

A G E N D A 7 - 16

1. **Approval of Minutes:** May 19, 2016 and June 16, 2016

2. **Public Hearing (Quasi Judicial)**

◆ **AP 2-16**

Request: Appeal of the McMinnville Planning Director's June 6, 2016 decision that the property at 807 NW Adams Street is prohibited from use for commercial recreational marijuana retail purposes due to its location within 1,000 feet of a public school facility. This decision was made as part of the Director's review of an Oregon Liquor Control Commission "Land Use Compatibility Statement" (LUCS) form submitted by the applicant to the Planning Department offices on June 3, 2016. Local review of LUCS forms are part of the State's licensing and land use coordination requirements for such proposed marijuana activities.

Location: 807 NW Adams Street, and is more specifically described as Tax Lot 8500, Section 20AA, T. 4 S., R. 4 W., W.M.

Applicant: Coleman Risdon

3. **Old/New Business**

4. **Adjournment**

MINUTES

Members Present: Chair Stassens, Vice Chair Tiedge, Commissioners Chroust-Masin, Geary, Hall, Hillestad, Morgan, and Thomas

Members Absent: None

Staff Present: Mr. Montgomery, Mr. Pomeroy, Mr. Koch, Mr. Bisset, and Ms. Sullivan

1. Approval of Minutes: April 21, 2016

Chair Stassens called the meeting to order at 6:31 p.m., and called for action on the Planning Commission minutes from the April 21, 2016 meeting. Commissioner Morgan MOVED to APPROVE the minutes as presented; SECONDED by Commissioner Geary. Motion PASSED unanimously.

2. Public Hearing (Quasi Judicial)

◆ Docket CU 5-16

Request: Approval of a conditional use permit to allow for the expansion of the existing materials recovery facility by adding: 1) 7,500 square feet for commercial waste drop off and transfer load out ("transfer station"); 2) 6,300 square feet for public waste drop off; and 3) 2,650 square feet for public recycling drop off/drive-through.

Location: The subject site is located at 2200 NE Orchard Avenue, and is more specifically described as a portion of Tax Lot 2500, Section 15, T. 4 S., R. 4 W., W.M.

Applicant: Recology Western Oregon

Chair Stassens called the public hearing to order at 6:36 p.m. and called for abstentions, objections to jurisdiction, and disclosures. Two Planning Commissioners disclosed that they knew the applicant, but that wouldn't affect their decision. All Commissioners noted that they had visited the subject site. There being no abstentions or objections to jurisdiction, Chair Stassens requested the staff report. Planning Director Montgomery referred to his staff report and the application materials that were provided to the Planning Commission prior to the hearing. He noted that three additional items have been received and entered them into the record: an email from Julie Berndt, DEQ dated May 18th; a letter from Kia Sorenson dated May 18th; and, a letter from Ed DeRaeve dated May 17th. Mr. Montgomery stated that staff recommends approval of the application with the conditions provided. He then briefly itemized the conditions of approval.

Chair Stassens asked if the Commissioners had any questions of staff.

Commissioner Geary asked, regarding Condition 11, how the applicant would pay all SDC fees at the time of "submittal"; wouldn't they be collected at the time of "issuance" of the building permit?

Mr. Montgomery stated that staff would have no issue with changing the word submittal to issuance of building permits.

Commissioner Morgan stated that he had a question regarding condition no. 9; Commissioner Hillestad indicated that he had questions regarding condition nos. 6, 9, 10, and 14.

City Attorney David Koch advised the Commissioners to listen to the applicant's testimony, and any testimony received in favor of or opposition of the application before offering any suggestions or revisions to satisfy the concerns of the conditions of approval.

Chair Stassens asked the applicant to describe the request and the proposal.

Mike Robinson, attorney with Perkins Coie, and the applicant's representative, introduced Fred Stemmler, General Manager for Recology Western Oregon.

Fred Stemmler responded to some of the initial concerns and comments expressed by the Planning Commission. He stated that in terms of litter control, the facility and expansion is completely enclosed, which limits the amount of litter outside the facility. In addition, they currently have daily walk-arounds to remove litter. In regards to the expansion, he stated there are several limitations on the facility based on community meetings and discussions. Mr. Stemmler addressed the concerns of odors and stated that they did a walk through with neighbors at the current facility and their facility in Astoria to show that odors are limited and wouldn't be an impact to the community at this proposed location.

Mr. Robinson brought to the Planning Commission's attention the site plan for the facility (Exhibit 4) as it exists and as proposed for expansion. He also referenced Exhibits 13 and 14, Department of Environmental Quality (DEQ) permits and inspection reports, respectively.

Mr. Robinson introduced Mark Butorac, traffic engineer with Kittleson & Associates, George Drake Civil Engineer, and Amy Lecoch, Environmental Specialist. They are in attendance to answer any questions related to their field of expertise.

Mr. Robinson stated that he and the applicant have reviewed the staff report and the recommended conditionals of approval, and they agree with the findings in the staff report and the conditions of approval.

Mr. Stemmler explained that the goal of this proposal is to divert more waste from the landfill. It is his opinion that this facility would create a long term solution for the area's waste, and allow for new innovative recycling and diversion practices, including bulk handling through both manual and automated systems; thereby creating less waste and more recycling.

Mr. Robinson discussed the outreach process used by Recology as part of this application process, which included neighborhood meetings and discussions with surrounding business. The results of these meetings are three letters in support of the facility. He also mentioned the email from Julie Berndt (DEQ).

Mr. Robinson explained how the application meets all the criteria required of a conditional use permit. He feels the use is compatible with the surrounding uses, and has generous setbacks from other developments, and lots of space. Mr. Robinson noted also that the facility is completely enclosed and that "drapes" will help control odor, noise and dust. He stated that the cumulative effect of the conditions is to require a well-run facility that won't have an adverse impact on the neighbors. Mr. Robinson explained that this facility would be regulated not only by the City, but also by the State to assure that it is properly operated.

Mr. Robinson finished the applicant's testimony by thanking the Commission for their time and encouraging them to vote to approve the conditional use permit application, with the conditions of approval recommended by staff.

Commissioner Chroust-Masin spoke about the current local landfill, the possibility of it staying open for another 10-15 years, and asked if the projection of 50,000 tons of waste annually at this facility would still be accurate after the landfill closes

Mr. Stemmler stated that would be hard to project that far in the future. He noted that with the information he's read, the landfill will continue to stay open less than 15 years, even with the expansion.

Chair Stassens asked if other Commissioner's had questions.

Commissioner Hillestad asked about the DEQ standards to protect the wetland and what is being done to prevent surface runoff or pollutants from entering the wetland area.

Mr. Stemmler explained that different methods were used to restrict the amount of run-off and pollutants from entering the wetlands, including filtration systems, retention and settling ponds, and the use of filtration swales to make sure the discharge is clean.

Commissioner Morgan asked of the applicant what percentage of garbage picked up in the service area would go through the sorting process.

Mr. Stemmler stated that 100% would be eligible for processing and sorting before leaving the facility.

Chair Morgan asked for clarification on the drive-thru system to the recycling center.

Mr. Stemmler said that the current recycling center area would remain the same and have the same functionality.

Commissioner Geary asked for clarification of the proposed closure of the north driveway people currently use to access the drop-off site.

Mr. Stemmler said that the north driveway would be closed and a new ingress would be established, allowing for a right turn into the current parking for the recycling drop off area.

Commissioner Morgan asked how often the state inspections occur at the facility.

Amy Lecoche, Group Environmental Manager for Recology's Pacific Northwest Region, stated that DEQ conducts inspections at this facility a minimum of annually. DEQ also performs additional inspections if there have been complaints about the facility.

Commissioner Morgan asked if the type of inspection would change or increase as a result of the expansion.

Ms. Lecoche said that the transfer station and the material recovery facility are similar. She assumes that there are more frequent DEQ inspections as the facility is beginning operations. Ms. Lecoche also stated that she and her staff perform monthly inspections of all Recology facilities to verify compliance with all conditions of land use permits, solid waste permits, and any regulation the facility is required to meet.

Commissioner Geary asked about the current wood recycling operation and its capacity, and if there are plans to expand that.

Mr. Stemmler said he can look into getting that information, but currently the wood is processed through the adjacent compost site and would continue to be processed there.

Commissioner Hillestad asked if there are plans to convert their vehicles to operate on more environmentally-friendly fuels.

Mr. Stemmler explained that the vast majority of vehicles are diesel and the alternative are CNG or LNG, and there are no fueling options in the community that could sustain a sizable fleet, so until the infrastructure changes, there are not a lot of options for change. He mentioned that there are minor improvements with truck efficiency and stated the fleet size would not substantially change.

Commissioner Hillestad asked if there were other options with the wood recycling, for example using the material for fuel.

Mr. Stemmler stated that, generally speaking, the product is turned into hog's fuel.

Commissioner Morgan asked about Recology's Astoria transfer station and the sorting process used there.

Mr. Stemmler said that Astoria has some recycling, but it does not have an active sort system.

Commissioner Chroust-Mason stated that he assumes when Riverbend landfill closes, the garbage will be shipped out of the county, and asked if they have looked at rail as a form of transport.

Mr. Stemmler said that would not be an easy alternative to orchestrate because the restrictions and limitations put on the contract requires the waste move within 48-hours.

Chair Stassens asked for clarification if Buildings "A" and "B" were for collecting waste and processing, and if one was for truck use only.

Mr. Stemmler said that Building "A" is for the commercial drop off and Building "B" is for public drop off.

Chair Stassens asked if there were any other question of the applicant.

There being none, Chair Stassens asked if any members of the audience would like to speak in favor of the application.

Susan Meredith, 14100 SW McCabe Chapel Road, stated she was there on behalf of her neighbor Susan Watkins, who was unable to attend tonight's meeting. Ms. Meredith read a letter written by Ms. Watkins to the Commission.

Marcia Mikesh, 524 SE Hembree Street, spoke in support of the application, stating she thought it was a well thought out design and plan.

Chair Stassens asked if any other members of the audience wanted to speak in favor of the application.

There being none, Chair Stassens asked if anyone wanted to speak in opposition to the proposal.

Ed Gormley stated that he has had a number of meetings with Mr. Stemmler regarding the proposed transfer station. Mr. Gormely stated that one of his concerns is the potential for this facility to produce odors that will impact the surround area. He spoke of the amount of time and money spent to try to develop the adjacent industrial park, and that dumping waste onto concrete within a building is going to smell. Mr. Gormely said that if this application is approved, there should be a stipulation that it not be constructed until the closing of Riverbend Landfill.

