



Planning Commission

Agenda

Study Session

June 11, 2018

Noon

Lausmann Annex, Room 151
200 South Ivy Street, Medford, Oregon

10. Introductions
20. Discussion items
 - 20.1 **DCA-17-062** Temporary Shelters (Formerly Cooling/Warming Shelters)
 - 20.2 **DCA-17-111** Senate Bill 1051 – Interim Multi-Family Residential Design Standards
 - 20.3 **GF-18-073** Outdoor Marijuana Grows
30. Adjournment

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City of Medford

Planning Department

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MEMORANDUM

Subject Temporary Shelters (Formerly Cooling/Warming Shelters)
File no. DCA-17-062
To Planning Commission *for June 11, 2018 study session*
From Kyle Kearns, Planner II – Long Range Division
Date June 6, 2018

DIRECTION SOUGHT

Staff will be presenting the findings of DCA-17-062, Temporary Shelters, on June 14, 2018 before the Planning Commission. Staff is recommending approval of the code amendment as presented in this memo. The intent of the June 11 presentation of DCA-17-062 is to determine if any changes are needed to the proposed DCA prior to hearing.

Does the Planning Commission have any additional changes or additions to the proposed language of DCA-17-062 as presented in this memorandum?

OVERVIEW

DCA-17-062 (Exhibit A) is a code amendment within the Medford Land Development Code (MLDC) to allow for a new land use, temporary shelters. Temporary shelters are a use within an existing or new structure, short-term in nature, in which homeless individuals or families are provided temporary shelter for no more than 90 days in a 12 month period. Locally, an example of a shelter that would qualify as a temporary shelter would be the Kelly Warming Shelter. The Kelly Shelter has operated in the winters of 2017 and 2018 and has aided in the drafting of the proposed language of DCA-17-062.

Citing frustrations with the process in which the Kelly Shelter was permitted, staff was directed to draft the proposed standards (Exhibit A) in order to provide a clear and concise path forward for permitting temporary shelters in the future. Originally, temporary shelters were a part of the Transitional Housing Code Amendment (DCA-17-109), but have since been given a separate project number for a simpler adoption process. Planning Commission has reviewed this proposal in three other study sessions.

EXHIBITS

A Proposed Text DCA-17-062

Exhibit A

Proposed Text DCA-17-062

Deleted Text

New Text

SPECIAL USE REGULATIONS (10.811 - 10.838~~839~~)

- 10.811 Nursery Schools, Day or Child Care (Centers) Facilities
- 10.813 Agricultural Services and Animal Services
- 10.814 Animal Hospitals and Veterinary Clinics
- 10.815 Cemetery, Crematory, Mausoleum, Columbarium
- 10.816 Churches, Hospitals, or Other Religious or Charitable Institutions
in an "R-Residential" District
- 10.817 Community Buildings, Social Halls, Lodges, Fraternal
Organizations, and Clubs in an "R-Residential" District
- 10.819A Temporary Shelters
- 10.820 Two Single-Family Residences in Lieu of Duplex
- 10.821 Accessory Dwelling Unit (ADU)
- 10.822 Permitted Uses in All Industrial Zones
- 10.823 Small Food Vendors
- 10.824 Wireless Communication Facilities
- 10.826 Single-Family Dwelling in Multiple-Family Residential Zones
- 10.827 Mines, Quarries, Gravel Pits
- 10.828 Bed and Breakfast Service
- 10.830 Public Utility Service Facilities
- 10.831 Outdoor Storage, Display and Sales of Merchandise; Permit Required
- 10.832 Garage Sales and Yard Sales
- 10.833 Restaurants - Outdoor Eating Areas
- 10.834A Craft Alcohol Production
- 10.835 Residence for Caretaker or Watchman
- 10.836 Residential Facility
- 10.837 Dwelling Units in Commercial Districts
- 10.838 Accessory Uses in Group (Congregate) Living Facilities
- 10.839 Marijuana-Related Businesses

ARTICLE I - GENERAL PROVISIONS

* * *

10.012 Definitions, Specific.

When used in this chapter, the following terms shall have the meanings as herein ascribed:

* * *

Emergency Shelter. Any facility, the primary purpose of which is to provide permanent facilities that are used as a temporary or transitional shelter for the homeless in general or for specific populations of the homeless. See SIC Classification 832. [KWK1]

* * *

Homeless. Individual(s) or families who are experiencing one or more of the following living conditions:

- (1) Living in a place not meant for human habitation, in an emergency shelter, in transitional housing, or are exiting an institution where they temporarily resided;
- (2) Losing their primary nighttime residence, which may include hotels/motels or a doubled up situation (sleeping in a residence as a temporary guest), within 14 days and lack the resources or support networks to remain in housing;
- (3) Families with children or unaccompanied youth who are unstably housed and likely to continue that way;
- (4) Attempting to flee domestic violence, have no other residence, and lack the resources or support networks to obtain permanent housing. [KWK2]
- (5) For the purpose of temporary shelters this may include families or individuals at risk to exposure of extreme weather conditions.

Homeless Shelter. See Emergency Shelter or SIC Classification 832.

* * *

Temporary Shelter. A temporary use within a building meant to provide relief from extreme weather and substandard living conditions for individuals or families who are homeless.

* * *

Transitional housing. A programmatic housing development that is run by a qualified organization to transition tenants from homelessness to permanent housing in a time period of 24 months or less. Tenants of transitional housing must be homeless and shall enter into a lease and/or occupancy agreement that outlines the programs for transitioning to permanent housing and the standards that one must adhere to for residency. [KWK3]

* * *

Sleeping unit. A room, space, or structure intended for occupancy in which people sleep that can also include permanent provisions for living, eating, and either sanitation or kitchen facilities but not both. [KWK4]

* * *

ARTICLE III - ZONING DISTRICTS

10.314 Permitted Uses in Residential Land Use Classification.

* * *

PERMITTED USES IN RESIDENTIAL ZONING DISTRICTS	SFR 00	SFR 2	SFR 4	SFR 6	SFR 10	MFR 15	MFR 20	MFR 30	Special Use or Other Code Section(s)
6. NONRESIDENTIAL SPECIAL USES									
(a) Bed and Breakfast Inn	X	X	Cs	Cs	Cs	Ps	Ps	Ps	10.828
(b) Child Day Care Center	Cs	10.811							
(c) Institutional Uses	Cs	10.815-817							
<u>(c)(i) Temporary Shelters accessory to Institutional Uses 10.314 6 (e)</u>	<u>Cs</u>	<u>10.816-817 & 10.819A</u>							

* * *

* A single asterisk indicates that minimum parking standards may be exempt for a particular use, by the approving authority, if adequate parking can be demonstrated to already exist.

**The Downtown Parking District is bound by Fourth Street on the north, Tenth Street on the south, Bear Creek on east, and the railroad right-of-way on the west.

* * *

SPECIAL USE REGULATIONS. (10.811 - 10.83839)

* * *

10.816 Churches, Hospitals, or Other Religious or Charitable Institutions in an "R" District, Residential District

(1) In any residentially zoned district, hospitals or other religious or charitable institutions, excepting churches, shall be located on a designated arterial or collector street. Side and rear yard setbacks shall be a minimum of thirty (30) feet and landscaped as required to buffer adjacent properties.

(2) In the C-S/P zone, with conditional use approval, overnight parking for travel trailers, campers and similar vehicles for use by patients and families of patients at a hospital, may be

allowed as an accessory use to a hospital, subject to the following standards:

(a) A minimum twenty (20) foot setback to the paved parking and maneuvering area for the spaces shall be provided along all lot lines, including the front lot line, and sufficiently landscaped so as to avoid adverse impacts on adjacent properties.

(b) Each of the spaces may be provided full hookups for power, water, and sanitary sewer.

(3) Churches located within the residential district shall be subject to the following standards:

(a) All buildings shall be set back a minimum of thirty (30) feet from the side and rear property lines. All setbacks shall be landscaped as required to buffer adjacent properties.

(b) Located on a standard residential street, collector or arterial street.

(4) Temporary shelters shall be conditionally permitted as an accessory use to all churches, hospitals, religious, or charitable institutions as permitted per Section 10.314 (6)(c)(i).

10.817 Community Buildings, Social Halls, Lodges, Fraternal Organizations, and Clubs in a "R" Residential District.

(1) All buildings shall be set back a minimum of thirty (30) feet from the side and rear property lines. All setbacks shall be landscaped as required to buffer adjacent properties.

(2) There shall be no external signage, advertising or other evidence of any incidental commercial activities taking place within the building.

(3) All such uses, except Public Parks Recreation and Leisure Facilities and Services and appurtenant buildings and structures, shall be located on an arterial or collector street and be able to provide access without causing traffic congestion on local residential streets, and

any such use shall prove that there will be no harm to adjacent existing or potential residential development due to excessive traffic generation, noise, or other circumstances.

(4) Temporary shelters shall be conditionally permitted as an accessory use to all community buildings, social halls, lodges, fraternal organizations, and clubs as permitted per Section 10.314 (6)(c)(i).

* * *

10.819A Temporary Shelters

(A) Purpose and Intent [KWK6]

Temporary shelters provide short-term relief for homeless individuals and families, as well as those without adequate protection during times of extreme weather, within an existing or newly constructed building. It is the intent of these standards to ensure that any conflicts with temporary shelters and the surrounding land uses are mitigated through the special regulations set forth.

(B) Definitions Pertaining to Temporary Shelters

The following definitions shall only be applied, as defined in this subsection, to temporary shelters. If used otherwise in Chapter 10 refer to Section 10.012 Definitions, Specific.

(1) Access Point: The main point of entry and exit for a temporary shelter where users, visitors, and other persons must sign in and out to maintain security within a shelter.

(2) Operator: The organization in charge of daily operations of a temporary shelter. The operator shall be a civic, non-profit, public, religious, membership based, or otherwise competent organization and shall be the applicant for the land use review of a temporary shelter.

(3) Operational Period: An operator's established days of operations.

(4) Operations Plan: The guiding document for an operator to use in determining the standards clients must adhere to in a shelter.

(5) Shelter Area(s): Designated space(s) within a temporary shelter intended for sleeping and/or relief from weather events that shall not include common areas, the access point, bathrooms, hallways, public right-of-way, or kitchens.

(C) Temporary Shelter Permit Requirements [KWK7]

(1) The conditional use permit (CUP) as required per 10.314 and 10.337 shall run with the lot(s), tract(s), or parcel(s) of land in which a temporary shelter was conditionally permitted. Unless modifications to the original CUP are made, a new CUP shall not be required for each new operational period.

(2) Section 10.819A (C)(1) shall not preclude an operator of a temporary shelter from required permits unrelated to land use applications/reviews, unless waived by the appropriate approving authority/official.

(3) The Planning Director may waive filing fees, and any other fees required by the Planning Department, if a need for the waiver is determined.

(4) An operator must apply for and receive an approved Temporary Shelter Operational Permit through Medford Fire-Rescue for each operational period.

(5) Shelters operating with extensions, granted per Section 10.819A (D)(2)(e), shall be required to perform all improvements, acquire all permits, and fulfill all other requirements of the Medford Municipal Code, unless waived by the appropriate approving authority.

(6) All applicable permits must be approved prior to the initial date of operations.

(D) General Standards for Temporary Shelters

The following standards of subsection 10.819A (D) shall apply to temporary shelters. The words operator and applicant may be used interchangeably in this subsection as they are one and the same. The requirements are as follows:

(1) Operational Requirements. [KWK8] The operator shall be required to meet the following standards as it pertains to shelter operations:

- (a) Conformance.** It shall be the duty of the operator to ensure and maintain compliance with applicable Local, State, and Federal regulations relating to the operations of temporary shelters. Temporary shelters shall comply with all applicable building, fire, health, life, and safety codes as they pertain to temporary shelters. This shall include, but is not limited to:

 - i. City of Medford Temporary Shelter Operational Permit/Policy.
 - ii. Current and adopted Oregon Structural Specialty Code (OSSC), unless otherwise approved/waived by the Building Official
- (b) Operations Plan.** An operations plan shall be required for a temporary shelter and shall include items addressing client interaction, rules for shelter use, facility operations and maintenance, safety and security provisions, requirements of 10.819A(D)(5)(d), the operational period and the methods for transitioning clients to more permanent housing or shelter.
- (c) Supervision.** There shall be one on-duty representative of the temporary shelter for every 25 occupants at all times during operations, but no less than two on-duty representatives at any time, unless approved otherwise. The representative(s) contact information shall be clearly posted at the shelter's access point each day. The representative may be a volunteer, hired employee, or otherwise competent and responsible adult. [KWK9]

 - i. When required by Medford Fire-Rescue, a fire watch shall be required in addition to an on-duty representative(s) required by 10.819A (D)(1)(c).
 - ii. On duty-representatives shall monitor all areas of a temporary shelter, including shelter areas, which may result in the lack of privacy. Monitoring shall be in conformance with all applicable local, State, and Federal laws and shall not engage in unlawful discrimination under

State and Federal law.

