decision of the Planning Commission to the City Council for review. Appeals must be made according to Section 3.020.080 of the Land Use and Development Ordinance, and must be filed with the City Clerk within ten (10) days of the date of mailing of this resolution.
- B. Failure to exercise this approval within the time limits set either by resolution or by ordinance will invalidate this permit.

- C. All conditions of approval must be met within the time limits set by this resolution or by ordinance. Failure to meet any condition will prompt enforcement proceedings that can result in: 1) permit revocation; 2) fines of up to \$500.00 per day for the violation period; 3) a civil proceeding seeking injunctive relief.

The Secretary of the Commission shall (a) certify to the adoption of the Resolution; (b) transmit a copy of the Resolution along with a stamped approved/denied site plan or plat to the applicant.

APPROVED AND ADOPTED THIS 5th DAY OF MAY, 2016.

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Bruce Lavier, Chairman  
Planning Commission

I, Richard Gassman, Planning Director for the City of The Dalles, hereby certify that the foregoing Resolution was adopted at the regular meeting of the City Planning Commission, held on the 5th day of May, 2016.

AYES:

NAYS:

ABSENT:

ABSTAIN:

ATTEST: \_\_\_\_\_  
Richard Gassman, Planning Director  
City of The Dalles

**City of The Dalles  
Staff Report**

**LUDO Changes - Marijuana**

**Public Hearing**

Prepared by: Richard Gassman, Planning Director

Procedure Type: Legislative

Hearing Date: May 5, 2016

Issue: To consider proposals to change the Land Use and Development Ordinance (LUDO) regarding recreational marijuana sales and related activities.

**BACKGROUND INFORMATION**

The City has adopted regulations for the retail sale of medical marijuana, but has not adopted any regulations for the retail sale of recreational marijuana, nor for the growing, production, distribution, and related activities of either medical or recreational marijuana. The City Council has asked staff to initiate the process to set regulations for these activities.

**PROCEDURE**

This is a legislative type hearing. The Planning Commission's role is to hold a public hearing, review the proposals and make a recommendation to the City Council. The Council will also hold a public hearing, and any recommendations adopted by the Council would be formalized in an ordinance and become part of the LUDO.

**NOTIFICATION**

These proposed code changes require a 35 day notice to the Department of Land Conservation and Development. That notice was sent on March 24, 2016, more than 35

days before this hearing. A notice was also published in The Dalles Chronicle on April 24, 2016.

## **COMMENTS**

As of the date of the preparation of this report, no comments have been received from the public for this hearing.

## **DISCUSSION**

The proposed changes are attached. Staff has tried to follow existing zone allowances for each type of activity. For example, the LUDO currently allows agriculture uses in the Industrial zone with a conditional use permit, but not in any other zone. Staff is proposing that marijuana growing also be allowed in the Industrial zone, with a conditional use permit, but in no other zone. Wholesale distribution would be allowed in those zones that typically allow that activity.

Marijuana growing in residential areas is not allowed in the proposals. Unless directed otherwise, if this language is adopted, staff will interpret that to mean that marijuana plants for personal use only, as allowed by State regulations, would be allowed to be grown in residential areas. Any marijuana grown for any reason, other than for the personal use of the residents of that property, would not be allowed.

## **RECOMMENDATION**

Hold a public hearing to receive testimony. At the end of the public hearing, the Commission may approve, modify, or delete the proposed changes as they deem appropriate. Usually only recommended amendments to the LUDO are forwarded to the Council for their review. In this case, since the Council has directed staff to initiate this process, even if the Planning Commission declined to make any recommendations, the general issue would still be sent on to the Council, with the decision of the Planning Commission noted in the staff report.

Potential LUDO amendments related to additional  
marijuana regulations

Chapter 2 – Definitions. Include new definitions in Section 2.010

**Marijuana** - means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae.

**Marijuana Items** – means marijuana, cannabinoid products, cannabinoid concentrates and cannabinoid extracts.

**Marijuana Processing** – The processing, compounding, or conversion of marijuana into cannabinoid products, cannabinoid concentrates, or cannabinoid extracts, provided that the marijuana processor is licensed by the Oregon Liquor Control Commission or registered with the Oregon Health Authority.

