



PLANNING COMMISSION AGENDA
August 11, 2016 7:00 PM
NEWBERG PUBLIC SAFETY BUILDING
401 EAST THIRD STREET

I. CALL MEETING TO ORDER

II. ROLL CALL

III. PUBLIC COMMENTS (5-minute maximum per person – for items not on the agenda)

IV. CONSENT CALENDAR

1. Approval of the June 9, 2016 Planning Commission meeting minutes
2. Approval of the July 14, 2016 Planning Commission meeting minutes

V. QUASI-JUDICIAL PUBLIC HEARINGS (complete registration form to give testimony - 5-minute maximum per person except for principals, unless otherwise set by majority motion of the Planning Commission). No new public hearings after 10 p.m. except by majority vote of the Planning Commissioners.

1. **Conditional Use Permit – 1916 Carol Avenue:** Consider a conditional use permit application to allow an accessory dwelling unit (ADU) to be built at 1916 Carol Avenue. The site is in the R-1 zone. The four-bedroom ADU would be built in the basement of the existing house.
APPLICANT: Highland Construction, Inc.
OWNER: Dale Goldsmith
LOCATION: 1916 Carol Avenue TAX LOT: 3217CA-00109
FILE NO.: CUP-16-004 ORDER: 2016-23
CRITERIA: Newberg Development Code Sections: 15.225.060, 15.445.260.

VI. LEGISLATIVE PUBLIC HEARING (complete registration form to give testimony - 5 minute maximum per person, unless otherwise set by majority motion of the Planning Commission)

1. **Marijuana Regulation Reconciliation:** A resolution amending the Newberg Development Code for medical marijuana dispensaries, processors, wholesalers and recreational marijuana processors as permitted or conditional uses in districts and subdistricts within the City of Newberg
File: DCA-16-003

VII. ITEMS FROM STAFF

1. Update on Council items
2. Other reports, letters or correspondence
3. Next Planning Commission meeting: September 8, 2016

VIII. ITEMS FROM COMMISSIONERS

IX. ADJOURNMENT

FOR QUESTIONS, PLEASE STOP BY THE COMMUNITY DEVELOPMENT DEPT. AT 414 E. FIRST STREET, OR CALL 503-537-1240

ACCOMMODATION OF PHYSICAL IMPAIRMENTS: *In order to accommodate persons with physical impairments, please notify the Community Development Department Office Assistant II of any special physical or language accommodations you may need as far in advance of the meeting as possible as and no later than 48 business hours prior to the meeting. To request these arrangements, please contact the Office Assistant at (503) 537-1240. For TTY services please dial 711.*

NEWBERG PLANNING COMMISSION MINUTES
June 9, 2016, 7:00 PM
PUBLIC SAFETY BUILDING (401 E. THIRD STREET)

Chair Allyn Edwards called the meeting to order at 7:00 p.m.

OATH OF OFFICE FOR NEW COMMISSIONERS:

Mayor Bob Andrews introduced new City Manager Joe Hannan and swore in new Planning Commissioners Ron Wolfe and Noelle Torres.

Mayor Bob Andrews, Joe Hannan, City Manager, and Sue Ryan, City Recorder, left the meeting 7:05 p.m.

ROLL CALL

Members Present:	Allyn Edwards, Chair	Jason Dale
	Gary Bliss	Noelle Torres
	Cathy Stuhr	Ron Wolfe
		Mayor Bob Andrews, ex-officio

Staff Present:

- Doug Rux, Community Development Director
- Bobbie Morgan, Office Assistant II
- Steve Olson, Senior Planner
- Sue Ryan, City Recorder
- Joe Hannan, City Manager

PUBLIC COMMENTS:

None

CONSENT CALENDAR:

Approval of the May 12, 2016 Planning Commission Meeting Minutes

MOTION: PC Cathy Stuhr/PC Ron Wolf moved to approve the May 12, 2016, Planning Commission minutes as written. Motion carried (6 Yes/ 0 No).

QUASI-JUDICIAL PUBLIC HEARING:

1. **Stream Corridor Variance – 714 Dayton Avenue:** Consider a variance request to the Stream Corridor overlay regulations to allow a treehouse in the stream corridor. The site is within the R-1 (Low Density Residential) zone, and has a Stream Corridor overlay over most of the backyard.
APPLICANT: Andrew Parker
LOCATION: 714 Dayton Avenue TAX LOT: 3219DB-4701
FILE NO.: MISC-16-011 ORDER: 2016-22
CRITERIA: Newberg Development Code Sections: 15.342.100(B)

Chair Allyn Edwards called the hearing to order at 7:09 pm. He gave instructions on how the hearing would be conducted.

Call for abstentions, bias, ex parte contact, and objections to jurisdiction: None

Staff Report: PowerPoint presentation given by SP Steve Olson. He explained the location of the stream corridor on Dayton Avenue. This was a request for a stream corridor variance to allow a tree house to remain in the stream

corridor overlay. The stream corridor was meant to be left in a natural state as open space. The variance did not change the overlay boundary, but allowed for a small amount of development if it met the criteria. He showed what the tree house looked like and stated the stairs were supported by posts and were not cut into the slope. He then reviewed the variance criteria. A stream corridor impact report was submitted. The projected impact area was about 300 square feet of the stream corridor by the stairs and tree house. No fill was placed on the site and there had been minimal amount of excavation. No trees were removed. Overall it was a low impact to the stream corridor. The applicant had been removing blackberry and ivy from the site and planting native plants. There was a condition that there should be 900 square feet of mitigation for the application. This would result in equal or greater protection of the stream corridor resource. Staff recommended approval of the request.

Public Testimony:

Proponents:

Andrew Parker, applicant, admitted he made a mistake and built the tree house before getting approval. It was for family use only. The mitigation was started before building the tree house and the stairs made the area more accessible. The size of the tree house was based on the recycled materials that were used.

Opponents and undecided: None.

Close of public testimony: Chair Allyn Edwards closed the public testimony portion of the hearing at 7:20 pm.

Staff Summary of written testimony: None.

Final comments from staff: SP Steve Olson said staff recommended approval as conditioned.

Deliberation of commission:

MOTION: PC Cathy Stuhr/PC Gary Bliss moved to approve Order 2016-22 as conditioned. Motion carried (6 Yes/ 0 No).

NEW BUSINESS:

CDD Doug Rux said this resolution amended the Planning Commission guidelines and rules which were adopted in 2012. At that time the document referenced the Planning and Building Department and in 2015 the department was changed to Community Development. All the references to the Planning Director had been changed to Community Development Director. The City Recorder no longer did the recordings for the minutes, but the Planning Division in the Community Development Department did. Some references were changed as well as the table of contents updated. Staff recommended adoption of the resolution.

MOTION: PC Gary Bliss/PC Ron Wolfe moved to approve Resolution 2016-320. Motion carried (6 Yes/ 0 No).

ITEMS FROM STAFF:

CDD Doug Rux gave updates on City Council approval of the contract to purchase new permit software, new banners for George Fox's 125th anniversary, Transportation Growth Management Grant application, regulations for marijuana wholesalers, research certificates, laboratories, and retailers, and the budget which included another planning position. He then discussed upcoming meetings including a joint Work Session with the Council on June 27, Transportation System Plan update on July 14, possible applications in August, and the Newberg Downtown Improvement Plan in November. He then discussed some communications that had been forwarded to the Planning Commission regarding no parking signs on private streets. This was an enforcement issue and the signs were back up.

PC Gary Bliss asked what the enforcement was for the no parking. CDD Doug Rux replied he would have to discuss it further with the Fire Chief and Code Enforcement. SP Steve Olson said this was an example of how codes changed. There was an enforcement issue for these private streets, which was one of the reasons private streets were not allowed anymore.

The next Planning Commission meeting would be held on July 14, 2016.

ITEMS FROM COMMISSIONERS:

Chair Allyn Edwards reported on the Mayor's Cabinet meeting. He welcomed the new Planning Commissioners. He asked about future Planning Commission education, and CDD Doug Rux said there were funds in the budget for additional training.

Chair Allyn Edwards adjourned the meeting at 7:50 pm.

Approved by the Newberg Planning Commission this 11 day of August, 2016.

Allyn Edwards, Planning Commission Chair

Bobbie Morgan, Office Assistant II

NEWBERG PLANNING COMMISSION MINUTES
July 14, 2016, 7:00 PM
PUBLIC SAFETY BUILDING (401 E. THIRD STREET)

Chair Allyn Edwards called the meeting to order at 7:00 p.m.

ROLL CALL

Members Present:	Allyn Edwards, Chair	Gary Bliss
	Philip Smith	Ron Wolfe
	Cathy Stuhr	
	Miranda Piros, Student	

Staff Present: Doug Rux, Community Development Director
Jessica Pelz, Associate Planner
Kaaren Hofmann, City Engineer
Sue Ryan, City Recorder

Also Present: Karl Birky, CAC
Terry Cole, ODOT
Garth Appanaitis, consultant

PUBLIC COMMENTS: None.

CONSENT CALENDAR:

Approval of the June 9, 2016 Planning Commission Meeting Minutes

MOTION: Stuhr/Bliss moved to approve the June 9, 2016, minutes. Motion carried (5 Yes/ 0 No/ 2 Absent: Dale, Torres)

WORKSHOP: UPDATE ON THE TRANSPORTATION SYSTEM PLAN (TSP)

Associate Planner Jessica Pelz said this project had been delayed due to the Bypass and Wilsonville Road issue. Not much had changed except for the project list and costs as well as a few other amendments.

Garth Appanaitis, Consultant with DKS, gave an overview of the revisions. The purpose of the plan was to look out to 2035 and set the needs for the future and how they would be addressed. He explained the process began with an inventory of the system and the projected growth and needs out to 2035 and staff developed a project list that integrated new ideas from stakeholders and staff. The project list had to be realistic, and one of the big considerations was that the first phase of the Bypass would be done. The projects were multi-modal and some of the projects were likely to be funded, and some were aspirational. He then discussed transportation standards.

Terry Cole, ODOT, said there was a map that accompanied the table in the revisions of the Bypass projects and he asked them to disregard it because there were errors with the projects that would be in Phase 1 and Phase 2. A new map would be provided soon.

Commissioner Stuhr asked if the signal at Fernwood and Springbrook was going to be funded. Garth Appanaitis said it was listed as aspirational because it was a monitor situation to see how it would operate after Phase 1 was completed.

There was a discussion on future changes for that area, the proposed turn lanes, and level of service for the intersection.

Commissioner Bliss asked about the pedestrian enhancements in downtown and why they were aspirational. AP Pelz said they were not sure what the enhancements would be at this time due to the pending Downtown Improvement Plan. Mr. Cole said there were a number of steps ODOT would have to go through as well and what it would look like was yet to be determined.

Commissioner Smith asked about the methodology for how many people commuted out of Newberg. Garth Appanaitis explained the census data that was used as well as a regional travel demand model.

There was discussion regarding several aspirational item statuses and funding sources.

Karl Birky, CAC, encouraged the City to use volume to capacity ratios to decide if intersections were at capacity or not and move away from the LOS system. Kaaren Hoffman, City Engineer, said most jurisdictions used the volume to capacity ratios.

Chair Edwards brought up the Vittoria Way intersection change to a right in, right out. Did traffic studies support that as it would put more traffic on Mountain View and Springbrook. There was discussion on how the Bypass changes and Crestview extension had impacted the intersection plans.

Commissioner Smith asked about the funding of the Crestview extension to 99W. CDD Rux said State funds had been obtained to improve Crestview Drive from Highway 99W to Springbrook. SDC funds and the developers would also contribute to the project.

Chair Edwards asked about the prioritization of aspirational projects and the reality of the aspirational project costs. Garth Appanaitis explained there was no prioritization for the aspirational projects. The costs were estimates, not real construction dollars. Mr. Cole said it provided a relative sense of what the projects would cost.

Code Amendments: AP Pelz reviewed the Development Code and Comprehensive Plan amendments. The changes were to provide consistency in wording and to reduce redundancy. She explained what was proposed to be added and what was proposed to be removed.

Chair Edwards asked if they should consider a change to require a minimum of two parking spaces, not to include the garage, for higher density developments to reduce on street parking.

Commissioner Smith suggested staff bring back options for those areas of concern. It would be a separate issue to address at a different time.

Public Comments on TSP:

Robert Soppe, Newberg resident, was concerned that the sources of funding were not split out, whether they were funded by the City, County, developer, or ODOT. He was also concerned that Crestview Drive was described differently from what was approved by the Council 10 years ago and at that time it was a controversial issue. He thought some parking requirements were inappropriate and should be fixed during this process. Regarding pages 24 and 39, he thought it should be clearer what was meant by shared use between bicycles and motor vehicles and on page 60, availability of funds, there were no developer funded projects listed. He wanted to know if Fernwood and Springbrook would become a four way stop. The downtown road diet project was listed as likely to be funded, but he thought the Council had not yet approved it and it should not be likely until it was approved. Regarding pages 79 and 80, there were no costs projected for the Bypass projects, and he asked why the Hayes to Corral Creek project had been eliminated. On page 96, residential streets, if there was parking on both sides, the street had to be a specific width, and if parking was removed from one side, the road only got two feet narrower and if it was removed on the other side, it got six feet narrower. He did not think the two feet was appropriate. On

page 99, in R-1 zones, the maximum block length was 800 feet and he thought that was a long block for a residential neighborhood. On page 125, the minimum intersection spacing was extended and quite often doubled. On page 142, it eliminated the rerouting of 219 and he asked if that was carefully considered.

AP Pelz said regarding the 219 reroute, it was changed when Council downgraded Crestview to major collector from arterial.

Chair Edwards asked about the 800 foot street length. AP Pelz said this block length already existed in the Code and was not a change. CE Hoffman said the intersection spacing changes proposed were for collector and arterial streets, which were intended to move traffic.

AP Pelz said the Council direction was to do a downtown road diet and it would become a part of the TSP.

CDD Rux replied regarding Crestview Drive, the scope of the project would to construct it as a major collector. It would provide an alternative route.

Commissioner Wolfe asked about the Fernwood and Springbrook intersection. CE Hoffman said she could bring that information back to the Commission.

AP Pelz said the next step in the process would be a public hearing before the Planning Commission on August 14. If the Commission had further comments, they could be emailed to staff.

ITEMS FROM STAFF:

CDD Rux updated the Commission on Council items including a Community Development Block Grant application for repair and maintenance work on manufactured homes, approved annexation applications, initiated Development Code changes regarding marijuana regulations, and Bypass loan agreement. He discussed his memo regarding upcoming Planning Commission actions.