- (d) Population Size. Shelter population sizes shall be determined by applicable Building and Fire Codes.
- (e) Sleeping Areas. Temporary shelters may have separate and distinguished areas for sleeping or shelter for the comfort of clients that may separate clients into male only, female only, and family only sleeping areas. The operator shall not engage in unlawful discrimination under State and Federal law.
- (f) Shelter queuing. During times of shelter intake lines or queues of people awaiting admittance shall not block any public space or right of way from otherwise being used by the public, maintaining a 3 foot clearance on all sidewalks.
- (g) Documentation shall be maintained and regularly updated regarding the requirements of 10.819A (D)(1) and shall be available in hard copy at the temporary shelter's access point and shall also be made available to the Fire Code Official, upon request.
- (h) Items of 10.819A (D)(1) may be conditions of approval as deemed necessary by the approving authority.

(2) Operational Period.

- (a) The use of a temporary shelter shall not exceed 90 days, unless otherwise permitted per the Medford Municipal Code (MMC), within a 12 month period. The operational period shall start on the first day of operations in which individuals were provided shelter and shall end once shelter has been provided for 90 days within a 12 month period or 12 months after the first day of operations.
- (b) Within the operations plan, it shall be clearly stated, the intended timeframe in which an operations period is to take place. This shall include one of the following:
 - i. The allowance for weather based operations that enables opening and closing based on local weather events such as, but not limited to, temperature extremes, persistent smoke or fog, and other acts of nature that are unsuitable for human habitation. Conditions for opening and closing based on weather events shall be clearly stated in the operations plan.
 - ii. Specific dates in which operations are to occur, not exceeding 90 days in a 12 month period as identified in Section 10.819A (D)(2)(a), subject to the 180 day limitation for Temporary Uses per Section 108 of the 2014 Oregon Structural Specialty Code.
- (c) The operator shall notify Medford Fire-Rescue each time the shelter is closing.
- (d) The operator shall notify Medford Fire-Rescue a minimum of four business

- days prior to each re-opening of the shelter and shall provide the opportunity for inspection prior to re-opening the shelter. In times of emergency the operator shall coordinate with Medford Fire-Rescue if a shorter notice time is needed.
- (e) The operational period may be extended for a temporary shelter by the City if local conditions warrant an extension. Extensions may be granted for a total of 30, 60, or 90 calendar days. Extensions shall be approved by the City Manager. The total operational period, including extensions, shall not exceed a total of 180 consecutive days, in a 12 month period.
- i. The request to extend the operational period shall be received a minimum of 14 business days prior to the first anticipated day of extended operations.
- ii. An extension for a temporary shelter may require additional improvements, not previously required. Additional improvements shall be pursuant to the applicable Building and Fire Codes, unless otherwise waived by the appropriate approving authority or the City Manager.
- (f) Operational periods shall apply to the lot(s), tract(s), or parcel(s) of land on which a temporary shelter operates, not with an individual building.

(3) Reporting Requirements^{[KWK10][KWK11]}. The operator shall be required to submit a report to the Housing and Community Development Commission (HCDC) once a temporary shelter has ceased operations, and/or in applying for an extension per 10.819A (D)(2)(e), and it shall include:

- (a) The operator may coordinate the reporting requirement with the Medford, Ashland/Jackson County Continuum of Care using the industry standard software (e.g. Homeless Management Information System) in place at the time of reporting.
- (b) At a minimum, reports to the HCDC shall be created in coordination with City staff and shall include the following:

- i. Number of clients served
- ii. Number of public service calls and reason for call
- iii. Services provided, if applicable
- iv. Number of nights spent at full capacity (if applicable)
- v. Number of clients provided with more permanent or transitional housing
- vi. Other relevant information from 10.819A (D)(3)(a)

(c) Reports required of 10.819A (D)(3) shall be considered when issues of performance and closing of shelters are being sought per Section 10.819A (D)(4).

(4) Standards for Closing/Suspending Temporary Shelters

The following section outlines the standards in which closing or suspension of a temporary shelter use shall be permitted.

(a) The City may close or suspend a temporary shelter use if:

- i. The City Manager has determined that it would be in the public interest

- to terminate the temporary shelter.
 - ii. Excessive emergency service calls exceeding 40 calls within 30 calendar days.
 - iii. Any safety issues identified during an inspection, including, but not limited to, any fire and life safety issues identified during any fire inspections in accordance with ORS 476 and ORS 479. Nothing in Section 10.819A shall limit the authority granted by ORS 476 and ORS 479.
 - iv. Any violation of the Medford Municipal Code, State law, or Federal law.
 - (b) Closing or suspending of a temporary shelter, as determined by the City, shall be permitted when inspections per 10.819(D)(5), or otherwise permitted inspections of the MMC, determine non-conformance with applicable codes as they pertain to the life and safety of temporary shelter users, employees, and surrounding properties.
 - (c) When temporary shelters are closed or suspended due to lack of conformance with applicable codes, those days in which the temporary shelter are closed shall not count towards the days considered within the operational period.
 - (d) A condition of approval, stating the standards of 10.819 (D)(4) will be adhered to, shall be required for all temporary shelters. The operator and City, (and the property owner if different from the operator), shall sign and acknowledge a document attesting to the standards of 10.819A (D)(4)(d) prior to issuance of any permits.
 - (e) Closing of a temporary shelter use terminates said use on the tax lot(s) in which the permits were applied to.
 - (f) When a temporary shelter is terminated due to the standards of 10.819A (D)(4), it shall not be allowed on the same tax lot(s) for a time period of one year (365 days) from the final day of operations, unless otherwise approved by the City Council.
 - (g) Users of a temporary shelter, the operator, and the property owner shall be given 7 calendar days to vacate the location in which a shelter operates once the use has been terminated. Shorter notice may be required and no sections of this code shall preclude adherence to local, State, or Federal laws pertaining to building, health, and life safety.
 - (h) The City Manager's decision to revoke a temporary shelter's permits shall be final. Appeals shall be made to the City Council.
- (5) Consent to Inspection of Temporary Shelter(s)**
- (a) Temporary shelters shall be subject to inspection, as deemed necessary, by the City to verify safe operations at any point during the operations of a shelter.
 - i. Inspections by the City may include inspections of shelter areas and all

other portions of a temporary shelter. Inspections shall be in conformance with all applicable local, State, and Federal laws.

- ii. Areas used for bathrooms and showers shall be subject to inspections by the City, but any users of the facilities shall be given 10 minutes to allow for the privacy needs of individuals who may be using the facilities.

(b) Inspections shall be required prior to each opening of a temporary shelter. All violations of applicable codes found through an inspection shall be resolved prior to commencing operations of a temporary shelter. Inspections may be required from the below City departments to check conformance with applicable codes, prior to operations commencing, from the Medford:

- i. Building Department
- ii. Planning Department
- iii. Police Department
- iv. Fire-Rescue Department

(c) Each user of temporary shelter shall be required to sign a waiver and give consent to searches from the Medford Police and Fire-Rescue Departments for reasons deemed necessary to ensure safe operations of a temporary shelter. This shall be a part of the operations plan and may differ from shelter to shelter.

(d) Waivers required of 10.819A (D)(5)(c) shall be created by the operator and submitted with the CUP application.

(e) Signage stating "Inspection by the City of Medford Fire-Rescue and Police Departments may occur without notice. There shall be no expectations of privacy within this shelter." shall be posted within areas of the temporary shelter including shelter areas, areas for sleeping, and other areas of operations deemed necessary by the operator.

(E) Site Standards for Temporary Shelters

The following standards shall apply to the development and use of temporary shelters.

(a) Temporary shelters shall be 500 feet, measured from any property line, from any other temporary shelter's closest property line. 10.819(E)(1) applies to temporary shelters during their operational period, not for land use approvals.

(b) Temporary shelters shall be an accessory use in residential zones and shall be within an existing or newly constructed building.

(c) In commercial and industrial zones, temporary shelters may be an accessory or primary use and shall be within an existing or newly constructed building.

(d) A site plan depicting how the standards of 10.819A have been met shall be submitted as a part of the application submittal. A site plan shall, at a minimum, include the following:

- i. Building footprint(s) of the primary and accessory uses on the site in which the temporary shelter will be located
- ii. A floor plan, with square footage measurements labeled clearly for:
 1. The location and size of the shelter area(s) and areas intended for

- sleeping
- 2. Location and size of other areas used in conjunction with the warming shelter (e.g. common area(s), kitchen(s), bathroom(s), and similar spaces.
- 3. Total population size within shelter areas and areas intended for sleeping
 - iii. Location of buildings access point(s)
 - iv. Location(s) of trash receptacle(s)
 - v. Location(s) of lighting for site and building(s)
- (e) Adequate space shall be provided for tenant's personal items; storage space shall not block the public right-of-way and shall not displace required parking per Sections 10.741-10.751.
- (f) Access points shall have a trash receptacle that does not block the public right of way and is large enough for trash disposal during times of intake.
- (g) Adequate access shall be given for emergency vehicles and personnel, where applicable.
- (h) Tents, yurts, and similar temporary structures do not qualify as a structure for the temporary shelter land use.



Planning Department

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MEMORANDUM

Subject Interim Multi-Family Residential Design Standards
File no. DCA-17-111
To Planning Commission *for June 11, 2018 study session*
From Seth Adams, Planner III
Date June 6, 2018

Direction Sought

Staff is asking the Planning Commission for direction on the following:

- 1) Identify any necessary changes to the proposed interim design standards.

Overview

At its May 14, 2018 study session, the Planning Commission reviewed draft code amendments related to housing that were prompted by the passage of Senate Bill 1051 last August. The proposed code amendments were also reviewed by the City Council and the Site Plan and Architectural Commission (SPAC). In their review of the code amendments, all three bodies agreed that the City should concurrently adopt interim design standards for multi-family residential development projects.

Background

Senate Bill 1051 (SB 1051) was signed into law on August 15, 2017 with the objective of increasing the supply of housing in the state. One of the provisions in SB 1051 amends ORS 227.175 (Application for Permit or Zone Change) to state that:

"A city may not deny an application for a housing development located within the urban growth boundary if the development complies with clear and objective standards, including but not limited to clear and objective design standards contained in the city comprehensive plan or land use regulations."

At present, Section 10.290 of the MLDC states that the SPAC shall approve a site plan and architectural review application if it finds that the development conforms, or can be made to conform through the imposition of conditions, with the following two criteria:

1. *The proposed development is compatible with uses and development that exist on adjacent land; and*
2. *The proposed development complies with the applicable provisions of all city ordinances or the Site Plan and Architectural Commission has approved (an) exception(s) as provided in MLDC Section 10.253.*

With SB 1051's amendment of ORS 227.175, the compatibility criterion can no longer be applied to any residential development application that complies with the basic development standards (e.g. density, setbacks, building height) since the MLDC does not contain any residential design standards. Using funds from a technical assistance grant that the City was recently awarded, staff will soon be hiring a consultant to help with the development of a comprehensive set of design standards; but, in the meantime, staff has drafted a set of interim design standards with the basic aim of ensuring that multi-family residential development projects will feature architectural designs and materials that will enhance the visual character of the community.

NEXT STEPS

The proposed hearing schedule includes the following dates:

- June 15: SPAC study session
July 12: First evidentiary hearing with Planning Commission
August 16: City Council hearing

Exhibits

- A. Draft code amendment text
- B. Planning Commission Study Session Minutes of May 14, 2018
- C. SPAC Study Session Minutes of May 18, 2018

Exhibit A

MULTI-FAMILY SPECIAL DEVELOPMENT STANDARDS

10.716A Multiple-Family Dwellings, Special Development Standards, Purpose.

- (1) The purpose of Sections 10.716A through 10.717 is to establish development standards for multiple-family dwellings in order to:
 - (a) Enhance the visual character and livability of the community;
 - (b) Promote building and site design that contributes positively to a sense of neighborhood and to the overall streetscape.

10.717 Multiple-Family Dwellings, Special Development Standards.

A. Building Orientation and Entrances.

- (1) Buildings shall be oriented to public streets and public street intersections.
- (2) Buildings located at intersections shall incorporate a corner building entrance.
- (3) The main entrance(s) of ground floor units of any residential building located within 40 feet of a street must face the front property line. Main entrances may provide access to individual units, clusters of units, courtyard dwellings, or common lobbies. Deviations from this standard are allowed as follows:
 - (a) On corner lots the main building entrance(s) may face either of the streets or be oriented to the corner.
 - (b) For buildings with more than one entrance serving multiple units, only one entrance must meet this standard.
 - (c) For buildings proposed to be perpendicular to public streets due to access requirements and/or dimensional constraints not created by the applicant, main entries may face up to 90 degrees away from the street provided both of the following apply:
 - i. They are visible from the street.
 - ii. The building side facing the street shall contain windows occupying a minimum of 25% of the façade.

