



Wasco County Planning Department
"Service, Sustainability & Solutions"
 2705 East Second St. • The Dalles, OR 97058
 (541) 506-2560 • wcplanning@co.wasco.or.us
 www.co.wasco.or.us/planning

LAND USE APPLICATION

FILE NUMBER: _____

FEE: \$600

Date Received: _____ Planner Initials: _____ Date Complete: _____ Planner Initials: _____

APPLICANT INFORMATION

Name: Brooks Foster
 Address: 510 SW 5th Ave., 5th Floor
 City/State/Zip: Portland, OR 97204
 Phone: 503-221-7958
 Email: bfoster@northwestlaw.com

OWNER INFORMATION

Name: Loren Dana
 Address: 2040 Seven Mile High Rd.
 City/State/Zip: The Dalles, OR 97058
 Phone: 503-679-7897
 Email: lorencdana@msn.com

PROPERTY INFORMATION

Township/Range/Section/Tax Lot(s)	Acct #	Acres	Zoning
2N / 12E / 22 / 300	871	9.94	RR-10

Property address (or location): 2040 Seven Mile High Rd., The Dalles, OR 97058

Zoning Designation: RR-10 Environmental Protection District: _____

Proposed Use: Farm use - marijuana production Permitted Subject to Section: _____

Water source: Chenowith Water PUD Sewage disposal method: On site septic system

Name of road providing access: Haliburton Rd. and/or Seven Mile High Rd.

Current use of property: Farm use - marijuana production Use of surrounding properties: Residential and farm use

Do you own neighboring property? NO YES (description) _____

DETAILED PROJECT DESCRIPTION (proposed use, structures, dimensions, etc.): _____

See attached letter from Brooks Foster dated April 19, 2016

Additional description/maps/pictures attached

LEGAL PARCEL STATUS

Partition, Subdivision, OR

Most Recent Pre-9/4/1974 Deed #: _____ Date Filed: _____

Current Deed #: 2014-002411 Date Filed: 7/30/2014

The deed and a map showing the property described in the deed(s) must accompany this application.

SIGNATURES

Applicant(s):  Brooks Foster, attorney for _____ Date: 4.19.16

Property Owner(s):  Loren Dana Date: 4-19-16

_____ Date: _____

PLEASE NOTE: Before this application will be processed, you must supply all requested information and forms, and address all listed or referenced criteria. Pursuant to ORS 215.428, this office will review the application for completeness and notify Applicant of any deficiencies within 30 days of submission. By signing this form, the property owner or property owner's agent is granting permission for Planning Staff to conduct site inspections on the property.

ALL LAND USE APPLICATIONS MUST INCLUDE:

- Application Fee -- Cash or Check (credit cards now accepted with additional fee)
- Site Plan
- Elevation Drawing -- N/A, no new structure is proposed
- Fire Safety Self-Certification
- Other applicable information/application(s):

Letter from Brooks Foster

APPLICATIONS FOR PROPERTIES IN THE NATIONAL SCENIC AREA MUST ALSO INCLUDE:

- Scenic Area Application/Expedited Review
- Color and Material Samples
- Landscaping Plan
- Grading Plan
- Other applicable information/application(s):

SHADED AREA TO BE COMPLETED BY PLANNING DEPARTMENT

Legal Parcel NO YES
Deed/Land Use Action: _____

Previous Map and Tax Lot: _____

Past Land Use Actions: If yes, list file #(s) _____ NO YES

Subject to previous conditions? NO YES

Assessor Property Class: _____

Zoning: _____

Environmental Protection Districts – List applicable EPDs:

EPD # _____

EPD # _____

EPD # _____

EPD # _____

Water Resources

Are there bodies of water on property or adjacent properties? NO YES

Describe: _____

Fish bearing (100/50 ft buffer) Non fish bearing (50 ft buffer) Not identified (25 ft buffer)

Irrigation ditch (50 ft buffer)

Access:

County or ODOT approach permit on file? NO YES, # _____

Address:

Address exists and has been verified to be correct? NO YES

Address needs to be assigned after approval? NO YES

Fire District: _____

Fees (List Review Type and Cost): _____

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FILE NUMBER: _____

NONCONFORMING USE APPLICATION

Describe the nature, purpose, and extent of the use or structure(s), and any proposed alteration:

See attached letter from Brooks Foster

DETAILED STRUCTURAL INFORMATION

PROPOSED Improvements				
Structure/Development	Length	Width	Height	Square Footage
Dwelling				
Accessory Structure				
EXISTING Development				
Dwelling	see attached			
Accessory Structure	see attached			

VERIFICATION OF NONCONFORMING USE

Nonconforming structures or uses must have been **lawfully established** under all applicable regulations, but no longer conform to the requirements of the zone in which they are located. Using a preponderance of evidence, you must prove the use or structure was established prior to zoning ordinances (September 4, 1974) AND/OR consistent with the applicable regulations in effect at the time.

When was the nonconforming use established? Before January 11, 2016

Documentation supporting the date of establishment and/or compliance with applicable regulations may include the following (check all that are attached):

TYPE I VERIFICATION

- Land Use Approval
- County Assessor Records
- Building Permit
- Septic Permit

TYPE II VERIFICATION

- Utility Bills/Records
- Aerial Photographs
- Dated Photographs
- Notarized Affidavits

Discontinuance or Abandonment: A nonconforming use must not have been discontinued or abandoned for any 12 consecutive months in any of the past 10 years. Discontinuance or abandonment of a use may occur even if improvements or structures supporting the use remain in place.

Attach any records demonstrating that the use has not been discontinued or abandoned.

RESTORATION OR ALTERATION OF NONCONFORMING USE

Restoration or Replacement of a Structure Damaged or Destroyed by Fire or Other Disaster

1. How was the structure damaged or destroyed? N/A

2. Date structure was damaged or destroyed: N/A

Alteration of a Non-Residential Structure NOT Damaged or Destroyed by Fire or Other Disaster (N/A in the NSA)

3. Describe how the alteration will impact the neighborhood or surrounding area related to the following:

Visual Appearance: See attached

Character and History of the Use: See attached

Noise, Light, Vibration, Dust, Odors: See attached

Public Facilities and Services: See attached

Outdoor Storage, Loading, Parking: See attached

Hours of Operation: See attached

Natural Resources, Water Quality, Drainage: See attached



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**FIRE SAFETY STANDARDS
 SELF CERTIFICATION FORM**

This checklist certifies that Applicant/Owner has reviewed, understands, and commits to maintain compliance with Wasco County Fire Safety Standards. The information contained in this form shall be recorded with the Wasco County Clerk.

Fire standards are listed in their entirety, with illustrations, in **Chapter 10** of the Wasco County Land Use & Development Ordinance (WC LUDO) and **Chapter 11** of the Wasco County National Scenic Area Land Use & Development Ordinance (NSA LUDO). Please confirm compliance by marking the appropriate box and providing written comment if necessary. If compliance with applicable standards cannot be certified by Applicant, please contact the Planning Department to request a modification to Fire Safety Standards.