Mr. Gormely said that he thinks that the truck traffic will be higher than the numbers in the report by Kittleson. He also said he's not sure how the smell will be contained, unless it is a double containment building. Mr. Gormley spoke of possible increase in rates to customers, and the idea of constructing the transfer station at Riverbend Landfill.

Mr. Gormely asked if there was a requirement for maintaining the landscaping that is required to be installed. He also requested that the applicant patrol the building and Lafayette Avenue to pick up trash.

Chair Stassens wanted to clarify that Mr. Gormley's main concerns are the smell and the extra truck traffic on Lafayette Avenue, which he affirmed.

Doug Hurl, 720 NW Michelbook Ct., said that he agrees with Mr. Gormely that there is going to be the smell and complaints. Mr. Hurl stated that he doesn't think it is in the City's best interest to build the recycle facility and transfer station within the city limits.

Chair Stassens asked if anyone else wished to speak in opposition of the application.

Hearing none, Chair Stassens asked if any person wished to pose questions to the Chair to be addressed by any of the opponents to the application.

There being none, Chair Stassens asked if there were any public agencies that wished to provide testimony.

Mr. Montgomery noted for the record that staff provided opportunity to comment to a number of public agencies and those that responded and their summary comments are in the staff report. He also mentioned the email from the Department of Environmental Quality that was entered into the record earlier this evening.

Chair Stassens asked if the applicant wished to respond to any of the opposing testimony.

Mr. Stemmler clarified that water would not be added to any of the waste. He added that the sort process is what is considered "dry waste", which means it is free of food or decomposing products. He stated that he does not support the idea of moving the transfer station to the landfill site. Mr. Stemmler stated that he took a neighbor of the transfer station to the Astoria site so they could see how a transfer station operates and addresses the issue of odor. He responded to the traffic concern saying he is confident with the report done by Kittleson. Mr. Stemmler then commented on the concern about trash or debris falling out of trucks, stating that the facility operates under strict guidelines and that if a driver sees trash fly out of their truck, they stop and pick it up.

Commissioner Geary asked about the figures referenced with potential cost implications to customers and if that is a worse case scenario.

Mr. Stemmler said that doesn't include the value of the commodities, which is measured at the existing cost of disposal and that the rates change year after year.

Commissioner Morgan asked about the economics of placing the transfer station at the current location as opposed to Riverbend.

Mr. Stemmler stated that he could not comment on that as they are two completely different corporations and ownership and he doesn't have the ability to speculate on that. He stated he's building an addition to an existing structure to complement what is currently operated at the Orchard Avenue location.

Mr. Robinson stated that the purpose of this hearing is to determine if the application met the approval criteria, not whether the facility could be operated at Riverbend. He noted that Mr. Gormley and Mr. Hurl had valid concerns regarding odor and traffic that the applicant has addressed. Mr. Robinson concluded his comments by noting that any odor problem would be handled through the use of "drapes" and that the facility is obligated to operate based on City and State permits.

Chair Stassens asked Mr. Stemmler to verify the route planning for the trucks to take from the facility.

Mr. Stemmler said that the route would depend on the destination of the vehicle, but that most routes would take a right turn from the facility to Riverside Drive.

Chair Stassens asked if other transfer stations are located within an urban setting.

Mr. Stemmler said that both Newberg and Astoria facilities are near urban developemnt. Mr. Stemmler said that they had recently called both cities to see if any complaints have been made about the transfer stations and found that there were none.

Commissioner Morgan asked if the applicant would be comfortable with an added condition that would require a public hearing if there were complaints about the operation of the facility.

Discussion ensued regarding the merits of adding a review condition to the approval.

Mr. Koch stated that the annual community meetings which would be a condition of approval for this application, if approved, could trigger a public review hearing.

Mr. Montgomery also mentioned that as part of the Conditional Use Permit process, any failure to meet the conditions of approval by the applicant may require a review of the application by the Planning Commission.

Chair Stassens asked if there were any other questions for the applicant and if anyone who testified wished to request the hearing be continued.

No one that participated in the hearing requested the hearing be continued, and Mr. Robinson stated the applicant waives the seven day period.

Chair Stassens closed the public hearing at 8:14 pm.

Chair Stassens asked the Commissioners to begin discussion of the applicant's request. Commissioners Chroust-Masin, Geary, and Thomas agreed that the transfer station is needed and that something needs to be done about the waste disposal issue.

Commissioner Hillestad agrees with this plan, but stated he wished to add some amendments to the conditions to make them more objective and therefore easier to enforce.

Commissioner Morgan said he thinks the proposal is good, but he's a little concerned about the potential for odors.

Commissioner Hall stated he is also concerned about the odors, but is in favor of the application.

Vice-Chair Tiedge said he doesn't know what the alternative would be and it's mostly McMinnville's garbage. He also believes that you will be able to smell the odor and stated that he's consistently cautious of rewriting conditions or mediating at the commission level. Mr. Tiedge said he does support the application and conditions presented by staff.

Chair Stassens commended the applicant and staff for the work put into the application and that she supports the application. She said that we as a community have a goal to provide environmentally and economically friendly solutions for disposing of waste, and this proposal would move us in that direction.

Chair Stassens asked if there would be support to change any of the conditions.

Chair Stassens noted that an amendment to Condition No. 11 has already been proposed to change the word "submittal" to "**issuance.**"

Commissioner Hillestad proposed the phrase "**at least twice daily**" be added to Condition No. 6, in regards to the litter issue. The proposed amendment was not supported by the other Commissioners.

Commissioner Hillestad requested that the word "**current**" be placed before "Recology" in Condition No. 9 so that if the service area expanded, Recology would have to submit a new request to the Planning Commission.

Discussion ensued regarding this proposed amendment, following which was not supported by the other Commissioners.

Commissioner Hillestad proposed Condition No. 10 be amended by adding that "**The vehicle access doors and currents should be kept closed, except briefly to allow vehicles access as they arrive or exit.**" The Commission agreed with the amendment as proposed.

Finally, Commission Hillestad proposed to amend Condition No. 14 to require a person be available at all times to respond to complaints.

Discussion ensued as to the meaning and availability of being able to speak with staff person at any time of the day. Mr. Montgomery noted that a person would have access to a number they can call and register complaints, via text message, voicemail, or post to a website and that someone would respond the next day. He said there is also a place to register complaints with DEQ.

Following this discussion, the Commission agreed to not make changes to Condition No. 10.

Commissioner Hall MOVED, based on the findings of fact, the conclusionary findings for approval, and materials submitted by the applicant to APPROVE CU 5-16 subject to the conditions as noted in the staff report and amended as follows:

- Condition No. 9 - replace west of Grand Ronde and east of Grand Island with **east** and **west** respectively.
- Condition No 10 - add "e" to read as follows: "**The vehicle access doors and curtains shall be kept closed except briefly to allow vehicles to arrive and exit.**"
- Condition No. 11 - replace the word "submittal" with "**issuance.**"


SECONDED by Commissioner Chroust-Masin. The motion passed unanimously.

3. Old / New Business

Planning Director Montgomery stated that he had three brief items to share with the Commission: 1) That the Council had appointed Nanette Pirisky to replace Amanda Pietz on the Planning Commission; 2) That the next Planning Commission meeting will have one item on the agenda related to the sign amortization clause and its enforcement; and 3) That the Planning Commission action that approved a 20-lot subdivision off Redmond Hill Road was appealed and a public hearing before the City Council will be held on June 28, 2016.

4. Adjournment

Commissioner Chroust-Masin MOVED to adjourn the meeting; SECONDED by Commissioner Geary. Motion PASSED unanimously and Chair Stassens adjourned the meeting at 8:50 p.m.



Doug Montgomery
Secretary

MINUTES

Members Present: Chair Stassens; Commissioners, Chroust-Masin, Hall, Hillestad, Morgan, Pirisky, and Thomas

Members Absent: Commissioners Geary and Tiedge

Staff Present: Mr. Koch, Mr. Montgomery, Mr. Pomeroy, and Ms. Sullivan

Chair Stassens called the work session to order at 6:32 p.m.

1. Work Session

- ◆ For the purpose of receiving training in land use and public hearing laws and procedures.

City Attorney David Koch briefly explained the purpose of the work session. He stated that all of the City's governing bodies will be going through a series of refresher trainings and best practices related to a variety of subjects.

Mr. Koch explained that the training material for this work session would include: public meeting laws; ethics laws; conflicts of interest; and, public hearing process.

Mr. Koch showed a short video, provided by the League of Oregon Cities, on public meeting laws. The video summarized which governing bodies must abide by these laws and what constitutes a public hearing/meeting.

Mr. Koch asked the commissioners if there were any questions; there were none. He then gave an example of a "series" public meeting, noting a Circuit Court case in Lane County where public officials met individually outside a public meeting to discuss topics that were later determined by the court to be part of a public meeting. He stressed that no matters that could be heard during a public meeting should be discussed outside of that meeting, even if speaking individually with another city official.

Continued discussion occurred regarding the public meetings, prior discussion with staff and the recommendations within staff reports, and other examples of how to handle various situations.

Mr. Koch played another video, also provided by the League of Oregon Cities, on the subject of conflicts of interest, outlining what conflicts of interest are and how to respond to them. The video explained that a conflict of interest usually involves money in the context of "financial gain" or "avoiding financial detriment." The video also highlighted

that conflict of interest includes you, your family, and any business associated with you, with the exception of a non-profit.

Mr. Koch asked if there were any questions.

Some discussion then occurred with examples given of potential conflicts of interest and how/when the commissioner should declare a conflict of interest. Mr. Koch explained that if there is an actual conflict of interest, the commissioner should declare such, then excuse themselves to sit in the audience while the matter is being heard. Mr. Koch then explained the "rule of necessity" and gave an example of when that would be required.

Mr. Koch then handed out a printed presentation regarding types of land use hearings and what procedures to follow when making decisions. There was discussion on these individual topics specific to interpretations of criteria, declaring additional information observed during a site visit, and adding additional conditions of approval to an application.

Mr. Koch then explained the remaining procedural rights. For example, being impartial and unbiased, conflicts of interest, continuance or holding the record open, final rebuttal, and the 120-day rule.

There was a brief discussion on the difference between holding the record open and continuing a hearing and what happens if the 120-day rule passes without a decision being made. Mr. Koch stated that if the final decision is not reached within 120 days, the applicant has the right to file a "writ of mandamus," which is filed in Circuit Court. Once there, the court is mandated to grant approval unless there would be a clear violation of the zoning ordinance or comprehensive plan.