B. Building Mass and Facade.

- (1) Residential buildings located within 40 feet of a street shall be limited in length to 150 feet. Any other residential buildings shall be limited in length to 200 feet.
- (2) All facades shall be divided into three elements (base, middle, and top) and visibly articulated to define each element.
 - (a) The building base consists of the lowermost floor or two floors. The building top consists of the uppermost floor or two floors. The building middle consists of the remainder of the façade between the base and the top.
 - (b) The base of the building shall be visibly/aesthetically "anchored" to the ground through the use of a plinth treatment between 1-3 feet in height above the ground surface.
 - (c) The building base, middle, and top shall each be horizontally articulated with a "cap" treatment.
- (3) Street-facing facades shall contain windows covering a minimum of 25% of the façade on each floor level.

Exhibit A

C. Building Articulation.

- (1) In order to preclude long expanses of uninterrupted wall surfaces, exterior elevations of buildings shall incorporate design features such as off-sets, projections, balconies, bays, windows, entries, porches, porticos, or similar elements.
 - (a) Horizontal surface: at least two of the design features outlined above shall be incorporated along the horizontal face of the building, to be repeated at intervals of no more than 40 feet.
 - (b) Vertical surface: at least two of the design features outlined above shall be incorporated along the vertical face of the building, to be repeated at intervals of no more than 25 feet.
- (2) When off-sets and projections are used to fulfill articulation requirements, they shall vary from other wall surfaces by a minimum of 2 feet, and such changes in plane shall have a minimum width of 6 feet.
- (3) Individual and common entries shall be articulated by roofs, awnings, or porticos that are a minimum of 6 feet wide and 4 feet deep.
- (4) Windows shall be inset a minimum of 3 inches from the adjacent wall plane, or fully surrounded by trim in order to create the necessary recess depth.

D. Building Materials.

- (1) The following primary building materials shall be utilized on a minimum of 65% of the street-facing façade:
 - (a) Brick;
 - (b) Stone;
 - (c) Stucco;
 - (d) Wood siding and wood simulation materials;
 - (e) Metal panels;
 - (f) Fiber reinforced cement siding or panels; and
 - (g) Ceramic tile.
- (2) The following building materials shall not be allowed on more than 35% of each individual façade:
 - (a) Corrugated metal;
 - (b) Plain or split-faced concrete block;
 - (c) Plain concrete;
 - (d) Spandrel glass; and
 - (e) Sheet pressboard.
- (3) The following building materials are prohibited:
 - (a) Vinyl siding; and
 - (b) T-111 plywood (or similar).
- (4) Fencing materials shall be durable, maintainable, and attractive. The following fencing materials are prohibited:
 - (a) Plastic or vinyl fencing; and
 - (b) Chain link fencing.

E. Roof Forms.

- (1) All sloped roofs shall have a minimum 4:12 pitch.
- (2) All sloped roofs shall have eaves projecting a minimum of 12 inches from the building wall.

Exhibit A

- (3) All roofs with a slope of less than 4:12 pitch shall be articulated by a parapet wall projecting a minimum of 12 inches above the roof line, or be architecturally treated such as with a decorative cornice.

F. Vehicle Circulation and Parking.

- (1) In order to strengthen the presence of buildings on the street, no parking spaces shall be located within any required front yard area, and no automobile circulation or parking areas shall be located between buildings and the street.



Planning Commission Minutes

Exhibit B

From Study Session on **May 14, 2018**

The study session of the Medford Planning Commission was called to order at 12:00 p.m. in the Lausmann Annex Room 151-157 on the above date with the following members and staff in attendance:

Commissioners Present

Patrick Miranda, Chair
David McFadden, Vice Chair
David Culbertson
Joe Foley
Bill Mansfield
E. J. McManus
Jared Pulver

Staff Present

Kelly Akin, Assistant Planning Director
Carla Paladino, Principal Planner
Eric Mitton, Deputy City Attorney
Seth Adams, Planner III

Commissioners Absent

Mark McKechnie, Excused Absence
Alex Poythress, Excused Absence

Subject:

20.1 DCA-17-111 Senate Bill 1051 Code Amendments

Seth Adams, Planner III, reported that staff is asking the Planning Commission for direction on the following:

- 1) Identify any additional changes to be made to the proposal
- 2) Should this amendment include interim design standards?

Senate Bill 1051 (SB 1051) was signed into law on August 15, 2017. The objective of the bill is to increase the supply of housing in the state by:

- Removing barriers to development at the local level (ORS 227.175)
- Expediting permitting for affordable housing projects (ORS 227.178)
- Increasing options for the development of accessory dwelling units (ADUs) (ORS 197.312)
- Allowing religious organizations to build affordable housing on their property within residential zones (ORS 227.500)

ORS 227.178 requires cities to take final action on land use applications within 120 days of the application being deemed complete.

Under SB 1051 an application qualifies for final action within 100 days if:

- The application is for development of a multifamily residential building containing five or more residential units within the urban growth boundary;
- At least 50 percent of the residential units included in the development will be sold or rented as affordable housing*; and

- The development is subject to a covenant that restricts the owner and each successive owner of the development or a residential unit within the development from selling or renting any affordable residential unit as housing that is not affordable housing* for a period of 60 years from the date of the certificate of occupancy.

*Affordable housing is defined in SB 1051 as being "...housing that is affordable to household with incomes equal to or less than 60 percent of the median family income for the county in which the development is built or for the state, whichever is greater."

Applications for multifamily residential projects are reviewed and acted upon by the Site Plan and Architectural Commission (SPAC), and decisions rendered by SPAC are appealable to the City Council. In order to ensure that the 100 day final action timeline can be met, staff is proposing to amend Section 10.051(A) of the Medford Land Development Code to state that SPAC actions shall be considered final when they involve residential development projects that meet the criteria for final action within 100 days, and that any appeal of such actions shall be made directly to the State Land Board of Appeals (LUBA).

SB 1051 amended ORS 227.175 to state that:

"A City may not deny an application for a housing development located within the urban growth boundary if the development complies with clear and objective standards, including but not limited to clear and objective design standards contained in the city comprehensive plan or land use regulations."

Presently, there are no design standards. For now, clear and objective standards would be height, density, setbacks, etc.

Currently, SPAC approval criteria in the Code is not clear and objective. It states that the proposed development is compatible with uses and development that exist on adjacent land. That criteria is not in conformance with the provisions of SB 1051. Staff is proposing to amend that section stating that the compatibility criterion will only apply to commercial and industrial development. All residential development projects shall be approved if they comply with the applicable city ordinances, or if SPAC has approved an exception.

In addition, SB 1051 further states that a city may not reduce the height or density of an application for development projects if:

- The density and/or height applied for is at the authorized levels under the land use regulations; and
- At least 75 percent of the floor area applied for is reserved for housing.

Staff is proposing to amend Section 10.291 of the Medford Land Development Code to explicitly prohibit reductions in density and/or height on mixed-use development projects meeting the above criteria.

Commissioner Pulver asked, if the proposed development is at or below the City's allowable height could SPAC deny it or require them to reduce it? He thinks if the City tried that and it was within permitted height it would be appealed and the City would lose. Eric Mitton, Deputy City Attorney, stated that theoretically it is possible that the City could find it was not compatible with the surrounding area even though it met all objective criteria.

Commissioner Mansfield presumes housing authority, some churches and nonprofits will be interested in SB 1051. Will the profit making industry be interested in doing any of these projects? Commissioner Culbertson stated that he doubts it. When developing a project they are not in it for charity. He does not think it impacts regular residential real estate at all. It is carving out a specific sector.

Commissioner Pulver stated that affordable housing is an issue no matter where you fit in the spectrum. Everyone recognizes there is an issue. There are a lot of different things being discussed like in Seattle taxing the rich to pay for the poor concept to fund affordable housing. If this lessens that potential future of burden they could care less. It is the ones that it directly impacts that are going to be more concerned.

Commissioner Culbertson thinks legislature missed the mark. They had three different bills that focused on rent controls. Anyone who owned over four rental units and wanted to have a no cause eviction on a tenant there was a breakdown on how much the owner had to pay the tenant to leave. Even if they were on a month to month tenancy and they received thirty day notice. Those all failed. SB 1051 was their only win. It misses the mark because it is not increasing housing. That is where the problem is. If you have increased housing and available places for people housing rents will lower. Landlords want their places filled. As long as there is a point five vacancy rate housing prices are going to continue to rise as far as rental.

Commissioner Pulver asked, would this carve out a market rate housing project? Mr. Adams replied yes. The way SB 1051 is now if it is housing and it meets adopted standards then it cannot be denied. It carves out provisions for mixed-use developments that further restricts SPAC's ability to alter the plans. Staff did not see that SB 1051 would have material impact on Medford.

Commissioner Pulver stated that for market rate he is an advocate for some level of design standards that could be imposed. He likes density and mixed-use projects but they do not fit everywhere.

Vice Chair McFadden asked, if there are discretionary conditions created then not only the fast track affordable housing projects use them but the non-fast trackers can use the

same discretionary conditions and not be reviewed by SPAC on other issues? Kelly Akin, Assistant Planning Director, reported that SB 1051 broadened the definition of needed housing to everything. If it is a place somebody can live then it is needed housing and only clear and objective criteria can be applied. It can be any type of housing. When talking about design standards, this is important because it will not only apply to affordable housing, it applies cross the board. The design standards that staff will be proposing will apply to market rate as well.

Vice Chair McFadden asked, if staff has until July 1, 2018, to put the design standards in place? Senate Bill 1051 takes effect July 1, 2018.

Commissioner Mansfield asked, is that heavy to put design standards at the zoning level? He thought that was what SPAC did. Ms. Akin stated that the Planning Commission is looking at it because it is going to be a text amendment. Staff has a study session setup with SPAC on Friday, May 18, 2018, at which this subject will be discussed.

Staff has already started work on design guidelines and will be working with a consultant this year to create clear and objective design standards.

Commissioner Culbertson asked, if an application comes in and they request an exception, does SPAC have the authority to deny the application because the criteria is not met without the exception? Is Senate Bill 1051 saying SPAC cannot overlook and exception and have to agree? Carla Paladino, Principal Planner, thinks no. Commissioner Culbertson asked, if the applicant needs an exception to an application then SPAC can still deny it if it is not appropriate, and it would not be violating SB 1051? That is Mr. Adams understanding.

Does the Planning Commission have comments on the text amendment? Should this amendment include interim design standards? In theory staff could create basic, clear and objective design standards so there is no window of time where no standards are in place.

Commissioner Mansfield asked, what is staff's feeling on that? What is staff's recommendation? Ms. Paladino reported that since they have a technical assistance grant from the State and are working on hiring a consultant, that staff would like to focus on the ones that will be permanent.

Vice Chair McFadden commented that there are no design standards. Without an interim design standard staff has no technical side to make decisions.

Chair Miranda stated that SPAC has the discretionary authority to review a design and deem it inappropriate. Commissioner Foley reported they cannot do that now. If there are no clear and objective standards that cannot be done. Ms. Paladino stated that there are no clear and objective standards now. There is a criterion that states compatible but that staff can no longer apply it.

Commissioner Mansfield asked, what are the arguments against if the Planning Commission thinks they should not include interim design standards? Ms. Paladino reported that if the interim design standards were put into place now then SPAC has guidelines.

Ms. Akin stated that it is a question of community value. What do you want your City to look like? That is the base question. The City has bulk standards now but they do not have any design standards. It is rare for SPAC to make architectural adjustments.

Commissioner Mansfield reported that it is a philosophic question whether government has any business dictating taste to the cities.

Chair Miranda stated that this work is being done under a grant. What impact does the time and money invested in making interim design standards have on the final design standards? Ms. Paladino reported there would be some overlap. Staff would work on the interim standards and get them ready as quickly as possible to get them in the books. Then they would move along on the regular design standards.

Vice Chair McFadden is concerned that in the meantime there would be people who will take advantage of SB 1051 without the design standards. He is hoping that the City of Medford gets at least equal to what they get now. He is concerned with the 60 year affordability covenant in SB 1051.

Commissioner Culbertson reported that the 60 years is permanent with a deed restriction. Ms. Akin stated that it would sunset. Language would be written into the restriction that it would sunset after the period of time. As Commissioner Culbertson understands it if it is instituted as a 60 year deed restriction it cannot be removed until after the 60 years.

Mr. Mitton stated that another mechanism might be a declaratory judgment action by a tenant or perspective tenant. It would be on the radar even though there is no administration routinely monitoring it.