**Marijuana Production** – The manufacture, planting, cultivation, growing, trimming, harvesting, or drying of marijuana, provided that the marijuana producer is licensed by the Oregon Liquor Control Commission, or registered with the Oregon Health Authority and a “person designated to produce marijuana by a registry identification cardholder”.

**Marijuana Retailing** - The sale of marijuana items to a consumer, provided the marijuana retailer is licensed by the Oregon Liquor Control Commission or registered with the Oregon Health Authority.

**Marijuana Wholesaling** - The purchase of marijuana items for resale to a person other than a consumer, provided the marijuana wholesaler is licensed by the Oregon Liquor Control Commission.

**Person Designated to Produce Marijuana by a Registry Identification Cardholder** - A person designated to produce marijuana by a registry identification cardholder under Oregon Revised Statutes 475.304 who produces marijuana for a registry identification cardholder at an address other than the address where the registry identification cardholder resides.

R-L Low Density Zone

Section 5.010.040 would be renamed Prohibited Uses and would read as follows:

Section 5.010.040 Prohibited Uses

Marijuana production, processing, wholesaling, and retailing are prohibited uses in all R-L Low Density zones.

Section 5.010.040 through 5.010.070 would be renumbered 5.010.050 through 5.010.080, with 5.010.050 being renamed Neighborhood Compatibility and 5.010.080 being renamed Exception to Standards.

RH – Residential High Density Zone

Section 5.020.040 would be renamed Prohibited Uses and would read as follows:

#### Section 5.020.040 Prohibited Uses

Marijuana production, processing, wholesaling, and retailing are prohibited uses in all RH Residential High Density zones.

Section 5.020.040 through 5.020.080 would be renumbered 5.020.050 through 5.010.090, with 5.020.050 being renamed Neighborhood Compatibility and 5.020.090 being renamed Exception to Standards.

#### RM – Medium Density Residential

Section 5.030.040 would be renamed Prohibited Uses and would read as follows:

#### Section 5.030.040 Prohibited Uses

Marijuana production, processing, wholesaling, and retailing are prohibited uses in all R-M Medium Density zones.

Section 5.030.040 through 5.030.070 would be renumbered 5.030.050 through 5.010.080, with 5.030.050 being renamed Development Standards and 5.020.080 being renamed Exception to Standards.

#### NC – Neighborhood Center Overlay

Section 5.040.040 would be renamed Prohibited Uses and would read as follows:

#### Section 5.040.040 Prohibited Uses

Marijuana production, processing, wholesaling, and retailing are prohibited uses in all NC Neighborhood Center overlay zones.

Section 5.040.040 through 5.040.070 would be renumbered 5.040.050 through 5.040.080, with 5.040.050 being renamed Development Standards and 5.040.080 being renamed Exception to Standards.

#### Central Business Commercial Zone District

Section 5.050.030(A)(23) would be revised for a new permitted use concerning retail marijuana facilities, which would read as follows:

23. Recreational Marijuana Facilities. An application for a retail marijuana facility shall also comply with the following criteria:
  - a) The retail facility must be located more than 500 feet from any R-L, R-H, or R-M Residential District, measured in a straight line from the closest edge of the property line on which the retail facility is located to the closest edge of the property in the R-L, R-H, or R-M Residential District.