File Number: _____

PROJECT DESCRIPTION: Verification and alteration of nonconforming use of land - marijuana production

APPLICANT INFORMATION

Name: Brooks Foster
Address: 510 SW 5th Ave., 5th Floor
City/State/Zip: Portland, OR 97204
Phone: 503-221-7958
Email: bfoster@northwestlaw.com

OWNER INFORMATION

Name: Loren Dana
Address: 2040 Seven Mile High Rd.
City/State/Zip: The Dalles, OR 97058
Phone: 503-679-7897
Email: lorencdana@msn.com

PROPERTY INFORMATION

Township/Range/Section/Tax Lot(s)	Acct #	Acres	Zoning
2N / 12E / 22 / 300	871	9.94	RR-10

Property address (or location): 2040 Seven Mile High Rd., The Dalles, OR 97058

SITING 10.110/11.110 – Please show approximate areas of steep slopes and proposed building locations relative to the slopes on the site plan. Information shall be sufficient to demonstrate the following: **NOTE: Select either B(1) or B(2).**

A. You have identified site(s) for your building(s) that are not steeper than 40%.

Yes – Comment N/A - no new buildings proposed No, See Attached Fire Safety Plan

B(1). If your property is located in a Resource (A-1, F-1 or F-2) or Large Lot Residential Zone please show, on the site plan, that you have identified site(s) for your building(s) that are at least 50 feet back from the top of any slopes steeper than 30%;

Yes – Comment N/A - no new buildings proposed No, See Attached Fire Safety Plan

B(2). If your property is located in a Resource or Large Lot Residential Zone please show you have identified site(s) for your building(s) that are at least 30 feet back from the top of any slopes steeper than 30% on the site plan and certify that you will be implementing the structural techniques for increasing fire resistance discussed in **10.110(B)(2)/11.110(B)(2)** of the ordinance.

Yes – Comment N/A - no new buildings proposed No, See Attached Fire Safety Plan

DEFENSIBLE SPACE 10.120/11.120 – Please show building location(s) including a boundary for the 50 foot fire fuel break boundary on the site plan. Information shall be sufficient to demonstrate the following: **NOTE: Select either A or B.**

A. You have identified site(s) for the proposed building(s) that allow for a full 50 foot fire fuel break either on the parcel or by easement over the necessary portion of an adjoining parcel;

Yes – Comment N/A - no new buildings proposed No, See Attached Fire Safety Plan

B. Your property is located in an exception area or smaller lot residential zone and building(s) are located to accommodate a 30 foot fire fuel break where a full 50 foot fire fuel break cannot be provided for.

Yes – Comment N/A - no new buildings proposed No, See Attached Fire Safety Plan

CONSTRUCTION STANDARDS 10.130/11.130 – Please provide the following information about construction details you will implement to increase the fire resistance of your proposed building(s):

A(1). Fire resistant roofing will be installed to the manufacturers' specifications. Please confirm the type of roofing and that the rating of the roof material by Underwriter's Laboratory Classification system is Class A, B, or its equivalent.

Yes – Comment N/A - no new buildings proposed

A(2). Please verify that all spark arrestors will be installed to cap all chimneys and stove pipes. (The spark arrestors must meet NFPA standards)

Yes – Comment N/A - no new buildings proposed

B(1). Please verify the following for all decks:

Decks will be kept clear of fire wood, flammable building material, dry leaves and needles, and other flammable chemicals.

Yes – Comment N/A - no new buildings proposed

Decks less than three feet above ground will be screened with noncombustible corrosion resistant mesh screening material with openings ¼" or less in size.

Yes – Comment N/A - no new buildings proposed

When required by standard **10.110(B)(2)/11.110(B)(2)** decks will be built of fire resistant material.

Yes – Comment N/A - no new buildings proposed

All flammables will be removed from the area immediately surrounding the structure to be stored 20' from the structure or enclosed in a separate structure during fire season.

Yes – Comment N/A - no new buildings proposed

B(2). Please confirm that all openings into and under the exterior of the building including vents and louvers, will be screened with noncombustible corrosion resistant mesh screening material with openings of ¼" or less.

Yes – Comment N/A - no new buildings proposed

B(3). Please acknowledge that you will limb up all trees overhanging the building to 8' above the ground, as required by fire fuel break requirements, that vegetation will be trimmed back 10 feet away from any chimney or stove pipe, and that trees overhanging the building will be maintained free of all dead material.

Yes – Comment N/A - no new buildings proposed

B(4). Please verify that the utilities will:

Be kept clear along their route if your private utility service lines are not underground

Yes – Comment N/A - no new buildings proposed

Have a single point of access to the building if service is not provided underground.

Yes – Comment N/A - no new buildings proposed

Include a clearly marked main power disconnect switch at the pole or off grid power source for all electrical service to new buildings and structures. This has been located on the site plan.

Yes – Comment N/A - no new buildings proposed

B(5). Please confirm that a stand pipe will be provided 50 feet from the dwelling and any structure served by a plumbed water system. This has been located on the site plan.

Yes – Comment _____

ACCESS 10.140/11.140 – Please confirm that access onto and through your property meets the following standards (Note: please show route, width, and alignment of access drives on the site plan):

A(1). New or improved driveways will be built and maintained to all weather design standards. (2-3" of ¾ minus over 6-8" of pitrun base rock OR capable of supporting 75,000 lbs GVW)

Yes – Comment _____ No, See Attached Fire Safety Plan

A(2). Minimum widths – 12' to 16', depending on number and severity of curves – will be maintained.

Yes – Comment _____ No, See Attached Fire Safety Plan

B(1). Corners will meet the minimum curve radius (20' or 48') required for large vehicles.

Yes – Comment _____ No, See Attached Fire Safety Plan

B(2). Average grade or slope will be 10% or less. Short sections, 100' or less, may reach 12%.

Yes – Comment _____ No, See Attached Fire Safety Plan

B(3). Turnouts 40' long by 20' wide will be provided at least every 400'.

Yes – Comment _____ No, See Attached Fire Safety Plan

C(1). Minimum clearance of 13' vertical and 14' horizontal will be maintained for emergency vehicles.

Yes – Comment _____ No, See Attached Fire Safety Plan

C(2). Fire fuel break extending 10' both sides of driveway center line will be maintained.

Yes – Comment _____ No, See Attached Fire Safety Plan

D. Driveways longer than 150' will end with a 95' diameter turnaround (or 120' hammerhead).

Yes – Comment _____ No, See Attached Fire Safety Plan

E. Bridges and culverts will support 75,000 lbs gross vehicle weight.

Yes – Comment _____ No, See Attached Fire Safety Plan

F. Gates will provide minimum clearance width of 14' and will be operable by emergency responders in accordance with access standards.

Yes – Comment _____

G. Legible signs will be installed to identify parking limitations, fire lanes, on site water source, electrical service shut off, and any necessary posted weight limits. Signs will be maintained in accordance with requirements.