Commissioner Pulver believes it is better to have some protection. It is better than none. Design standard codes are difficult to write. It may take longer that what they are thinking to get the final standards in play. The longer it takes the longer the City is exposed.

Commissioner Foley commented that there are basic things that can be put in addressing Vice Chair McFadden's concerns like paving, parking, buffering, real basic things that are already dealt with a little.

Commissioner Pulver stated that there could be clear and objective standards that required change of material or the building face that would break up the box look.

Ms. Paladino reported that lighting, paving, bicycle parking, etc. will still apply. They are talking about the actual look of the building such as materials, roof lines, those kinds of details.

Commissioner McManus asked, what is the timeframe for the interim design standards? Mr. Adams stated that they have a study session with the Site Plan and Architectural Commission on Friday, May 18, 2018. On June 14, 2018 it would go to Planning Commission for their recommendation and City Council for adoption on July 19, 2018.

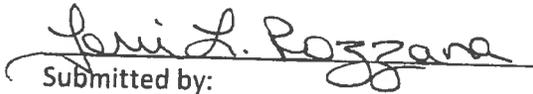
Chair Miranda suggested a draft interim design standards for a Planning Commission study session in June.

Ms. Paladino stated a draft interim design standards for a Planning Commission study session in June, public hearing in July and to the City Council in August.

Commissioner Pulver asked, does the City have a consultant? Ms. Paladino reported they have not hired them yet. They have proposals in.

30. Adjournment

The meeting was adjourned at 12:48 p.m.



Submitted by:

Terri L. Rozzana

Recording Secretary



Site Plan and Architectural Commission

Minutes

From Study Session on May 18, 2018

The study session of the Site Plan and Architectural Commission was called to order at approximately 12:10 p.m. in City Hall Medford Room 330 on the above date with the following members and staff in attendance:

Commissioners Present

Jim Quinn, Chair
 Jeff Bender
 Dave Culbertson
 Rick Whitlock
 Dick Gordon, City Council Liaison

Staff Present

Matt Brinkley, Planning Director
 Kelly Akin, Assistant Planning Director
 Katie Zerkel, Senior Assistant City Attorney
 Seth Adams, Planner III

Commissioners Absent

Bill Chmelir, Vice Chair, Excused Absence
 Jim Catt, Unexcused Absence
 Bob Neathamer, Excused Absence
 Marcy Pierce, Excused Absence

Subjects:

1. Senate Bill 1051 – Housing Design Standards

Seth Adams, Planner III reported that staff is asking the Site Plan and Architectural Commission on the following:

- 1) Identify any changes to be made to the proposed code amendment.
- 2) Identify priorities for interim design standards.

On August 15, 2017, Senate Bill 1051 (SB 1051) was signed into law. The objective of the bill is to increase the supply of housing in the state by:

- Removing barriers to development at the local level (ORS 227.175)
- Expediting permitting for affordable housing projects (ORS 227.178)
- Increasing options for the development of accessory dwelling units (ADU's) (ORS 197.312)
- Allowing religious organizations to build affordable housing on their property within residential zones (ORS 227.500)

ORS 227.178 requires cities to take final action (including resolution of all appeals) on land use applications within 120 days of the application being deemed complete.

Senate Bill 1051 stipulates that cities with populations greater than 5,000 must now take final action on qualifying residential development applications within 100 days after the application is deemed complete. (A SPAC application is typically decided in 100 days from the date of submittal).

Under SB 1051 an application qualifies for final action within 100 days if:

- The application is for development of a multifamily residential building containing five or more residential units within the urban growth boundary;
- At least 50 percent of the residential units included in the development will be sold or rented as affordable housing*; and
- The development is subject to a covenant appurtenant that restricts the owner and each successive owner of the development or a residential unit within the development from selling or renting any affordable residential unit as housing that is not affordable housing* for a period of 60 years from the date of the certificate of occupancy.

**Affordable housing is defined in SB 1051 as being "...housing that is affordable to household with incomes equal to or less than 60 percent of the median family income for the county in which the development is built or for the state whichever is greater."*

Commissioner Whitlock asked, what is the current 60 percent figure? Mr. Adams reported the median family income for Jackson County is approximately \$43,000 so 60 percent of that would be around the \$25,000ish range.

Staff is proposing to amend section 10.051 of the Medford Land Development Code (MLDC) to state that SPAC actions shall be considered final when they involve residential development projects that meet the criteria for final action within 100 days, and that any appeal of such actions shall be made directly to the State Land Use Board of Appeals (LUBA). While this amendment would remove a level of local control over land use decisions, the qualifying criteria noted above are so stringent that staff does not anticipate any appreciable number of applications will qualify for the reduced final action timeline.

SB 1051 amended ORS 227.175 to state that:

"A city may not deny an application for a housing development located within the urban growth boundary if the development complies with clear and objective standards, including but not limited to clear and objective design standards contained in the city comprehensive plan or land use regulations."

Staff is working on the development of clear and objective design standards as part of the housing amendments that were recently recommended by the Housing Advisory

Committee, the MLDC does not currently contain design standards, and as such the compatibility criterion can no longer be applied to any housing development application that complies with development standards in Article IV (e.g. density, setbacks, building height, etc.)

Commissioner Whitlock reported the Site Plan and Architectural Commission came across this question when reviewing a Planned Unit Development (PUD) with respect to these standards. The Commission was given advice that the design standards that are in the CC&R's within the PUD were applicable design standards. Does Mr. Adams know whether those would be applicable here or not? It does state in the City's Comprehensive Plan or Land Use Regulations so maybe it is not applicable. Matt Brinkley, Planning Director, reported that the PUD becomes the zoning ordinance. The case that Commissioner Whitlock is talking about seemed that there was disagreement what constituted Pacific Northwest style architecture. To him that is not clear and objective. It is better than the classic example that SB 1051 is trying to address, which is the neighborhood compatibility standard that is totally discretionary and obviously neither clear nor objective.

Commissioner Bender stated that being the author of the design standards he does not believe anything put in that document for KOGAP when it was developed would qualify as clear and objective. The intent of that document when created was viewing it as "ammunition" for KOGAP's internal design review committee and items to put out to their potential tenants.

Commissioner Whitlock was referring to more global. That was an example the Site Plan and Architectural Commission had where they turned to an area that they would not typically turn to when looking at City standards. They need to think for future applications whether PUD design standards were clear and objective they would be applicable standards that they should and could apply to these sorts of applications.

Mr. Brinkley thinks clear and objective standards could live in the PUD and would supersede what is in the larger zoning regulations.

The City should not be enforcing CC&Rs unless they are brought into the PUD and codified.

Commissioner Whitlock wants staff to assist with their opinion about whether they are clear and objective enough to be enforceable.

The legal department is going to have to help determine how far to go in order to be clear and objective.

SB 1051 takes effect July 1, 2018. The 100 day timeline took effect the day the bill was signed.

Kelly Akin, Assistant Planning Director, stated that SB 1051 expanded the definition of needed housing. These were housing types that were identified in the Comprehensive Plan as affordable housing, senior housing and downtown housing.

Staff is proposing a text amendment stating that all residential development projects shall be approved if they comply with the applicable City ordinances, or if the Site Plan and Architectural Commission has approved an exception. Commercial and Industrial development applications would still be subject to both of the review criteria.

In addition, SB 1051 further amended ORS 227.175 to state that a city may not reduce the height or density of an application for development projects if:

- The density and/or height applied for is at the authorized levels under the land use regulations; and
- At least 75 percent of the floor area applied for is reserved for housing.

Staff is proposing to amend Section 10.291 of the Medford Land Development Code to explicitly prohibit reductions in density and/or height on mixed-use development projects meeting the above criteria.

Commissioner Whitlock asked, is the 75 percent include the common access areas or just the areas reserved for residential occupancies? Commissioner Bender reported that in general 75 percent of floor area is the prescribed living area and all the support that goes along with it. He has not seen many ordinances that are so prescriptive.

Commissioner Whitlock asked, is there likely to be an OAR that covers this from the State somewhere or can staff define it and intends to? Mr. Brinkley reported that there may be something in a case law. Katie Zerkel, Senior Assistant City Attorney, stated that she is wondering if SB 1051 only includes what has changed or it may be in an OAR. She would have to check.

Commissioner Culbertson believes these applications will be rare. Commissioner Whitlock responded that SB 1051 is for all residential. Any mixed-use that contains a residential use would be subject to these changes not just low income.

Commissioner Culbertson stated that the expedited portion of this is to fill the gap in the code where no one can submit an application and nothing can be done because the law takes precedence.

Mr. Adams reported that the gap staff expressed with the Planning Commission is for all housing types. The City was recently awarded a technical assistance grant that will be used to aid in developing the recommended code amendments provided by the Housing Advisory Committee earlier this year. Part of that work will include the formulation of residential design standards, but given the "clear and objective" requirement language SB 1051, staff has been directed by the City Council and Planning Commission to draft interim design standards that will be required on multi-family residential development projects until more robust and complete standards can be formulated and adopted.

In looking at the minor code text amendment staff is proposing, is there anything that the Site Plan and Architectural Commission thinks needs to be changed? Commissioner Bender replied that he does not see anything problematic in terms of the code amendments that staff has outlined so far. As an architect he is more curious to see design standards when drafted. He hopes things do not get "too cute." Being clear and objective can be overly prescriptive.

Commissioner Whitlock agrees with Commissioner Bender. He does not see any needed changes in what staff has presented. He also is curious about what the standards look like. It is a good approach and looks appropriate to him.

Commissioner Whitlock asked, what types of things has staff been contemplating? He is having a hard time with the types of things staff is seeking or would be appropriate. Has staff come up with a list of things the Commission could give a thumbs up/thumbs down? Mr. Brinkley reported the things staff would address would be basic for interim design standards. They will be things like articulation, bulk and mass, orientation of the main entrance to the public way.

Chair Quinn asked, are single family applications going to start coming before the Site Plan and Architecture Commission? Ms. Akin replied no, they are clear and objective that staff can manage.

Chair Quinn asked, would new residential development come before the Site Plan and Architectural Commission? Ms. Akin replied no. The Planning Commission would see the subdivision but staff will process the permits and use the clear and objective standards.

Commissioner Whitlock asked, can the design standards include design standards that are not architecturally significant such as landscaping? That is one of the things that struck him when looking at multi-family is how the landscaping can change the feel of the architecture as it relates to the street, parking areas, etc. Is that something that would be in the design standards or is this only architecture design standards? Mr. Brinkley responded that it could be. Commissioner Bender stated that the landscape standards that exist are clear and objective. Ms. Akin reported that they used to be. A

few years ago staff removed almost all the numbers out of the code and relied on design professionals. The clear and objective standard was removed out of the code.

Commissioner Whitlock asked, does staff need to revisit that and put things back in or can it be relied on that the developer will do what is appropriate? He believes that the architecture is incredibly significant. He would not want to minimize that. The feel of it has a lot more to do with the relationship between the architecture and public spaces.

Ms. Paladino asked, does Commissioner Whitlock want his comment in the interim design standards or the permanent design standards? Commissioner Whitlock stated that if staff sees a need in the interim design standards that would be great, but for interim design standards the architectural piece will be challenging enough.

Commissioner Whitlock asked, does staff plan to bring the interim design standards to the Site Plan and Architecture Commission? Mr. Adams replied yes. Staff will create the interim design standards and present them to the Planning Commission in another study session on Monday, June 11, 2018. Staff will incorporate their comments and bring those to the Site Plan and Architecture Commission on Friday, June 15, 2018. Staff will take SPAC's final feedback to the Planning Commission for recommendation on Thursday, July 12, 2018 and to City Council for adoption on Thursday, August 16, 2018.

Commissioner Whitlock asked, will all of these be subject to an exception request? Are these absolute standards that can never be varied from, or will they be subject to exception requests? Commissioner Whitlock asked, aren't there exception possibilities for all of the objective standards? Ms. Akin replied yes.

Ms. Paladino reported that Grants Pass has a process where they do have prescriptive standards. If one wants to deviate they have criteria that meets the intent of the prescriptive standards. They would go to the Planning Commission for review.

Commissioner Whitlock asked, is the Grants Pass process for alternatives clear and objective standards such that one can effectively take an off-ramp and go to those, or are they discretionary? Mr. Brinkley reported they are discretionary. It is criteria that states what the prescriptive standard is trying to achieve. Ms. Paladino stated that a narrative is written explaining why the design meets the intent.

Commissioner Whitlock asked, are those staff applied principals in terms of non-discretionary? Ms. Paladino stated that in Grants Pass they were Planning Commission approved.

Ms. Paladino stated that the Housing Advisory Committee met last year and created recommendations. Ms. Paladino passed them around to the Site Plan and Architectural Commission. Last year they applied for a technical assistance grant and the City Council

recently approved the agreement. Staff will hire a consultant to help with the regulatory changes. A separate consultant will be hired to help with the economic changes.