Mayor Andrews announced the City would be hosting a contingent of representatives from the City's Sister City at the Newberg Old Fashioned Festival.

Commissioner Bliss asked about the negotiations with the State and Ladd Hill Neighborhood Association, was the stop sign on Wilsonville Road and Ladd Hill intersection a warranted stop sign? CDD Rux said it was part of the discussions regarding safety on Wilsonville Road. He did not know if the stop sign had been negotiated between Ladd Hill and the County. CE Hoffman said stop signs should be warranted, but the review bodies who could approve their installation had the ability to approve their installation even if warrants were not met.

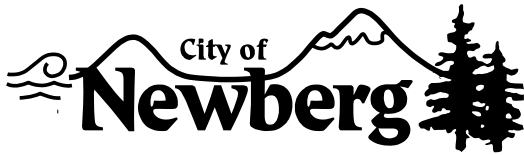
ITEMS FROM COMMISSIONERS: None.

Chair Allyn Edwards adjourned the meeting at 8:25 pm

Approved by the Newberg Planning Commission this 11th day of August, 2016.

Allyn Edwards, Planning Commission Chair

Sue Ryan, City Recorder



Community Development Department

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**PLANNING COMMISSION STAFF REPORT
ACCESSORY DWELLING UNIT CONDITIONAL USE PERMIT
1916 CAROL AVENUE**

HEARING DATE: August 11, 2016

FILE NO: CUP-16-004

REQUEST: Conditional use permit approval for an accessory dwelling unit (ADU) in the R-1 zone

LOCATION: 1916 Carol Avenue

TAX LOT: 3217CA-00109

APPLICANT: Highland Construction Inc.

OWNER: Dale Goldsmith

ZONE: R-1 (low density residential)

PLAN DISTRICT: LDR (low density residential)

OVERLAYS: none

ATTACHMENTS:

Order 2016-23 with

Exhibit "A": Findings
Exhibit "B": Conditions

1. Aerial Photo
2. Zoning
3. Site Plan
4. Public Comments
5. Application

- A. DESCRIPTION OF APPLICATION:** The applicant has requested approval of an accessory dwelling unit (ADU) at 1916 Carol Avenue. This is in the R-1 zone (Low Density Residential), which means that a conditional use permit is required for an ADU. The site has an existing single family home. The project would remodel the basement of the home to create a 4-bedroom accessory dwelling unit, intended for student housing, with a new access door at the back of the house. The proposal includes three off-street parking spaces for the main house, and two off-street parking spaces in the back yard for the accessory dwelling unit.

B. LOCATION:



C. SITE INFORMATION:

1. Location: 1916 Carol Ave
2. Size: 14,656 square feet
3. Topography: Slopes upward from the street
4. Current Land Uses: Single family home

5. Natural Features: Some mature trees
6. Adjacent Land Uses:
 - a. North: Single family homes
 - b. East: Single family homes
 - c. South: Vacant lot for a single family home
 - d. West: Single family homes
7. Access and Transportation: The site takes access from Carol Avenue, a local street
8. Utilities:
 - a. Sanitary Sewer: Existing sewer lateral (no change)
 - b. Water: Existing water lateral (no change)
 - c. Storm: Existing drains (no change)

D. PROCESS: The conditional use permit request is a Type III application and follows the procedures in Newberg Development Code 15.100.050. The Planning Commission will hold a quasi-judicial hearing on the application. The Commission is to make a decision on the application based on the criteria listed in the attached findings. The Planning Commission's decision is final unless appealed. Important dates related to this application are as follows:

1. 7/26/16: The Community Development Director deemed the application complete.
2. 7/20/16: The applicant mailed notice to the property owners within 500 feet of the site.
3. 7/26/16: The applicant posted notice on the site.
4. 7/27/16: The *Newberg Graphic* published notice of the Planning Commission hearing.
5. 8/11/16: The Planning Commission will hold a quasi-judicial hearing to consider the application.

E. AGENCY COMMENTS: The application was routed to several public agencies for review and comment. Comments and recommendations from city departments have been incorporated into the findings and conditions. As of the writing of this report, the city received the following agency comments:

1. TVFR (Fire Dept.): *Reviewed; no conflict*

F. PUBLIC COMMENTS: As of the writing of this report, the city has received four written

comments on the application. These comments are summarized below, and included in Attachment 4. If the city receives additional written comments by the comment deadline, planning staff will forward them to the commissioners.

- Carol Holm Newman, 2103 Willow Drive owner, had no objection to the application.
- Mr. and Mrs. John Thienes, 1817 Carol Ave., heartily recommended approval of the ADU application, and were especially looking forward to having female George Fox University students living on the street.
- Paul and Priscilla Sturges, 1906 Birch Lane, were in favor of the application, thought it was an excellent use of the space, and thought students would be a good addition to the area.
- Warren Reitz, representing Terry Reitz of 1912 Carol Ave., is an immediate neighbor and did not object to the proposal. His home immediately adjoin the rear driveway and parking area, and his only concern was the increased activity there will be in the driveway and parking area (car noise and people in the back yard). Two bedrooms have views of the parking area. His request was that the applicant install a neighbor-friendly fence along the western property line to block the view of the parking area.

G. ANALYSIS:

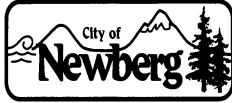
1. **The city cannot restrict who the future tenants will be:** The owner has stated that he intends to rent the ADU to female GFU students. While the owner's intent is not doubted, the city cannot restrict who will be able to rent the ADU space. The ADU can legally be rented to anyone.
2. **Parking and buffering:** The development code requires at least two off-street parking spaces for a single family house, and at least one off-street parking space for an ADU. This is also a conditional use permit, however, which allows the city to consider neighborhood compatibility issues, and a 4-bedroom ADU is unusually large; this conditional use permit probably requires at least two off-street parking spaces in the rear yard for the ADU to ensure compatibility with the surrounding neighborhood. The site photos show that the owner currently stores many vehicles in the rear parking area. Most of these vehicles would need to be removed, as the ADU will require at least two parking spaces, in a side by side arrangement (not tandem), and the rear turnaround space must be left empty so cars can back into it and not have to back down the driveway. The owner has proposed to do this, and it will be a condition of approval.

The rear parking spaces are reached by a driveway on the west side of the property, which impacts the neighbor on the west. A fence along the western property line would help buffer the noise and privacy impacts of the ADU on the western neighbor.

The rear driveway branches off the west side of the main driveway at an angle. The owner intends to keep using the eastern side of the main driveway for parking, as well as the garage, and to keep the western side clear so the rear driveway is not blocked.

- H. PRELIMINARY STAFF RECOMMENDATION:** The preliminary staff recommendation is made in the absence of public hearing testimony, and may be modified subsequent to the close of the public hearing. At this writing, staff recommends the following motion:

Move to adopt Planning Commission Order 2016-23, which approves the requested conditional use permit with the attached conditions.



PLANNING COMMISSION ORDER 2016-23

**AN ORDER APPROVING CONDITIONAL USE PERMIT CUP-16-004 FOR AN
ACCESSORY DWELLING UNIT AT 1916 CAROL AVENUE, YAMHILL COUNTY
TAX LOT 3217CA-00109**

RECITALS

1. Highland Construction, Inc., (applicant) and Dale Goldsmith (owner) submitted an application for a conditional use permit for an accessory dwelling unit at 1916 Carol Avenue, Yamhill County tax lot 3217CA-00109.
2. After proper notice, the Newberg Planning Commission held a hearing on August 11, 2016 to consider the application. The Commission considered testimony, and deliberated.
3. The Newberg Planning Commission finds that the application meets the applicable criteria as shown in the findings shown in Exhibit "A".

The Newberg Planning Commission orders as follows:

1. Conditional Use Permit Application CUP-16-004 is hereby approved, subject to the conditions contained in Exhibit "B". Exhibit "B" is hereby adopted and by this reference incorporated.
2. The findings shown in Exhibit "A" are hereby adopted. Exhibit "A" is hereby adopted and by this reference incorporated.
3. This order shall be effective August 26, 2016 unless appealed prior to that date.
4. This order shall expire one year after the effective date above if the applicant does not obtain a building permit pursuant to this application by that time, unless an extension is granted per Newberg Development Code 15.225.100.

Adopted by the Newberg Planning Commission this 11th day of August, 2016.

ATTEST:

Planning Commission Chair

Planning Commission Secretary

List of Exhibits:

Exhibit "A": Findings
Exhibit "B": Conditions

Exhibit “A” to Planning Commission Order 2016-23
Findings –File CUP-16-004
Accessory dwelling unit at 1916 Carol Avenue

A. Conditional Use Permit Criteria That Apply - Newberg Development Code 15.225.060.

A. The location, size, design and operating characteristics of the proposed development are such that it can be made reasonably compatible with and have minimal impact on the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration to be given to harmony in scale, bulk, coverage and density; to the availability of public facilities and utilities; to the generation of traffic and the capacity of surrounding streets, and to any other relevant impact of the development.

Finding: The proposed accessory dwelling unit (ADU) will be located in the basement of the existing residence, and will not overlook the rear yards of neighboring properties. The additional amount of traffic that is generated will be minimal, and the impact on on-street parking is also expected to be minimal because the owner is providing two off-street parking spaces in the rear yard. The site photos show that there are currently several cars in the rear parking lot. The owner will need to keep at least two side by side parking spaces (not tandem spaces) available in the rear parking area for tenants of the ADU, and keep the backing-up area clear so drivers exiting the rear parking lot can exit head first. The owner will need to keep the western half of the main driveway clear at all times to provide access to the rear parking area.

The neighbor west of the site was not opposed to the ADU but noted that the ADU will increase the traffic using the rear driveway, and increase the activity on the site. The neighbor has bedrooms close to the property line, and has requested that the applicant install a neighbor-friendly wooden fence along the common property line to mitigate the noise and visual impact of the ADU. A fence is a relatively simple way to provide some mitigation and increase the compatibility of the ADU with the neighborhood. The owner is required to install a 6 foot tall neighbor-friendly wooden fence along the western property line, from the rear property line to within 20 feet of the front property line.

B. The location, design, and site planning of the proposed development will provide a convenient and functional living, working, shopping or civic environment, and will be as attractive as the nature of the use and its location and setting warrants.

Finding: The location, design and site planning of the ADU will provide a functional dwelling unit with adequate off-street parking. The ADU will be in the building basement, so it will have very little impact on the appearance of the neighborhood.

C. The proposed development will be consistent with this code.

Finding: The ADU criteria and base zone standards will be addressed in findings below; if the development complies with those standards then it will be consistent with this code.

B. Accessory Dwelling Unit Criteria – NDC 15.445.260 Development standards.

A. Location. Accessory dwelling units are permitted as conditional uses in the R-1 zone and as outright permitted uses in the R-2 and R-3 zones.

Finding: The site is in the R-1 zone, so an ADU is permitted as a conditional use. The applicant has applied for conditional use permit approval.

B. Limitations. An accessory dwelling unit is permitted, providing there is compliance with all of the following standards:

1. An accessory dwelling unit may be created within or as an addition to a detached or attached single-family structure or as a freestanding accessory building.

Finding: The proposed ADU will be created within an existing detached single family structure. The proposal is to remodel most of the basement into a 4-bedroom ADU, complete with kitchen and bathroom, with a new ADU entry on the rear of the structure, egress windows, and parking in the backyard.

2. An accessory dwelling unit may not exceed 50 percent of the size of the primary unit, up to a maximum of 1,000 square feet.

Finding: The existing primary residence is 2,400 square feet. The proposed ADU is 986 square feet, and is therefore less than 1,000 square feet and less than 50% of the size of the primary unit.

3. The number of residents permitted to inhabit the accessory dwelling unit is regulated by the current edition of the Oregon Residential Specialty Code.

Finding: The Oregon Residential Specialty Code does not strictly limit the number of residents in the proposed ADU. The Development Code definition of “family” allows a dwelling unit to have up to 5 unrelated people living in it, so the proposal to have 4-5 people living in the ADU complies with the Development Code.

4. In addition to the number of parking spaces required for the primary residence, as established in NMC 15.440.030, one on-site parking space shall be provided for the accessory dwelling unit. This parking space shall be paved and/or covered.

Finding: The primary residence requires at least two off-street parking spaces, and will have at least three (two in the garage and one in the eastern side of the driveway). The ADU requires at least one off-street parking space, and will have two off-street parking spaces in the rear yard. As noted above, as a conditional use this ADU is required to have at least two off-street parking spaces. The owner will keep the western side of the driveway clear to allow access to the rear parking area, and will remove cars from the site so that the ADU has two side by side parking spaces (not tandem spaces). The backing area in the rear parking lot is also required to be kept clear so that users can go down the driveway head first.

5. The front door of the accessory dwelling unit shall not be located on the front facade of the primary residence unless the door is already existing.

Finding: The front door of the accessory dwelling unit will be located on the rear façade of the building.

6. Second story windows 10 feet or less from the property line must be made of privacy glass.

Finding: The ADU is in the basement, so this criterion is not applicable.

7. There shall be compliance with all of the development standards established in the base zone. [Ord. 2730 § 1 (Exh. A (15)), 10-18-10; Ord. 2505, 2-1-99. Code 2001 § 151.678.2.]

15.220.050 Criteria for design review

1. Parking. Parking areas shall meet the requirements of NMC 15.440.010.

2. Setbacks and General Requirements. The proposal shall comply with NMC 15.415.010 through 15.415.060 dealing with height restrictions and public access; and NMC 15.405.010 through 15.405.040 and 15.410.010 through 15.410.070 dealing with setbacks, coverage, vision clearance, and yard requirements.

3. Landscaping Requirements. The proposal shall comply with NMC 15.420.010 dealing with landscape requirements and landscape screening.

4. Signs. Signs shall comply with NMC 15.435.010 et seq. dealing with signs.

5. Zoning District Compliance. The proposed use shall be listed as a permitted or conditionally permitted use in the zoning district in which it is located as found in NMC 15.305.010 through 15.336.020.

Finding: The proposal has at least four off-street parking spaces, and meets the base development code requirements. The building setbacks meet the R-1 standards (15 foot front yard, 5 foot side yard), and as the ADU is an interior remodel the setbacks are not changing. The existing building and parking areas are below the lot coverage and parking coverage maximums (30% building coverage maximum, 30% parking coverage maximum), and are not changing. The portions of the site that are not developed are landscaped. As proposed, the ADU meets the R-1 base zone development standards.