Yes – Comment _____

H. Roads leading to the property will allow emergency response at a reasonable rate of speed with little risk of damage to equipment or roads themselves;

Yes – Comment _____ No, See Attached Fire Safety Plan

OR..... The following improvements to public and private roads have been determined to be necessary:

All necessary improvements will be made and maintained to ensure basic access to the property.

Yes – Comment N/A _____ No, See Attached Fire Safety Plan

ON-SITE WATER 10.150/11.150 – On site water requirements will be met in the following way:

NOTE: Select either A or B. Previous requirements to install NFPA sprinkler systems have been found to conflict with State Building Codes.

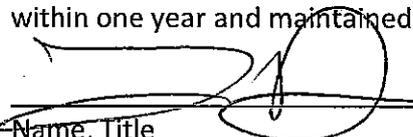
A. The proposed dwelling is 3,500 SF or smaller and will be located within a fire protection district.

Yes – Comment N/A _____ No, See Attached Fire Safety Plan

B. The proposed dwelling is 3,500 SF or smaller, will be located outside a fire protection district, and will provide at least 4,000 gallons of water on site for fire protection.

Yes – Comment N/A _____ No, See Attached Fire Safety Plan

I/we acknowledge receipt of the full **WC LUDO Chapter 10/NSA LUDO Chapter 11 – Fire Safety Standards** text and illustrations applicable to the land use or building permit request at the time of application. I/we have reviewed and certify that the standards have been reviewed and understood. I/we further certify that all responses to the above questions and improvement designs and locations shown on the site plan are true and accurate, and that all planned future compliance will be achieved within one year and maintained in perpetuity.

 _____ owner _____ 4/19/16
Name, Title Date

Name, Title Date

FRONT / REAR VIEW

N/A
No new building proposed

SIDE VIEW

N/A



Elevation Drawing

Show the appearance of the proposed structure from the front, rear, and side view. Include natural grade, finished grade, and the height and width of structures as seen from the horizontal view.

Elevation drawings shall be drawn to scale.

- Each grid equals 5' x 5' at a scale of 1"=10'
- Each grid equals 2.5' x 2.5' at a scale of 1"=5'

April 19, 2016

Via first class mail and e-mail to dustinn@co.wasco.or.us

Wasco County Planning Department
c/o Dustin Nilsen, Senior Planner
2705 East Second St.
The Dalles, OR 97058

Re: ***Verification and Alteration of Nonconforming Use of Land***
Property located at 2040 Seven Mile High Rd., The Dalles, OR, 97058
Property owner: Loren Dana
Our File No. 2230-001

Dear Mr. Nilsen & Wasco County Planning Department Staff:

I represent Loren Dana in connection with his application for verification and alteration of a nonconforming use of land at the property referenced above and described in the *Land Use Application* that accompanies this letter (the "Property"). Attached as Exhibit 9 to the *Declaration of Loren Dana (April 19, 2016)* (hereafter, "Dana Decl.") are three maps at different scales showing the location of the Property.

Mr. Dana is the title owner of the Property, and he has signed the land use application. (Dana Decl. ¶ 3). The filing fee of \$600 is enclosed in the form of a check payable to "Wasco County." Please accept this letter as part of Mr. Dana's application for verification and alteration of the nonconforming use at the Property.

This letter provides a detailed description of the nonconforming use as it existed before it became nonconforming as well as the proposed alteration of the use. This letter also addresses the criteria for verification and alteration of a nonconforming use pursuant to Wasco County Land Use and Development Ordinance (LUDO) Sections 13.050 and 13.060.

This letter and the *Land Use Application* and *Nonconforming Use Application* to which it is attached are supported by the following evidence, enclosed herewith:

- (1) *Declaration of* [REDACTED] with attached Exhibit;
- (2) *Declaration of* [REDACTED] with attached Exhibit;
- (3) *Declaration of* [REDACTED] with attached Exhibit;
- (4) *Declaration of* [REDACTED] with attached Exhibit;
- (5) *Declaration of* [REDACTED] with attached Exhibit;
- (6) *Declaration of* [REDACTED] with attached Exhibit;

- (7) Declaration of [REDACTED] with attached Exhibit;
- (8) Declaration of [REDACTED] with attached Exhibit;
- (9) Declaration of Loren Dana (April 19, 2016) ("Dana Decl.") with attached Exhibits 9 through 19; and
- (10) Declaration of Brooks Foster (April 19, 2016) ("Foster Decl.") with attached Exhibits 20 through 23.

Based on this evidence, the information provided below, the applicable codes, state laws, and information in the application record, Mr. Dana requests verification of a nonconforming marijuana production land use at the Property pursuant to LUDO 13.050; and further requests approval of the proposed alteration of the nonconforming use described below, pursuant to LUDO 13.060.

**APPLICATION FOR VERIFICATION
AND ALTERATION
OF NONCONFORMING USE OF LAND**

A. The nature, purpose, and extent of the nonconforming use and proposed alteration

The *Nonconforming Use Application* requests a description of the nature, purpose, and extent of the nonconforming use and any proposed alteration.

The nonconforming use was established prior to January 2016 as a farm use involving the agricultural production of marijuana from cannabis plants grown on the Property, which is zoned RR-10. (Dana Decl. ¶ 4.) As will be shown, marijuana is a crop. Thus, the use was established as a farm use in 2015, which was then a permitted use under the Property's RR-10 zoning. It has remained in continuous operation since that time, and has been registered at all material times as a medical marijuana grow site with the Oregon Health Authority (OHA). (*Id.*)

Wasco County enacted new land use and zoning codes in January 2016. These codes prohibit new marijuana production sites in the RR-10 zone, rendering the operation at the Property nonconforming. These codes took effect no earlier than January 11, 2016.

The primary marijuana cultivation and production area established in 2015 was the fenced area on the west side of the property as shown in the site map attached as Exhibit 10 to the declaration of Loren Dana. (Dana Decl. ¶ 5.) There are two greenhouses in this fenced

grow area. (*Id.*) Construction on the greenhouses began in February 2015, and the fence was completed by the end of April 2015. (*Id.*) Between then and January 11, 2016, the entire fenced grow area, including the areas inside and outside the greenhouses, was used for cultivation of cannabis plants and other activities related to production of marijuana. (*Id.*) Sometimes the plants were inside the greenhouses and sometimes outside, depending on conditions, the needs of the plants, and the judgment of the grower. (*Id.*)

Attached as Exhibit 11 to Mr. Dana's declaration are three photos from August 2015 that show cannabis plants growing in the area between the greenhouses, to the west of the greenhouses, and inside each of the greenhouses. (Dana Decl. ¶ 6.) The first of these photos also shows part of the fence, which encloses about one acre of the Property. (*Id.*) The entire area within the fence has been used for cannabis cultivation and marijuana production activities. (*Id.*)