Commissioner Bender stated that increased building height in multifamily zones is already dealing with something that is somewhat different. Height does not become such a hurdle including it in the design standards.

Commissioner Whitlock asked, who is working on the economic SDC deferral exemption? Mr. Brinkley reported that Kelly Madding, Deputy City Manager/Economic Development Coordinator, Mr. Brinkley, Eric Mitton, Deputy City Attorney and a stakeholder group including, realtors, lenders, appraisers and title company representatives. Commissioner Whitlock is helping Klamath Falls since their City Attorney resigned. Commissioner Whitlock spent forty-five minutes with a developer that was complaining about the same issue in Klamath Falls and how dis-incentivizing the SDCs are for anybody who invests in multifamily development.

2. LHPC/SPAC Duties

Ms. Akin reported that the City Council has asked staff to review consolidating the Landmarks and Historic Preservation Commission (LHPC) and the Site Plan and Architectural Commission (SPAC).

Several years ago staff gave the Landmarks and Historic Preservation Commission the same authority that SPAC has. When applications were in the Historic District both bodies had to review.

The duties of LHPC and SPAC are similar but different. LHPC has different responsibilities and more discretion authority than SPAC in the way their criteria are written and apply the Secretary Standards.

Ms. Akin would like to put the item on SPAC's agenda and have them vote on it at a future meeting to carry their message forward to the City Council.

Chair Quinn commented that he does not know what LHPC does. Ms. Akin reported that LHPC reviews all exterior modifications for properties that are on the National Historic Register. There are four districts; three residential districts and the Downtown Historic District. Oakdale, Minnesota, Geneva and a tiny piece of Corning Court are districts. There are several houses that are also on the register independent of any of the other districts.

Chair Quinn asked, how many people are on the LHPC? Ms. Akin stated there are five.

Chair Quinn asked, if they are combined do all five of them come onto SPAC? Ms. Akin stated that is one of the questions. SPAC has a requirement for four specific employment backgrounds. LHPC does not have that, they are just interested citizens.

The City is obliged to have a historic commission since they have historic districts. The City also receives Certified Local Government grants through the state historic preservation office. The City is obliged to have a body to administer that grant.

Chair Quinn asked, would they become the Site Plan and Architectural and Historical Commission? Staff would have to create a new name.

Commissioner Culbertson asked, since today they were short of members could this be put on the agenda as a presentation item giving specific duties that will be added to the body before voting? Ms. Akin replied yes.

Commissioner Whitlock is curious about the level of work. How often do they meet? Ms. Akin stated that the Landmarks and Historic Preservation Commission meets once a month. It is rare to cancel their meetings. There is some staff level authority in reviewing paint colors and roofing materials, and façade improvements. Mr. Brinkley reported that any major modification is reviewed by LHPC. Signs and fences could be done administratively, and that is a code change staff is looking at. With larger modifications it gets into the Secretary of Interior standards. There is a lot of discretion. A building addition has to be distinctive and different from the original building but compatible.

Commissioner Bender stated staff has done a great job by putting the applicable criteria at the beginning of each item. What is the basis that the Commission is judging the particular item on? If that is well articulated it becomes clear how SPAC can take that on. Is there a special certification that a Commissioner would need to meet to fill that position? Ms. Akin reported those Commissioners would become the historic experts. Some of the items they see are challenging. There would be training for all the Commissioner's to manage the historic portion.

Chair Quinn asked, how does the City benefit by combining the two Commissions? Ms. Akin reported it lessens the City Council's work load. There are 19 boards and commissions. With the exception of the Planning Commission there is a liaison assigned to all of them. There is an expense to publishing the agendas and staffing meetings.

Chair Quinn asked, when does LHPC meet? Ms. Akin reported they meet the first Tuesday of every month in the evening. They are a quasi-judicial body that has the same authority as SPAC.

Chair Quinn asked, should some of the SPAC members attend LHPC meetings to see what they do? Ms. Akin replied yes.

Ms. Zerkel asked, when saying the City must have a historic commission is there anything that defines what that is, or does it just have to have the word historic in the title of the commission? Ms. Paladino reported that it has to be a commission that oversees historic items. Mr. Brinkley stated that it is not unusual in smaller communities where planning commission doubles up as historic and transportation commission. The LHPC has had a hard time filling seats so the body was reduced to five from seven.

Chair Quinn stated that there are not enough seats in the Council Chambers to include five historic commissioners.

Dick Gordon, City Council Representative, added that the City's legal counsel along with Tim Jackle do not feel that the Planning Commission, Landmarks and Historic Preservation Commission or the Site Plan and Architectural Commission should have a liaison. Their actions are subject to appeal to the City Council. That is one reason he rarely participates in SPAC's dealings. Their concern is with Mr. Gordon sitting through a meeting that he could have information that they do not have even though they could listen to the tape. He does not think that SPAC will have a liaison any longer. The primary responsibility of the liaison is to make sure the Commission is staffed. It has to be the proper staff that understands what the work is and what needs to be done.

There has not been much screening for the people sitting on LHPC to have the necessary skills. Although staff should be teaching the skills he does not know what they have done in orientation and training.

Right now SPAC is short a general contractor. There is someone that said they will participate but they have not filed an application.

If there are no liaisons on the commissions then the City Council is going to have to step up the recruitment and interviewing.

It has been discussed bringing one person from LHPC to SPAC. There are four dedicated positions and four at large and to make a spot for someone with historic background. The big problem is the landscape professional. They have the help of one member that fills that role. Mr. Gordon proposed the possibility of doing away with that because the City does have Parks and Recreation review and some review internally.

He does not think the City Council has talked about increasing the size of SPAC. Just changing the composition.

Commissioner Whitlock asked, would it not make sense to have an odd number? Mr. Gordon replied they do now with nine members. Commissioner Whitlock commented SPAC has eight members. Mr. Gordon was thinking Planning Commission.

There are a lot of duties that Landmarks and Historic Preservation Commission currently has that Mr. Gordon thinks SPAC is capable of doing. In watching the agenda for LHPC he believes staff can make a lot of those decisions. It is the Certified Local Government grant money that is the problem. He has no problem continuing some sort of historic commission. Their sole job is basically the Certified Local Government items and recommending changes to the code or making recommendations to whoever in the City on needed items involved in historic districts and historic activities.

Commissioner Whitlock feels adequately qualified to do what he is doing now with SPAC. Frankly, the architectural piece he is a little grey. He is not sure he would be a great person to serve on a commission that had the requirement/obligation to deal with historical issues.

Commissioner Bender said all of the at-large professionals have varying levels of engagement with different aspects of everything SPAC covers. If the criteria are presented he feels that even though he is not a historic expert, being a member of the community and his professional abilities, he can take LHPC on. The judicial side is what they are examining and judging the case based on its merits and evidence submitted. He thinks the rest of SPAC could do the same thing.

Chair Quinn does not see it as rocket science. He feels qualified.

Ms. Akin stated that as far as criteria goes, staff shows how it does or does not meet the criteria. Mr. Adams does a good job with historic.

Mr. Gordon reported that LHPC in the past years have cost MURA \$80-\$100 thousand. Their expert who the City contracts with and advises LHPC at times sold MURA a bill of goods with the Greyhound Archway that would draw thousands of tourists every year. There were unnecessary expenses that has caused a lot of ill will in town. If SPAC would take over some of their duties, giving the director more responsibility, it will go a long way to helping the community.

Commissioner Whitlock asked, will there be another study session that is perhaps better attended than this one, to talk about some of the issues that they have raised questions about today, or is it more likely to take place within the context of the presentation during a meeting? Ms. Akin replied either way based on their preference.

Chair Quinn stated that perhaps the City Council Representative just makes a decision. Mr. Gordon replied that it would be a recommendation to the City Council. The City Council still has a ways to go before they are ready to make a decision.

Staff will take SPAC's recommendation to the City Council.

Ms. Akin reported that the June 1, 2018, Site Plan and Architectural Commission meeting will be short. They could have a study session immediately following the meeting.

Ms. Zerkel suggested that staff not only have a presentation of the duties but options how to combine the commissions and guidelines of the feedback staff is looking for.

Commissioner Whitlock is a little sensitive about SPAC voting to disband another commission. It feels a little weird. It should be a question on whether SPAC is willing to undertake those responsibilities.

Chair Quinn commented that they should state that SPAC is willing to take one person from LHPC.

Chair Quinn will not be at the June 1, 2018, SPAC meeting and may not be present at the June 15, 2018, SPAC meeting.

The meeting was adjourned at approximately 1:16 p.m.

Submitted by:

Terri L. Richards, Recording Secretary



MEMORANDUM

Subject Outdoor Production of Marijuana in Residential Zones
To Planning Commission *for June 11, 2018 study session*
From Carla Angeli Paladino, Principal Planner
Date June 6, 2018

Planning Commission Direction

Staff is seeking direction from the Commission on the following areas:

- What are the Commission’s comments on the proposed language?
- What additional changes does the Commission recommend Council consider?

Background

As a result of the passage of Measure 91 in 2014, adults 21-years of age and older were allowed to grow up to four marijuana plants per household as of July 1, 2015 (in some instances the number of permitted plants may be greater when being grown for medicinal purposes). (See Exhibit B) In May 2016, the Medford City Council passed Ordinance No. 2016-60 (Exhibit C) which proposed a ban on the outdoor production of marijuana at dwellings and on vacant land within residential areas of the city. That ban was approved by Medford residents in the November 8, 2016 statewide general election, and Section 5.653 of the Medford Municipal Code was replaced to read as follows:

- 1) *No marijuana cultivator shall engage in the outdoor production of marijuana at a dwelling or on vacant land in residential area.*
- 2) *Violation of this section constitutes a violation. Every day in which the violation exists constitutes a separate violation.*

After the election, City staff began receiving phone calls about whether greenhouses are considered indoors or outdoors for growing marijuana. On December 8, 2016, City Council held a study session to discuss this question and provide direction to staff on how to proceed forward (Exhibit E for minutes). Per Oregon Administrative Rule (OAR) 333-008-0010(31) “Indoor Production” is defined as “utilizing artificial lighting on mature marijuana plants” or something “other than “outdoor production” as defined in the rule.” Per OAR 333-008-0010 (43), “Outdoor Production” is defined to mean “producing marijuana in an expanse of open or cleared ground open to the air; or in a greenhouse, hoop house or similar non-rigid structure that does not utilize any artificial

lighting on mature marijuana plants, including but not limited to electrical lighting sources.” The City’s marijuana regulations in Chapters 5 and 10 are silent on what is considered indoor versus outdoor growing in residential zoning districts thus causing ambiguity when trying to assist residents looking for information. In general, the City’s regulations allow for greenhouses and other accessory structures in residential districts causing additional confusion about what is and is not allowed. In addition, the Building Code does not require a building permit for structures less than 200 square feet in size but the structure must meet land use regulations related to lot coverage and setbacks. All of these nuances must be navigated by a resident wanting to grow marijuana in a residential zoning district.

Code Complaints

The City’s Code Enforcement Division began tracking outdoor grow complaints in December 2016. The first case was received in June 2017. Between June and October 2017, a total of 32 complaints related to outdoor production of marijuana and/or related odors in residential areas were received. While some of the complaints have been clear-cut violations of outdoor prohibition, a number have involved marijuana plants being grown inside of a makeshift greenhouse or other accessory-type structure like the one pictured below.



3940 Barnett Road

Accessory buildings are permitted and common within residential areas, and as such the City has allowed legal quantities of plants to remain when they are located inside of “structures” which fully cover the plants; however, there is ambiguity in the code language and varied opinions in the community on how “outdoor production” is (or should be) defined and regulated. Further complicating the issue is the type of structures being used, many or most of which are temporary in both nature and materials. (*Exhibit D for other examples of structures being used*)

Draft Language

The City Council met most recently on this topic in October 2017 (See Exhibit F for minutes). The Legal Department provided sample language of definitions and regulations found in other jurisdictions. Based on the discussion and examples provided staff has drafted proposed language (See Exhibit A) that will amend Sections 5.651 (Definitions) and 5.653 (Ban on Outdoor Production of Marijuana) of the Municipal Code. New definitions have been added including ‘Cannabis structure’, ‘indoors/indoor production’, and ‘outdoor production’. The proposed changes also include what can be used to grow marijuana including garages and a newly defined Cannabis structure. A Cannabis structure is a building or structure that is fully-enclosed and has a solid, non-transparent roof enclosure and walls that are connected to a base and is accessible through a lockable door(s). Plastic sheeting is not a permitted material for a Cannabis structure.

In addition, the proposal includes language that requires the installation of a carbon filter in a structure housing four or more marijuana plants. The regulations are intended to help explain what structures are and are not permitted for the production of marijuana in residential zones.