C. CONCLUSION:

Based on the above-mentioned findings, the application meets the required criteria within the Newberg Development Code, subject to completion of the attached conditions.

Exhibit “B” to Planning Commission Order 2016-23
Conditions –File CUP-16-004
Accessory Dwelling Unit at 1916 Carol Avenue

A. THE FOLLOWING MUST BE COMPLETED BEFORE THE CITY WILL ISSUE A BUILDING PERMIT:

1. **Permit Submittal:** Submit a building permit application with two (2) complete working drawing sets of the proposed project. Show all the features of the plan approved through design review, including the following:
 - a. Plumbing details
 - b. Structural details
2. **Conditions of Approval:** Either write or otherwise permanently affix the conditions of approval contained within this report onto the first page of the plans submitted for building permit review.
3. **Site Plan:** Submit a revised site plan, subject to review and approval by the Planning Division, with the following additions or modifications :
 - a. The owner is required to install a 6 foot tall neighbor-friendly wooden fence along the western property line, from the rear property line to within 20 feet of the front property line.
4. **Parking:** The owner will need to keep at least two side by side parking spaces (not tandem spaces) available in the rear parking area for tenants of the ADU, and keep the backing-up area clear so drivers exiting the rear parking lot can exit head first. The owner will need to keep the western half of the main driveway clear at all times to provide access to the rear parking area.

B. THE FOLLOWING MUST BE ACCOMPLISHED PRIOR TO OCCUPANCY

1. **Fire Department Requirements:** This project is subject to compliance with all Fire Department standards relating to access and fire protection.
2. **Design Review Conditions:** Contact the Planning Division (503-537-1240) to verify that all design review conditions have been completed.
3. **Site Inspection:** Contact the Building Division (503-537-1240) for Building, Mechanical, and Plumbing final inspections. Contact the Fire Department (503-537-1260) for Fire Safety final inspections. Contact Yamhill County (503-538-7302) for electrical final inspections. Contact the Planning Division (503-537-1240) for landscaping final inspections.

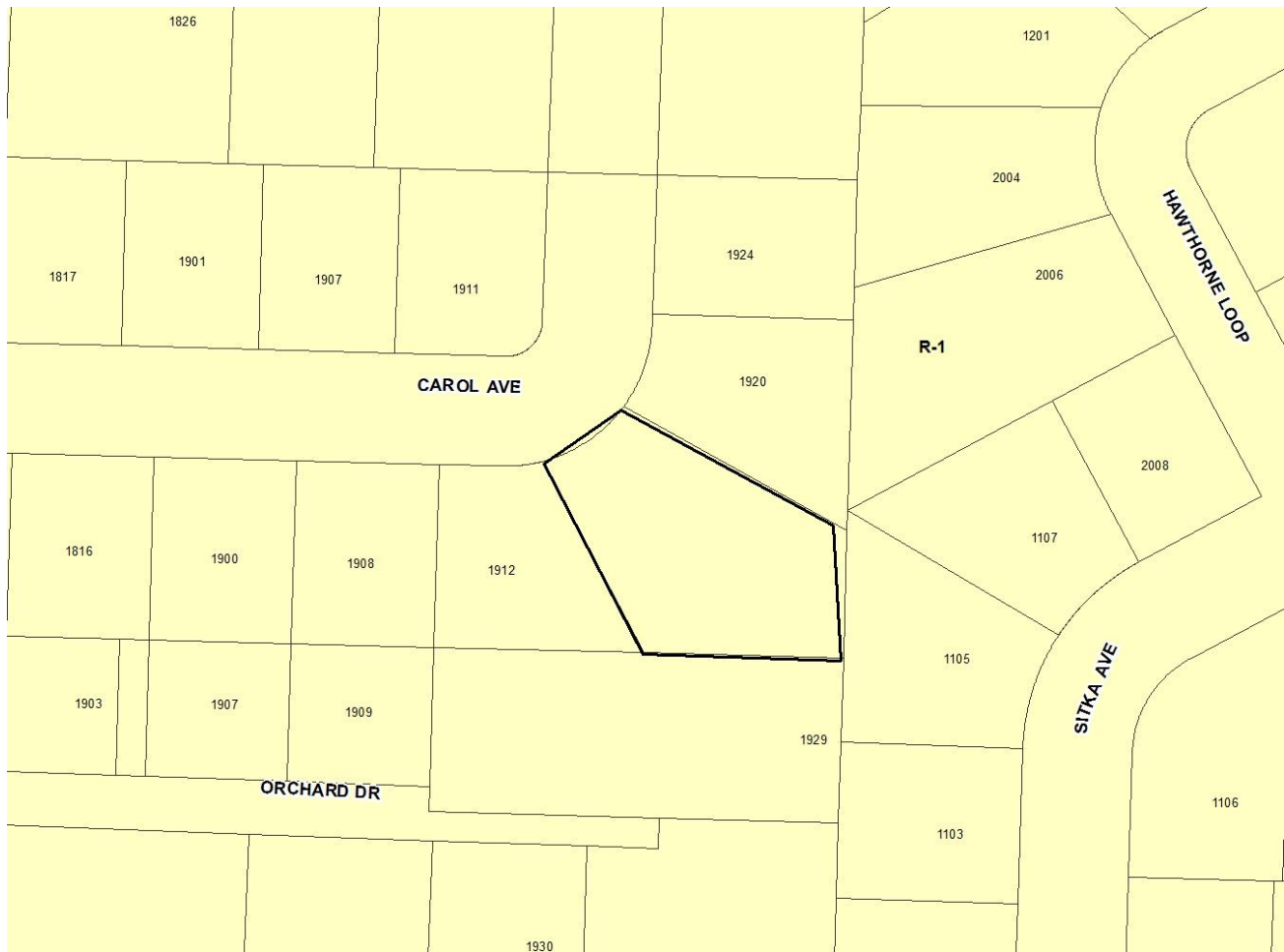
C. DEVELOPMENT NOTES

1. Systems development charges (SDCs) will be collected when building permits are issued. For questions regarding SDCs please contact the Engineering Division.

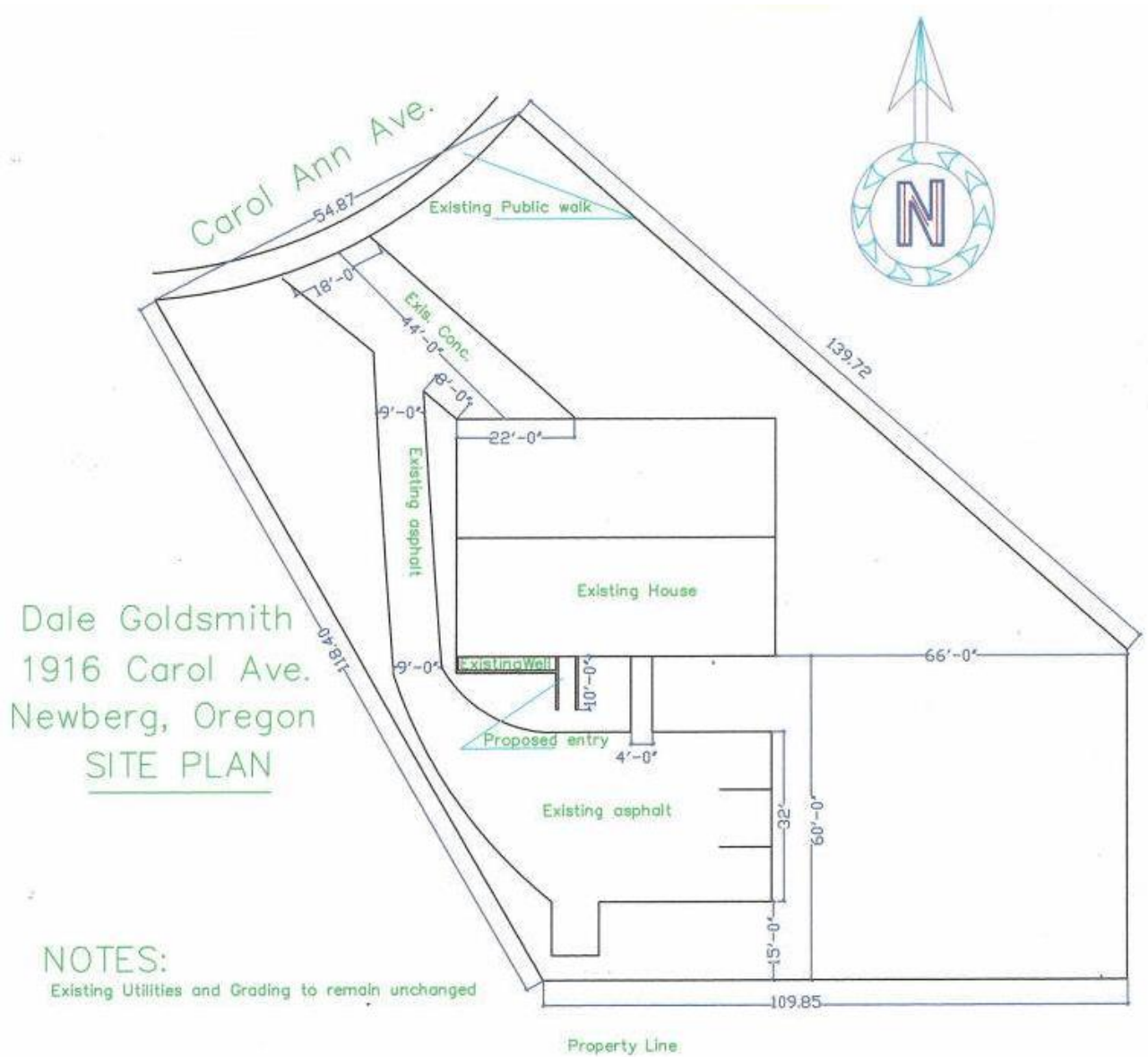
Attachment 1: Aerial Photo



Attachment 2: Zoning



Attachment 3: Site plan



Attachment 4: Comments

Written Comments: File NO. CUP-16-004

City of Newberg

Community Development Dept.

PO Box 970

Newberg, OR 97132

Re: Permit for 1916 Carol Ave.

I am property owner at 2103 Willow Drive in Newberg
and have no objection to the enclosed request for Accessory Dwelling
Unit at above address.



Carol Newman



7/21/16
Ms Priscilla Sturges

The Goldsmiths application for 1916 Condo is an excellent way to use space & help students. When my children were very small, in Portland, we had 2 students in extra rooms in an older home. We learned from each other.

The students will be an addition to the area, not a distraction. ADDs are a financially better idea than building more dorms.

Paul & Priscilla
Sturges

P.S. your letter
arrived 7/20/16

RECEIVED

JUL 25 2016



The Humane Society of the United States
Initial: _____ MEMBER: _____

Mr & Mrs John Thienes

July 23, 2016

We would like to go on record as heartily approving a permit to allow an Accessory Dwelling Unit at 1916 Carol Ave. We also especially like the idea of a group of female George Fox students living on our street.

John & Pauly Thienes
1817 Carol Ave
Newberg

*It starts with a gift. It leads to
lives transformed by Christ.*



File No. CUP-16-004

Dear Sirs:

As the immediate neighbor to Mr. Goldsmith, we have not objection to his project. We have found him to be a very polite caring neighbor and have never experienced any difficulties with him.

The side of our home immediately adjoins his driveway and parking area and our only concern is the increased activity alongside our house with car noise and people in the back.

Our only suggestion would be for him to install a neighbor friendly fence to seperate us and the view we have from two bedrooms plus our adjacent backyards.

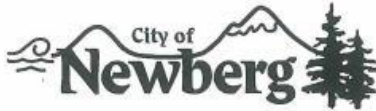
Sincerely,
Warren H. Reitz
representing: *Ferry Reitz*







MAILED NOTICE TO NEIGHBORS



Community Development Department

P.O. Box 970 • 414 E First Street • Newberg, Oregon 97132
503-537-1240. Fax 503-537-1272 www.newbergoregon.gov

NOTICE OF PLANNING COMMISSION HEARING ON A CONDITIONAL USE PERMIT

A property owner in your neighborhood submitted an application to the City of Newberg for a conditional use permit to allow an Accessory Dwelling Unit at 1916 Carol Avenue. The Newberg Planning Commission will hold a hearing on August 11, 2016 at 7 p.m. at the Newberg Public Safety Building, 401 E. Third Street, Newberg, OR, to evaluate the proposal. You are invited to take part in the City's review of this project by sending in your written comments or by testifying before the Planning Commission. For more details about giving comments, please see the back of this sheet.

The site has an existing single family home. The request is to remodel the basement of the home to create a 4-bedroom accessory dwelling unit (ADU), intended for student housing. The site has three off-street parking spaces for the main house, and two off-street parking spaces for the accessory dwelling unit in the back yard.

APPLICANT:	Highland Construction Inc. (Dennis Fletcher)
TELEPHONE:	971-267-4684
PROPERTY OWNER:	Dale Goldsmith
LOCATION:	1916 Carol Avenue
TAX LOT NUMBER:	Yamhill County 3217CA-00109



Working Together For A Better Community-Serious About Service™
Z:\WPFILES\FILES\CUP\016CUP-16-004 ADU at 1916 Carol Ave\Mailed notice - 1916 Carol Ave CUP.doc

We are mailing you information about this project because you own land within 500 feet of the proposed conditional use. We invite you to participate in the land use hearing scheduled before the Planning Commission. If you wish to participate in the hearing, you may do so in person or be represented by someone else. Oral testimony typically is limited to five minutes per speaker.

If you mail your comments to the City, please put the following information on the outside of the envelope:

Written Comments: File No. CUP-16-004
City of Newberg
Community Development Department
PO Box 970
Newberg, OR 97132

All written comments must be turned in by noon on Monday, August 8, 2016. Written information received after this time will be read out loud at the hearing subject to time limits for speakers, and will be included in the record if there are further proceedings.

You can look over all the information about this project or drop comments off at Newberg City Hall, 414 E. First Street. You can also buy copies of the information for a cost of 25 cents a page. You can view the application on the city website at www.newbergoregon.gov/planning. A staff report relating to the proposal will be available for inspection at no cost seven days prior to the public hearing. If you have any questions about the project, you can call the Newberg Planning Division at 503-537-1240.

Any issue which might be raised in an appeal of this case to the Land Use Board of Appeals (LUBA) must be raised during the public hearing process. You must include enough detail to enable the decision maker an opportunity to respond. The applicable criteria used to make a decision on this application for a conditional use permit are found in Newberg Development Code Section 15.225.060 and 15.445.260.

Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence, arguments or testimony regarding the application through a continuance or extension of the record. Failure of an issue to be raised in the hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes appeal to the State Land Use Board of Appeals based on that issue.

If you participate in the public hearing process, either by testifying at the public hearing, or by sending in written comments, you will be sent information about any decision made by the City relating to this project.

Date Mailed: *by July 21, 2016*

ACCOMMODATION OF PHYSICAL IMPAIRMENTS:

In order to accommodate persons with physical impairments, please notify the City Recorder's office of any special physical or language accommodations you may need as far in advance of the meeting as possible and no later than 48 hours prior to the meeting. To request these arrangements, please contact the City Recorder at 503-537-1283. For TTY services please dial 711.

Working Together For A Better Community-Serious About Service"

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*SUPPLEMENTAL LETTER
SENT TO NEIGHBORS
BY APPLICANT*

Dale Goldsmith
1916 Carol Ave.
Newberg OR 97132
503-267-2991

7-18-16

To our neighbors within 500 feet of our home,

My wife Corrine and I bought our building lot in 1979, but due to the recession of that time, we did not complete our home until 1983. We had five children, but the three older ones soon struck out on their own. Our lot sloped up from the street, so we built a daylight basement, with garage parking and two large partly-finished rooms downstairs. Corrine used those rooms for craft and hobby work.

On December 21, 2015, Corrine died after a very brief battle with ovarian cancer. After 58 years of marriage, I miss her very much.

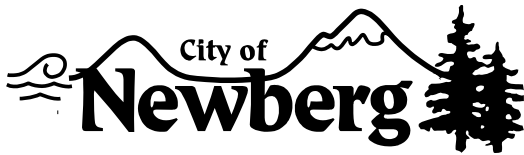
We have always had a good relationship with George Fox University, with family and friends attending there over the years. We live only a couple blocks from the corner of the campus, and they need housing for upper class students. What a perfect use for our basement area!

We are seeking a conditional use permit for an accessory dwelling, a quiet, private home for five college women. Coincidentally, this would restore the original population of our home, as my oldest son is living with me now.

There are currently two other large homes in our area with separate basement housing, and they do not cause any problems. I would appreciate your approval of this permit application.

Thank you very much,

Dale Goldsmith



Community Development Department
P.O. Box 970 ▪ 414 E First Street ▪ Newberg, Oregon 97132
503-537-1240 ▪ Fax 503-537-1272 ▪ www.newbergoregon.gov

PLANNING COMMISSION STAFF REPORT
- DEVELOPMENT CODE AMENDMENT

HEARING DATE: August 11, 2016

FILE NO: DCA-16-003

APPLICANT: Initiated by Newberg City Council on July 5, 2016

REQUEST: A Resolution amending the Newberg Development Code for medical marijuana dispensaries, processors, wholesalers and recreational marijuana processors as permitted or conditional uses in districts and subdistricts within the City of Newberg

ATTACHMENTS:

Resolution 2016-321 with
Exhibit "A": Proposed Development Code Text Amendment
Exhibit "B": Findings
1. City Council Resolution 2015-3312
2. 1,000 foot Schools/Parks Buffer Map

- A. SUMMARY:** The proposed Development Code amendments do the following:
- Allows Medical Marijuana Dispensaries as a permitted use in C-1 and C-4.
 - Allows Medical Marijuana Dispensaries as a permitted use in C-1/SP, C-2/LU, C-2/PD, C-2/SP, C-3/LU, SD/V, SD/NC and SD/H Subdistricts with a 1,000 foot buffer from schools and parks, a 1,000 foot separation between dispensaries and operating hours between 9:00 a.m. and 8:00 p.m.
 - Allows Medical Marijuana Processors as a conditional use in C-2 with a 1,000 foot buffer from schools and parks.
 - Modifies Medical Marijuana Processors to be an indoor use only in M-1, M-2, M-3 and M-4-I.
 - Allows Medical Marijuana Wholesalers as a conditional use in C-2 as an indoor use only and with a 1,000 foot buffer from schools and parks.
 - Allows Medical Marijuana Wholesalers as a permitted use in M-1, M-2, M-3, M-4-I and AI with a 1,000 foot buffer from schools and parks.
 - Allows recreational marijuana processors in the M-1/SP Subdistrict.

BACKGROUND: The Oregon voters passed Measure 91 on recreational marijuana in November

2014. The Oregon Legislature enacted four bills during the 2015 legislative session related to the Oregon Medical Marijuana Act and Measure 91. House Bill (HB) 3400 was the omnibus bill covering recreational marijuana and modifications to the medical marijuana program. HB 2014 was enacted addressing taxes on the sale of recreational marijuana, SB 460 related to limited retail sales of marijuana from medical marijuana dispensaries and SB 844 enacted a task force on researching the medical and public health properties of cannabis. In addition to the enacting of the four bills the Oregon Liquor Control Commission adopted temporary Oregon Administrative Rules (OAR's) on October 22, 2015 that were subsequently modified on November 20, 2015 for recreational marijuana under Chapter 845, Division 25

On September 8, 2015 the Newberg City Council was provided background information on medical and recreational marijuana at its Work Session. At the City Council Business Session on September 8th they established the Marijuana Subcommittee (Subcommittee) comprised of Councilors Rourke, Bacon and McKinney along with non-voting member Mayor Andrews. The City Council also directed staff to bring back an ordinance with a ban of the sale of recreational marijuana from Medical Marijuana Dispensaries.

On September 21, 2015 the Newberg City Council passed Ordinance No. 2015-2787 declaring a ban on the early sale of recreational marijuana by marijuana dispensaries and declaring an emergency.

The original Marijuana Subcommittee met between November 19, 2015 and March 3, 2016 to discuss possible regulations for medical and recreational marijuana. The Subcommittee held its last meeting on March 3, 2016 discussing paraphernalia and taxes. The Oregon Legislature met in its short session in early 2016 and passed several new bills related to marijuana. These include SB 1601 (Taxes), SB 1511, HB 4014, SB 1598 and HB 4094 (Banking). The State also took prior legislation and incorporated them into ORS 475B – Cannabis Regulation (2015 Edition).

SB 1601 (Taxes) and HB 4049 (Banking) will not be the focus of this report as taxes were discussed by the Subcommittee on March 3 and the City Council on April 4, 2016, and the marijuana banking bill is not applicable to the City. This leaves the remaining three bills passed by the legislature and signed by the Governor.

The City Council by Ordinance No. 20125-2780 adopted land use regulations for medical marijuana dispensaries and Ordinance No. 2016-2793 for medical marijuana grow sites and processors. The City Council also adopted land use regulations for recreational marijuana producers and processors by Ordinance No. 2016-2798. Local land use regulations for recreational marijuana wholesalers, laboratories, research certificates and retailers was passed by Ordinance 2016-2801 on June 6, 2016.

At the May 10, 2016 Marijuana Subcommittee (Subcommittee) meeting the Subcommittee passed a motion 3-0 directing staff to create a Request for Council Action (RCA) to initiate a Development Code amendment to reconcile the differences between the medical marijuana and recreational marijuana programs based on 2016 Oregon Legislature actions to bring forward for Council consideration on July 5, 2016. The City Council adopted Resolution No.

2016-3312 on July 5, 2016 initiating the Development Code amendment process (Attachment 1).

The Subcommittee at their meeting on May 10, 2016 also developed recommendations on medical marijuana and recreational marijuana reconciling previous City Council actions and the new 2016 laws.

B. PROCESS: A development code amendment is a Type IV application and follows the procedures in Newberg Development Code 15.100.060. The Planning Commission will hold a legislative hearing on the application. The Commission will make a recommendation to the Newberg City Council. Following the Planning Commission's recommendation, the Newberg City Council will hold a legislative hearing to consider the matter. Important dates related to this application are as follows:

1. 7/5/16: The Newberg City Council initiated the Development Code amendment.
2. 7/27/16: Planning staff placed notice on Newberg's website, and posted notice in four public buildings. *The Newberg Graphic* published notice of the Planning Commission hearing.
3. 8/11/16: The Planning Commission will hold a legislative hearing to consider the application.

C. PUBLIC COMMENTS: As of the writing of this report, the city has received no comments on the application. If the city receives additional written comments by the comment deadline, Planning staff will forward them to the Commissioners.

D. ANALYSIS:

Provisions of SB 1511 that are applicable to land use place, time and manner are recreational marijuana producers, process, wholesalers and retailers with OLCC licenses that are now allowed to perform these activities for medical marijuana purposes but must register with OLCC for those activities (SB 1511, Sections 2-10). Important provisions are highlighted in yellow. The law reads:

(Marijuana Producers)

SECTION 2. (1) As used in this section, "designated primary caregiver," "marijuana processing site," "medical marijuana dispensary" and "registry identification cardholder" have the meanings given those terms in ORS 475B.410.

(2) To produce marijuana for medical purposes, a marijuana producer that holds a license under ORS 475B.070 must register with the Oregon Liquor Control Commission under this section.

(3) The commission shall register a marijuana producer for the purpose of producing marijuana for medical purposes if the marijuana producer:

- (a) Holds a license under ORS 475B.070;**
- (b) Meets any qualifications adopted by the commission by rule;**
- (c) Applies to the commission in a form and manner prescribed by the commission;**
- and**
- (d) Pays any fee adopted by the commission by rule.**

(4)(a) A marijuana producer registered under this section may produce marijuana for a registry identification cardholder, and provide usable marijuana to the registry identification cardholder or to the designated primary caregiver of the registry identification cardholder, if the marijuana producer enters into an agreement with the registry identification cardholder for whom the marijuana producer is producing the marijuana. An agreement entered into under this subsection:

(A) Must be submitted to the commission in a manner prescribed by the commission;
(B) Except as provided in subparagraph (C) of this paragraph, may not allow the marijuana producer to be compensated for producing the marijuana or providing the usable marijuana;

(C) May require a registry identification cardholder, or a designated primary caregiver on behalf of a registry identification cardholder, to reimburse a marijuana producer for all costs associated with producing marijuana for the registry identification cardholder or providing usable marijuana to the registry identification cardholder or designated primary caregiver;

(D) May not allow the marijuana producer to produce for the registry identification cardholder an amount of mature marijuana plants that exceeds the amount that a registry identification cardholder and a designated primary caregiver may jointly possess under ORS 475B.428;

(E) May not allow the marijuana producer to provide to the registry identification cardholder an amount of usable marijuana that exceeds the amount that a registry identification cardholder and a designated primary caregiver may jointly possess under ORS 475B.430; and

(F) May allow the marijuana producer to keep a portion of the usable marijuana harvested from the marijuana produced for the registry identification cardholder for the purposes of:

(i) Providing usable marijuana to additional registry identification cardholders or designated primary caregivers; and

(ii) Transferring or selling usable marijuana to marijuana processing sites or medical marijuana dispensaries.

(c) Marijuana produced for a registry identification cardholder, and usable marijuana transferred or sold to a marijuana processing site or medical marijuana dispensary, pursuant to an agreement entered into under this subsection must be tracked by the system developed and maintained under ORS 475B.150.

(d)(A) Upon request by the commission, the Oregon Health Authority shall provide the

commission, notwithstanding any laws relating to the confidentiality of information under ORS 475B.460 and 475B.462, with the registration information of:

(i) A registry identification cardholder who enters into an agreement under this subsection; or

(ii) A registry identification cardholder, designated primary caregiver, marijuana

processing site or medical marijuana dispensary that receives usable marijuana pursuant to an agreement entered into under this subsection.

(B) Registration information received by the commission under this paragraph that is confidential and not subject to public disclosure under ORS 475B.460 and 475B.462 remains confidential and not subject to public disclosure after being provided to the commission.

(e) Marijuana produced pursuant to an agreement entered into under this subsection is not subject to rules restricting the size of mature marijuana plant grow canopies adopted by the commission under ORS 475B.075.

(5)(a) The commission shall adopt rules necessary to administer this section, including rules:

(A) For the equitable conversion of a number of mature marijuana plants to a size of mature marijuana plant grow canopy;

(B) Limiting the amount of marijuana that may be produced under section (4) of this section;

(C) Limiting the amount of usable marijuana that may be provided, transferred or sold under subsection (4)(a)(F) of this section;

(D) Limiting the number of registry identification cardholders for whom a marijuana producer registered under this section may produce marijuana; and

(E) Prohibiting a registry identification cardholder from entering into more than one agreement with a marijuana producer registered under this section.

(b) The rules must provide that any fee adopted by the commission under subsection (3)(d) of this section be in an amount reasonably calculated to not exceed, together with other fees collected under ORS 475B.010 to 475B.395, the cost of administering ORS 475B.010 to 475B.395.

(Marijuana Processors)

SECTION 3. (1) To process marijuana for medical purposes, a marijuana processor that

holds a license under ORS 475B.090 must register with the Oregon Liquor Control Commission under this section.

(2) The commission shall register a marijuana processor for the purpose of processing

marijuana for medical purposes if the marijuana processor:

(a) Holds a license under ORS 475B.090;

(b) Meets any qualifications adopted by the commission by rule;

(c) Applies to the commission in a form and manner prescribed by the commission; and

(d) Pays any fee adopted by the commission by rule.

(3) A marijuana processor registered under this section may process marijuana and usable marijuana into medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts.

(4) The commission shall adopt rules necessary to administer this section. The rules must provide that any fee adopted by the commission under subsection (2)(d) of this

section be in an amount reasonably calculated to not exceed, together with other fees collected under ORS 475B.010 to 475B.395, the cost of administering ORS 475B.010 to 475B.395.

(Marijuana Wholesalers)

SECTION 4. (1) To sell marijuana at wholesale for medical purposes, a marijuana wholesaler that holds a license under ORS 475B.100 must register with the Oregon Liquor Control Commission under this section.

(2) The commission shall register a marijuana wholesaler for the purpose of selling marijuana at wholesale for medical purposes if the marijuana wholesaler:

(a) Holds a license under ORS 475B.100;

(b) Meets any qualifications adopted by the commission by rule;

(c) Applies to the commission in a form and manner prescribed by the commission; and

(d) Pays any fee adopted by the commission by rule.

(3) A marijuana wholesaler registered under this section may sell medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts at wholesale.

(4) The commission shall adopt rules necessary to administer this section. The rules must provide that any fee adopted by the commission under subsection (2)(d) of this section be in an amount reasonably calculated to not exceed, together with other fees collected under ORS 475B.010 to 475B.395, the cost of administering ORS 475B.010 to 475B.395.