2. Old/New Business

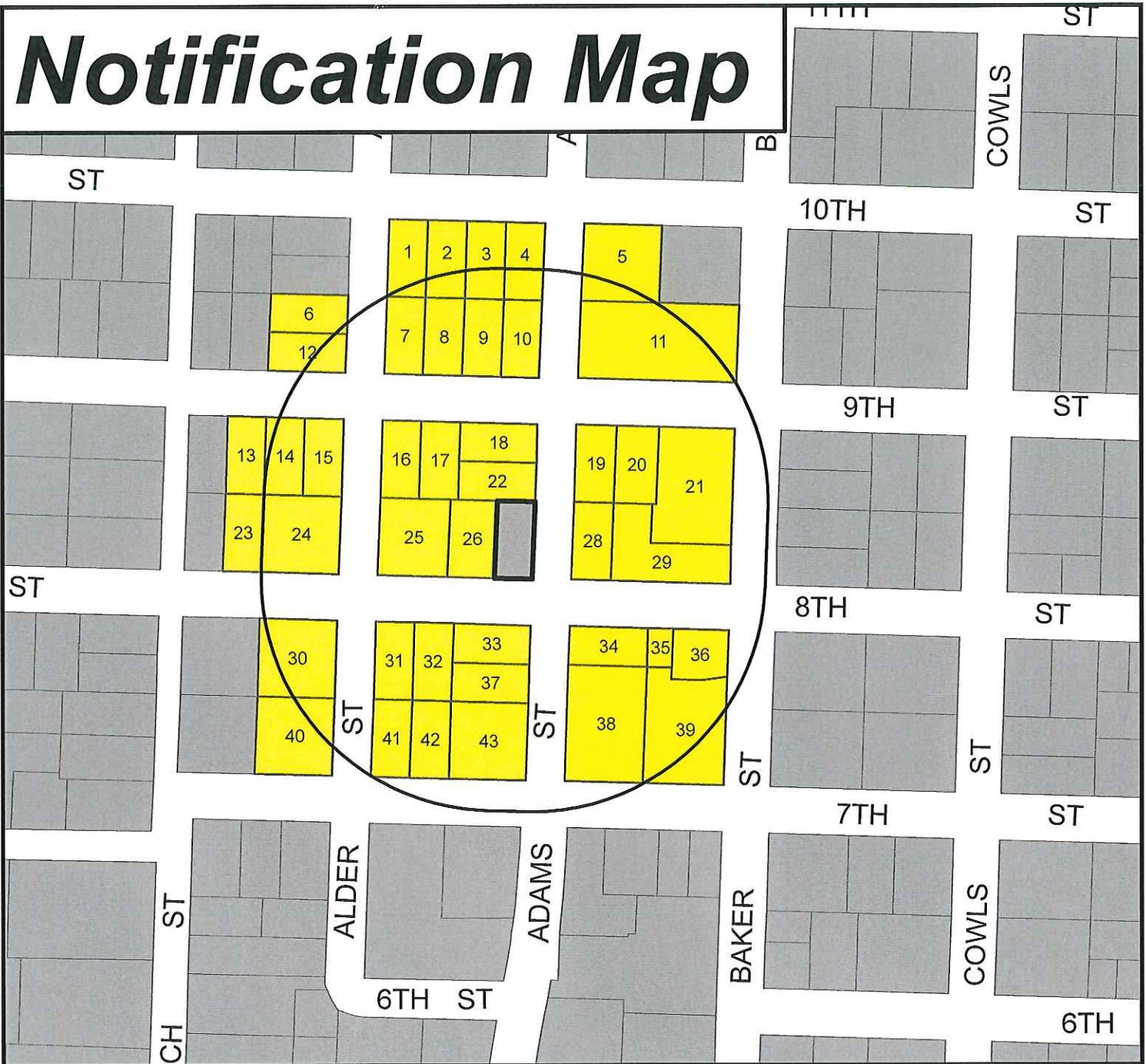
Mr. Montgomery informed the Commission that there would be two items before the commission at their July 21st meeting. He briefly explained the conditional use permit application for an orchard at an established church, and the appeal of the denial of a Land Use Compatibility Statement (LUCS) form for a proposed recreational marijuana sales establishment.

3. Adjournment

Commissioner Morgan **MOVED** to adjourn the meeting; **SECONDED** by Commissioner Chroust-Masin. The motion **PASSED** unanimously. Chair Stassens **ADJOURNED** the meeting at 8:40 p.m.


Secretary

Notification Map



AP 2-16
 Coleman Risdon is appealing the McMinnville Planning Director's June 6, 2016 decision that the property at 807 NW Adams Street is prohibited from use for commercial recreational marijuana retail purposes due to its location within 1,000 feet of a public school facility. This decision was made as part of the Director's review of an Oregon Liquor Control Commission "Land Use Compatibility Statement" (LUCS) form submitted by the applicant to the Planning Department offices on June 3, 2016. Local review of LUCS forms are part of the State's licensing and land use coordination requirements for such proposed marijuana activities.

Recorded Owner:
 Daniel Corrigan
 400 NE 2nd Street
 McMinnville, OR 97128



APPROVED BY: PLANNING COMMISSION
 CITY COUNCIL



ATTESTED TO BY: _____

City of McMinnville
 Planning Department
 231 NE Fifth Street
 McMinnville, OR 97128
 (503) 434-7311

Request: An appeal of the McMinnville Planning Director's June 6, 2016 decision that the property at 807 NW Adams Street is prohibited from use for commercial recreational marijuana retail purposes due to its location within 1,000 feet of a public school facility. This decision was made as part of the Director's review of an Oregon Liquor Control Commission "Land Use Compatibility Statement" (LUCS) form submitted by the applicant to the Planning Department offices on June 3, 2016. Local review of LUCS forms are part of the State's licensing and land use coordination requirements for such proposed marijuana activities.

Location: 807 NW Adams Street, and more specifically described as Tax Lot 8500, Section 20AA, T. 4 S., R. 4 W., W.M.

Applicant: Coleman Risdon

EXHIBITS

1. Staff Report and Findings of Fact
2. AP 2-16 and Fact Sheet
3. OLCC Land Use Compatibility Statement submitted by applicant
4. Chapter 17.64 (Marijuana Related Activities) from McMinnville Zoning Ordinance
5. Public school facility "buffer" map prepared by City staff
6. Public school facility "buffer" map from Oregon Health Administration website
7. Email correspondence from McMinnville School District 40 representatives
 - a. Mary Alice Russell, School District Superintendent
 - b. Dr. Kris Olson, McMinnville High School Principal
 - c. Tony Vicknair, McMinnville High School Vice-Principal
8. Email correspondence from Amanda Borup, OLCC, dated June 6, 2016
9. Email correspondence between City Manager and OLCC staff, dated May 3, 2016
10. Vicinity Sketch
11. Affidavit of Publication
12. List of property owners to whom notice was sent
13. Referrals

SUBJECT SITE

The subject site measures 50 feet by 100 feet and is located at the northwest corner of Eighth and Adams Streets. On this topographically flat site is situated a mostly one-story (two story addition exists on the southwest portion of building), wood-frame commercial building. Paved parking areas are located to the building's north and south sides.

The subject property, and those immediately surrounding it, are zoned C-3 (General Commercial). To the north, east and south are located commercial office buildings, and to the west is a vacant lot.

OBSERVATIONS

- On Friday, June 3, 2016, the appellant submitted to the McMinnville Planning Department office an Oregon Liquor Control Commission (OLCC) "Land Use Compatibility Statement" (LUCS) form seeking the City's review and finding that the property at 807 NW Adams Street would allow for the operation of a proposed commercial recreational marijuana retail facility. A copy of the LUCS form submitted to the Planning Department office is attached to this staff report for the Commission's review (see Exhibit 3).
- By way of background, LUCS forms are used by state agencies and local governments to determine whether a land use proposal is consistent with a local government's comprehensive plan and land use regulations. These forms are required by state agencies for a variety of land use activities, to include solid waste composting facilities, wastewater facilities, activities impacting water or air quality, and, as in this case, for certain marijuana related activities.
- The OLCC's LUCS form is two-pages in length and consists of two sections. The first section is to be completed by the applicant and requires responses to questions regarding the applicant's name, mailing address, proposed address of the facility, and type of use proposed. A site plan is also required. Section two of the form is for the local government to complete and requires responses to the site's location relative to the city's urban growth boundary, the property's zoning, and, most importantly, whether the proposed activity is prohibited or not prohibited by local land use regulation. This section also provides for the reviewing official's signature, title, and contact information.
- On December 22, 2015, the McMinnville City Council took action to adopt Ordinance No. 5000, which amended the zoning ordinance by adding a new chapter (17.64) providing regulations for state licensed marijuana related activities. Specific to this appeal, Section 17.64.040 (Performance Standards) requires that medical marijuana dispensaries and/or commercial recreational facilities not be located within 1,000 feet of public, private or parochial elementary or secondary schools.
- Planning staff reviewed and took action on the submitted form on Monday, June 6, 2016. As part of that review, staff completed and corrected certain information offered by the applicant in Section 1. More importantly, staff found that, according to our mapping, the location for the proposed commercial recreational marijuana retail business is within 1,000 feet of a public school facility (tennis courts at 12th and Cows). As such, and consistent with the requirements of Section 17.64.040 (A) (6) (a), staff found that this use is prohibited at the proposed location and so noted this fact on the LUCS form.

- Because of this finding, staff contacted the applicant to schedule a meeting at which this could be discussed and the completed form returned. In addition to the applicant and Planning Director, also invited to participate in this meeting were the City Manager, City Attorney, and Police Chief. The initial meeting was scheduled for the afternoon of June 7th, but the applicant was unable to make the scheduled appointment due to an unforeseen conflict in his schedule. The meeting was then rescheduled for June 13th, but the applicant failed to show. As such, and not wanting to delay this process further, staff forwarded the completed form by email to the applicant that same day, and provided a hard copy by mail.
- An appeal of the Planning Director's decision regarding the LUCS form and applicant's proposed location was submitted to the Planning Department on June 15, 2016. A copy of his appeal is attached for the Commission's review. In summary, the appellant argues that the tennis courts at 12th and Cows Street should not be considered a public school facility as, according to him, they are used only for after school activities and not for other physical education or instruction purposes.
- In the course of reviewing the LUCS form submitted by the applicant, staff took note of prior correspondence, analysis, and direction from the Oregon Health Authority (OHA) and McMinnville City Council that occurred as part of this applicant's separate and earlier submittal to OHA for the licensing of a medical marijuana dispensary at this same location. Specifically, staff noted the following:
 - On April 27, 2016, Dr. Kris Olsen, the Principal of McMinnville High School at that time (since retired), stated that with the remodel of the high school in 2006, eight of their on-campus tennis courts were removed in order to provide for off-street parking necessary to support their expansion. In place of those courts, the courts at 12th and Cows were refurbished for use by high school students.
 - Dr. Olsen added that education classes are conducted at the courts in the months of September, October, early November, and in the spring. The classes held there are part of their racket sports unit. According to him, the courts are not used daily, but are used regularly to accommodate the four or five classes held each unit. In addition, tennis practice and tournaments are held at these courts from mid March to June.
 - In an email dated May 2, 2016, the current McMinnville High School Principal, Tony Vicknair, offered further detail regarding the courts' use. Specifically, during the fall and spring, fitness courses plan tennis units that last four weeks each semester (eight weeks total), and classes are held nearly every period during that time. In addition, starting the 2nd week of March, the high school tennis teams practice every afternoon, from 3:30pm to 6pm.
 - Dr. Maryalice Russell, McMinnville School District Superintendant, in an email to OHA staff dated March 28, 2016, confirmed that the tennis courts are school district property. Further, she noted that the property is used for athletic competition and physical education classes and instructional purposes by the district.