The proposal is going before City Council on June 21, 2018.

Exhibits

- A. Draft language for Chapter 5
- B. Plant limitations
- C. Ordinance No. 2016-60
- D. Photo examples of structures used for marijuana production in Medford
- E. City Council Study Session minutes from December 8, 2016
- F. City Council Study Session minutes from October 26, 2017

5.651 Definitions

Words and phrases used in Sections 5.650 to 5.654 shall have the following meanings ascribed to them:

(1) "Cannabis Structure" means a building that is fully-enclosed and secure against unauthorized entry; complies with the City's building code and land use regulations; has a complete roof enclosure supported by connecting walls extending from the ground to the roof; has a foundation, slab, or equivalent base to which the floor is secured by bolts or similar attachments; and is accessible only through one or more lockable doors. Walls and roofs must be constructed of solid, non-transparent material, such as two-inch by four-inch or thicker studs overlaid with three-eighths inch or thicker weather resistant siding or equivalent materials. Plastic sheeting, regardless of gauge, or similar products do not satisfy this requirement.

~~(2)~~ "Dwelling" means any building or portion thereof containing living facilities, such as a house, apartment, accessory dwelling unit, or manufactured home. ~~The term includes the accessory building and outdoor areas of a dwelling, if any.~~

(3) "Indoors/Indoor production" means producing marijuana in a dwelling, Cannabis structure or garage, utilizing artificial lighting on mature marijuana plants.

~~(24)~~ "Marijuana" means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae.

~~(35)~~ "Marijuana cultivator" means a person engaged in the production of marijuana and includes:

(a) any person engaged in the production of medical marijuana in accordance with state law; including, but not limited to, a registry identification cardholder, designated primary caregiver or person responsible for a marijuana grow site;

(b) any person engaged in the production of recreational homegrown marijuana in accordance with state law; or

(c) a landlord or property owner that permits or allows a marijuana cultivator to engage in the production of marijuana.

~~(46)~~ "Offensive Odor of Marijuana" means an odor of marijuana that is offensive to an ordinary, reasonable person under the totality of the circumstances. Factors to be considered may include the intensity, duration and frequency of the marijuana odor, whether the marijuana odor is continuous or intermittent, and the circumstances in which the marijuana odor is smelled.

(7) "Outdoor production" means producing marijuana in an expanse of open or cleared ground open to the air; or in a greenhouse, hoop house, or similar non-rigid or glass structure that does not utilize man-made lighting, heating, or cooling systems.

~~(58)~~ "Production of Marijuana" means the planting, cultivation, growing or harvesting of marijuana, and includes the trimming or drying of marijuana leaves or flowers.

~~(69)~~ "Property" means any home, business, publicly-owned property, privately-owned property,

or public right-of-way.

5.653 Ban on Outdoor Production of Marijuana

(1) No marijuana cultivator shall engage in the outdoor production of marijuana on a property at a dwelling or on vacant land in residential areas.

(2) Marijuana cultivators shall be allowed to cultivate or produce homegrown marijuana and medical marijuana in a residential zone subject to the following conditions:

A) All cultivation or production of marijuana shall be conducted indoors:

(B) A marijuana cultivator is permitted to grow marijuana in their dwelling (if applicable) and in no more than one of the following non-habitable structures on the property:

i.) A Cannabis structure; or

ii.) An attached garage; or

iv.) A detached garage.

(C) Cultivating or producing marijuana shall meet the requirements of all adopted City building and life/safety codes:

(D) A structure as noted under (2)(B) above that contains four or more mature marijuana plants shall be equipped with a carbon filtration system for odor control. An alternative odor control system is permitted if the applicant submits a report by a mechanical engineer licensed in the State of Oregon demonstrating that the alternative system will control odor as well as or better than the carbon filtration system otherwise required.

(23) Violation of this section constitutes a violation. Every day in which the violation exists constitutes a separate violation.

Plant Limitations

- **Medical marijuana** possession limits (pursuant to ORS 475B.428):
 - An individual medical marijuana cardholder may have no more than 6 mature marijuana plants, and no more than 12 immature plants over 2 feet high. *No limit on plants under 2 feet high.*
 - A person who registered to produce medical marijuana for other cardholders **on or after January 1, 2015**, and whose registration address is located in a residential zone within city limits, can have no more than 12 mature marijuana plants at the address, and no more than 24 immature plants over 2 feet high. *No limit on plants under 2 feet high.*
 - A person who was registered to produce medical marijuana for other cardholders **before January 1, 2015**, and whose registration address is located in a residential zone within city limits, can have no more than 24 mature marijuana plants, and no more than 48 immature plants more than 2 feet high. *No limit on plants under 2 feet high.*
 - Grower must be registered as a cardholder or grower, and must be at least 18 years old.
- **Recreational marijuana** possession limits (pursuant to ORS 475B.245):
 - No more than 4 marijuana plants (immature or mature) *per household* at one time.
 - No more than 10 seeds *per household* at one time.
 - Grower must be at least 21 years old.
- Note: "immature" means a marijuana plant that is not flowering (ORS 475B.015(12))

ORDINANCE NO. 2016-60

AN ORDINANCE replacing sections 5.650, 5.653, 5.654 and amending sections 5.651 and 5.652 of the Medford Code pertaining to control of recreational and medical marijuana.

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

Ban on Outdoor Production of Marijuana

SECTION 1. Section 5.650 of the Medford Code is replaced to read as follows:

5.650 Intent and Purpose of Sections 5.650 to 5.654.

~~The City Council of the City of Medford recognizes that citizens of the state of Oregon may both use and grow recreational and medicinal marijuana in accordance with state law. However, the City Council also recognizes that the production of marijuana, without appropriate safeguards in place, can have a detrimental effect upon public safety and neighboring citizens. The City Council finds and declares that the health, safety and welfare of its citizens are promoted by limiting the production of recreational and medical marijuana grows in residential areas and ensuring that the offensive odor of marijuana does not travel to other properties.~~

The City Council of the City of Medford recognizes that Oregon law permits authorized persons to engage in the use of marijuana for both medical and recreational purposes. However, the Council also recognizes that the outdoor production of marijuana in residential areas has adversely affected the public health, safety and welfare.

Specifically, the Council finds that the outdoor production of marijuana in residential areas has led to an increase in complaints of offensive odor and of criminal activity, such as robbery, burglary, theft, menacing, and the manufacturing, delivery and possession of a controlled substance. In addition, the marijuana produced at a dwelling is not required to be tested for pesticides, microbiological contaminants, or THC and CBD concentration at a state-licensed laboratory, while useable marijuana sold or transferred to a consumer by a state-licensed medical marijuana dispensary or marijuana retailer requires such testing.

The Council declares that the health, safety and welfare of its citizens are promoted by prohibiting the outdoor production of recreational and medical marijuana at both dwellings and vacant land within residential areas, and ensuring that the otherwise permissible production of marijuana does not adversely affect neighboring properties by subjecting them to an offensive odor of marijuana.

SECTION 2. Section 5.651 of the Medford Code is amended to read as follows:

5.651 Definitions.

Words and phrases used in Sections 5.650 to 5.654 shall have the following meanings ascribed to them:

(1) "Dwelling" means any building or portion thereof containing living facilities, such as a house, apartment or manufactured home. The term includes ~~any accompanying~~ **the** accessory buildings and

outdoor areas of a dwelling, if any.

~~(2) "Homegrown Marijuana" means the marijuana produced for recreational use by a person in accordance with state law.~~

~~(3) "Marijuana" means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae. The term includes any and all homegrown and medical marijuana as defined in this section.~~

~~(4) "Marijuana cultivator" means a medical marijuana grower or recreational marijuana homegrower. The term includes any landlord or property owner that permits or allows marijuana to be produced at a dwelling.~~

~~(5) "Medical Marijuana" means the marijuana produced for medicinal use in accordance with the Oregon Medical Marijuana Act.~~

~~(6) "Medical Marijuana Grower" means any person engaged in the production of medical marijuana in accordance with state law. The term includes persons authorized to produce marijuana pursuant to the Oregon Medical Marijuana Act; including, but not limited to, a registry identification cardholder, designated primary caregiver, or person responsible for a marijuana grow site.~~

~~(7) "Production of Marijuana" means the planting, cultivation, growing or harvesting of marijuana, and includes the trimming or drying of marijuana leaves or flowers.~~

~~(8) "Property" means any home, business or publicly owned property and right-of-way.~~

~~(9) "Recreational Marijuana Homegrower" means a person engaged in the production of homegrown marijuana in accordance with state law.~~

(2) "Marijuana" means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae.

(3) "Marijuana cultivator" means a person engaged in the production of marijuana and includes:

(a) any person engaged in the production of medical marijuana in accordance with state law; including, but not limited to, a registry identification cardholder, designated primary caregiver or person responsible for a marijuana grow site;

(b) any person engaged in the production of recreational homegrown marijuana in accordance with state law; or

(c) a landlord or property owner that permits or allows a marijuana cultivator to engage in the production of marijuana.

(4) "Offensive Odor of Marijuana" means an odor of marijuana that is offensive to an ordinary, reasonable person under the totality of the circumstances. Factors to be considered may include the intensity, duration and frequency of the marijuana odor, whether the marijuana odor is continuous or intermittent, and the circumstances in which the marijuana odor is smelled.

(5) "Production of Marijuana" means the planting, cultivation, growing or harvesting of marijuana, and includes the trimming or drying of marijuana leaves or flowers.

(6) "Property" means any home, business, publicly-owned property, or public right-of-way.

SECTION 3. Section 5.652 of the Medford Code is amended to read as follows:

5.652 Offensive Marijuana Odor; ~~Limitation on Outdoor Marijuana Grows.~~

(1) No marijuana cultivator shall cause or allow an offensive odor of marijuana to emanate from a dwelling or vacant land in residential areas to any other property.

~~(2) No dwelling shall contain more than four (4) marijuana plants at any time, effective November 1, 2015.~~

~~(2)(3)~~ Violation of this section constitutes a violation. Every day in which the violation exists constitutes a separate violation.

SECTION 4. Section 5.653 of the Medford Code is replaced to read as follows:

5.653 Public Nuisance-Remedy. Ban on Outdoor Production of Marijuana.

~~Violation of section 5.652 is declared to be a public nuisance, and may be abated in the manner provided for in section 5.520.~~

(1) No marijuana cultivator shall engage in the outdoor production of marijuana at a dwelling or on vacant land in residential areas.

(2) Violation of this section constitutes a violation. Every day in which the violation exists constitutes a separate violation.

SECTION 5. Section 5.654 of the Medford Code is replaced to read as follows:

5.654 Severability. Public Nuisance- Remedy

~~The sections, subsections, paragraphs and clauses of this Ordinance are severable. The invalidity of one section, subsection, paragraph or clause shall not affect the validity of the remaining sections, subsections, paragraphs or clauses.~~

Violation of sections 5.652 and 5.653 are declared to be a public nuisance, and may be abated in the manner provided for in section 5.520.

REFERRAL. This ordinance shall be referred to the electors of the City of Medford at the November 8, 2016 statewide general election.

PASSED by the Council and signed by me in authentication of its passage this 19 day of May, 2016.