(Marijuana Retailers)

SECTION 5. (1) As used in this section, “designated primary caregiver” and “registry identification cardholder” have the meanings given those terms in ORS 475B.410.

(2) To sell marijuana at retail for medical purposes, a marijuana retailer that holds a license under ORS 475B.110 must register with the Oregon Liquor Control Commission under this section.

(3) The commission shall register a marijuana retailer for the purpose of selling marijuana at retail for medical purposes if the marijuana retailer:

(a) Holds a license under ORS 475B.110;

(b) Meets any qualifications adopted by the commission by rule;

(c) Applies to the commission in a form and manner prescribed by the commission; and

(d) Pays any fee adopted by the commission by rule.

(4) A marijuana retailer registered under this section:

(a) May sell medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts to registry identification cardholders and designated primary caregivers;

(b) May not sell medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts to individuals other than registry identification cardholders

and designated primary caregivers;

(c) May sell usable marijuana and medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts to registry identification cardholders and designated primary caregivers at a discounted price; and

(d) May provide usable marijuana and medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts to registry identification cardholders and designated primary caregivers free of charge.

(5) The commission shall adopt rules necessary to administer this section. The rules must provide that any fee adopted by the commission under subsection (3)(d) of this section be in an amount reasonably calculated to not exceed, together with other fees collected under ORS 475B.010 to 475B.395, the cost of administering ORS 475B.010 to 475B.395.

SECTION 6. Notwithstanding the provisions of ORS 475B.400 to 475B.525, rules adopted by the Oregon Health Authority under ORS 475B.400 to 475B.525 must allow for the provision, transfer and sale of usable marijuana as described in section 2 of this 2016 Act.

(General Rulemaking Authority)

SECTION 7. ORS 475B.070 is amended to read:

475B.070. (1) The production of marijuana is subject to regulation by the Oregon Liquor Control Commission.

(2) A marijuana producer must have a production license issued by the commission for the premises at which the marijuana is produced. To hold a production license under this section, a marijuana producer:

(a) Must apply for a license in the manner described in ORS 475B.040;

(b) Must, until January 1, 2020, provide proof that an applicant listed on an application submitted under ORS 475B.040 has been a resident of this state for two or more years, and must provide proof that the applicant is 21 years of age or older; and

(c) Must meet the requirements of any rule adopted by the commission under subsection (3) of this section.

(3) The commission shall adopt rules that:

(a) Require a marijuana producer to annually renew a license issued under this section;

(b) Establish application, licensure and renewal of licensure fees for marijuana producers;

(c) Require marijuana produced by marijuana producers to be tested in accordance with ORS

475B.555;

(d) Allow a marijuana producer registered under section 2 of this 2016 Act to produce marijuana for medical purposes in the same manner that rules adopted under ORS 475B.010 to 475B.395 allow a marijuana producer to produce marijuana for nonmedical purposes, excepting those circumstances where differentiating between the production of marijuana for medical purposes and the production of marijuana for nonmedical purposes is necessary to protect the public health and safety;

[(d)] (e) Require marijuana producers to submit, at the time of applying for or renewing a license under ORS 475B.040, a report describing the applicant's or licensee's electrical or water usage; and

[(e)(A)] (f)(A) Require a marijuana producer to meet any public health and safety standards and industry best practices established by the commission by rule related to:

- (i) The production of marijuana; or
- (ii) The propagation of immature marijuana plants and the seeds of the plant Cannabis family Cannabaceae.

(B) For purposes of establishing rules under subparagraph (A)(ii) of this paragraph, the commission may not limit:

- (i) The number of immature marijuana plants that may be possessed by a marijuana producer licensed under this section;
- (ii) The size of the grow canopy a marijuana producer licensed under this section uses to grow immature marijuana plants; or
- (iii) The weight or size of shipments of immature marijuana plants made by a marijuana producer licensed under this section.

(4) Fees adopted under subsection (3)(b) of this section:

- (a) May not exceed the cost of administering ORS 475B.010 to 475B.395 with respect to marijuana producers;
- (b) Shall be in the form of a schedule that imposes a greater fee for premises with more square footage or on which more mature marijuana plants are grown; and
- (c) Shall be deposited in the Marijuana Control and Regulation Fund established under ORS 475B.240.

SECTION 8. ORS 475B.090 is amended to read:

475B.090. (1) The processing of marijuana items is subject to regulation by the Oregon Liquor Control Commission.

(2) A marijuana processor must have a processor license issued by the commission for the premises at which marijuana items are processed. To hold a processor license under this section, a marijuana processor:

- (a) Must apply for a license in the manner described in ORS 475B.040;
- (b) Must, until January 1, 2020, provide proof that an applicant listed on an application submitted under ORS 475B.040 has been a resident of this state for two or more years, and must provide proof that the applicant is 21 years of age or older;
- (c) If the marijuana processor processes marijuana extracts, may not be located in an area zoned exclusively for residential use; and
- (d) Must meet the requirements of any rule adopted by the commission under subsection (3) of this section.

(3) The commission shall adopt rules that:

- (a) Require a marijuana processor to annually renew a license issued under this section;
- (b) Establish application, licensure and renewal of licensure fees for marijuana processors;
- (c) Require marijuana processed by a marijuana processor to be tested in accordance with ORS 475B.555; [and]

(d) Allow a marijuana processor registered under section 3 of this 2016 Act to process marijuana and usable marijuana into medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts in the same manner that rules

adopted under ORS 475B.010 to 475B.395 allow a marijuana processor to process marijuana and usable marijuana into general use cannabinoid products, cannabinoid concentrates and cannabinoid extracts, excepting those circumstances where differentiating between the processing of medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts and the processing of general use cannabinoid products, cannabinoid concentrates and cannabinoid extracts is necessary to protect the public health and safety; and

[(d)] (e) Require a marijuana processor to meet any public health and safety standards and industry best practices established by the commission by rule related to:

- (A) Cannabinoid edibles;
 - (B) Cannabinoid concentrates;
 - (C) Cannabinoid extracts; and
 - (D) Any other type of cannabinoid product identified by the commission by rule.
- (4) Fees adopted under subsection (3)(b) of this section:
- (a) May not exceed the cost of administering ORS 475B.010 to 475B.395 with respect to marijuana processors; and
 - (b) Shall be deposited in the Marijuana Control and Regulation Fund established under ORS 475B.240.

SECTION 9. ORS 475B.100 is amended to read:

475B.100. (1) The wholesale sale of marijuana items is subject to regulation by the Oregon Liquor Control Commission.

(2) A marijuana wholesaler must have a wholesale license issued by the commission for the premises at which marijuana items are received, stored or delivered. To hold a wholesale license under this section, a marijuana wholesaler:

- (a) Must apply for a license in the manner described in ORS 475B.040;
- (b) Must, until January 1, 2020, provide proof that an applicant listed on an application submitted under ORS 475B.040 has been a resident of this state for two or more years, and must provide proof that the applicant is 21 years of age or older;
- (c) May not be located in an area that is zoned exclusively for residential use; and
- (d) Must meet the requirements of any rule adopted by the commission under subsection (3) of this section.

(3) The commission shall adopt rules that:

- (a) Require a marijuana wholesaler to annually renew a license issued under this section;
- (b) Establish application, licensure and renewal of licensure fees for marijuana wholesalers;
- (c) Require marijuana items received, stored or delivered by a marijuana wholesaler to be tested in accordance with ORS 475B.555; [and]

(d) Allow a marijuana wholesaler registered under section 4 of this 2016 Act to sell medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts at wholesale in the same manner that rules adopted under ORS 475B.010 to 475B.395 allow a marijuana wholesaler to sell general use cannabinoid products, cannabinoid concentrates and cannabinoid extracts at wholesale, excepting those circumstances where differentiating between the sale of medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts and the sale of general use cannabinoid products, cannabinoid concentrates and cannabinoid extracts is

necessary to protect the public health and safety; and

[(d)] (e) Require a marijuana wholesaler to meet any public health and safety standards and industry best practices established by the commission by rule.

(4) Fees adopted under subsection (3)(b) of this section:

(a) May not exceed the cost of administering ORS 475B.010 to 475B.395 with respect to marijuana wholesalers; and

(b) Shall be deposited in the Marijuana Control and Regulation Fund established under ORS 475B.240.

SECTION 10. ORS 475B.110 is amended to read:

475B.110. (1) The retail sale of marijuana items is subject to regulation by the Oregon Liquor Control Commission.

(2) A marijuana retailer must have a retail license issued by the commission for the premises at which marijuana items are sold. To hold a retail license under this section, a marijuana retailer:

(a) Must apply for a license in the manner described in ORS 475B.040;

(b) Must, until January 1, 2020, provide proof that an applicant listed on an application submitted under ORS 475B.040 has been a resident of this state for two or more years, and must provide proof that the applicant is 21 years of age or older;

(c) May not be located in an area that is zoned exclusively for residential use;

(d) Except as provided in section 29b of this 2016 Act, may not be located within 1,000 feet of:

(A) A public elementary or secondary school for which attendance is compulsory under ORS 339.020; or

(B) A private or parochial elementary or secondary school, teaching children as described in ORS 339.030 (1)(a); and

(e) Must meet the requirements of any rule adopted by the commission under subsection (3) of this section.

(3) The commission shall adopt rules that:

(a) Require a marijuana retailer to annually renew a license issued under this section;

(b) Establish application, licensure and renewal of licensure fees for marijuana retailers;

(c) Require marijuana items sold by a marijuana retailer to be tested in accordance with ORS 475B.555; [and]

(d) Subject to the limitations and privileges described in section 5 (4) of this 2016 Act, allow a marijuana retailer registered under section 5 of this 2016 Act to sell medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts at retail in the same manner that rules adopted under ORS 475B.010 to 475B.395 allow a marijuana retailer to sell general use cannabinoid products, cannabinoid concentrates and cannabinoid extracts at retail, excepting those circumstances where differentiating between the sale of medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts and the sale of general use cannabinoid products, cannabinoid concentrates and cannabinoid extracts is necessary to protect the public health and safety; and

[(d)] (e) Require a marijuana retailer to meet any public health and safety standards and industry best practices established by the commission by rule.

(4) Fees adopted under subsection (3)(b) of this section:

- (a) May not exceed the cost of administering ORS 475B.010 to 475B.395 with respect to marijuana retailers; and
- (b) Shall be deposited in the Marijuana Control and Regulation Fund established under ORS 475B.240.

SB 1511 also has new provisions that allow a reduced buffer for medical marijuana dispensaries and recreational marijuana retail stores from schools.

SECTION 29. (1) Notwithstanding ORS 475B.450 (3)(d), a city or county may adopt an ordinance allowing a medical marijuana dispensary to be located within 500 feet of 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), if the county or city determines that a physical or geographic barrier capable of preventing children from traversing to the school separates the medical marijuana dispensary from the school.

(2) A city or county that adopts an ordinance under this section must inform the Oregon Health Authority, in a form and manner prescribed by the authority, of the content and effective date of the ordinance.

SECTION 29b. (1) Notwithstanding ORS 475B.110 (2)(d), a city or county may adopt an ordinance allowing a premises for which a license has been issued under ORS 475B.110 to be located within 500 feet of 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), if the county or city determines that a physical or geographic barrier capable of preventing children from traversing to the school separates the premises from the school.

(2) A city or county that adopts an ordinance under this section must inform the Oregon Liquor Control Commission, in a form and manner prescribed by the commission, of the content and effective date of the ordinance.

HB 4014 has modified the language for Land Use Compatibility Statements. The law reads:

LIQUOR CONTROL COMMISSION LICENSEES

SECTION 11. ORS 475B.063 is amended to read:

475B.063. (1) Prior to [*the issuance of*] **receiving** a license under ORS 475B.070, 475B.090, 475B.100 or 475B.110, [*the Oregon Liquor Control Commission*] **an applicant** shall request a land use compatibility statement from the city or county that authorizes the land use. The land use compatibility statement must demonstrate that the requested license is for a land use that is allowable as a permitted or conditional use within the given zoning designation where the land is located. The **Oregon Liquor Control** Commission may not issue a license if the land use compatibility statement shows that the proposed land use is prohibited in the applicable zone.

(2) **Except as provided in subsection (3) of this section**, a city or county that receives a

request for a land use compatibility statement under this section must act on that request within 21 days of:

- (a) Receipt of the request, if the land use is allowable as an outright permitted use; or
- (b) Final local permit approval, if the land use is allowable as a conditional use.

(3) A city or county that receives a request for a land use compatibility statement under this section is not required to act on that request during the period that the commission discontinues licensing those premises pursuant to ORS 475B.800 (4)(b). [(3)] (4) A city or county action concerning a land use compatibility statement under this section is not a land use decision for purposes of ORS chapter 195, 196, 197, [or] 215 or 227.

HB 4014 added language for public disclosure of information. The law reads:

EXEMPTION FROM PUBLIC DISCLOSURE

SECTION 21. Section 22 of this 2016 Act is added to and made a part of ORS 475B.010 to 475B.395.

SECTION 22. (1) Subject to subsection (2) of this section, information is exempt from public disclosure under ORS 192.410 to 192.505 if the information is:

- (a) The address of a premises for which a license has been issued or for which an applicant has proposed to be licensed under ORS 475B.070, 475B.090 or 485B.100;**
- (b) Is related to the security plan or the operational plan for a premises for which a license has been issued or for which an applicant has proposed to be licensed under ORS 475B.070, 475B.090, 485B.100 or 475B.110; or**
- (c) Is related to any record that the Oregon Liquor Control Commission determines contains proprietary information of a person who holds a license under ORS 475B.070, 475B.090, 485B.100 or 475B.110.**

(2) The exemption from public disclosure as provided by this section does not apply to a request for information if the request is made by a law enforcement agency.

HB 4014 added language for the ability of a medical marijuana grow site, medical processor and medical dispensary to transition to licensing by OLCC. The law reads:

MEDICAL MARIJUANA BUSINESSES APPLYING TO BE LICENSED BY THE OREGON LIQUOR CONTROL COMMISSION

SECTION 24. Section 25 of this 2016 Act is added to and made a part of ORS 475B.010 to 475B.395.