The greenhouses have permitted electrical wiring. (Dana Decl. ¶ 7.) They are equipped with propane heaters, exhaust fans, oscillating fans, auxiliary generators (to be used during power failures), weather monitoring centers (for monitoring temperature, pressure, humidity, and light), automated environment controllers. (*Id.*) They have been equipped with removable light fixtures. (*Id.*) They feature light-deprivation screening systems, which consist of opaque cloth coverings that cover the insides of the translucent parts of the greenhouses. (*Id.*) These coverings are used to block light from entering the greenhouses and to trap all light inside the greenhouses and prevent it from escaping whenever the removable light fixtures are on. (*Id.*)

Between the end of April 2015 and January 11, 2016, as many as five temporary hoop houses with dimensions of about 20 by 24 feet were used at one time inside the fenced grow area as shelters for cannabis plants, as shown on the site map. (Dana Decl. ¶ 8, Ex. 10 (labelled "membrane portable/temporary structures").) The hoop houses are not currently in place but will be needed again in the near future. (Dana Decl. ¶ 8.) Mr. Dana understands they will require a permit, which he will obtain before putting them back up. (*Id.*) A shipping container with dimensions of about 20 by 8 feet was also placed in the area between the greenhouses and used for storage. (*Id.*)

The second area of the Property at which the marijuana production operation was established in 2015 is shown on the site plan (Ex. 10) with the label "2015 OMMP Site." (Dana Decl. ¶ 9.) This flat area in the northeastern part of the Property was used in 2015 for cultivation, drying, and trimming of marijuana. (*Id.*) Two temporary hoop houses were used in that area as wind and weather shelters for cannabis plants. (*Id.*) Temporary shelters were also used in that area to provide shade for trimmers, who also did some of their work inside the hoop houses. (*Id.*)

Construction on an accessory building began in December 2015 in the area of the 2015 OMMP Site. (Dana Decl. ¶ 10.) The building passed its final structural inspection in February 2016, but has not yet been used as part of the marijuana production operation. (*Id.*) Exhibit 12 to Mr. Dana's declaration contains the permit application and inspection checklist showing the building passed final inspection on February 29, 2016. (*Id.*) The building is clean, new, and is a type of accessory building commonly used in agricultural farm uses. (*Id.*)

Mr. Dana proposes to alter the nonconforming use to allow cultivation, drying, and trimming similar to what occurred at the 2015 OMMP Site to occur inside the new building. (Dana Decl. ¶ 11.) This will ensure compliance with new state regulatory requirements that prohibit medical marijuana from being grown in a location that is visible to the public. (*Id.*) It will also tend to reduce and not increase any adverse impact the nonconforming use might have on the surrounding neighborhood. (*Id.*) Before the building can be used for cultivation, drying, and trimming, it will require some improvements to the structure and installation of certain equipment, for which Mr. Dana will obtain any necessary mechanical permits. (*Id.*)

The third marijuana cultivation and production area established in 2015 was inside the house at the Property. (Dana Decl. ¶ 12.) By January 2016, one of the rooms in the house had been established as an indoor cultivation room, as shown in the December 2015 photograph attached as Exhibit 13 to Mr. Dana's declaration. (*Id.*) Equipment used to operate the room included lights, oscillating fans, a carbon dioxide injector, an air conditioner, and controllers to automate the equipment. (*Id.*) Some of this equipment was kept in an adjacent bathroom. (*Id.*) Another room was used for trimming, which is an occasional activity that typically occurs once for each harvest, over the course of several days. (*Id.*)

Trimming occurred several times at the Property before January 11, 2016. (Dana Decl. ¶ 13.) As many as eight trimmers would come to the Property to perform that work. (*Id.*) They slept in the house, in tents outdoors at the Property (such as in the flat area to the east of the house), or in their cars parked at the Property, and usually prepared and ate meals inside the house. (*Id.*)

B. Detailed Structural Information

The *Nonconforming Use Application* requests detailed structural information regarding the subject property. The site map in Exhibit 10 depicts the structures that currently exist at the Property, which are the two greenhouses, the accessory building proposed to be used as a cultivation, drying, and trim room, a house, a well house, and a water tank shelter. (Dana Decl. ¶ 14.) The site map also depicts the locations inside the

fenced grow area of the temporary hoop houses that were used during part of 2015 and the shipping container installed in 2015 that is still in use today. (*Id.*) These structures are described further below.

- (a) Accessory Structures—Greenhouses 1 and 2: The two greenhouses are virtually identical. (Dana Decl. ¶ 15.) They each have a footprint of approximately 31 by 46 feet, covering approximately 1426 square feet each. (*Id.*) The greenhouses are shown in Exhibit 11 to the declaration of Loren Dana.
- (b) Accessory Structure—Proposed Cultivation, Drying, and Trim Room: This structure is about 33 by 42 feet or 1,386 square feet in area. (Dana Decl. ¶ 15.) It was permitted by Wasco County as an accessory structure and has been used as a shop or storage building. (*Id.*) The structure was fully engineered. (*Id.*) It has a steel frame and exterior walls and a concrete foundation. (*Id.*) It has no windows. (*Id.*)
- (c) House: The house has approximately 1,960 square feet of finished area and a footprint of about 28 by 70 feet. (Dana Decl. ¶ 17.)
- (d) Accessory Structure—Well House: The footprint of the well house is approximately 5 by 10 feet, covering about 50 square feet. (Dana Decl. ¶ 18.) The well house contains a water well. (*Id.*)
- (e) Accessory Structure—Water Tank Shelter: There is a water tank shelter in the southeast corner of the Property, which measures about 10 by 22 feet. (Dana Decl. ¶ 19.) It receives water from the well house and distributes it to other areas of the Property. (*Id.*)

C. The Application for Verification of the Nonconforming Use Should Be Granted.

Mr. Dana seeks verification that the nonconforming marijuana production operation at the Property may continue pursuant to LUDO 13.050. As will be shown below, the approval criteria are all satisfied so the application should be granted.

I. Approval Criteria for Verification of a Nonconforming Use

Oregon law provides that “[t]he lawful use of any building, structure, or land at the time of the enactment or amendment of any zoning ordinance or regulation may be continued.” ORS 215.130(5). The Wasco County Land Use Development Ordinance appears to comply with this state requirement, where it provides:

“the lawful use of a building or structure or of any land or premises lawfully existing at the time of the effective date of this Ordinance or at the time of a change in the official zoning maps may be continued, although such use does not conform with the provisions of this Ordinance. Alterations to nonconforming structures may only be made consistent with Section 13.060.”

LUDO 13.020. In addition, the LUDO provides the following definition of “nonconforming structure or use,” which also appears to be consistent with ORS 215.130(5):

“Nonconforming Structure or Use - A lawful existing structure or use at the time this Ordinance or any amendment thereto becomes effective, which does not conform to the requirements of the zone in which it is located.”

LUDO 1.090.