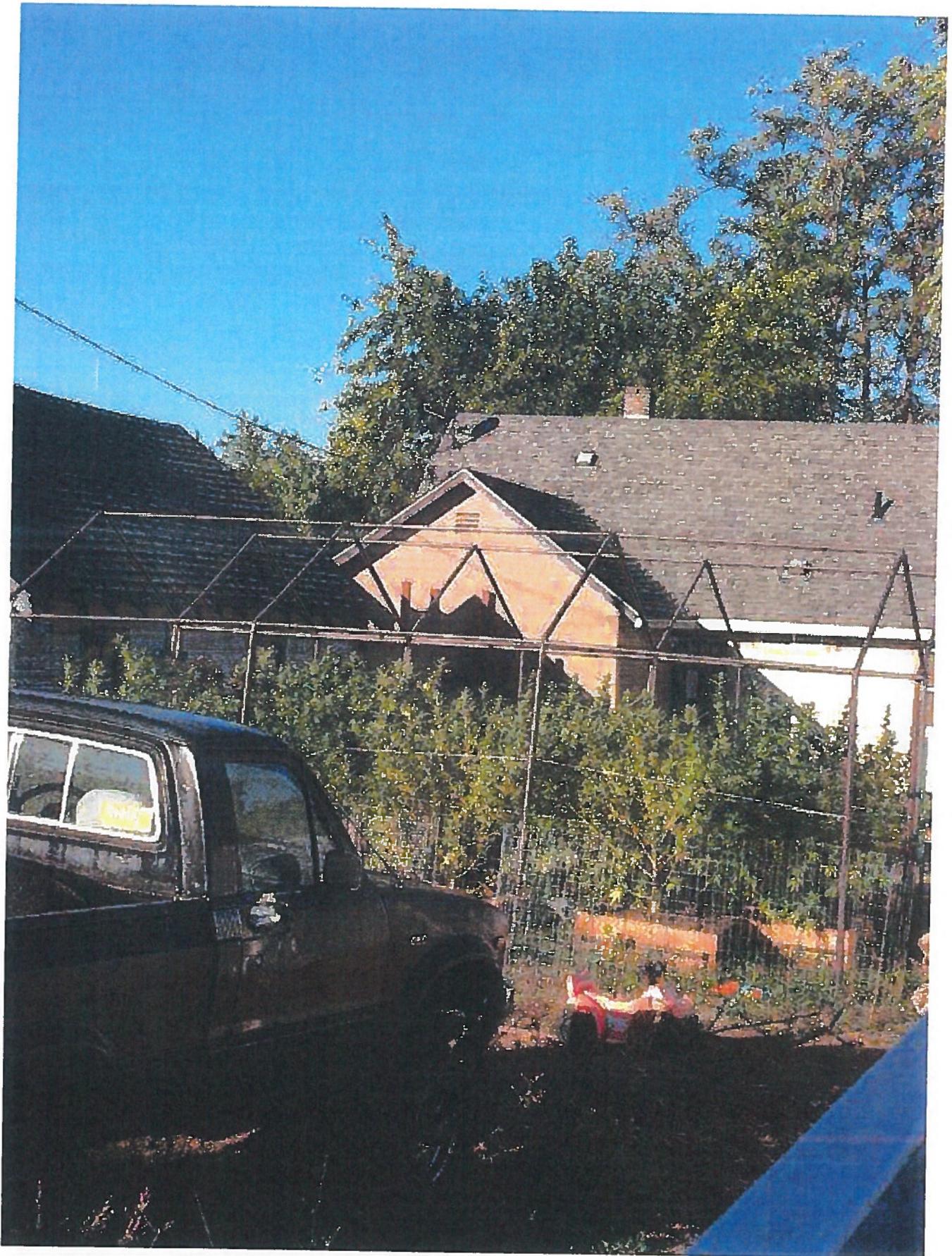
ATTEST: s/Winnie Shepard
Deputy City Recorder

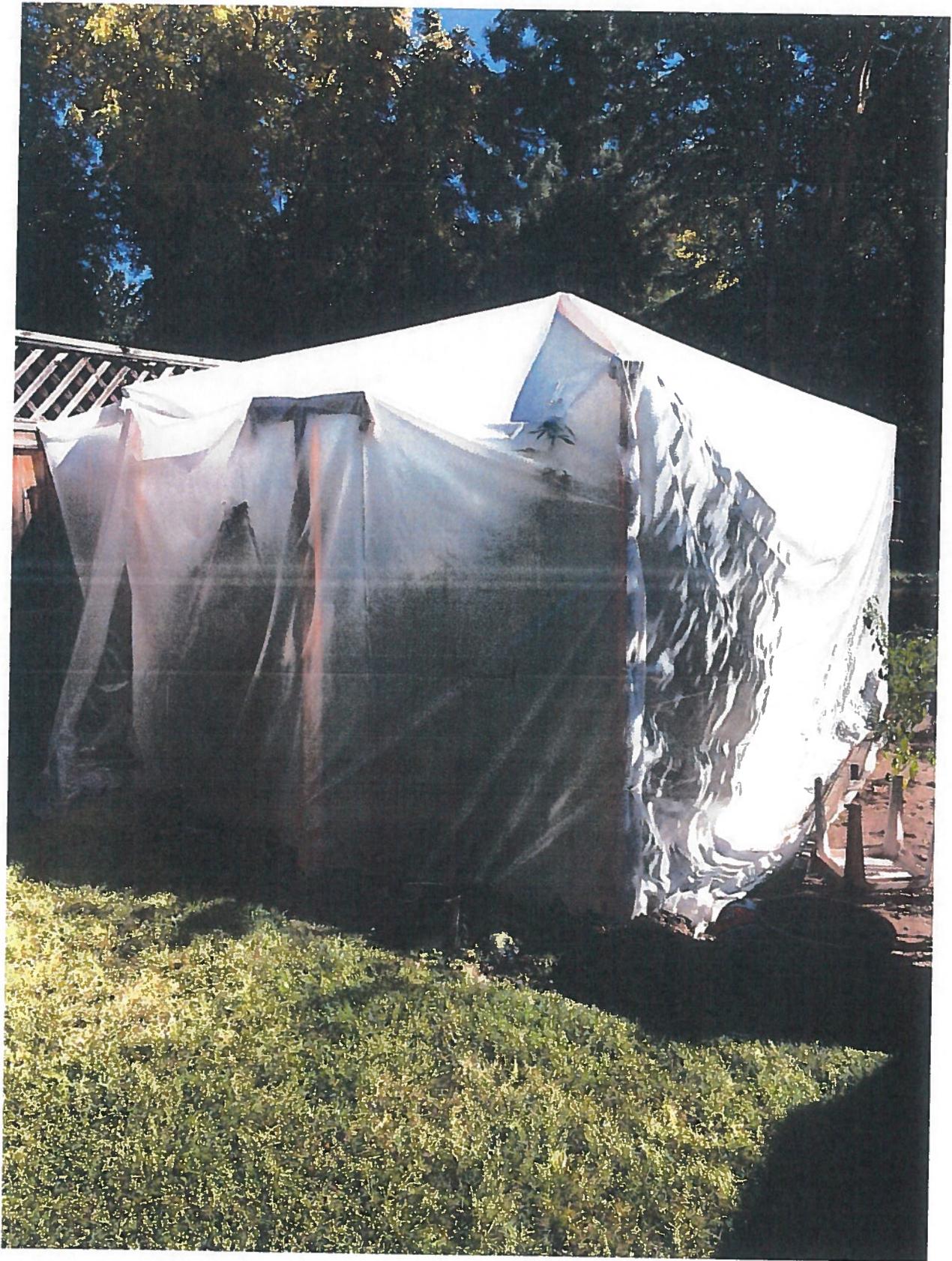
s/Gary H. Wheeler
Mayor

APPROVED May 19, 2016.

s/Gary H. Wheeler
Mayor

NOTE: Matter in **bold** is new. Matter ~~struck out~~ is existing law to be omitted. Three asterisks (***) indicate existing law which remains unchanged by this ordinance but was omitted for the sake of brevity.





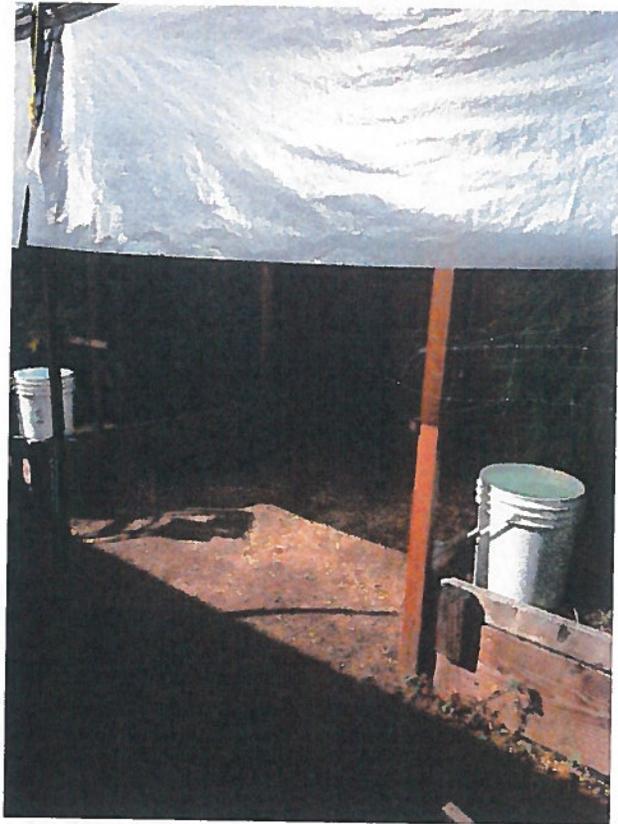
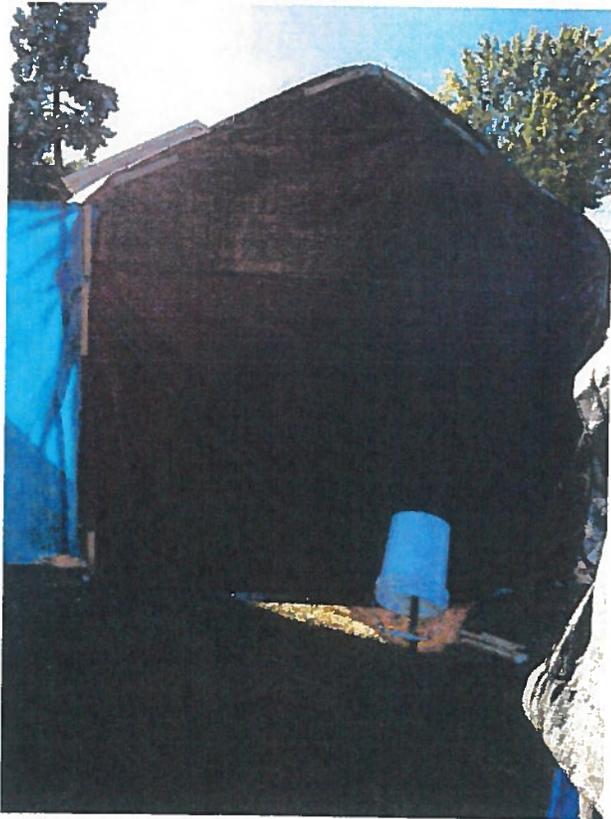
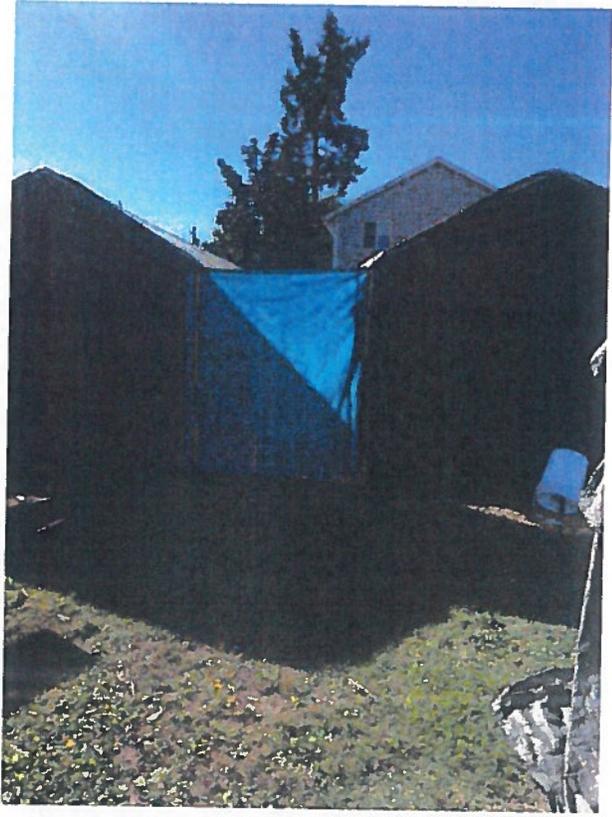
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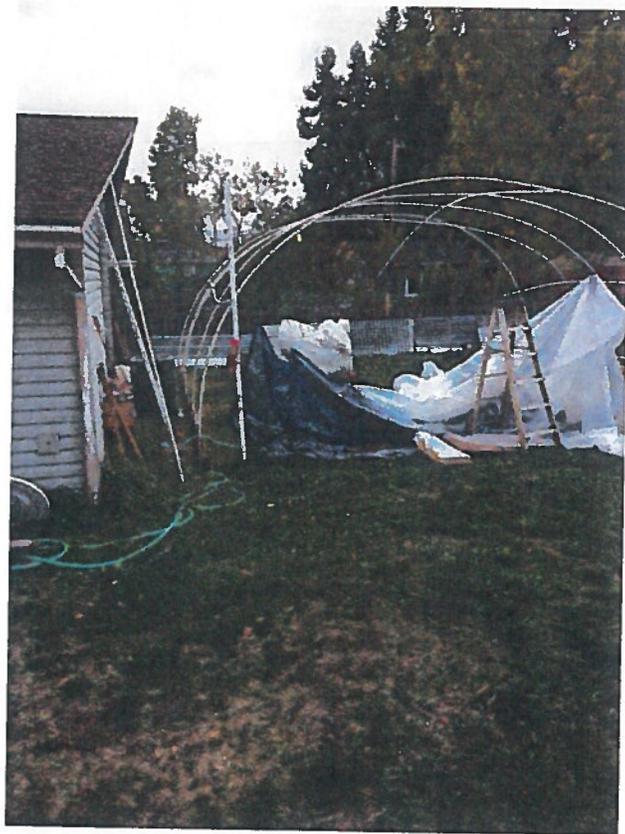
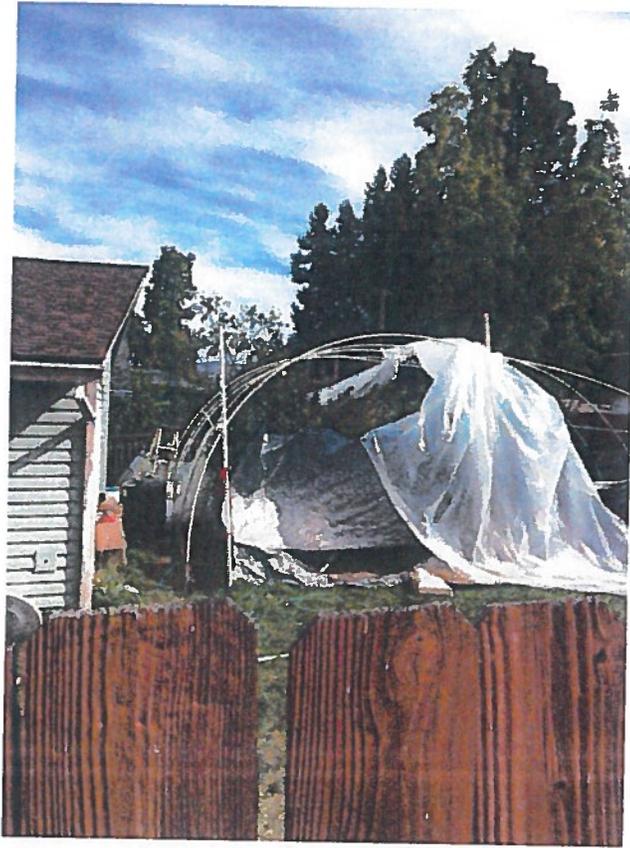
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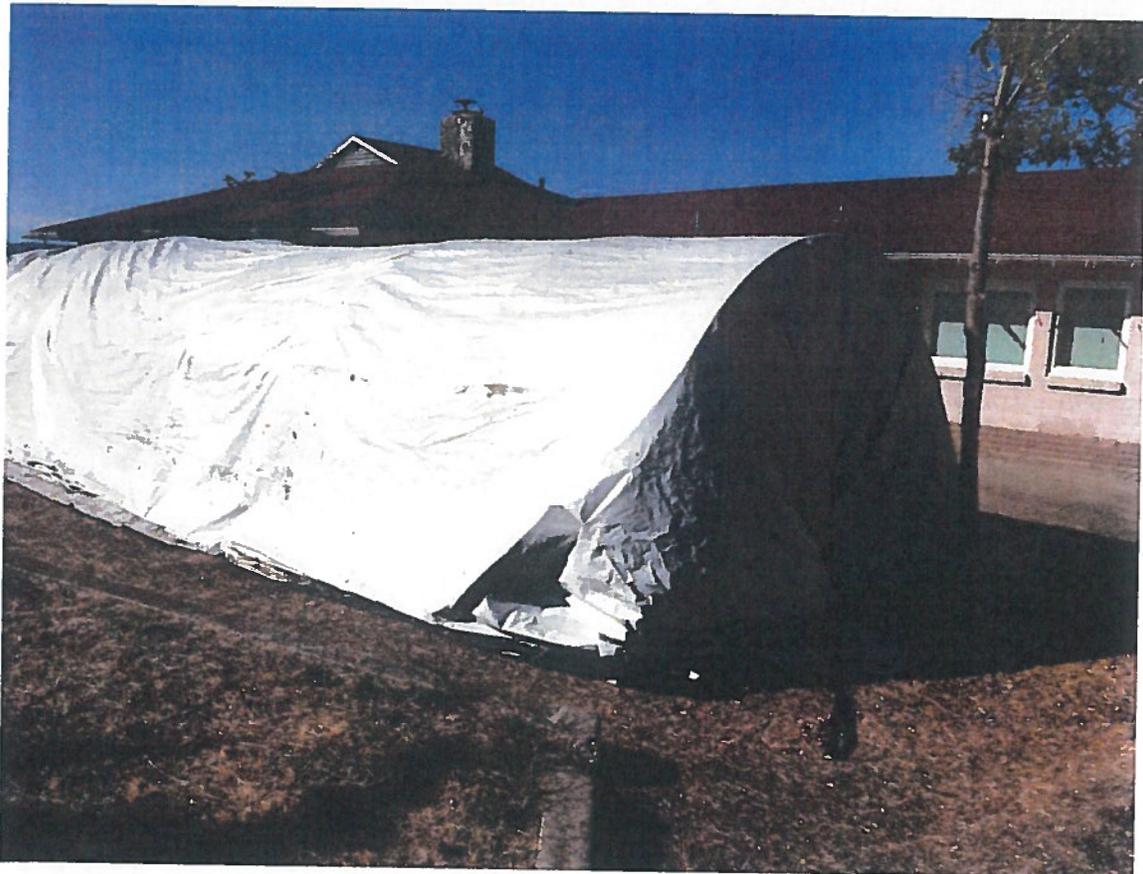
521 Pennsylvania