SECTION 25. (1) The Oregon Liquor Control Commission shall adopt by rule procedures by which:

- (a) A person responsible for a marijuana grow site registered under ORS 475B.420, or, if multiple persons responsible for a marijuana grow site registered under ORS 475B.420 are located at the same address, each person responsible for a marijuana**

grow site located at the address, may apply for a license under ORS 475B.070 to transition from being registered by the Oregon Health Authority to being licensed by the commission;

(b) A marijuana processing site registered under ORS 475B.435 may apply for a license under ORS 475B.090 to transition from being registered by the authority to being licensed by the commission; and

(c) A medical marijuana dispensary registered under ORS 475B.450 may apply for a license under ORS 475B.110 to transition from being registered by the authority to being licensed by the commission.

(2)(a) In adopting rules under this section, the commission shall adopt, at a minimum, procedures by which the inventory possessed by a person responsible for a marijuana grow site, a marijuana processing site or a medical marijuana dispensary on the date on which the person responsible for a marijuana grow site, the marijuana processing site or the medical marijuana dispensary is first subject to tracking by the commission under ORS 475B.150:

(A) May be delivered to a premises for which a license has been issued under ORS 475B.090, 475B.100 or 475B.110; or

(B) May be sold to consumers by marijuana retailers that hold a license under ORS 475B.110.

(b) Procedures adopted under this subsection must require a person responsible for a marijuana grow site registered under ORS 475B.420, or, if multiple persons responsible for a marijuana grow site registered under ORS 475B.420 are located at the same address, each person responsible for a marijuana grow site located at the address, to return to an individual to whom a registry identification card has been issued under ORS 475B.415, and for whom the person or persons are producing marijuana, all the marijuana and usable marijuana owned by the individual, except as otherwise allowed under a personal agreement entered into under ORS 475B.425, at the time that the person or the persons receive a license under ORS 475B.070.

HB 4014 modified language allowing cities to enter into an Intergovernmental Agreement (IGA) with the Department of Revenue to collect local marijuana taxes on behalf of a city. The Department of Revenue would charge a cost for the collection service. The law reads:

**(Intergovernmental Agreements Between Cities
and Counties and the Department of Revenue)**

SECTION 32. ORS 305.620 is amended to read:

305.620. (1) Any state agency or department may enter into agreements with any political subdivision of this state for the collection, enforcement, administration and distribution of local taxes of the political subdivision imposed upon or measured by gross or net income, wages or net earnings from self-employment, [or] local general sales and use taxes **or taxes imposed under ORS 475B.345.**

(2) The department or agency shall prescribe the rules by which the agreements entered into under subsection (1) of this section are administered.

(3) The department or agency shall prescribe the rules by which the taxes described by subsection (1) of this section are administered, collected, enforced and distributed.

(4) A political subdivision may appear as an intervenor at any conference held by the Department of Revenue or conference, hearing or proceeding held by another department or agency in connection with a local tax administered by the department or agency. The political subdivision may be represented by its own counsel. The department or agency shall adopt rules governing the procedures to be followed by the political subdivision in making an appearance.

(5) Costs incurred by the department or agency in the administration, enforcement, collection and distribution of taxes under the agreements entered into under subsection (1) of this section shall be first deducted from the taxes collected before distribution is made to the political subdivision which is a party to the agreement.

(6) The Oregon Tax Court shall have exclusive jurisdiction to review determinations of the Department of Revenue or orders of another department or agency relating to the collection, enforcement, administration and distribution of local taxes under agreements entered into under subsection (1) of this section.

(7) A proceeding for refund or to set aside additional taxes or taxes assessed when no return was filed may be initiated before the state agency or department.

(8) An appeal from a determination or an order may be taken by the taxpayer or by the political subdivision whose taxes are in issue, by filing a complaint with the clerk of the Oregon Tax Court at its principal office in Salem, Oregon, within 60 days after the notice of the determination of the Department of Revenue or the order of the department or agency is sent to the taxpayer or the political subdivision. The filing of the complaint in the Oregon Tax Court shall constitute perfection of the appeal. Service of the taxpayer's complaint shall be accomplished by the clerk of the tax court by filing a copy of the complaint with the administrative head of the department or agency and a copy with the political subdivision. Service of the political subdivision's complaint shall be accomplished by the clerk of the tax court by filing a copy of the complaint with the administrative head of the department or agency and mailing a copy of the complaint to the taxpayer. The complaint of a taxpayer shall be entitled in the name of the person filing as plaintiff and the department or agency as defendant. The complaint of a political subdivision shall be entitled in the name of the political subdivision as plaintiff and the taxpayer and the department or agency as defendants. A copy of the order of the department or agency shall be attached to the complaint. All procedures shall be in accordance with ORS 305.405 to 305.494.

SB 1598 added new language on land use compatibility statements. The law reads:

LAND USE LAWS

SECTION 1. Section 2 of this 2016 Act is added to and made a part of ORS 475B.010 to 475B.395.

SECTION 2. The requirement under ORS 475B.063 to obtain a land use compatibility

statement as a condition of receiving a license under ORS 475B.070 does not apply to an applicant if:

- (1) The applicant is applying for a license at an address where a marijuana grow site registered under ORS 475B.420 is located;
- (2) The address is outside of city limits;
- (3) At least one person responsible for a marijuana grow site located at the address first registered with the Oregon Health Authority under ORS 475B.420 before January 1, 2015;
- (4) Each person responsible for a marijuana grow site located at the address first registered with the Oregon Health Authority under ORS 475B.420 before February 1, 2016; and
- (5) The applicant is applying for a mature marijuana plant grow canopy of:
 - (a) 5,000 square feet or less, if the marijuana is produced outdoors; or
 - (b) 1,250 square feet or less, if the marijuana is produced indoors.

SB 1598 modified language on local time, place and manner regulations. The law reads:

SECTION 4. ORS 475B.340 is amended to read:

475B.340. (1) For purposes of this section, “reasonable regulations” includes:

- (a) Reasonable conditions on the manner in which a marijuana producer licensed under ORS 475B.070 may produce marijuana **or in which a person who holds a certificate issued under ORS 475B.235 may produce marijuana or propagate immature marijuana plants;**
 - (b) Reasonable conditions on the manner in which a marijuana processor licensed under ORS 475B.090 may process marijuana **or in which a person who holds a certificate issued under ORS 475B.235 may process marijuana;**
 - (c) Reasonable conditions on the manner in which a marijuana wholesaler licensed under ORS 475B.100 may sell marijuana at wholesale;
 - (d) Reasonable limitations on the hours during which a marijuana retailer licensed under ORS 475B.110 may operate;
 - (e) Reasonable conditions on the manner in which a marijuana retailer licensed under ORS 475B.110 may sell marijuana items;
 - (f) Reasonable requirements related to the public’s access to a premises for which a license **or certificate** has been issued under ORS 475B.070, 475B.090, 475B.100 [or], 475B.110 **or 475B.235;** and
 - (g) Reasonable limitations on where a premises for which a license **or certificate** may be issued under ORS 475B.070, 475B.090, 475B.100 [or], 475B.110 **or 475B.235** may be located.
- (2) Notwithstanding ORS **30.935, 215.253 (1) or** 633.738, the governing body of a city or county may adopt ordinances that impose reasonable regulations on the operation of businesses located at premises for which a license has been issued under ORS 475B.070, 475B.090, 475B.100 or 475B.110, **or for which a certificate has been issued under ORS 475B.235,** if the premises are located in the area subject to the jurisdiction of the city

or county, except that the governing body of a city or county may not:

(a) Adopt an ordinance that prohibits a premises for which a license has been issued under ORS 475B.110 from being located within a distance that is greater than 1,000 feet of another premises for which a license has been issued under ORS 475B.110.

(b) Adopt an ordinance after January 1, 2015, that imposes a setback requirement for an agricultural building used to produce marijuana located on a premises for which a license has been issued under ORS 475B.070 if the agricultural building:

(A) Was constructed on or before July 1, 2015, in compliance with all applicable land use and building code requirements at the time of construction;

(B) Is located at an address where a marijuana grow site first registered with the Oregon Health Authority under ORS 475B.420 on or before January 1, 2015;

(C) Was used to produce marijuana pursuant to the provisions of ORS 475B.400 to 475B.525 on or before January 1, 2015; and

(D) Has four opaque walls and a roof.

[(3) Regulations adopted under this section must be consistent with city and county comprehensive plans and zoning ordinances and applicable provisions of public health and safety laws.]

The Newberg Municipal Code states the following regarding retail, wholesale and warehouse:

15.05.030 Definitions.

For the purpose of this title, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

“Light manufacturing category” means a category of uses under Chapter 15.303 NMC that involves manufacturing, processing, fabrication, packaging, or assembly of goods. These types of firms are involved in the secondary processing and assembly of materials and components into finished products, generally for the wholesale market, for transfer to other plants, or to order for firms or consumers. The external impact from these uses is generally less than heavy manufacturing. Outdoor storage and processing of goods and materials is less than 10 percent of the site. Transportation needs are often met by truck. Goods are generally not displayed or sold on site, but if so, they are a subordinate part of sales. Relatively few customers come to the manufacturing site (typically fewer than five per day per 1,000 square feet of floor area).

“Retail sales – general category” means a category of uses under Chapter 15.303 NMC that sell or rent goods to the general public. Items are sold indoors, or, if outdoors, are limited to small items that do not require machinery to load to customers. Most items for sale are stored on or picked up from the site. Operators may be commercial or nonprofit entities.

“Wholesale and industry sales category” means a category of uses under Chapter 15.303 NMC that sell goods or merchandise to retailers, to industrial,

commercial, institutional, or other professional business users, or to other wholesalers and related subordinated services. Items are only occasionally sold directly to the general public.

“Warehouse, storage and distribution category” means a category of uses under Chapter 15.303 NMC that involve the storage or movement of goods for themselves or other firms. Goods are generally delivered to other firms or the final consumer, except for some will-call pickups. It includes data centers that store and distribute electronic data. There is little on-site sales activity with the customer present.

Use Categories

15.303.421 Retail sales – General category.

A. Characteristics. General retail sales uses sell or rent goods to the general public. Items are sold indoors, or, if outdoors, are limited to small items that do not require machinery to load to customers. Most items for sale are stored on or picked up from the site. Operators may be commercial or nonprofit entities.

15.303.503 Wholesale and industry sales category.

A. Characteristics. Wholesale sales uses sell goods or merchandise to retailers, to industrial, commercial, institutional, or other professional business users, or to other wholesalers and related subordinated services. Items are only occasionally sold directly to the general public.

15.303.504 Warehouse, storage and distribution category.

A. Characteristics. Warehouse. Storage and distribution uses involve the storage, or movement of goods for themselves or other firms. Goods are generally delivered to other firms or the final consumer, except for some will-call pickups. It includes data centers that store and distribute electronic data. There is little on-site sales activity with the customer present.

15.303.506 Light manufacturing category.

A. Characteristics. Light manufacturing uses involve manufacturing, processing, fabrication, packaging, or assembly of goods. These types of firms are involved in the secondary processing and assembly of materials and components into finished products, generally for the wholesale market, for transfer to other plants, or to order for firms or consumers. The external impact from these uses is generally less than heavy manufacturing. Outdoor storage and processing of goods and materials is less than 10 percent of the site. Transportation needs are often met by truck. Goods are generally not displayed or sold on site, but if so, they are a subordinate part of sales. Relatively few customers come to the manufacturing site (typically fewer than five per day per

1,000 square feet of floor area).

B. Accessory Uses. Retail sales of goods produced on site, provided the floor area devoted to retail sales is small (less than 10 percent of the floor area, up to 2,000 square feet).

C. Examples. Instrument and machinery manufacturers, food processors, furniture manufacturers, wineries, wholesale bakeries.

D. Exclusions. Heavy manufacturing is a separate category. [Ord. 2763 § 1 (Exh. A § 5), 9-16-13.]

	USES	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-1	M-2	M-3	M-4-I	M-4-C	CF	I	AR	AI	Notes and Special Use Standards
400	COMMERCIAL USES																			
	Retail sales - General						P (20)	P (15) (21)	P			P (23)								
500	INDUSTRIAL USES																			
	Wholesale and industry sales							C (31)			P (31)	P	P	P	P				P(33)	
	Warehouse, storage and distribution										P (32)	P	P	P	P				P (33)	
	Light Manufacturing										P	P	P	P					P(33)	

Key:

P: Permitted use
S: Special use – Use requires a special use permit
C: Conditional use – Requires a conditional use permit
X: Prohibited use
(#): See notes for limitations

Notes.

(15) Facility over 40,000 square feet gross floor area requires a conditional use permit.
(20) Businesses in the C-1 zone that have hours of operation between 10:00 p.m. and 7:00 a.m. require a conditional use permit.
(21) Drive-up service windows accessory to an existing business on the site with walk-in customer service, such as a drive-up bank window, are allowed only with a conditional use permit. Otherwise, drive-up service windows, except those in service on April 1, 2002, are prohibited. Changes in use will not be allowed.
(23) Limited to secondhand stores.
(31) Allowed indoors only.
(32) Allowed indoors only. Outdoor use requires a conditional use permit.
(33) Must be aviation-related. See Chapter 15.332 NMC.

"Working Together For A Better Community-Serious About Service"

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- E. MARIJUANA SUBCOMMITTEE RECOMMENDATION:** The Subcommittee developed the following recommendations.

Medical Marijuana

1. Allow medical marijuana dispensaries to be permitted in C-1 and C-4 to align with recreational.
2. Allow medical marijuana processors as a conditional use in C-2 with a 1,000 foot buffer from schools and parks.
3. Have the medical marijuana wholesaler regulations mirror those for recreational wholesaler.
4. Include medical marijuana dispensaries in the same subdistricts as recreational retailers.
5. Keep the buffer for schools and parks at 1,000 feet.

Recreational Marijuana

1. Allow recreational marijuana processors in the same subdistricts as medical marijuana processors.
2. Keep the buffer for schools and parks at 1,000 feet.

- F. PRELIMINARY STAFF RECOMMENDATION:** The preliminary staff recommendation is made in the absence of public hearing testimony, and may be modified subsequent to the close of the public hearing. The Planning Commission may want to consider if recreational marijuana wholesalers should be allowed as a permitted use with no product on site in the residential districts and residential subdistricts with the Oregon Liquor Control Commission definition of a premises and that licenses will not be issued where a primary residence is located.

At this writing, staff recommends the following motion:

Move to adopt Planning Commission Resolution 2016-321, which recommends that the City Council adopt the requested amendments.