- The OHA website provides a "School Footprint Buffer Area" map on which is shown the McMinnville School District tennis courts at 12th and Cowls Streets and its associated 1,000 foot buffer. This map can be accessed at the following link:

http://navigator.state.or.us/apps/schools_locator/index.html

- For purposes of determining whether the tennis courts are considered a public school facility, the Oregon Health Administration and Oregon Liquor Control Commission rely upon the administrative rule text provided below. As such, the State will consider a location to be a school if it has at least the following characteristics:
 1. Is a public or private elementary or secondary school;
 2. There is a building or physical space where students gather together for education purposes on a regular basis;
 3. A curriculum is provided;
 4. Attendance is compulsory under ORS 339.020 or children are being taught as described in ORS 330.030(1)(a); and
 5. Individuals are present to teach or guide student education.

Further background on this issue can be found in an email exchange between the McMinnville City Manager and OLCC staff (see Exhibit 9).

- A map depicting the subject property at 8th and Adams Streets and its relationship to the School District tennis courts is provided for the Planning Commission's reference. As shown, the subject property is within 1,000 feet of the tennis courts. The appellant does not appear to take issue with staff's finding that the subject property is within 1,000 feet of the tennis courts.
- Notice of this request was mailed to property owners located within 300 feet of the subject site. As of the date this report was written, the department had not received any responses from those so notified.
- The findings of fact and conclusionary findings are attached to this report as Exhibit "A" and are, by this reference, incorporated herein.

RECOMMENDATION

As described in the preceding observations, staff's review of the appellant's LUCS form found that the property at 807 NW Adams Street is within 1,000 feet of a public school facility. This conclusion was derived primarily from information provided by the McMinnville School District, OHA, and our own mapping analysis. Because the City's ordinances prohibit commercial recreational marijuana retail facilities from locating in such proximity to schools, staff noted on the LUCS form that this proposed land use at this location is prohibited.

MOTION

The Planning Department recommends the Commission make the following motion for denial:

THAT BASED ON THE FINDINGS OF FACT, THE CONCLUSIONARY FINDINGS, AND THE MATERIALS SUBMITTED BY THE APPLICANT, THE PLANNING COMMISSION DENIES AP 2-16.

RP:sjs

EXHIBIT "A"
DOCKET AP 2-16
FINDINGS OF FACT AND CONCLUSIONARY FINDINGS

1. Coleman Risdon is proposing to establish a commercial recreational marijuana business within a building located at 807 NW Adams Street. The property is further described as Tax Lot 8500, Section 20AA, T. 4 S., R. 4 W., W.M.
2. As part of that process, the Oregon Liquor Control Commission administrative rules require the submittal of a Land Use Compatibility Statement (LUCS) to the City of McMinnville for their review and determination that this location and proposed use are consistent with the City's comprehensive plan and implementing ordinances. This form was submitted to the McMinnville Planning Department on Friday, June 3, 2016.
3. Planning Department staff conducted their review of the submitted LUCS form on June 6, 2016. As part of that review, staff determined that the subject property is designated on the comprehensive plan map as "Commercial," and C-3 (General Commercial) on the adopted zoning map. Based upon GIS data, staff determined that the subject property is located within 1,000 feet of a McMinnville School District property (i.e., the School District tennis court facility generally located at 12th and Cows Streets).
4. In accordance with Section 17.64.040(A)(6)(a), commercial recreational retail facilities may not be located within 1,000 feet of a public, private, or parochial elementary or secondary school.
5. Based upon the above findings, the Planning Director concluded that the proposed use is prohibited at this location and noted as such on the State's LUCS form. The form was signed and dated June 6, 2016, and copies of the completed form were emailed and mailed to the applicant on June 13, 2016. Mr. Risdon filed an appeal of this decision with the Planning Department office on June 15, 2016.
6. Consistent with the requirements for an appeal of a Planning Director decision, notice of this hearing was mailed to property owners located within 300 feet of the subject property on June 28, 2016. As of the date of this hearing, no comments had been received by the Planning Department.
7. This matter was also referred to the following public agencies for comment: McMinnville Fire Department, Engineering, Building and Parks Departments; McMinnville Public Works Department; City Manager and City Attorney; McMinnville School District No. 40; McMinnville Water and Light Department; Yamhill County Public Works; Yamhill County Planning Department; Wastewater Services; McMinnville Police Department; Frontier Communications; Comcast; and, Northwest Natural Gas. As of the date of this report, no concerns or comments have been received from those agencies noted above.

8. Based upon the testimony received and findings noted above, the Planning Commission finds that the proposed use is prohibited at this location. As such, the Commission denies the applicant's appeal.

RP:sjs



Planning Department
 231 NE Fifth Street ◦ McMinnville, OR 97128
 (503) 434-7311 Office ◦ (503) 474-4955 Fax
www.mcminnvilleoregon.gov

Office Use Only:	
File No.	AP 2-16
Date Received	4/15/16
Fee	200.00
Receipt No.	1600114
Received by	

Appeal Application

Applicant Information

Applicant is: Property Owner Contract Buyer Option Holder Agent Other Leasor of property Business Owner
 Provided testimony prior to this appeal

Applicant Name Coleman Risdan Phone 805 263 9190

Contact Name _____ Phone _____
 (If different than above)

Address 807 NW Adams St.

City, State, Zip McMinnville, OR, 97128

Contact Email colemanrisdan@gmail.com

Original Application Information

File No.: _____ Review Body: _____

Decision: _____ Date of Decision: _____

Date Decision Mailed: _____ Appeal Date Deadline: _____

Description of Original Application Request: _____

Appeal of a decision made by the following review body is requested:

- PLANNING DIRECTOR (See Section 17.72.170 (Appeal from Ruling of Planning Director) of the Zoning Ordinance for further information.)
- PLANNING COMMISSION (See Section 17.72.180 (Appeal from Ruling of Planning Commission) of the Zoning Ordinance for further information.)

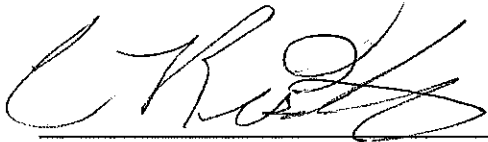
Please state in detail the basis for and issues raised in this appeal. You must identify the criteria and findings that you are appealing. Attach additional sheets as necessary.

I am appealing the OLC's zoning document "Land Use Compatibility Statement (LUCS) be denied, Not Permitted, base on a recent boundary around the Couls, St tennis courts. I am also appealing the decision to install a boundary around the Couls St tennis courts. The information and usage that the MAC High School actually uses this property for school activity is not consistant with what the Director of the Planning Dept. indicator as well as what the City Manager indicates. There is no PE classes for Tennis available or advertised on the MAC High School Curriculum, there is only Boys & Girls varsity Tennis which is an after school activity that rarely utilizes the Couls St tennis facilities. The City mar. indicates that tennis is taught as a PE class every period, everyday. This would classify tennis as a PE class, which is not. In addition, there are never any tennis instruction - classes - curriculum that takes place during the normal school day at the Couls St Tennis Courts. I have personally monitored the usage and activity that has take place at the tennis Courts from March through June, and it is 100% non-existent during the school day. The MAC High School Athletic Director as well as many other knowledgeable personnel from the MAC High School Staff, City officials, and residents have all confirmed that the only activity that occurs is occasional volunteer practices and occasional

In addition to this completed application, the applicant must provide the following: tournament support.

Payment of the applicable review fee, which can be found on the Planning Department web page.

I certify the statements contained herein, along with the evidence submitted, are in all respects true and are correct to the best of my knowledge and belief.



Appellant's Signature

15 Aug 2016

Date



OREGON LIQUOR CONTROL COMMISSION REQUEST Land Use Compatibility Statement

CITY/COUNTY USE ONLY
Date delivered by license applicant:
JUN 3 2016
Received by (print): **Planning Department**
Sch J. Sullivan
Initials: **SR**

What is a land use compatibility statement (LUCS)? The LUCS is a form used by a state agency and local government to determine whether a land use proposal is consistent with local government's comprehensive plan and land use regulations.

Why is a LUCS required? OLCC and other state agencies with permitting or approval activities that affect land use are required by Oregon law to be consistent with local comprehensive plans and to have a process for determining consistency. Section 34(4)(a) of 2015 Oregon Laws, Chapter 614, requires OLCC to request and obtain the LUCS and have a positive LUCS prior to issuing a license.

When is a LUCS required? A LUCS is required for all proposed marijuana facilities before an OLCC license can be obtained.

How to complete a LUCS:

- **Step 1: Applicant** completes Section 1 of this form and submits it to the appropriate city or county planning office. Applicant verifies with local jurisdiction whether additional forms, applications, or permits are required.
- **Step 2: Local jurisdiction** completes Section 2 of this form indicating whether the proposed use is compatible with the acknowledged comprehensive plan and land use regulations and returns signed and dated form to the applicant.
 - Applicant completes payment to local jurisdiction for processing application.
 - Local jurisdictions are NOT required to begin processing LUCS forms until **January 4, 2016 at 8:30 AM**.
- **Step 3: Applicant** submits this date-stamped form and any supporting information provided by the city or county to the OLCC with the license application. This form may be submitted while Section 2 is in process with the local governing body.