Thus, as required by state law, the LUDO provides that a land use established in compliance with land use and zoning codes may continue as a “nonconforming use” if it later becomes prohibited by those codes. Nonconforming use law is critical to the success of local land use and zoning codes because it means local governments can amend, update, and adapt their codes to changing circumstances so as to govern new land uses without upsetting the lawful, investment-backed expectations of citizens within their jurisdictions. Nonconforming use law also protects local governments from the types of constitutional takings and substantive due process claims that would routinely arise if changes in zoning codes prevented all nonconforming land uses from continuing.

Against this backdrop of state, local, and private interests, Section 13.050 of the LUDO provides approval criteria for “verification” of a nonconforming use. Wasco County processes an application for verification of a nonconforming use as an application for “Administrative Action” by the planning director. LUDO 2.060(A)(9).

Under LUDO Section 13.050, a nonconforming use must meet certain “lawfully established and discontinuance or abandonment criteria.” The “lawfully established” criteria are as follows:

- (1) the nonconforming use must have been “lawfully established before the effective date of the provisions of this ordinance prohibiting the use”;

- (2) it cannot have been “expanded in size or area or changed in purpose or use beyond what was lawfully established”; and
- (3) the “property on which the nonconforming use is located” must be a “legal parcel” as defined in Section 1.090. LUDO 13.050(A).

For the reasons discussed below, the marijuana production operation at the Property satisfies each of the “lawfully established” and “discontinuance or abandonment” criteria and therefore qualifies for verification pursuant to LUDO Section 13.050.

2. *The Wasco County Land Use and Development Ordinance Began Prohibiting Marijuana Production in the Property’s RR-10 Zone No Earlier than January 11, 2016.*

The first approval criterion is that the nonconforming use must have been “lawfully established before the effective date of the provisions of this ordinance prohibiting the use.” LUDO 13.050(A). This criterion requires a determination of the effective date of the LUDO provisions that now prohibit the use. That date is no earlier than January 11, 2016.

Amendments to the LUDO become effective “when filed with the County Clerk.” LUDO 1.050. Wasco County recently passed amendments to its code that restrict and regulate cannabis-related land uses. These amendments include changes to the Wasco County Zoning Ordinance, which is Chapter 3 of the LUDO. LUDO Section 3.250 provides zoning rules for the Property’s RR-10 “rural residential” zone. As a result of the recent cannabis amendments, Section 3.250 now states, “New marijuana uses are prohibited in this zone.” According to Wasco County, this zoning amendment took effect on or about January 11, 2016. (Foster Decl. ¶ 4, Ex. 20.)

State law did not expressly authorize local land use regulation of medical marijuana production sites until March 1, 2016. This authorization is found in Section 89(1)(d) of HB 3400, which took effect on March 1, 2016. (See Foster Decl. ¶ 5, Ex. 21, HB 3400 §§ 89(1)(d) (authorization) 179 (effective date).) Before then, there was no express authorization for local governments to regulate medical marijuana grow sites registered with the OHA.

It is Mr. Dana’s position that until Section 89(1)(d) of HB 3400 took effect on March 1, 2016, any local land use regulation of a medical marijuana production site was preempted by State law. For the purposes of this application, however, Mr. Dana will treat January 11, 2016, as the effective date of the LUDO amendments because by then the marijuana production operation at the Property was well established and his application does not

depend on the amendments taking effect at a later date. Mr. Dana reserves the right to raise the issue in the future if it becomes relevant.

In any event, there is no dispute that the code now prohibits establishment of a new marijuana production site at the Property and that this prohibition took effect no sooner than January 11, 2016. The approval criteria will be analyzed using this date.

3. ***The Marijuana Production Operation at the Property Was Lawfully Established Before January 11, 2016.***

The first approval criterion will be satisfied if the marijuana production operation at the Property was “lawfully established” before January 11, 2016. LUDO 13.050(A). Whether a nonconforming land use was “lawfully established” does not require consideration of every conceivable law, code, or regulation. It only requires consideration of the applicable land use and zoning regulations that were in effect before the use became nonconforming. The marijuana production operation at the Property was lawfully established as a permitted use under the land use and zoning regulations in effect before January 11, 2016. Therefore, the first criterion is satisfied.

As LUBA explained:

“A use is ‘lawful,’ in the sense that term is used in ORS 215.130(5), and therefore eligible to be considered a nonconforming use when zoning or land use regulations change, only if it complies with **applicable zoning and other land use regulations** on the date they are changed. Where zoning and land use regulations do not themselves require that a structure be maintained in conformance with all building and fire code requirements, that a building may not have conformed in all respects with the building code and fire code does not mean the use is ‘unlawful,’ and therefore ineligible for the protections accorded by ORS 215.130(5).”

Coonse v. Crook Cty., 22 Or LUBA 138 (1991) (emphasis added).

Thus, for a nonconforming use to continue, it must have been established in compliance with the applicable “zoning and other land use regulations.” Strict compliance with every other conceivable law or regulation is not required. This rule makes sense because the burden of proving compliance with every conceivable law or regulation would be virtually impossible to satisfy in a land use application. In addition, compliance issues

unrelated to zoning and land use—which could be as minor as an unpermitted electrical socket—should not prevent the continuation of a land use that was established in compliance with zoning.

The other implication of the “lawfully established” requirement is that if part of a land use was not in compliance with applicable land use and zoning regulations at the time the entire land use became prohibited, the remainder of the use can still be grandfathered in as nonconforming. Excluding from verification any portion of the use that was not lawfully established ensures the remainder was lawfully established within the meaning of LUDO 13.050(A).

Here, the marijuana production operation at the Property was permitted outright by the applicable land use and zoning codes before January 11, 2016, so it was lawfully established. The Property is zoned RR-10. Before the new LUDO amendments took effect, “farm use” was permitted outright without review in the RR-10 zone and there was no code expressly prohibiting a marijuana production operation from being located in that zone. (See Foster Decl. ¶¶ 6–11, Ex. 22 (showing January 11, 2016 amendments to former LUDO 3.250).) The operation was a “farm use” within the meaning of LUDO 3.250(B)(1) and state law. Therefore, it was permitted outright.

The LUDO defines “farm use,” in pertinent part, as follows:

“Farm Use - The current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops . . . or any other agricultural or horticultural use or animal husbandry or any combination thereof.

Farm use includes the preparation, storage and disposal by marketing or otherwise of the products or by-products raised on such land for human or animal use.

* * *

Preparation of products or by-products includes but is not limited to the cleaning, treatment, sorting, or packaging of the products or by-products. ‘Products or by-products raised on such land’ means that those products or by-products are raised on the farm operation where the preparation occurs or on other farm land provided the preparation is occurring only on land being used for the primary purpose of obtaining a profit in money from the farm use of the land.”

LUDO 1.090 (emphasis added). This definition is copied from ORS 215.203, which also defines “farm use” as a matter of state law to mean “the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops[.]” ORS 215.203(2)(a).