- b) The retail facility must be located more than 1,000 feet from all of the following facilities, measured in a straight line from the closest edge of the property on which the other facility is located:
1. *A public elementary or secondary school for which attendance is compulsory under ORS 339.020, or a private or parochial elementary or secondary school, teaching children as described in ORS 339.030(1)(a).*
  2. A public library.
  3. A public park or recreational facility, which has facilities such as a playground, swimming pool, baseball field, football field, soccer field, tennis court, basketball court, or volleyball court.
  4. *A licensed daycare facility or licensed preschool.*
  5. *An established church, including church schools.*
  6. *Any other (**recreational?**) marijuana retailer registered with the Oregon Liquor Control Commission.*
- c) The retail facility must be located in a building and may not be located in an intermodal cargo container, motor vehicle, recreational vehicle or residential trailer. Outdoor storage of merchandise, raw materials, or other material associated with the retail facility is prohibited.
- d) The retail facility shall not have a drive-up use.
- e) The retail facility shall provide for secure disposal of marijuana remnants or by-products; such remnants or by-products shall not be placed in the retail facility's exterior refuse containers.
- f) *The retail facility shall be licensed by the Oregon Liquor Control Commission under the State of Oregon's retail facility licensing system under ORS 475B.110 to 475B.125, as now constituted, and meet the requirements of OAR Chapter 845 Division 25 Recreational Marijuana.*
- g) The hours of operation for the retail facility shall be no earlier than 10:00 AM and no later than 6:00 P.M.
- h) *Alternative #1: The retail facility must use an air filtration and ventilation system which, to the greatest extent feasible, contains all marijuana-related odors within the facility rather than allowing such odors to escape outside. Sufficient measures and means of preventing odors, debris, fluids and other substances from exiting the facility must be in effect at all times.*

*Alternative #2: A building used for marijuana retailing shall be equipped with a carbon filtration system for odor control.*

1. *The system shall consist of one or more fans and filters.*

2. *At a minimum, the fan(s) shall be sized for cubic feet per minute (CFM) equivalent to one-third of the square footage of the building floor space (i.e., one CFM per three square feet of building floor space).*
  3. *The filter(s) shall be rated for the required CFM.*
  4. *The filtration system shall be maintained in working order and shall be in use.*
  5. *An alternative odor control system is permitted if the applicant submits a report by a mechanical engineer licensed in the State of Oregon demonstrating that the alternative system will control odor as well or better than the carbon filtration system otherwise required.*
- i) *No one under the age of 21 shall be permitted to be present in the building space occupied by a marijuana retailer, except as allowed by state law.*
  - j) *Marijuana and tobacco products shall not be smoked, ingested, or otherwise consumed in the building space occupied by a marijuana retailer. In addition, marijuana retailing shall not be co-located on the same lot of record or within the same building with any marijuana social club or marijuana smoking club.*

Section 5.050.040(A)(23) would be renumbered (A)(24)

Section 5.050.050 would be renamed Prohibited Uses and would read as follows:

Section 5.050.050 Prohibited Uses

Marijuana production, processing, and wholesaling are prohibited uses in all CBC – Central Business Commercial zones.

Section 5.050.050 through 5.050.080 would be renumbered 5.050.060 through 5.050.090, with 5.050.060 being renamed Development Standards and 5.050.090 being renamed Exception to Standards.

CG – General Commercial District

Section 5.060.020(A)(26) would be revised for a new permitted use concerning retail marijuana facilities, which would read as follows:

26. **Recreational Marijuana Facilities.** An application for a retail marijuana facility shall also comply with the following criteria:
  - a) The retail facility must be located more than 500 feet from any R-L, R-H, or R-M Residential District, measured in a straight line from the closest edge of the property line on which the retail facility is located to the closest edge of the property in the R-L, R-H, or R-M Residential District.
  - b) The retail facility must be located more than 1,000 feet from all of the following facilities, measured in a straight line from the closest edge of the property on which the other facility is located:

1. *A public elementary or secondary school for which attendance is compulsory under ORS 339.020, or a private or parochial elementary or secondary school, teaching children as described in ORS 339.030(1)(a).*
  2. A public library.
  3. A public park or recreational facility, which has facilities such as a playground, swimming pool, baseball field, football field, soccer field, tennis court, basketball court, or volleyball court.
  4. *A licensed daycare facility or licensed preschool.*
  5. *An established church, including church schools.*
  6. *Any other marijuana retailer registered with the Oregon Liquor Control Commission.*
- c) The retail facility must be located in a building and may not be located in an intermodal cargo container, motor vehicle, recreational vehicle or residential trailer. Outdoor storage of merchandise, raw materials, or other material associated with the retail facility is prohibited.
- d) The retail facility shall not have a drive-up use.
- e) The retail facility shall provide for secure disposal of marijuana remnants or by-products; such remnants or by-products shall not be placed in the retail facility's exterior refuse containers.
- f) *The retail facility shall be licensed by the Oregon Liquor Control Commission under the State of Oregon's retail facility licensing system under ORS 475B.110 to 475B.125, as now constituted, and meet the requirements of OAR Chapter 845 Division 25 Recreational Marijuana.*
- g) The hours of operation for the retail facility shall be no earlier than 10:00 AM and no later than 6:00 P.M.
- h) *Alternative #1: The retail facility must use an air filtration and ventilation system which, to the greatest extent feasible, contains all marijuana-related odors within the facility rather than allowing such odors to escape outside. Sufficient measures and means of preventing odors, debris, fluids and other substances from exiting the facility must be in effect at all times.*