Section 2 - To Be Completed by Applicant

Applicant Name: Coleman Risdon Phone: 805-263-9190

Mailing Address: 807 NW Adams Street Rm/Ste:

City: McMinnville State: *OR* ZIP: 97128

Site plan of the subject property and proposed development attached? (required)

Proposed Premises Address: 807 NW Adams Street Rm/Ste:

City: McMinnville County: YAMHILL ZIP: 97128

Tax Lot #: 8500 Range/Section*: RA / 200A Latitude:

Township*: T.4 Map*: RA200A Longitude:

Proposed use/permit type sought (A separate LUCS may be necessary for each proposed use even if it is on the same property):

- Producer Wholesaler Processor Retailer Laboratory Research Certificate
- Note indoor or outdoor below List endorsements below

Details of proposed use (note any attachments):
Medical and Recreational Marijuana Dispensary

Site Location:

- Inside city limits Inside UGB Outside UGB

Name of Jurisdiction:

CITY OF McMINNVILLE

Property Zoning of Proposed Premises:

C-3 (GENERAL COMMERCIAL)

- The proposed land use has been reviewed and **is prohibited.**
 The proposed land use has been reviewed and **is not prohibited.**

If the proposed land use is allowable only as a conditional use, permits are required as noted below.

Comments:

Empty box for comments.

Name of Reviewing Local Official (print):

DOUG MONTGOMERY

Title:

PLANNING DIRECTOR

Date:

JUNE 6, 2016

Email:

MONTGDD@CI.MCMINNVILLE.ORG.US

Phone:

(503) 434-7311

Signature:

Doug Montgomery

Check this box if there are attachments to this form:

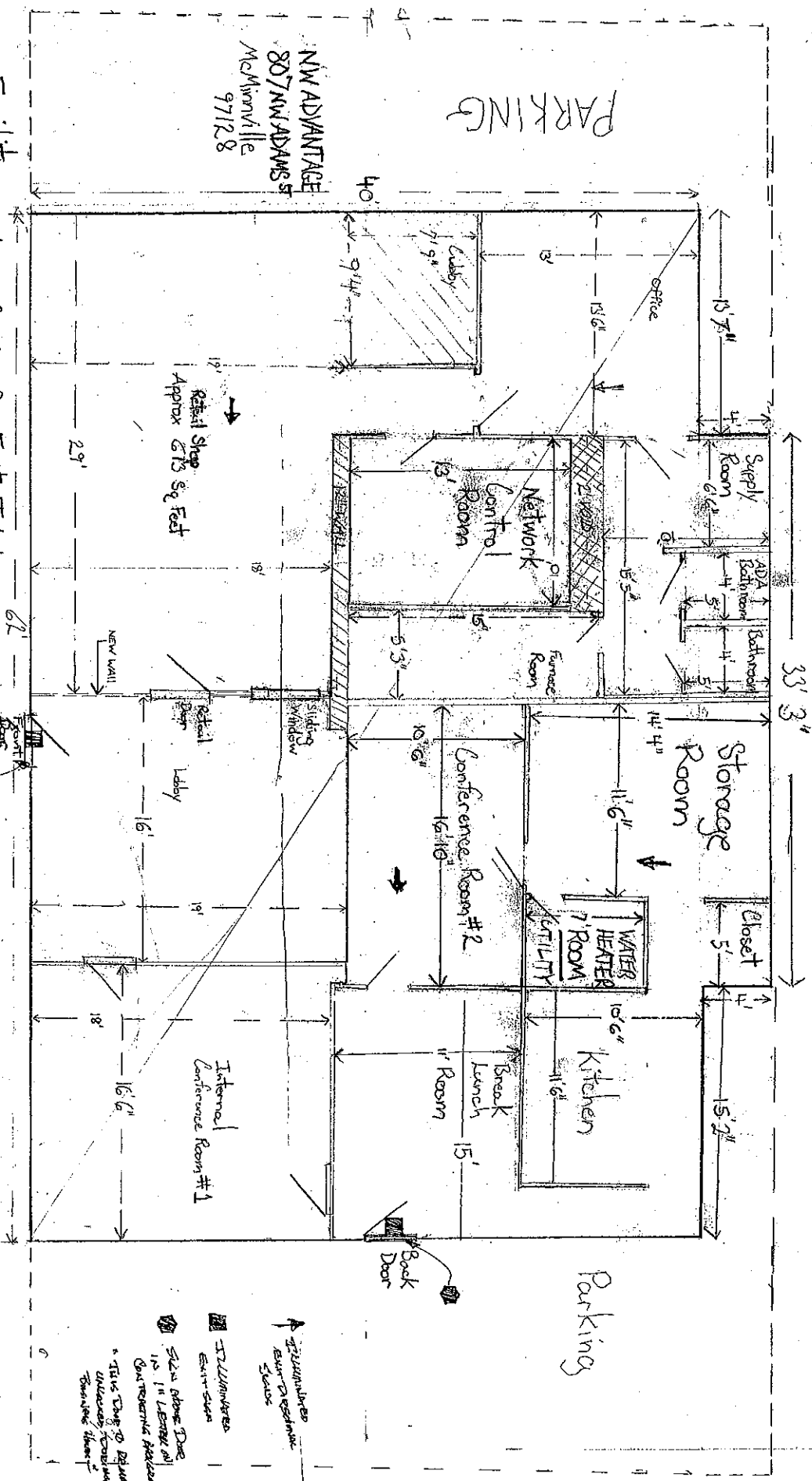
REMINDER: Local jurisdictions are NOT required to begin processing LUCS forms until January 4, 2016 at 8:30 AM

NW ADVANTAGE
807 NW ADAMS ST
McMinnville
97128

PARKING

Facility = Approx 2,650 Sq Feet Total
Single Story

1/4" SCALE



NOTE: (Copper) -
Thermostats should
be 1/2" minimum

RECEIVED
JAN 08 2015
COMMUNITY CENTER

- ▶ ILLUMINATED EXTERIOR RESIDENTIAL SCALE
- ILLUMINATED EXTERIOR
- SLAB ABOVE DOOR (OUTDOOR) PATIO/COVERED
- * THIS DRAWING IS A GENERAL UNLICENSED DRAWING. CONSULT THE ARCHITECT FOR DETAILS.

Chapter 17.64

MARIJUANA RELATED ACTIVITIES
(as adopted by Ord. 5000, Dec. 22, 2015)

Sections:

17.64.010	Purpose
17.64.020	Applicability
17.64.030	Locations
17.64.040	Performance Standards
17.64.050	Non-conforming Use
17.64.060	Enforcement

17.64.010 Purpose. The purpose of this Chapter is to establish zoning regulations that provide for state licensed medical marijuana and commercial recreational marijuana activities allowed under voter-approved statewide initiatives and subject to other statewide administrative rules. The requirements of this Chapter are intended to be consistent with those regulations and, in some cases, augment them as necessary to provide adequate safeguards to address potential public health, safety and welfare considerations, particularly those associated with the cultivation, processing, and production of marijuana and the detrimental effects such activities may have upon McMinnville citizens and neighborhoods.

17.64.020 Applicability.

- A. The requirements of this Chapter shall apply to the following state licensed uses or activities:
1. Medical marijuana dispensaries;
 2. Medical marijuana processing activities;
 3. Medical marijuana production activities;
 4. Commercial marijuana retail activities;
 5. Commercial marijuana wholesale activities;
 6. Commercial marijuana processing activities; and
 7. Commercial marijuana production activities.
- B. Where existing planned development provisions differ from the standards of this Chapter, the standards of the planned development ordinance shall take precedence.

17.64.030 Locations.

- A. Marijuana activities may locate in the following zones, as described below and as may be required by Section 17.64.040.
1. State licensed medical marijuana dispensary or commercial recreational marijuana retail business shall be located only on lands zoned C-1 or C-3.

2. State licensed medical marijuana processing or production, or commercial recreational marijuana processing or production shall be located only on lands zoned M-1 or M-2.
3. State licensed commercial marijuana wholesale use shall be located only on lands zoned L-M, M-1, or M-2.

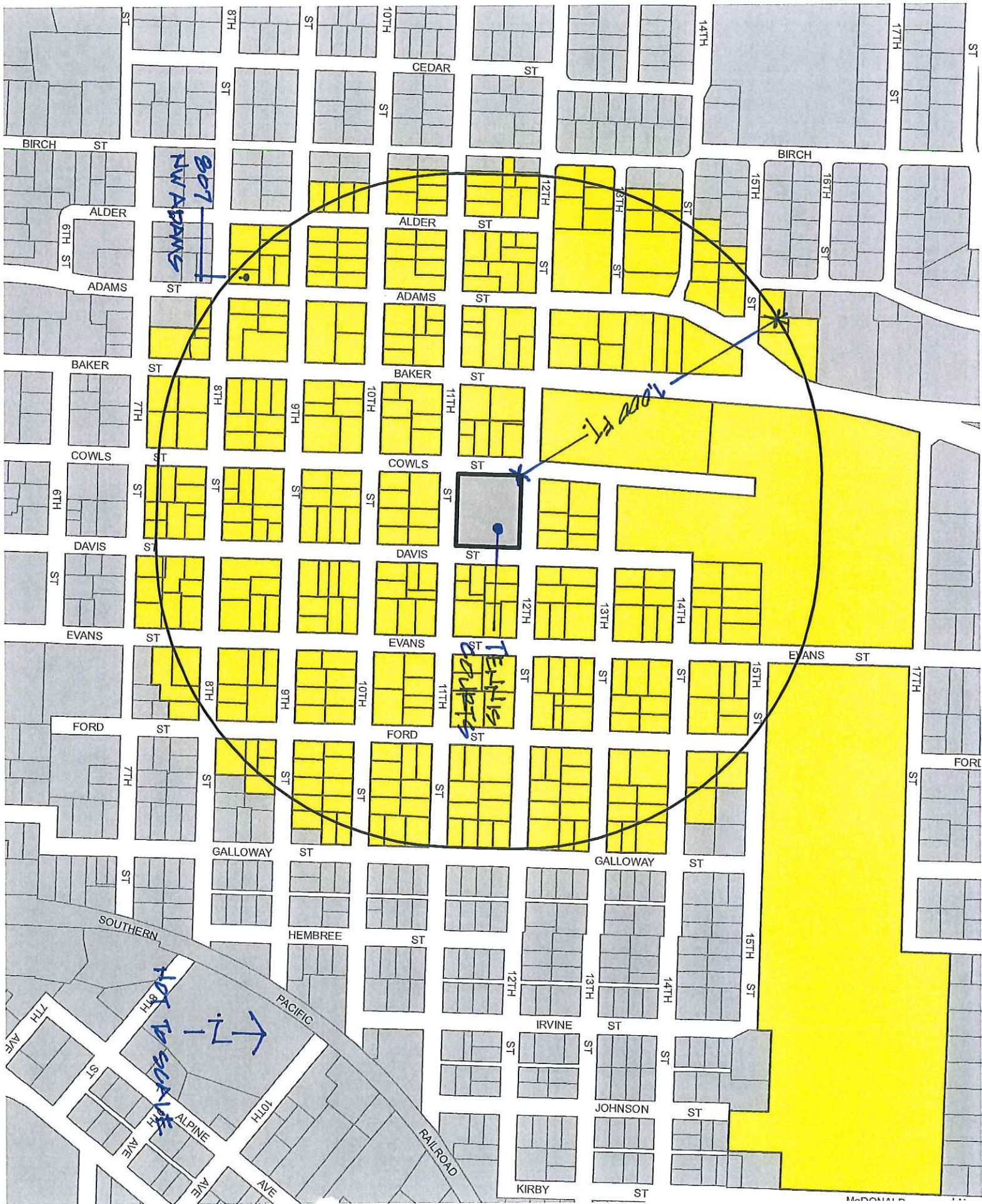
17.64.040 Performance Standards.