According to state law, cannabis is a “crop” for farm use purposes. (Foster Decl. ¶ 12, Ex. 21, HB 3400 § 34.) This statute took effect on January 1, 2016. *Id.*, HB 3400 § 178(1). The State legislature more recently confirmed that marijuana is a crop for farm use purposes whether grown under registration with the Oregon Health Authority (OHA) or under license from the Oregon Liquor Control Commission (OLCC). (Foster Decl. ¶ 13, Ex. 23, SB 1598 § 3 (amending ORS 475B.370).) Even without these legislative pronouncements, however, the fact that the marijuana grown at the Property has been a crop for farm use purposes could hardly be debated. It was just as much a crop as a greenhouse full of heirloom tomatoes.

The statute defining “farm use,” ORS 215.203, “was originally enacted as part of a statutory scheme which had the ‘primary purpose’ of providing “property tax relief for farm land and thus protect[ing] such land from being diverted to other uses.” *Newcomer v. Clackamas Cty.*, 92 Or App 174, 181, *opinion adhered to as modified on reconsideration*, 94 Or App 33 (1988) (quoting *Rutherford v. Armstrong*, 31 Or App 1319, 1321 (1977)). The marijuana production operation at the Property was established in 2015 as a means of raising and harvesting cannabis plants and selling usable marijuana, a crop, to authorized dispensaries, as provided by state law. (Dana Decl. ¶ 20.) The operation has served the purpose of the farm use statute by making sustainable agricultural use of the Property and preventing it from being diverted to other uses. (*Id.*)

The marijuana production operation at the Property was established prior to January 11, 2016, as a farm use involving the cultivation, harvesting, and sale of crops. This land use was permitted outright at the Property by the local zoning code prior to January 11, 2016. The operation was, therefore, “lawfully established” within the meaning of LUDO 13.050(A). The first approval criterion is satisfied.

4. Mr. Dana’s Evidence More Than Satisfies the Code’s “Preponderance of Evidence” Standard.

LUDO 13.050(A)(3)(b) allows “Type II Verification” in which the applicant provides a “preponderance of evidence which will allow the Planning Director to conclude the nonconforming use was lawfully established.” Examples of such evidence include utility bills and records, photos, and notarized letters or affidavits affirming the date of establishment. LUDO 13.050(A)(3)(b). The evidence submitted in support of Mr. Dana’s

application is more than sufficient to satisfy the preponderance of the evidence standard and allow the Director to conclude the operation was lawfully established prior to January 11, 2016.

Mr. Dana is a medical marijuana patient registered with the Oregon Health Authority (OHA) pursuant to the Oregon Medical Marijuana Act (OMMA) and the Oregon Medical Marijuana Program (OMMP). (Dana Decl. ¶ 21.) He possess a medical marijuana card as evidence of his registration, which is attached as Exhibit 14 to his declaration. (*Id.*) He obtained this card upon the advice of his doctor for treatment of a debilitating medical condition. (*Id.*)

State law allows a medical marijuana patient cardholder to designate a marijuana grower and grow site. (Dana Decl. ¶ 22.) The grow site is then authorized to grow cannabis plants to maturity and produce marijuana for the patient's use as medicine. (*Id.*) After the patient takes what he or she needs from a harvest, state law allows the excess marijuana to be sold to authorized dispensaries. (*Id.*) The marijuana production operation at the Property has operated within these parameters. (*Id.*)

Since July 29, 2015, the Property has been Mr. Dana's designated grow site, as shown in the growsite registration certificate attached to his declaration as Exhibit 15. (Dana Decl. ¶ 23.) Since July 29, 2015, he has produced marijuana at the Property for his own use and for sale to authorized dispensaries. (*Id.*)

In their declarations, eight other medical marijuana cardholders — [REDACTED] — each testify they registered the Property as their grow site in 2015. OHA OMMP patient identification cards are attached to each of their declarations. Each declaration states the date when the declarant first designated the Property as his or her grow site. Mr. Dana confirms the property was being used to produce usable marijuana for each of these cardholder-patients and their authorized dispensaries prior to January 11, 2016. (Dana Decl. ¶ 24.)

Exhibit 16 to Mr. Dana's declaration contains building permits for the two greenhouses used in the operation. (Dana Decl. ¶ 25.) The greenhouses were properly permitted as detached accessory structures. (*Id.*) Mr. Dana paid for the permits, the greenhouses passed inspections, and the permits are marked "COMPLETED" as of Nov. 2, 2015. (*Id.*) These documents corroborate Mr. Dana's testimony that the greenhouses have been used to cultivate marijuana since before January 11, 2016. (*Id.*)

Exhibit 17 to Mr. Dana's declaration shows he obtained a permit to install a propane tank and a new propane delivery line to the new greenhouses at the Property on May 5, 2015. (Dana Decl. ¶ 26.) Exhibit 18 to Mr. Dana's declaration contains two statements from Pacer Propane bearing his name. (Dana Decl. ¶ 27.) They show he received deliveries of bulk propane on July 15, 2015, and December 31, 2015. (*Id.*) The propane was burned to heat the greenhouses. (*Id.*) These documents further corroborate Mr. Dana's testimony that the marijuana production operation was well established by January 11, 2016.

Exhibit 11 to Mr. Dana's declaration provides three photos of the fenced outdoor and greenhouse grow area at the Property. (Dana Decl. ¶ 6.) These photos were taken in August 2015. (*Id.*) The first photo shows the exterior of the two greenhouses and also shows cannabis plants, each in a pot, growing in the area between and to the west of the greenhouses. The second and third photos in Exhibit 11 show plants in each of the greenhouses. These photos further corroborate Mr. Dana's testimony.

The following timeline summarizes the basic facts shown in the supporting declarations and exhibits that prove the marijuana production operation was well established by January 11, 2016:

- December 22, 2014: The Mid-Columbia Council of Governments, Mid-Columbia Building Codes Department, issues building permits for construction of two new greenhouses at the property. (Dana Decl. Ex. 16.)
- February 2015: Construction of the greenhouses begins. (Dana Decl. ¶ 5.)
- April 30, 2015: By this time, the fence around the greenhouse area is complete. (Dana Decl. ¶ 5.)
- May 5, 2015: The Mid-Columbia Council of Governments, Mid-Columbia Building Codes Department, issues a mechanical permit for installation of a propane tank and propane delivery line to the new greenhouses. (Dana Decl. Ex. 17.)
- May 5, 2015: Medical marijuana cardholder [REDACTED] registers the property as his grow site.