*Alternative #2: A building used for marijuana retailing shall be equipped with a carbon filtration system for odor control.*

1. *The system shall consist of one or more fans and filters.*
2. *At a minimum, the fan(s) shall be sized for cubic feet per minute (CFM) equivalent to one-third of the square footage of the building floor space (i.e., one CFM per three square feet of building floor space).*

3. *The filter(s) shall be rated for the required CFM.*
  4. *The filtration system shall be maintained in working order and shall be in use.*
  5. *An alternative odor control system is permitted if the applicant submits a report by a mechanical engineer licensed in the State of Oregon demonstrating that the alternative system will control odor as well or better than the carbon filtration system otherwise required.*
- i) *No one under the age of 21 shall be permitted to be present in the building space occupied by a marijuana retailer, except as allowed by state law.*
  - j) *Marijuana and tobacco products shall not be smoked, ingested, or otherwise consumed in the building space occupied by a marijuana retailer. In addition, marijuana retailing shall not be co-located on the same lot of record or within the same building with any marijuana social club or marijuana smoking club.*

Section 5.060.020(A)(26) would be renumbered (A)(27)

Section 5.060.040 would be renamed Prohibited Uses and would read as follows:

Section 5.060.040 Prohibited Uses

Marijuana production, processing, and wholesaling are prohibited uses in all CBC – Central Business Commercial zones.

Section 5.060.050 through 5.060.060 would be renumbered 5.060.060 through 5.060.070, with 5.060.050 being renamed Development Standards and 5.060.070 being renamed Exception to Standards.

CLI – Commercial Light Industrial

Section 5.070.020(A)(22) would be revised for a new permitted use concerning retail marijuana facilities, which would read as follows:

26. Recreational Marijuana Facilities. An application for a retail marijuana facility shall also comply with the following criteria:
  - a) The retail facility must be located more than 500 feet from any R-L, R-H, or R-M Residential District, measured in a straight line from the closest edge of the property line on which the retail facility is located to the closest edge of the property in the R-L, R-H, or R-M Residential District.
  - b) The retail facility must be located more than 1,000 feet from all of the following facilities, measured in a straight line from the closest edge of the property on which the other facility is located:

1. *A public elementary or secondary school for which attendance is compulsory under ORS 339.020, or a private or parochial elementary or secondary school, teaching children as described in ORS 339.030(1)(a).*
  2. A public library.
  3. A public park or recreational facility, which has facilities such as a playground, swimming pool, baseball field, football field, soccer field, tennis court, basketball court, or volleyball court.
  4. *A licensed daycare facility or licensed preschool.*
  5. *An established church, including church schools.*
  6. *Any other marijuana retailer registered with the Oregon Liquor Control Commission.*
- c) The retail facility must be located in a building and may not be located in an intermodal cargo container, motor vehicle, recreational vehicle or residential trailer. Outdoor storage of merchandise, raw materials, or other material associated with the retail facility is prohibited.
  - d) The retail facility shall not have a drive-up use.
  - e) The retail facility shall provide for secure disposal of marijuana remnants or by-products; such remnants or by-products shall not be placed in the retail facility's exterior refuse containers.
  - f) *The retail facility shall be licensed by the Oregon Liquor Control Commission under the State of Oregon's retail facility licensing system under ORS 475B.110 to 475B.125, as now constituted, and meet the requirements of OAR Chapter 845 Division 25 Recreational Marijuana.*
  - g) The hours of operation for the retail facility shall be no earlier than 10:00 AM and no later than 6:00 P.M.
  - h) *Alternative #1: The retail facility must use an air filtration and ventilation system which, to the greatest extent feasible, contains all marijuana-related odors within the facility rather than allowing such odors to escape outside. Sufficient measures and means of preventing odors, debris, fluids and other substances from exiting the facility must be in effect at all times.*