PLANNING COMMISSION RESOLUTION 2016-321

A RESOLUTION AMENDING THE NEWBERG DEVELOPMENT CODE FOR MEDICAL MARIJUANA DISPENSARIES, PROCESSORS, WHOLESALERS AND RECREATIONAL MARIJUANA PROCESSORS AS PERMITTED OR CONDITIONAL IN DISTRICTS AND SUBDISTRICTS WITHIN THE CITY OF NEWBERG

RECITALS

1. In November 2014 voters in Oregon approved Ballot Measure 91 related to recreational marijuana.
2. House Bill (HB) 3400 was passed in the 2015 Oregon Legislative session related to recreational marijuana.
3. The Oregon Liquor Control Commission adopted temporary Oregon Administrative Rules (OAR's) on October 22, 2015 that were subsequently modified on November 20, 2015 for recreational marijuana under Chapter 845, Division 25.
4. The Newberg City Council established the Marijuana Subcommittee on September 8, 2015 to review and provide recommendations on local place, time and manner regulations for recreational marijuana.
5. The Newberg City Council initiated a potential amendment to Newberg's Development Code regarding medical marijuana and recreational marijuana on July 5, 2016 by Resolution No. 2015-3312.
6. The Marijuana Subcommittee met on May 10, 2016 and developed recommendations to the Planning Commission on medical marijuana dispensaries, processors and wholesalers, and recreational marijuana processors.
7. After proper notice, the Newberg Planning Commission held a hearing on August 11, 2016 to consider the amendment. The Commission considered testimony and deliberated.

The Newberg Planning Commission resolves as follows:

1. The Commission finds that amending regulations for medical marijuana dispensaries, processors and wholesalers, and recreational marijuana processors would be in the best interests of the city and recommends that the City Council adopt the amendments to the Newberg Development Code as shown in Exhibit "A". Exhibit "A" is hereby adopted and by this reference incorporated.
2. The findings shown in Exhibit "B" are hereby adopted. Exhibit "B" is by this reference incorporated.

Adopted by the Newberg Planning Commission this 11th day of August, 2016.

ATTEST:

Planning Commission Chair

Planning Commission Secretary

List of Exhibits:

Exhibit "A": Development Code Text Amendments

Exhibit "B": Findings

**Exhibit “A” to Planning Commission Resolution 2016-321
Development Code Amendments –File DCA-16-003
Medical and Recreational Marijuana**

**Note: Existing text is shown in regular font.
Added text is shown in double-underline
Deleted text is shown in ~~strikethrough~~.**

Section 1. Newberg Development Code, Zoning Use Table, Section 15.305.020 shall be amended to read as follows:

See Exhibit A, Attachment 1

Section 3. Newberg Development Code, Zoning Use Table, Section 15.305.030 shall be amended to read as follows:

See Exhibit A, Attachment 2

Section 4. Newberg Development Code, Stream Corridor Overlay Subdistrict, Section 15.342.110 is amended to read as follows:

15.342.110 Prohibited uses and activities.

The following activities or **uses** are prohibited within this subdistrict:

- A. Except as provided in NMC 15.342.040(R), the planting or propagation of any plant identified as a nuisance plant as determined by a qualified botanist or indicated as a nuisance plant on the Newberg plant list.
- B. The removal of native trees that are greater than six inches in diameter at breast height, except as is otherwise permitted within this chapter.
- C. Any **use** dealing with hazardous substances or materials, including but not limited to gas service stations.
- D. Public pathways, except those in conjunction with public lands, public **parks** or public **easements** that have been acquired by other than eminent domain. [Ord. 2451, 12-2-96. Code 2001 § 151.475.]

E. Recreational Marijuana Producer and Recreational Marijuana Processor.

F. Recreational Marijuana Wholesalers, Laboratories, Research Certificates and Retailers.

G. Recreational Marijuana Dispensaries.

Section 5. Newberg Development Code, Civic Corridor Overlay Subdistrict, Section 15.350.030 is amended to read as follows:

15.350.030 Permitted buildings and uses.

All **uses** permitted in the underlying primary district are permitted within the CC subdistrict except as follows:

A. In addition to the **buildings** and **uses** permitted conditionally in NMC 15.305.020, the **planning commission** may grant a **conditional use permit** for any of the following **buildings** and **uses** in accordance with a Type III procedure:

1. Facilities which exist for the purpose of providing for the temporary care and/or lodging of adult indigent **persons**.

2. **Hospitals**.

B. The following **uses** are prohibited within the CC subdistrict:

1. **Automobile sales**, new and used.

2. Car washes, coin-operated or mechanical.

3. Garages, repair.

4. Service stations. [Amended during 11/13 supplement; Ord. 2561, 4-1-02. Code 2001 § 151.526.3.]

5. Recreational Marijuana Producer and Recreational Marijuana Processor.

6. Recreational Marijuana Wholesalers and Retailers.

7. Medical Marijuana Dispensaries and Wholesalers.

Section 6. Newberg Development Code, Bypass Interchange Overlay, Section 15.356.050 is amended to read as follows:

15.356.050 Prohibited uses.

A. Several commercial types of **uses** are permitted outright or with conditional **use** approval in Newberg's industrial districts (M-1, M-2, and M-3). The area within the Newberg UGB near the Oregon 219 Interchange is generally planned for industrial **use**. To protect the interchange area from commercial development, the following **uses** are prohibited within the M-1, M-2, and M-3 districts within the boundaries of the bypass interchange overlay:

1. **Automobile sales**, new and used.
2. Billboards.
3. Car washes.
4. Convenience grocery stores.
5. **Restaurants** larger than 2,000 square feet or with drive-up service windows.
6. Service stations.
7. Drive-in theaters.
8. Auction sales.
9. Bakeries, retail.
10. **Building** material sales.
11. Driving ranges.
12. Feed and seed stores.
13. Miniature **golf courses**.
14. Skating rinks.
15. Recreational Marijuana Producer and Recreational Marijuana Processor.
16. Recreational Marijuana Wholesalers, Laboratories, Research Certificates and Retailers.
17. Medical Marijuana Dispensaries and Wholesalers.

B. The industrial commercial subdistrict of the M-4 district shall not be applied within the boundaries of the BI overlay. [Ord. [2734](#) § 1 (Exh. B), 3-7-11; Ord. [2708](#) § 2, 12-1-08; Ord. [2602](#), 9-20-04. Code 2001 § 151.531.4.]

Section 7. Newberg Development Code, Interim Industrial Overlay, Section 15.358.030 is amended to read as follows:

15.358.030 Permitted uses.

All **uses** of land and water that are permitted in the underlying zoning district(s) are also permitted in the interim industrial overlay, with the exception of those **uses** listed in NMC 15.358.050. In addition, the following are permitted:

- A. Contractor's equipment or storage.
- B. Construction material storage. [Ord. 2720 § 1(5), 11-2-09. Code 2001 § 151.532.2.]
- C. Recreational Marijuana Producer (indoor).
- D. Recreational Marijuana Wholesalers, Laboratories, Research Certificates.
- E. Medical Marijuana Wholesalers.

Section 8. Newberg Development Code, Interim Industrial Overlay, Section 15.358.050 is amended to read as follows:

15.358.050 Prohibited uses.

The following **uses** are prohibited in the interim industrial overlay:

- A. **Cemeteries.**
- B. Garbage dumps, sanitary landfills.
- C. **Parks.**
- D. Permanent **buildings.**
- E. **Wrecking yards** for motor vehicles, **building** materials, and other similar items. [Ord. 2720 § 1(5), 11-2-09. Code 2001 § 151.532.4.]
- F. Recreational Marijuana Processor.
- G. Recreational Marijuana Retailers.
- H. Medical Marijuana Dispensaries.

Exhibit “B” to Planning Commission Resolution 2016-321

Findings –File DCA-16-003 Medical and Recreational Marijuana

I. Statewide Planning Goals - relevant goals

Goal 1, Citizen Involvement, requires the provision of opportunities for citizens to be involved in all phases of the planning process.

Finding: The City Council initiated the potential development code amendment at a public meeting on July 5, 2016. The Marijuana Subcommittee meet on May 10, 2016 at a public meeting to review potential amendments for place, time and manner regulations for Medical and Recreational Marijuana. The Planning Commission, after proper notice, held a public hearing on August 11, 2016. The City Council will consider the recommendation of the Planning Commission at a future public hearing date, and decide whether or not to adopt the development code amendment. The development code amendment process provides opportunity for public comments throughout the planning process.

Goal 2, Land Use Planning, requires the development of a process and policy framework that acts as a basis for all land use decisions.

Finding: The Medical and Recreational Marijuana proposal is supportive of this goal because it was developed following city procedures for legislative action.

II. Newberg Comprehensive Plan - relevant policies

A. CITIZEN INVOLVEMENT GOAL: To maintain a Citizen Involvement Program that offers citizens the opportunity for involvement in all phases of the planning process.

Finding: The City Council initiated the potential development code amendment at a public meeting on July 5, 2016. The Marijuana Subcommittee meet on May 10, 2016 at a public meeting to review potential amendments for place, time and manner regulations for Medical and Recreational marijuana. The Planning Commission, after proper notice, held a public hearing on August 11, 2016. The City Council will consider the recommendation of the Planning Commission at a future public hearing date, and decide whether or not to adopt the development code amendment. The development code amendment process provides opportunity for public comments throughout the planning process.

B. LAND USE PLANNING GOAL: To maintain an on-going land use planning program to implement statewide and local goals. The program shall be consistent with natural and cultural resources and needs.

Finding: The Medical and Recreational Marijuana proposal is supportive of this goal because it was developed following city procedures for legislative action.

H. THE ECONOMY GOAL: To develop a diverse and stable economic base.

1. General Policies

c. The City will encourage the creation of a diversified employment base, the strengthening of trade centers and the attraction of both capital and labor intensive enterprises.

g. The City shall encourage business and industry to locate within the Newberg City limits.

Finding: The city encourages new businesses to develop within the city. Medical and Recreational Marijuana operations are a legal operation under State law. Allowing Medical and Recreational Marijuana operations as permitted or conditional use as represented in Exhibit A, Attachments 1 and 2 is consistent with this Comprehensive Plan goal.

III. **Conclusion:** The proposed development code amendments meet the applicable requirements of the Statewide Planning Goals, and the Newberg Comprehensive Plan, and should be approved.

Exhibit A, Attachment 1

Chapter
15.305
ZONING
USE

15.305.020 Zoning use table - Use Districts.

Newberg Development Code – Zoning Use Table

#	Use	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-1	M-2	M-3	M-4-I	M-4-C	CF	I	AR	AI	Notes and Special Use Standards
100	AGRICULTURAL USES																			
Def.	Horticulture	P	P	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	
Def.	Livestock and poultry farming	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
Def.	Home gardening	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Def.	Home livestock and poultry raising	S	S															S		NMC Title 6
200	RESIDENTIAL USES																			
Def.	Dwelling, single-family detached	P(2)	P	P(3)		P		C(4)	C(6)								P	P(6)		Subject to density limits of NMC15.405.010(B)
Def.	Dwelling, single-family attached	S(2)	S	S(3)		S		C(4)	C(5)								P	P(6)		NMC15.415.050; subject to density limits of NMC15.405.010(B)
Def.	Manufactured home on individual lot	S(2)	S	S(3)	P(7)	S												P(6)		NMC15.445.050 –15.445.070; subject to density limits of NMC15.405.010(B)
Def.	Manufactured dwelling park		S	S	S															NMC15.445.075 –15.445.160
Def.	Mobile home park		S	S	S															NMC15.445.075 –15.445.160
Def.	Manufactured home subdivision		S		S															NMC15.445.075 –15.445.160
Def.	Dwelling, two-family (duplex)	P(2)	P	P	C	P		C(4)	P(8)/C(5)								P			Subject to density limits of NMC15.405.010(B)
Def.	Dwelling, multifamily	C	P	P	C	P		C(4)	P(8)/C(5)								P			Subject to density limits of NMC15.405.010(B)
Def.	Dwelling, accessory	C	S	S		S											S			Chapter 15.445 NMC, Article V
Def.	Dwelling, mixed use						P(9)	P(10)	P(8)/C(5)	P(11)	C	C								
Def.											P	P	P	C						Limited to one per lot, and allowed whenever the use requires the on-site residence of such person.
Def.	Dwelling, caretaker																			
Def.	Dormitory		C	P		P											P			
Def.	Home occupation (no more than one outside paid employee)	S	S	S(13)	S	S	S(13)	S(13)	S(13)	S(13)	S(13)	S(13)	S(13)	S(13)	S(13)	S(13)	S	S	S(13)	NMC15.415.060
Def.	Home occupation (more than one outside paid employee)	C	C	C(13)	C	C	C(13)	C(13)	C(13)	C(13)	C(13)	C(13)	C(13)	C(13)	C(13)	C(13)	C	C	C(13)	NMC15.415.060
300	INSTITUTIONAL AND PUBLIC USES																			
310	INSTITUTIONAL CARE AND HOUSING																			
Def.	Family child care home	P	P	P(13)	P(13)	P	P(13)	P(13)	P(13)	P(13)							P	P(13)		Chapter 657A ORS
312	Day care	P	P	P	C	P	P	P	P		C	C	C	C	P		P		P(14)	Chapter 657A ORS
Def.	Residential care home (5 or fewer people)	P	P	P(13)	P(13)	P	P(13)	P(13)	P(13)	P(13)							P	P(13)		ORS 197.665
Def.	Residential care facility (6 – 15 people)	C	P	P	C	P		C	C								P			ORS 197.665
315	Group care facility (16+ people)	C	C	C		C		C									P			
316	Hospital	C	C	C		C		P	P								P			
Def.	Prison										C	C	C	C						
320	ASSEMBLY																			
321	Religious institution, place of worship	P	P	P	P	P	P	P	P	P		P(29)				C	P			

[illegible]

[illegible]

Key:

P: Permitted use

S: Special use – Use requires a special use permit

C: Conditional use – Requires a conditional use permit

X: Prohibited use

(#): See notes for limitations

Notes.

- (1) Limited to sites with preexisting agricultural uses, including at time of annexation.
- (2) Limited to one per lot as a permitted use. More than one per lot allowed only through a conditional use permit or planned unit development, subject to density limits of NMC 15.405.010(B).
- (3) Permitted on individual lots created prior to November 17, 1992. Homes on individual lots created on or after November 17, 1992, will only be permitted through the planned unit development process.