- May 26, 2015: Medical marijuana cardholder [REDACTED] registers the property as [REDACTED] grow site.
- June 11, 2015: Medical marijuana cardholder [REDACTED] registers the property as [REDACTED] grow site.
- June 26, 2015: Medical marijuana cardholder [REDACTED] registers the property as [REDACTED] grow site.
- July 15, 2015: Pacer Propane delivers bulk propane to the property for use in the grow operation. (Dana Decl. Ex. 18 at 1.)
- July 17, 2015: Medical marijuana cardholders [REDACTED] each register the property as their grow site.
- July 29, 2015: Medical marijuana cardholder [REDACTED] registers the property as [REDACTED] grow site with the OHA. (Dana Dec. Ex. 15.)
- August 2015: Loren Dana obtains photos of the fenced grow area showing mature plants being grown in the greenhouses and in the fenced area around the greenhouses. (Dana Decl. Ex. 11.)
- November 2, 2015: The Mid-Columbia Council of Governments, Mid-Columbia Building Codes Department stamps the greenhouse building permits "COMPLETED" and initials the stamp. (Dana Decl. Ex. 16.)
- November 18, 2015: Medical marijuana cardholder [REDACTED] registers the property as [REDACTED] grow site.
- December 2015: Loren Dana obtains a photo of mature cannabis plants in the dwelling house's cultivation room. (Dana Decl. Ex. 13.)
- December 2, 2015: Medical marijuana cardholder [REDACTED] registers the property as [REDACTED] grow site.

- December 31, 2015: Pacer Propane makes another delivery of bulk propane to the property for use in the grow operation. (Dana Decl. Ex. 18 at 2.)
- January 11, 2016: The new cannabis-related amendments to the Wasco County Land use Development Code take effect, prohibiting the establishment of new marijuana production operations at properties zoned RR-10. The operation at the Property is already well established and has been maintained in continuous operation since then.
- March 1, 2016: State law authorizes local governments, for the first time, to regulate where a medical marijuana grow site can be located. *See* HB 3400 §§ 89(1)(d), 179.

Additional facts supporting this application are attested to in the declaration of Loren Dana and discussed in this application.

Each declaration is sworn, under oath, on the basis of each witnesses' personal knowledge. This type of declaration is the standard way to present witness testimony outside of court, and is generally treated as the equivalent of a notarized affidavit. *See, e.g.*, ORCP 1 E ("A declaration under penalty of perjury . . . may be used in lieu of any affidavit required or allowed by these rules."). There is no evidence calling into question the honesty, accuracy, or credibility of any of the witness statements, which include substantial corroborating documentation. Therefore, all of the declarations should be taken at face value and their statements treated as true facts.

The declarations and exhibits submitted in support of the application prove the marijuana production operation at the Property was well established prior to January 11, 2016. The evidence is more than sufficient to satisfy the "preponderance" standard required for a Type II nonconforming use verification under LUDO 13.050(A)(3)(b).

5. *The Nonconforming Use Has Not Expanded in Size or Area or Changed in Purpose or Use Beyond What Was Lawfully Established.*

The second approval criterion under LUDO 13.050(A) is whether the land use "expanded in size or area or changed in purpose or use beyond what was lawfully established." For purposes of this comparison, the description of the actual use determines the nature and extent of the nonconforming use. *Marquam Farms Corp. v. Multnomah Cty.*,

35 Or LUBA 392 (1999). The actual use includes not only continuous and regular activities but also any “sporadic and intermittent” activities that occurred before the use became nonconforming. *Polk Cty. v. Martin*, 292 Or 69 (1981); *Coonse v. Crook Cty.*, 22 Or LUBA 138 (1991).

Since January 11, 2016, there has been no expansion in the size or area or any change in the purpose of the nonconforming use. (Dana Decl. ¶ 28.) The marijuana production operation has continued within the same parameters that were established before that date. (*Id.*)

Mr. Dana’s application details the actual nature and extent of the nonconforming use established prior to January 11, 2016. The use includes continuous and regular activities, such as the cultivation of cannabis plants, as well as sporadic or intermittent ones, such as the trimming after each harvest. (Dana Decl. ¶ 29.) Each of these activities is part of the nonconforming use and should be verified as such.

6. *The Property Is a Legal Parcel*

The third approval criterion under LUDO 13.050(A) is whether the “property on which the nonconforming use is located” is a “legal parcel” as defined in LUDO Section 1.090. To the best of Mr. Dana’s knowledge, it is. (Dana Decl. ¶ 30.)

LUDO 1.090 defines the term “(Legal) Parcel” to include any “unit of land created” as a “lot in an existing, duly recorded subdivision” or any “parcel in an existing, duly recorded major or minor land partition.” Mr. Dana has every reason to believe the Property fits one of these descriptions, as this was verified by Joseph Shearer (Senior Planner at the Wasco County Planning Department) on June 27, 2014. In addition, when Mr. Dana purchased the Property in July 2014, he obtained a full title report, title insurance, and a statutory warranty deed. (Dana Decl. ¶ 30.) The deed attached to Mr. Dana’s declaration as Exhibit 19 described the property as “Lot 4, MARTIN TRACTS, in the County of Wasco and State of Oregon.” (*Id.*) The Property is a legal parcel within the meaning of LUDO 1.090.

7. *The Nonconforming Use Has Not Been Discontinued or Abandoned.*

LUDO 13.050(B) provides that for a nonconforming use to be verified as lawfully established “it must not have been discontinued or abandoned” according to five enumerated criteria. These criteria generally require a nonconforming use to have been abandoned, interrupted, or changed for a period of at least twelve months before there is any legal effect. Because fewer than twelve months have elapsed since the use became nonconforming, these

criteria do not apply. The nonconforming use has continued since January 11, 2016, and no aspect of it has been discontinued or abandoned. (Dana Decl. ¶ 31.)

8. *The Approval Criteria for Verification of the Nonconforming Use Are Satisfied.*

Each of the approval criteria for verification of a nonconforming use under LUDO 13.050(A) has been satisfied. The marijuana production operation was lawfully established before January 11, 2016, as a farm use permitted by right under former LUDO 3.250. The new code prohibiting such activities in the Property's RR-10 zone took effect no sooner than January 11, 2016. Since then, the land use has not been expanded in size or area or changed in purpose or use beyond what was lawfully established. The Property itself is a legal parcel, and the use has not been discontinued or abandoned. Therefore, the application for verification of the nonconforming use should be granted pursuant to LUDO 13.050(A).

D. *The Application for Alteration of the Nonconforming Use Should Be Granted.*

In addition to verification of the nonconforming use, Mr. Dana seeks approval of a minor alteration in which cultivation, drying, and trimming activities that formerly occurred outdoors or under temporary hoop houses and shelters at the 2015 OMMP Site will occur inside the new accessory building that began construction in that area in December 2015. (Dana Decl. ¶ 32.) Allowing those activities to occur inside the building will take them out of public view because the building has no windows. (*Id.*)

As discussed below, this proposed alteration should be approved without conditions because it is required by a new state health or safety regulation that took effect on March 1, 2016. Alternatively, it should be approved without conditions because it will reduce and not increase whatever minimal adverse impacts the nonconforming use may impose on the neighborhood.

1. *The Alteration Should Be Approved Without Conditions Because It Is Required by State Health and Safety Regulations.*

LUDO 13.060 governs alteration of a nonconforming use. It provides that “[n]o conditions shall be placed upon the . . . alteration of a nonconforming use when necessary to comply with state or local health or safety requirements[.]” LUDO 13.060(B). Since March 1, 2016, an OHA regulation has required any person responsible for a medical marijuana grow site to “obscure from public view all areas where marijuana is being produced.” OAR

333-008-0640. The title of this provision, “PRMG Security Requirements”¹ shows it is a state health or safety requirement because “security” is synonymous with “safety.”