- A. In addition to other requirements noted in this Chapter, medical marijuana and commercial recreational marijuana activities shall be subject to the following:
1. Medical marijuana dispensaries and commercial recreational marijuana retail businesses may operate between the hours of 9:00am and 9:00pm only.
 2. Any state licensed marijuana activity operating within the city shall be located indoors within a permanent building and may not locate in a trailer, cargo container or motor vehicle. Outdoor storage of any merchandise, plants, or other marijuana activity related materials is not allowed. Further, no drive-through facilities or temporary facilities shall be permitted.
 3. There shall be no marijuana, marijuana product, or marijuana paraphernalia visible from the exterior of the building.
 4. Medical marijuana dispensaries may not be located within 1,000 feet of another state licensed dispensary.
 5. Commercial recreational retail businesses may not be located within 1,000 feet of another state licensed commercial recreational retail business.
 6. Medical marijuana dispensaries and/or commercial recreational facilities may not be located within 1,000 feet of the following:
 - a. Public, private or parochial elementary or secondary school.
 - b. McMinnville public library, community center, or aquatic center.
 - c. State licensed preschool.
 7. Commercial marijuana production shall be limited to indoor production and up to Tier II size limits (10,000 square foot maximum canopy).
 8. All sites on which a state licensed marijuana facility is located shall provide landscaping and off-street parking consistent with the requirements of Chapter 17.57 (Landscaping) and Chapter 17.60 (Off-Street Parking) of the zoning ordinance.
 9. Signs for locations on which a state licensed marijuana facility is located shall comply with the applicable provisions of Chapter 17.62 (Signs) of the zoning ordinance.
 10. All other development requirements (e.g., fencing, property setbacks and buffers, solid waste disposal, lighting) shall be as required by the zone in which the marijuana activity is located or otherwise required by the zoning ordinance or applicable planned development ordinance.
 11. The City Building Division will require a proof of license from the State (either OHA or OLCC, as applicable) showing the security plan, waste disposal plan, and all other required improvements prior to release of a final occupancy permit.

12. All other applicable requirements of state law regarding the operation of a state licensed marijuana activity shall apply as they now exist or may be amended.
13. The private growing or cultivation of marijuana for non-commercial personal use, as defined by state law, is not regulated by this chapter.

17.64.050 Non-conforming Use. A marijuana activity lawfully established prior to the adoption of this ordinance but that is not in compliance with the allowed uses or the standards for those uses as described in this Chapter shall be considered a lawful nonconforming use. The continuation of a lawful nonconforming use is subject to the applicable provisions of Chapter 17.63 (Nonconforming Uses). In addition, any dispensary that offered for sale commercial recreational marijuana as provided by SB 460 (early sales legislation) prior to the adoption of this ordinance but that is not in compliance with the allowed uses or the performance standards for such use as described in this Chapter shall not be permitted to continue such commercial recreational retail sales after December 31, 2016.

17.64.060 Enforcement. Nothing contained herein shall preclude the issuance of citations for violations of this ordinance, either prior to, concurrently with, or after action is commenced to declare a marijuana activity to be unlawful. Marijuana activities found to be in violation of the provisions of this Chapter, or other applicable provisions of this zoning ordinance, are subject to the provisions of Chapter 17.03 (General Provisions).



School Footprint Buffer Areas (1000 Feet)

This is a tool provided for use to help locate schools and dispensaries. There may be schools that are not shown on this map, and only the dispensaries that agreed to allow the Oregon Health Authority to publish their locations are listed. An applicant **cannot and should not** rely on the information provided in this tool as proof that a proposed location is not within 1,000 feet of a school or another dispensary. After you have submitted an application you will be notified by the Oregon Health Authority whether the proposed dispensary meets the criteria for registration. If your locator within 1,000 feet of a school or another dispensary, the Oregon Health Authority will issue you a denial notice that explains your appeal rights. Even if you are issued a registration, if it is determined that a school is located within 1,000 feet, the Oregon Health Authority must revoke your registration.

Legend

- Non-Confidential Medical Marijuana Dispensary 1000ft Buffers
- K-12 School Locations
- K-12 School Footprints
- K-12 School Footprint 1000ft Buffers

Print Layers Basemap Measure Share

McMinnville, Oregon, USA

Map data © OpenStreetMap contributors, CC-BY-SA

Doug Montgomery

From: Doug Montgomery
Sent: Monday, May 02, 2016 9:35 AM
To: Martha Meeker
Cc: David Koch; Ron Pomeroy
Subject: FW: Tennis Courts at 12th & Davis
Attachments: image001.jpg; image001.jpg

Good morning, Martha,

Sharing this email string provided by Tony Vicknair, the current McMinnville High School Principal.

Doug

Doug Montgomery, AICP

Planning Director
City of McMinnville
231 NE 5th Street | McMinnville, OR 97128
(503) 434-7311 | montgod@ci.mcminnville.or.us

From: Tony Vicknair [mailto:TVicknair@msd.k12.or.us]
Sent: Monday, May 02, 2016 9:29 AM
To: Doug Montgomery
Cc: Kris Olsen
Subject: FW: Tennis Courts at 12th & Davis

Doug,

Here is what I sent the state folks in March about the tennis courts.

Tony Vicknair

Secondary Programs Administrator
McMinnville School District
503-565-4205

From: Tony Vicknair
Sent: Tuesday, March 29, 2016 10:29 PM
To: Maryalice Russell
Cc: Kris Olsen
Subject: Re: Tennis Courts at 12th & Davis

During the fall and spring, Fitness courses plan tennis units in which they use Cowls courts. Those units last 4 weeks each semester (8 weeks total) and classes go nearly every period during that time. In addition, starting the 2nd week of March, MHS tennis teams practice every afternoon from 3:30 pm to 6 pm.

Tony Vicknair
Secondary Programs Administrator
McMinnville School District

(503) 565-4205

On Mar 29, 2016, at 5:33 PM, Maryalice Russell <MRussell@msd.k12.or.us> wrote:

Can you send me some additional information (see below)? Thanks.

From: JAQUA Matthew J [<mailto:matthew.j.jaqua@state.or.us>]
Sent: Tuesday, March 29, 2016 2:24 PM
To: Maryalice Russell
Subject: RE: Tennis Courts at 12th & Davis

Ms. Russell;

I apologize for the additional request, but my manager has asked me to provide him with specifics on how when the tennis courts on 12th and Davis are used for instructional purposes.

Since we are likely to deny an application based on a proposed facility's proximity to the courts, we would prefer to specify in the denial letter how frequently PE classes are held at that location. If possible, could you detail how many class sessions in an average school year are conducted on those courts.

We appreciate your assistance with this matter.

Matt Jaqua

Compliance Specialist / Investigator
Public Health Division

matthew.j.jaqua@state.or.us
(971) 673-1225



CONFIDENTIALITY NOTICE

This email may contain information that is privileged, confidential, or otherwise exempt from disclosure under applicable law. If you are not the addressee or it appears from the context or otherwise that you have received this email in error, please advise me immediately by reply email, keep the contents confidential, and immediately delete the message and any attachments from your system.

From: Maryalice Russell [<mailto:MRussell@msd.k12.or.us>]
Sent: Monday, March 28, 2016 11:58 AM
To: JAQUA Matthew J <Matthew.J.JAQUA@dhsosha.state.or.us>
Cc: Ryan McIrvin <RMcIrvin@msd.k12.or.us>; Kris Olsen <KOlsen@msd.k12.or.us>; Peter Keenan <Pkeenana@msd.k12.or.us>; Melanie Martinoff <mmartinoff@msd.k12.or.us>
Subject: Tennis Courts at 12th & Davis

Mr. Matthew,

This email is to confirm that the tennis court at Cows and Davis Street, 11th and 12th is McMinnville school district property. The property is used for athletic competition and physical education classes. The property is used for instructional purposes by the district. Please let me know if you need any additional information. Thank you.

Maryalice Russell
Superintendent

From: JAQUA Matthew J [<mailto:matthew.j.jaqua@state.or.us>]
Sent: Friday, March 11, 2016 11:39 AM
To: Ryan McIrvin
Subject: Tennis Courts at 12th & Davis

Mr. McIrvin;

I am with the Oregon Health Authority Medical Marijuana Dispensary program. You were identified to me as the Athletic Director at McMinnville High School and as such were the best person to help me confirm an important piece of information.

I am looking for written confirmation that the tennis courts bordered by Cows and Davis St. 11th and 12th are McMinnville School District property and are used for instruction purposes by the district.

We need this information to determine whether a number of medical dispensary applicants are applying to operate dispensaries within 1000 feet of school facilities.

Please get back to me at your earliest convenience with this information. If you are not in a position to confirm this information, please get back to me with the contact information for someone able to confirm this information.

Matt Jaqua

Compliance Specialist / Investigator
Public Health Division

Doug Montgomery

From: Doug Montgomery
Sent: Wednesday, April 27, 2016 10:24 AM
To: Martha Meeker; David Koch
Subject: RE: All Things Marijuana

Good morning, Martha,

I received a call from Dr. Olsen at 9:40 this morning. He offered the following information regarding the tennis courts at 12th and Cowls:

1. With the remodel of McMinnville High School in 2006, eight of their on-campus tennis courts were removed in order to provide for off-street parking necessary to support their expansion. In place of those facilities, the courts at 12th and Cowls were refurbished.
2. Physical education classes are conducted at the Cowl Street courts in the months of September, October, early November, and in the Spring. The classes held there are part of their racket sports unit. He noted that the courts are not used daily, but are used regularly. To accommodate the four or five classes held each unit.
3. In addition, tennis practice and tournaments are held at these courts from mid-February to June.

If you would prefer this be in writing from Dr. Olsen, please let me know and I will follow up to see if he is willing to do so.