- development process.
- (4) The permitted density shall be stated on the conditional use permit.
 - (5) The dwelling units must front onto Hancock or Second Street. No more than 30 percent of a single street frontage of a block may be occupied by residential uses. Contiguous residential street frontage must be less than 60 lineal feet. Density and parking standards for allowable dwelling units must be met.
 - (6) One residence per lot with the addition of a tie-down or hangar for an airplane. At a minimum, a paved tie-down or hangar shall be provided on the property, or the property shall include permanent rights to a private hangar within the subdivision. See Chapter 15.336 NMC.
 - (7) The homes are not subject to the development standards set forth in NMC 15.445.050 through 15.445.070.
 - (8) The units must be located on the same lots as another use permitted or conditionally permitted in the C-3 zone and may not occupy the first floor storefront area (the portion of the building closest to the primary street). There shall be no density limitation. Private parking areas or garages are not required for dwelling units located within buildings in existence prior to and including June 30, 1999. Parking shall be provided for all new dwelling units within any building constructed after June 30, 1999, in private parking areas or garages on the basis of one parking space for each dwelling unit.
 - (9) Permitted on the ground floor, one per lot in conjunction with any other use permitted or conditional use in the C-1 zone. On upper floors, dwelling units are unlimited and one parking space per dwelling unit is required.
 - (10) Permitted above any permitted use in the C-2 zone. There shall be no density limitation. Parking shall be provided in private parking areas or garages on the basis of one parking space for each dwelling unit.
 - (11) Must be located above ground floor commercial uses.
 - (12) One residence of area not more than 40 percent of the area of the hangar floor, up to a maximum of 1,500 square feet, for an airport caretaker or security officer on each separate parcel.
 - (13) Permitted in existing dwelling units only. New dwelling units may not be created for this use unless the dwelling unit would otherwise be allowed.
 - (14) Allowed exclusively for employers or employees of businesses located within this district.
 - (15) Facility over 40,000 square feet gross floor area requires a conditional use permit.
 - (16) Allowed in areas designated in industrial area plans.
 - (17) Limited to facilities owned or operated by a public agency.
 - (18) Parking garages are a conditional use, and must have first floor street frontage of 40 feet or less for ingress or egress. First floor development must be commercial.
 - (19) A conditional use permit is required if the facility is less than 2,000 feet from the nearest telecommunication facility.
 - (20) Businesses in the C-1 zone that have hours of operation between 10:00 p.m. and 7:00 a.m. require a conditional use permit.
 - (21) Drive-up service windows accessory to an existing business on the site with walk-in customer service, such as a drive-up bank window, are allowed only with a conditional use permit. Otherwise, drive-up service windows, except those in service on April 1, 2002, are prohibited. Changes in use will not be allowed.
 - (22) Retail sales of goods on site not allowed.
 - (23) Limited to secondhand stores.
 - (24) Store size is limited to 2,000 square feet gross floor area.
 - (25) Store size is limited to 5,000 square feet gross floor area.
 - (26) Use must demonstrate that it is compatible with airport operations.
 - (27) Limited to service stations.
 - (28) Limited to card lock fueling only. Retail services are limited to self-vending services.
 - (29) Permitted provided the structure is designed for easy conversion to industrial use, including not having fixed seating.
 - (30) Limited to 10,000 square feet maximum floor area.
 - (31) Allowed indoors only.
 - (32) Allowed indoors only. Outdoor use requires a conditional use permit.
 - (33) Must be aviation-related. See Chapter 15.332 NMC.
 - (34) Limited to expansion or change of existing heavy manufacturing uses.
 - (35) Shall not be located at the same address as a state-registered marijuana grow site, or within 1,000 feet of the real property comprising a public park, 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). Distance is measured in a straight line in a radius extending for 1,000 feet or less in any direction from the closest point anywhere on the boundary line of the real property comprising an existing public park, public elementary or secondary school to the closest point of the premises of a dispensary. The premises consist of the dispensary building, or the portion of the building used for a dispensary. Shall not be located within 1,000 feet of another medical marijuana dispensary. Operating hours are limited to the hours between 9:00 a.m. and 8:00 p.m.
 - (36) Allows up to 12 mature plants; indoor operations only.
 - (37) Indoor use only.
 - (38) The use is not allowed within 1,000 feet of the real property comprising a public park, 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). Distance is measured in a straight line in a radius extending for 1,000 feet or less in any direction from the closest point anywhere on the boundary line of the real property comprising an existing public park, public elementary or secondary school or a private or parochial elementary or secondary school to the closest point of the premises of a recreational processor, wholesaler or retailer or medical marijuana processor and wholesaler.
 - (39) 1,000 foot separation between retailer to retailer premises and 1,000 foot separation between retailer to dispensary premises.
 - (40) Operating hours limited to the hours between 9:00 a.m. and 8:00 p.m.

1 Code reviser's note: Section 25 of Ordinance 2763 provides:

SECTION 25: Grace period for previously permitted or conditional uses. Where an applicant demonstrates that a particular use was a permitted or conditional use on a specific property immediately prior to adoption of this ordinance, but that the use is no longer either a permitted or conditional use on that property due to this ordinance, the applicant may establish the use as either a permitted or conditional use, as provided in the prior code, provided the use is legally commenced prior to January 1, 2018.

[illegible]

(#): See notes for limitations

(4) Shall not be located at the same address as a state-registered marijuana grow site, or within 1,000 feet of the real property comprising a public park, 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). Distance is measured in a straight line in a radius extending for 1,000 feet or less in any direction from the closest point anywhere on the boundary line of the real property comprising an existing public park, public elementary or secondary school or a private or parochial elementary or secondary school to the closest point of the premises of a dispensary. The premises consist of the dispensary building, or the portion of the building used for a dispensary. Shall not be located within 1,000 feet of another medical marijuana dispensary. Operating hours are limited to the hours between 9:00 a.m. and 8:00 p.m.

**RESOLUTION No. 2016-3312**

A RESOLUTION INITIATING AN AMENDMENT TO THE NEWBERG MUNICIPAL CODE, TITLE 15 DEVELOPMENT CODE TO RECONCILE PLACE, TIME AND MANNER REGULATIONS FOR MEDICAL MARIJUANA GROWERS, PROCESSORS AND DISPENSARIES; AND RECREATIONAL MARIJUANA WHOLESALERS, LABORATORIES, RESEARCH CERTIFICATES AND RETAILERS

RECITALS:


1. The Oregon Legislature enacted four bills during the 2015 legislative session related to the Oregon Medical Marijuana Act and Measure 91. House Bill (HB) 3400 was the omnibus bill covering recreational marijuana and modifications to the medical marijuana program.
2. On September 8, 2015 the Newberg City Council was provided background information on medical and recreational marijuana at its Work Session. At its Business Session on September 8th the City Council established the Marijuana Subcommittee (Subcommittee) comprised of Councilors Rourke, Bacon and McKinney along with non-voting member Mayor Andrews.
3. The Subcommittee held four meetings. On November 19, 2015 they reviewed the similarities and differences of medical marijuana and recreational marijuana. On December 9, 2015 medical marijuana growers and processors and modifications for dispensaries were reviewed. At the January 12, 2016 meeting they reviewed recreational marijuana producers and processors. On March 3, 2016 the Subcommittee reviewed marijuana taxes and paraphernalia.
4. The Oregon Legislature met in its short session in early 2016 and passed several new bills related to marijuana. These include SB 1601 (Taxes), SB 1511, HB 4014, SB 1598 and HB 4094 (Banking). The State also took prior legislation and incorporated them into ORS 475B – Cannabis Regulation (2015 Edition).
5. The Subcommittee was reformatted after Councilor Rourke's resignation on the City Council and he was replaced with Councilor Patrick Johnson. The Subcommittee met on May 10, 2016 to discuss the new State legislation and what reconciliation needed to occur for land use place, time and manner regulations based on locally adopted ordinances and the ordinance that was pending before the City Council on May 16, 2016.
6. The Subcommittee subsequently passed a motion 3-0 directing staff to create a Request for Council Action to initiate the Development Code amendment process to reconcile Place, Time and Manner Regulations for Medical Marijuana Growers, Processors and Dispensaries; and Recreational Marijuana Wholesalers, Laboratories, Research Certificates and Retailers.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. The City Council initiates an amendment to the Newberg Municipal Code, Title 15 Development Code to reconcile Place, Time and Manner Regulations for Medical Marijuana Growers, Processors and Dispensaries; and Recreational Marijuana Wholesalers, Laboratories, Research Certificates and Retailers. This starts the public process to study the proposed amendments.
2. By initiating this amendment, the council does not commit to taking any specific action on the proposal. It only wishes to give the amendment full consideration in a public hearing.

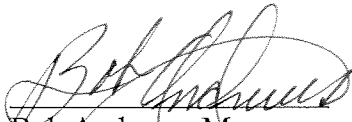
➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: July 6, 2016

ADOPTED by the City Council of the City of Newberg, Oregon, this 5th day of July, 2016.

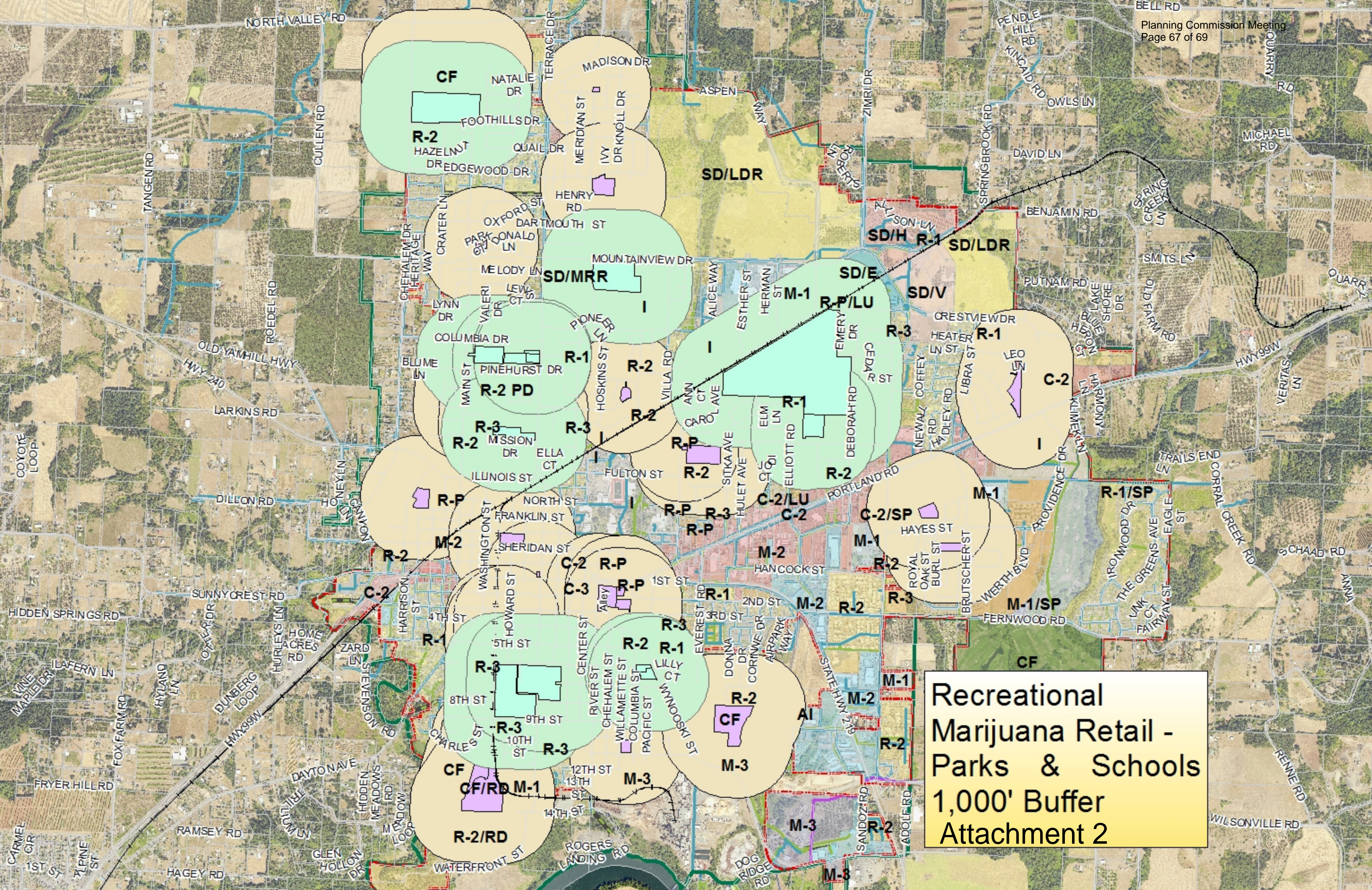


Sue Ryan, City Recorder

ATTEST by the Mayor this 7th day of July, 2016.



Bob Andrews, Mayor





Community Development Department
P.O. Box 970 ▪ 414 E First Street ▪ Newberg, Oregon 97132
503-537-1240 ▪ Fax 503-537-1272 ▪ www.newbergoregon.gov

MEMORANDUM

TO: Newberg Planning Commission
FROM: Doug Rux, Community Development Director
SUBJECT: Anticipated Schedule of Planning Commission Activities
DATE: August 11, 2016

To assist the Planning Commission in gauging activities for 2016, below is a preliminary schedule of actions.

August 11, 2016

- Conditional Use Permit – Accessory Dwelling Unit, Carol Ave.
- Marijuana Regulation Reconciliation

September 8, 2016

- Transportation System Plan Update

October 13, 2016

- Planning Commission Training – Legislative/Quasi-judicial actions (Tentative)
- Land Division Regulations Update (Tentative)

November 10, 2016

- Newberg Downtown Improvement Plan

December 8, 2016

- TBD

There are additional activities the Community Development Department may bring forward to the Planning Commission for consideration. Staff is looking at various updates and cleanup actions to the Development Code such as:

1. Annexation criteria
2. Residential Parking regulations
3. Urban Forestry program
4. Fences in Industrial zones
5. Parking for subdivisions/partitions/design review
6. C-3 zone – reduce front yard landscaping from 10 feet to 5 feet
7. Industrial outdoor storage
8. ADU – for R-2 and R-3
9. Downtown sign point system

10. Vacation home rentals
11. Roof top mechanical unit screening
12. Historic review process
13. Zoning Use Table
14. Undergrounding utilities
15. Driveway width
16. Home occupations
17. 15.405.030B – “The creation” ~~development~~ of lots under 15,000 sf.....
18. 15.302.010 – add R-4 to the list
19. Replace parking diagrams in 15.440.070 for readability
20. Replace airport overlay diagrams in back of Dev. Code for readability
21. Temporary Merchant standards