*Alternative #2: A building used for marijuana retailing shall be equipped with a carbon filtration system for odor control.*

1. *The system shall consist of one or more fans and filters.*
2. *At a minimum, the fan(s) shall be sized for cubic feet per minute (CFM) equivalent to one-third of the square footage of the building floor space (i.e., one CFM per three square feet of building floor space).*

3. *The filter(s) shall be rated for the required CFM.*
  4. *The filtration system shall be maintained in working order and shall be in use.*
  5. *An alternative odor control system is permitted if the applicant submits a report by a mechanical engineer licensed in the State of Oregon demonstrating that the alternative system will control odor as well or better than the carbon filtration system otherwise required.*
- i) *No one under the age of 21 shall be permitted to be present in the building space occupied by a marijuana retailer, except as allowed by state law.*
  - j) *Marijuana and tobacco products shall not be smoked, ingested, or otherwise consumed in the building space occupied by a marijuana retailer. In addition, marijuana retailing shall not be co-located on the same lot of record or within the same building with any marijuana social club or marijuana smoking club.*

Section 5.060.020(A)(22) and subsequent sections would be renumbered (A)(23) and so forth.

Section 5.070.040 would be renamed Prohibited Uses and would read as follows:

Section 5.070.040 Prohibited Uses

Marijuana production, processing, and wholesaling are prohibited uses in all CLI – Commercial/Light Industrial zones.

Section 5.070.040 through 5.070.060 would be renumbered 5.070.050 through 5.070.070, with 5.060.050 being renamed Development Standards and 5.060.070 being renamed Exception to Standards.

CR- Recreational Commercial District

Section 5.080.040 Development Standards would be renamed Prohibited Uses and would read as follows:

Section 5.080.040 Prohibited Uses

Marijuana production, processing, wholesaling and retailing are prohibited uses in all CR - Recreational Commercial zones.

Section 5.080.050 through 5.060.060 would be renumbered 5.080.060 through 5.060.070, with 5.080.050 being renamed Development Standards and 5.080.070 being renamed Exception to Standards.

I – Industrial District

Section 5.090.020(A)(22) would be revised for a new permitted use concerning retail marijuana facilities, which would read as follows:

22. Marijuana production and marijuana processing. An application for a retail marijuana production facility or a marijuana processing facility shall also comply with the following criteria:

- a) The production or processing facility must be located in a building and may not be located in an intermodal cargo container, motor vehicle, recreational vehicle or residential trailer. Outdoor storage of merchandise, raw materials, or other material associated with the retail facility is prohibited.
- b) The production or processing facility shall provide for secure disposal of marijuana remnants or by-products; such remnants or by-products shall not be placed in the retail facility's exterior refuse containers.
- c) *The production or processing facility shall be licensed by the Oregon Liquor Control Commission and comply with the requirements of any applicable administrative rule adopted by the Oregon Liquor Control Commission.*
- d) *Alternative #1: The production or processing facility must use an air filtration and ventilation system which, to the greatest extent feasible, contains all marijuana-related odors within the facility rather than allowing such odors to escape outside. Sufficient measures and means of preventing odors, debris, fluids and other substances from exiting the facility must be in effect at all times.*

*Alternative #2: A building used for marijuana production or marijuana processing shall be equipped with a carbon filtration system for odor control.*