Doug

Doug Montgomery, AICP

Planning Director
City of McMinnville
231 NE 5th Street | McMinnville, OR 97128
(503) 434-7311 | montgod@ci.mcminnville.or.us

From: Martha Meeker
Sent: Wednesday, April 27, 2016 9:45 AM
To: Doug Montgomery; David Koch
Subject: RE: All Things Marijuana

Doug,

Please go ahead and reach out to the School District but I would like to have a clear understanding of exactly what we're going to ask them for. Right now, I would think we'd ask them to evaluate the five areas from the Oregon Administrative Rules for determining a school property and to do that in writing but I'm open to discussion from the team here.

Best,
Martha

Martha A. Meeker
City Manager

Phone: (503) 434-7302
Cell: (618) 531-7179
230 NE Second St
McMinnville, OR 97128

From: Doug Montgomery
Sent: Wednesday, April 27, 2016 9:32 AM
To: Martha Meeker; David Koch
Subject: All Things Marijuana

Good morning.

I have sent an email to Dr. Kris Olsen, who was the principal of McMinnville High School up until a few months ago, asking that he call me to visit about the tennis courts and their use. If I don't hear from him by the end of the day, I will reach out to Tony Vicnair, the current principal, or Mary Alice Russell to see what they can share about that facility. If you would prefer that Kris (or Tony or Mary Alice) call one or both of you, please let me know.

Doug

Doug Montgomery, AICP
Planning Director
City of McMinnville
231 NE 5th Street | McMinnville, OR 97128
(503) 434-7311 | montgod@ci.mcminnville.or.us

Doug Montgomery

From: BORUP Amanda * OLCC [Amanda.Borup@oregon.gov]
Sent: Monday, June 06, 2016 8:28 AM
To: Martha Meeker
Subject: RE: LUCS Form and Local Boundaries

Hi Martha,

You are correct, when a city or county has local ordinances related to distance requirements and recreational marijuana facilities the city or county would sign off on the LUCS appropriately. For example, if you had a local ordinance a marijuana facility could not be within 1,000 ft of a park, if someone brought you a LUCS and was within that boundary, you would deny the LUCS because the zoning, based on the ordinance, is not in line with city or county code.

At the state level the only distance requirement we have is a recreational marijuana retail store cannot operate within 1,000 ft of a school. But cities and counties all over the state have added their own distance requirements. Please feel free to reach out if you have other questions or would like to discuss further,

Amanda

Amanda Borup
Policy Analyst
OLCC
Recreational Marijuana Program
503-872-5456

From: Martha Meeker [mailto:Martha.Meeker@mcminnvilleoregon.gov]
Sent: Sunday, June 5, 2016 6:15 PM
To: BORUP Amanda * OLCC <Amanda.Borup@oregon.gov>
Subject: LUCS Form and Local Boundaries

Amanda,

I'm hoping you can help us out as we have an individual who is adamant that boundary limits set by a local municipality around school facilities is not a land use issue and thus, is not a disqualifier on the LUCS form.

While we could point him to State statutes or our local zoning code, I believe we can save him some research time with an email from an OLCC representative that local boundaries are a consideration. As such, if I could get confirmation from OLCC that being inside a local boundary deemed inappropriate for retail recreational marijuana is a LUCS consideration, I would appreciate it.

Thanks,
Martha

Martha A. Meeker
City Manager
Phone: (503) 434-7302
Cell: (618) 531-7179
230 NE Second St
Mcminnville, OR 97128

Doug Montgomery

From: Martha Meeker
Sent: Tuesday, May 03, 2016 12:41 PM
To: Doug Montgomery; Ron Pomeroy; David Koch
Subject: OLCC and Schools

Gents,

In case you were curious, below is how the OLCC would determine a school. Same as OHA apparently but when I read 475B.110 I don't see that specifically spelled out.

Best,
Martha

Martha A. Meeker
City Manager
Phone: (503) 434-7302
Cell: (618) 531-7179
230 NE Second St
McMinnville, OR 97128

From: BORUP Amanda * OLCC [<mailto:Amanda.Borup@oregon.gov>]
Sent: Tuesday, May 3, 2016 12:27 PM
To: Martha Meeker
Subject: RE: Question from City of McMinnville

Hi Martha,

The definition of school is listed under 475B.110 for recreational and 475B.450 for medical. Since they share the same definition the agencies are sharing the same mapping program and using the same criteria.

https://www.oregonlegislature.gov/bills_laws/ors/ors475B.html. We work with DOJ and OHA when questions arise about sport fields that are separate from the school buildings. If you would like me to check into the address I would be happy to do so.

Thanks,
Amanda

From: Martha Meeker [<mailto:Martha.Meeker@ci.mcminnville.or.us>]
Sent: Tuesday, May 3, 2016 11:59 AM
To: BORUP Amanda * OLCC <Amanda.Borup@oregon.gov>
Subject: RE: Question from City of McMinnville

Thanks Amanda. Is there a mention of OLCC's use of the OHA criteria anywhere in OLCC legislation? I hate to be legalistic but that's the nature of government business.

Martha A. Meeker
City Manager
Phone: (503) 434-7302
Cell: (618) 531-7179
230 NE Second St
McMinnville, OR 97128

From: BORUP Amanda * OLCC [<mailto:Amanda.Borup@oregon.gov>]
Sent: Tuesday, May 3, 2016 11:44 AM
To: MARIJUANA OLCC * OLCC; Martha Meeker
Subject: RE: Question from City of McMinnville

Hi Martha,
OLCC and OHA are sharing the same school mapping program (on-line) and have the same criteria for school property. Here is a link so you can check to make sure the tennis courts are included:
http://navigator.state.or.us/apps/schools_locator/index.html . Please let me know if you would like to discuss further.
Thanks,
Amanda

Amanda Borup
Policy Analyst
OLCC
Recreational Marijuana Program
503-872-5456

From: Martha Meeker [<mailto:Martha.Meeker@ci.mcminnville.or.us>]
Sent: Monday, May 2, 2016 7:03 PM
To: MARIJUANA OLCC * OLCC <marijuana@oregon.gov>
Subject: Question from City of McMinnville

Sir, Ma'am,

I'm the City Manager for McMinnville, OR and am inquiring into how the OLCC determines if a piece of property, owned by a school, meets the criteria to be part of an exclusion boundary for recreational marijuana sales. Our School District has a set of tennis courts that are at a satellite location separate from the high school itself but at which the School teaches tennis as part of their physical education program for eight weeks out of the year.

OHA has ruled the courts are a school facility based on their administrative rules but I don't find any OLCC language on what determines a school and would appreciate any help pointing me in the right direction.

Thanks,
Martha

Martha A. Meeker
City Manager
Phone: (503) 434-7302
Cell: (618) 531-7179
230 NE Second St
McMinnville, OR 97128

NOTICE

NOTICE IS HEREBY GIVEN that the McMinnville Planning Commission will hold a public hearing on the 21st day of July, 2016, at the hour of 6:30 p.m. at the McMinnville Civic Hall Building at 200 NE Second Street in the City of McMinnville, Oregon, to take testimony and evidence on the following matter:

DOCKET
NUMBER

AP 2-16 Coleman Risdon is appealing the McMinnville Planning Director's June 6, 2016 decision that the property at 807 NW Adams Street is prohibited from use for commercial recreational marijuana sales purposes due to its location within 1,000 feet of a public school facility. This decision was made as part of the Director's review of an Oregon Liquor Control Commission "Land Use Compatibility Statement" (LUCS) form submitted by the applicant to the Planning Department offices on June 3, 2016. Local review of LUCS forms are part of the State's licensing and land use coordination requirements for such proposed marijuana activities. The subject site is further described as Tax Lot 8500, Section 20AA, T. 4 S., R. 4 W., W.M.

Persons are hereby invited to attend the McMinnville Planning Commission hearing to observe the proceedings, to register any statements in person, by attorney, or by mail to assist the Commission in making a decision.

The Planning Commission's decision on the above public hearing item must be based on findings that a specific set of criteria have been or have not been met. Testimony and evidence at the public hearing must be directed toward those criteria, which are generally as follows:

1. The goals and policies of the McMinnville Comprehensive Plan.
2. The requirements of McMinnville Ordinance No. 3380 (the Zoning Ordinance) with particular emphasis on Section 17.03.020 (Purpose), Chapter 17.64 (Marijuana Related Activities), and Chapter 17.72 (Applications and Review Process).


Failure to raise an issue in person or by letter prior to the close of the public hearing with sufficient specificity to provide the Planning Commission opportunity to respond to the issue, precludes appeal to the Land Use Board of Appeals (LUBA) on that issue.

The failure of the applicant to raise constitutional or other issues relating to denial or to proposed conditions of approval with sufficient specificity to allow this Commission to respond to the issue precludes an action for damages in circuit court.

The decision-making criteria, application, and records concerning this matter are available in the McMinnville Planning Department office at 231 NE Fifth Street, McMinnville, Oregon, during working hours.

For additional information contact Ron Pomeroy, Principal Planner, at the above address, or phone (503) 434-7311.