1486 Hillcourt



1631 Prune



3940 Barnett



Minutes

December 8, 2016
Medford City Hall, Medford Room
411 West 8th Street, Medford, Oregon

The Medford City Council Study Session was called to order at 6:00 p.m. in the Medford Room of the Medford City Hall on the above date with the following members and staff present:

Mayor Gary Wheeler; Councilmembers Clay Bearnson, Chris Corcoran, Dick Gordon, Tim Jackle, Eli Matthews, Kevin Stine, Michael Zarosinski* (via telephone)

Councilmembers Elect Kay Brooks, Tim D'Alessandro**

City Manager Brian Sjothun**; City Attorney Lori Cooper; City Recorder Karen Spoons

Councilmember Daniel Bunn was absent.

*Disconnected and connected as noted.

**Arrived and left as noted.

State Lobbyist Cindy Robert

Our Lobbyist Cindy Robert, Rainmakers, outlined her process to have bills passed. She discussed the various topics expected to arise during 2017, noting:

- The governor's strategy is to reduce the budget but focus on children and poverty
 - With the failure of Measure 97, funding is needed. The following options were discussed:
 - Possible commercial activity tax (corporate tax), versus a minimum tax for businesses
 - Increase in liquor and tobacco taxes
 - However, new taxes need approval from two-thirds of the Legislature
- Transportation
 - Joint Committee on Transportation Preservation & Modernization and the Oregon Transportation Forum are working to determine ways to obtain the funding needed
 - Ms. Robert believes that a Transportation package will happen as a result
 - Vehicle mileage pilot project may become available for areas
 - Gas tax and changes in licensing fees are being considered
- Marijuana
 - Committee has reconvened to discuss the revenue received from marijuana
 - Councilmember Bearnson believed the market was poised to receive \$44.4 million dollars, but the regulations and testing requirements reduced that amount by \$10 million, so those regulations were revised

*Councilmember Zarosinski disconnected and reconnected.

- Medford 2017 Legislative Agenda
 - Recreational immunity issue will be presented next week

- Transportation
 - City will continue to oppose ROW and franchise fee changes
 - Work schedule mandate will effect hourly employees
 - Hourly employees must receive work schedule three weeks in advance
 - Construction workers will be exempt
 - Impacts private and public employers
- Right to rest
 - Enables homeless to reside and keep their belongings on public property without police intervention
 - Includes easements through private property
 - Transients on Bear Creek Greenway would be able to remain there

**Councilmember Elect Tim D'Alessandro arrived.

- Open records
 - Journalists would like to view public information without long response times or expense
 - Requires records requests to be completed within 15 days
 - Regulation does not consider cost for document production
- PERS
 - Some previous revisions were unconstitutional
 - Reinstating the employee contribution
 - Capping salary at \$100,000
 - Shouldn't impact current employees
- Options to ensure utility fee payments to the City through liens, property taxes or other option

*Councilmember Zarosinski disconnected and reconnected.

- Council discussed how the Legislative Committee would work with Ms. Roberts and provide recommendations to the Council.
 - Proposed bills will be compiled into a list to be more judicial with less comments by department heads

*City Manager Brian Sjothun left the meeting.

Marijuana Greenhouses – Lori Cooper

City Attorney Lori Cooper noted the City has received calls regarding whether greenhouses should be considered indoors or outdoors for marijuana growing.

Three options:

1. Consider them outdoor grows in residential areas and, therefore, prohibited
2. Consider them indoor grows and create regulations/rules
3. Do nothing and handle complaints as they arise

Greenhouses Code:

- Current Building Codes include greenhouses, but marijuana regulations could be different
- Currently greenhouses are considered outdoor
- There is no technical definition of a greenhouse in the Code
- Current Oregon Medical Marijuana regulations state greenhouses are outdoor

Mayor Wheeler preferred no outdoor growing period. Greenhouses should be prohibited to protect neighborhoods. Chief Sparacino specified the Police Department needed to prohibit criminal intent including theft and smell. He recommended blocking the view of the marijuana.

Mayor and Council discussed the pros and cons of greenhouse marijuana growing.

- Current Code allows greenhouses in residential areas

*Councilmember Zarosinski disconnected and reconnected.

- A greenhouse is generally a building that uses natural light
- Probably should be revised with specific requirements for greenhouses to be considered "indoor"
 - Private construction
 - Size
 - Material
 - Secured
 - Natural light
 - Opaque

Mayor and Council discussed the positive and negative impacts of the greenhouse requirement on citizens needing medicine. Councilmember Bearnson believed there were only 23 complaints received last year. Councilmember Gordon stated he received more than 23 complaints regarding smell, lights, dogs, traffic, etc.

Interim Planning Director Kelly Akin spoke regarding accessory structure requirements noting lot coverage, setbacks, and that rigid structures must be a minimum of 200 square feet. Permits are not required for structures smaller than 200 square feet, but they must meet standards. Mayor Wheeler requested the current accessory structure requirements be provided to Council.

The meeting adjourned at 7:40 p.m.

Karen M. Spoons, MMC
City Recorder

AGENDA

October 26, 2017

6:00 p.m.

City Hall, Medford Room

411 W. 8th Street, Medford, Oregon

1. Self-insurance
2. Marijuana Indoor Grows
3. Shopping Cart Ordinance

MINUTES (Excerpt)

October 26, 2017

6:00 p.m.

City Hall, Medford Room

411 W. 8th Street, Medford, Oregon

The Medford City Council Study Session was called to order at 6:00 p.m. in the Medford Room of the Medford City Hall on the above date with the following members and staff present:

Mayor Gary Wheeler; Councilmembers Clay Bearnson, Kay Brooks (arrived at 6:05 p.m.), Tim D'Alessandro, Dick Gordon, Tim Jackle, Kevin Stine, Kim Wallan, and Michael Zarosinski

City Manager Brian Sjothun; Deputy City Manager Kelly Madding; City Attorney Lori Cooper; Human Resources Director Mike Snyder; Finance Director Alison Chan; Police Sergeant Don Lane; Public Works Director Cory Crebbin; Assistant Parks & Recreation Director Tim Stevens; Police Chief Randy Sparacino; Deputy City Recorder Winnie Shepard

Marijuana Indoor Grows:

Principal Planner Carla Paladino spoke regarding indoor marijuana grows, noting:

- Project a collaboration of Code Enforcement
- What is considered “outdoor grows”, greenhouses, etc.
 - Complaints received regarding outdoor grows covered with various types of tarp covering
- Outlined regulations from various cities
- No current Code outlining greenhouse requirements

Council Comments:

- No outdoor grows, period
- Complaints were regarding smell and aesthetics
 - Code Enforcement cannot prohibit greenhouse grows because there is no set Code
- Defining what is allowed versus disallowed
- Should be allowed to grow in your house and your garage
- Could simply require charcoal filters to prevent odor; provide security
- Could use state definition; no plastic sheeting or fully glass houses
- Probably don’t need setbacks and odor mitigation equipment; one or the other
- Current ADU Code states a maximum of 900 square feet or half the size of the main house
- Setbacks could prohibit grows on smaller lots
- Glass sides should be allowed
- Staff should bring forward options of ADU or types of outdoor buildings for review that are very specific and clear
 - Should meet building requirements
 - So few complaints; maybe we don’t need any requirements

After discussion, Council did not want/need another study session on this topic; but they would like options brought forward regarding structures. City Attorney Lori Cooper stated there were three possible options.

The meeting adjourned at 8:17 p.m.

Winnie Shepard

Deputy City Recorder