6. *The system shall consist of one or more fans and filters.*
  7. *At a minimum, the fan(s) shall be sized for cubic feet per minute (CFM) equivalent to the square footage of the building floor space (i.e., one CFM per square feet of building floor space).*
  8. *The filter(s) shall be rated for the required CFM.*
  9. *The filtration system shall be maintained in working order and shall be in use.*
  10. *An alternative odor control system is permitted if the applicant submits a report by a mechanical engineer licensed in the State of Oregon demonstrating that the alternative system will control odor as well or better than the carbon filtration system otherwise required.*
- e) *Lighting shall be regulated as follows:*
1. *Light cast by light fixtures inside any building used for marijuana production or marijuana processing shall not be visible outside the building from 7:00 P.M. to 7:00 A.M. the following day.*
  2. *Outdoor marijuana grow lights shall not be illuminated from 7:00 P.M. to 7:00 A.M. the following day.*

3. *Light cast by exterior light fixtures other than marijuana grow lights (e.g., security lights, driveway lights) shall not spill onto adjacent lots.*

Section 5.090.020(A)(22) would be renumbered (A)(23).

CFO – Community Facilities Overlay District

Section 5.100.040 Development Standards would be renamed Prohibited Uses and would read as follows:

Section 5.100.040 Prohibited Uses

Marijuana production, processing, wholesaling, and retailing are prohibited uses in all CFO - Community Facilities Overlay zones.

Section 5.100.040 through 5.100.050 would be renumbered 5.100.050 through 5.100.060, with 5.100.050 being renamed Development Standards and 5.100.060 being renamed Master Plans.

P/OS Parks and Open Space District

Section 5.110.050 Development Standards would be renamed Prohibited Uses and would read as follows:

Section 5.110.050 Prohibited Uses

Marijuana production, processing, wholesaling, medical marijuana dispensaries, and retail marijuana facilities are prohibited uses in all P/OS - Parks and Open Space zones.

Section 5.110.050 would be renumbered 5.110.060, with 5.110.060 being renamed Development Standards.

Section 6.020.020(D) - Prohibited Uses. Would be revised to read as follows:

- D. Prohibited Uses. Vehicle sales, vehicle repair, and any use where the vehicle is the focus of the work or is a significant part of the home business is prohibited unless the owner obtains a conditional use permit. *Marijuana production, processing, wholesaling, and medical marijuana dispensaries or retail marijuana facilities are prohibited as a home occupation in any zoning district.*



**RESOLUTION NO. P.C. 551-16**

A RESOLUTION OF THE PLANNING COMMISSION RECOMMENDING CITY COUNCIL APPROVAL OF VARIOUS AMENDMENTS TO THE LAND USE AND DEVELOPMENT CODE, ORDINANCE 98-1222, AS AMENDED.

**WHEREAS**, an application was submitted for Zoning Ordinance Amendment #92-16 proposing various amendments to the City's Land Use and Development Ordinance; and

**WHEREAS**, the City Planning Commission conducted a public hearing on May 5, 2016 to take public testimony on the proposed Zoning Ordinance Amendment #92-16; and

**WHEREAS**, the Planning Commission has considered the public testimony and reviewed the proposed legislative amendments set forth in Zoning Ordinance Amendment #92-16, and based upon the proposed findings of fact and conclusions of law in the staff report and testimony presented during the hearing, the Planning Commission voted to recommend the legislative amendments be forwarded to the City Council for their review and adoption;

**NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION AS FOLLOWS:**

Section 1. The Planning Commission recommends that the proposed Zoning Ordinance Amendments #91-16 be approved and forwarded to the City Council for its review and adoption.

Section 2. This Resolution shall be effective upon its passage and approval. The Secretary of the Commission shall (a) certify to the adoption of the Resolution; (b) transmit a copy of the Resolution to the Applicant.

APPROVED AND ADOPTED THIS 5th DAY OF MAY, 2016

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Bruce Lavier, Chairman  
Planning Commission

I, Richard Gassman, Planning Director for the City of The Dalles, hereby certify that the foregoing Resolution was adopted at a regular meeting of the City Planning Commission, held on the 5th day of May, 2016.

AYES:

NAYS:

ABSENT:

ABSTAIN:

ATTEST: \_\_\_\_\_

Richard Gassman, Planning Director  
City of The Dalles