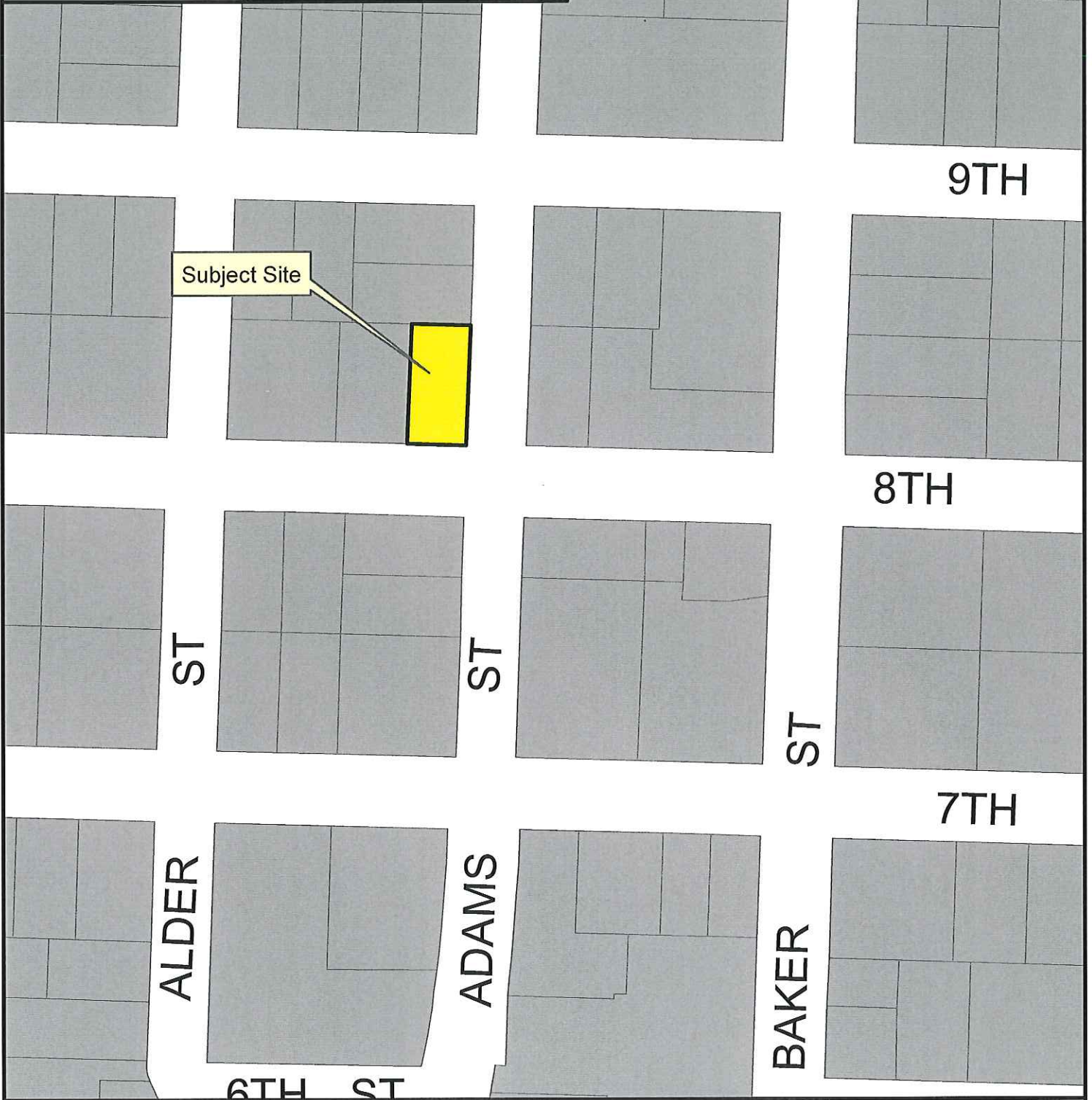
The meeting site is accessible to handicapped individuals. Assistance with communications (visual, hearing) must be requested 24 hours in advance by contacting the City Manager (503) 434-7405 – 1-800-735-1232 for voice, or TDY 1-800-735-2900.



Doug Montgomery,
Planning Director

(Map of area on back)

Vicinity Map



City of McMinnville
Planning Department
231 NE Fifth Street
McMinnville, OR 97128
(503) 434-7311

Map No.	Tax Lot	Site Address	Owner	Attn:	Mailing Address	City State	Zip
1	R4420AA06200	136 NW 10TH ST	GONZALEZ CECILIO	ROMERO JAVIER J	136 NW 10TH ST	MCMINNVILLE OR	97128
2	R4420AA06100	126 NW 10TH ST	LENT NANCY	LENT NANCY J	126 NW 10TH ST	MCMINNVILLE OR	97128
3	R4420AA06000	116 NW 10TH ST	ARNOLD DAVID	ARNOLD DAVID	4945 STRATFORD RD	LOS ANGELES CA	90042
4	R4420AA05900	951 NW ADAMS ST	KANDIYOUHI LLC	ATTN: PARKER RICHARD H JR	515 E BURNSIDE ST	PORTLAND OR	97214
5	R4420AA06800	120 NE 10TH ST	BARNES KURT	BARNES KURT	945 NE BAKER ST	MCMINNVILLE OR	97128
6	R4420AA05700	915 NW ALDER ST	BRATCHER LYNN	BRATCHER DARLENE E	833 NE GALLOWAY ST	MCMINNVILLE OR	97128
7	R4420AA06300	137 NW 9TH ST	YOUNG RUPERT	YOUNG RUPERT B & VIRGINIA	PO BOX 933	MCMINNVILLE OR	97128
8	R4420AA06400	123 NW 9TH ST	LOEWER RODNEY	LOEWER GINA M	20000 SW CAPOEN RD	SHERWOOD OR	97140
9	R4420AA06500	115 NW 9TH ST	RENDON SIMON	RENDON SOCORRO P	115 NW 9TH ST	MCMINNVILLE OR	97128
10	R4420AA06600	105 NW 9TH ST	MARIN JAVIER	MARIN MARIA D	4070 NW HILL DR	MCMINNVILLE OR	97128
11	R4420AA06900	905 NE BAKER ST	SMITH JOHN	HARWOOD LIVING TRUST	3823 OAK MEADOWS LP	NEWBERG OR	97132
12	R4420AA05800	905 NW ALDER ST	RHODES LOUIS	RHODES MARY	905 NW ALDER ST	MCMINNVILLE OR	97128
13	R4420AA08800	226 NW 9TH ST	EMIRICK GINGER	EMIRICK GINGER	226 NW 9TH ST	MCMINNVILLE OR	97128
14	R4420AA08700	222 NW 9TH ST	THOMAS KING	THOMAS SUSAN T	222 NW 9TH ST	MCMINNVILLE OR	97128
15	R4420AA08600	204 NW 9TH ST	CHASE BRENDAN	CHASE VERONICA S	204 NW 9TH ST	MCMINNVILLE OR	97128
16	R4420AA08200	142 NW 9TH ST	DEWAY JOHN	DEWAY JOHN	21000 BAKER CREEK RD	MCMINNVILLE OR	97128
17	R4420AA08100	128 NW 9TH ST	SANDERS WILLIAM	SANDERS FAYE (WROS)	5200 IRVINE BLVD NO 204	IRVINE CA	92620
18	R4420AA07900	835 NW ADAMS ST	A G	A G Z ENTERPRIZES LLC	955 N HILL RD	MCMINNVILLE OR	97128
19	R4420AA07400	824 NE ADAMS ST	NG WAI	WANG LI YING NG	3004 NE HEMBREE ST	MCMINNVILLE OR	97128
20	R4420AA07300	118 NE 9TH ST	FEIBEL MARIKA	FEIBEL MARIKA D	PO BOX 86391	PORTLAND OR	97286
21	R4420AA07200	851 NE BAKER ST	GIBSON J	GIBSON J SCOTT & MELODY A 1/2	851 NE BAKER ST	MCMINNVILLE OR	97128
22	R4420AA08000	825 NW ADAMS ST	A G	A G Z ENTERPRIZES LLC	955 N HILL RD	MCMINNVILLE OR	97128
3	R4420AA09100	225 NW 8TH ST	BURTON GEORGE	BURTON GEORGE H	PO BOX 12781	SALEM OR	97309
24	R4420AA09200	805 NW ALDER ST	MURRAY SETH	MURRAY TYRA	805 NW ALDER ST	MCMINNVILLE OR	97128
25	R4420AA08300	131 NW 8TH ST	JOHNSON BRETT	JOHNSON NANCY C	526 QUAILBROOK CT	SAN JOSE CA	95110
26	R4420AA08400	117 NW 8TH ST	JAMBO LLC	JAMBO LLC	117 NW 8TH ST	MCMINNVILLE OR	97128
28	R4420AA07500	105 NE 8TH ST	MCFARLAND JASON	MCFARLAND JASON R	105 NE 8TH ST	MCMINNVILLE OR	97128
29	R4420AA07600	115 NE 8TH ST	VILAK INGRID	VILAK-DIXON REVOCABLE LIVING TRUST	18600 ZIELENSKI RD	SHERIDAN OR	97378
30	R4420AA12100	745 NW ALDER ST	BEHLINGS STEPHEN	BEHLINGS STEPHEN D & SANDRA	745 NW ALDER ST	MCMINNVILLE OR	97128
31	R4420AA12800	132 NW 8TH ST	HALL THOMAS	HALL MARY K	132 NW 8TH ST	MCMINNVILLE OR	97128
32	R4420AA12700	128 NW 8TH ST	GEARY ZACHARY	GEARY SAMANTHA K	128 NW 8TH ST	MCMINNVILLE OR	97128
33	R4420AA12500	737 NW ADAMS ST	WALLACE ANDREW	WALLACE FAMILY TRUST	303 NW 11TH ST	MCMINNVILLE OR	97128

Date Sent: 1/2/12

Sent By: gab

Map No.	Tax Lot	Site Address	Owner	Attn:	Mailing Address	City State	Zip
34	R4420AA13300	106 NE 8TH ST	WRIGHT CARRIE	JONES MARCIA L TRUST 1/2	1723 NW WALLACE RD	MCMINNVILLE OR	97128
35	R4420AA13200		VALLEY COMMUNITY BANK	% COLUMBIA STATE BANK	PO BOX 2156 MS OP3300	TACOMA WA	98401
36	R4420AA13201	733 NE BAKER ST	STOLLER DEVELOPMENT	STOLLER DEVELOPMENT LLC	7401 SW WASHO COURT SUITE 200	TUALATIN OR	97062
37	R4420AA12600	725 NW ADAMS ST	BRILL THAD	BRILL KRISTINE K	12821 SW FOX RIDGE RD	MCMINNVILLE OR	97128
38	R4420AA13400	723 NE BAKER ST	VALLEY COMMUNITY BANK	% COLUMBIA STATE BANK	PO BOX 2156 MS OP3300	TACOMA WA	98401
39	R4420AA13500		VALLEY COMMUNITY BANK	% COLUMBIA STATE BANK	PO BOX 2156 MS OP3300	TACOMA WA	98401
40	R4420AA12400	707 NW ALDER ST	BROWN MARTIN	MCKAY PAULA C	707 NW ALDER ST	MCMINNVILLE OR	97128
41	R4420AA12900	135 NW 7TH ST	MUSSELMAN STEVE	MUSSELMAN STEVE J SR WROS	135 NW 7TH ST	MCMINNVILLE OR	97128
42	R4420AA13000	133 NW 7TH ST	WASHINGTON ROOFING	WASHINGTON ROOFING COMPANY	1700 SW HWY 18	MCMINNVILLE OR	97128
43	R4420AA13100	105 NW 7TH ST	BRILL THAD	BRILL KRISTINE K	12821 SW FOX RIDGE RD	MCMINNVILLE OR	97128
Applicant			COLEMAN RISDON		807 NW ADAMS ST	MCMINNVILLE OR	97128
Owner	R4420AA08500	815 NW ADAMS ST	CORRIGAN DANIEL	CORRIGAN DANIEL O LIVING TRUST 1/3	400 NE 2ND ST	MCMINNVILLE OR	97128

Date Sent 10/22/12
 Sent By SP