As of January 11, 2016, the only established part of the marijuana production operation that was not already obscured from public view was the 2015 OMMP Site. (Dana Decl. ¶ 33.) The fence around the primary grow area obscures that area from public view. (*Id.*) The areas used in the dwelling as part of the operation are obscured from public view. (*Id.*) Only the 2015 OMMP Site was not obscured from public view when it was used for outdoor cultivation, drying, and trimming in 2015. (*Id.*) The entire Property has a fence around it, but it is not the type of fence that obscures what is inside from public view. (*Id.*) Therefore, the 2015 OMMP Site was visible to people using the Halliburton Road. (*Id.*)

The 2015 OMMP Site is a flat area of the Property that is an ideal location for cultivation, drying, and trimming. This area was an established part of the operation before January 11, 2016. The new OHA regulations now require this area to be obscured from public view. Mr. Dana constructed a building that will allow the area to be used in compliance with this regulation. Therefore, he proposes to alter the nonconforming use to allow cultivation, drying, and trimming similar to what occurred in the area in 2015 to occur inside the new accessory structure. This proposed alteration of the nonconforming use is necessary to comply with state health or safety requirements. It should therefore be approved without conditions pursuant to LUDO 13.060(B).

2. *The Proposed Alteration Should Be Approved Without Conditions Because It Will Reduce and Not Increase Any Adverse Impacts on the Neighborhood That May Be Associated with the Nonconforming Use.*

Even if the proposed alteration were not required by state health or safety regulations, it would still qualify for approval without conditions pursuant to LUDO 13.060(C). This section requires that any alteration “will result in no greater adverse impact on the neighborhood” or “less of an adverse impact on the neighborhood.” LUDO 13.060(C). Impacts are to be considered using fourteen non-exclusive criteria. “An increase in one individual adverse impact may be offset by reductions in others as to effect a total reduction in adverse impacts.” LUDO 13.060(C)(1)(b)(2). The applicable criteria support approval of the proposed alteration without conditions because it will reduce and not increase any adverse impacts on the neighborhood that may be associated with the nonconforming use. These criteria are discussed in greater detail below.

¹ “PRMG” refers to a “person responsible for a marijuana growsite,” i.e., “any individual designated by a patient to produce marijuana for the patient, including a patient who identifies him or herself as a person responsible for the marijuana grow site.” OAR 333-008-010 (44).

- (i) **“The nonconforming use is in compliance with all conditions or limitations associated with its creation or approval.”**

The nonconforming use has not yet been verified so there are no conditions or limitations associated with its creation or approval.

- (ii) **“The comparative visual appearance between the existing nonconforming use and the proposed alteration.”**

The proposed alteration will obscure an established part of the nonconforming use from public view. (Dana Decl. ¶ 34.) Any former adverse visual impact that part of the use may have had on the neighborhood will be eliminated. (*Id.*) The appearance of the accessory building is benign and unobjectionable, and it has already been constructed and permitted. (*Id.*) The structure has no windows so the activities inside will not be visible from outside the structure. (*Id.*) It has a clean visual appearance consistent with that of other accessory farm use structures typical of the neighborhood and of properties in the RR-10 zone at which agricultural and other farm uses occur. (*Id.*) The proposed alteration will therefore reduce any adverse visual impacts that may be associated with the nonconforming use. (*Id.*)

- (iii) **“The alteration shall not change the manner or purpose of the use.”**

The proposed alteration will not change the manner or purpose of the use. (Dana Decl. ¶ 35.) Like the other areas of the Property used in the marijuana production operation, the 2015 OMMP Site was used for cultivation, drying, and trimming of marijuana. (*Id.*) The proposed alteration would continue those same types of activities inside the accessory building. (*Id.*)

- (iv) **“The proposed alteration shall not result in greater nonconformity to property line setbacks or resource buffer requirements.”**

The proposed alteration will not change the geographic location of the marijuana production activities that occurred at the 2015 OMMP Site. (Dana Decl. ¶ 36.) Therefore, it will not result in any greater nonconformity with respect to any property line setback or resource buffer requirements. (*Id.*)

- (v) **“Relocation shall result in conformity with all property line setbacks and resource buffer requirements.”**

The proposed alteration involves no geographic relocation of any part of the nonconforming use so this criterion does not apply. (Dana Decl. ¶ 37.)

- (vi) **“The alteration must be consistent with Health and Safety Regulations including but not limited to Geologic Hazard Overlap (Section 3.750) Fire Safety Standards (Chapter 10) and Flood Damage Prevention (Chapter 22).”**

The structure proposed to be used in the alteration has already been erected and passed final structural inspection as an accessory structure. (Dana Decl. ¶ 38.) To the best of Mr. Dana’s knowledge, it complies with all applicable local codes related to geologic hazards, fire safety, and flood damage. (*Id.*)

- (vii) **“Other factors which impact the character or needs of the neighborhood”**

Mr. Dana is not aware of any adverse impact the proposed alteration might have on the character or needs of the neighborhood. (Dana Decl. ¶ 39.) Nearby properties are used primarily for residential and farm uses. (*Id.*) The property across Haliburton Road to the north is a large tract with no known residence. (*Id.*) Enclosing the 2015 OMMP Site in the new accessory structure will make the nonconforming use more consistent than ever with the character and needs of the neighborhood. (*Id.*)

- (viii) **“An evaluation of the character and history of the use, its relationship to development in the neighborhood and how the alteration would affect this”**

The proposed alteration will not materially alter the relationship between the character and history of the use and its relationship to development in the neighborhood. (Dana Decl. ¶ 40.) The use was recently established as a farm use permitted by right at the property. (*Id.*) The Property is an ideal location for this type of operation. (*Id.*) The neighborhood is characterized by agricultural farm uses and residential land uses. (*Id.*) There are other marijuana production operations in the vicinity. (*Id.*) The alteration will not alter the fundamental relationship between the nonconforming use and other development in the neighborhood, which is already one of compatibility. (*Id.*)

- (ix) **“The comparable degree of noise, light, vibration, dust, odor, fumes, glare or smoke detectable within the neighborhood between the existing nonconforming use and the proposed alteration”**

The proposed alteration will create little or no increased noise, light, vibration, dust, odor, fumes, glare, or smoke impacts detectable within the neighborhood. (Dana Decl. ¶ 41.) Mr. Dana does not believe the 2015 OMMP Site created any impacts detectable within adjacent properties from noise, light, vibration, dust, odor, fumes, glare, or smoke. (*Id.*) There was some incidental noise from growers and trimmers working in the area and some odor from the plants, but Mr. Dana believes this noise and odor dissipated before crossing over the property lines and did not have any material adverse impact on the neighborhood. (*Id.*)

The same is generally true of the proposed alteration, except that the enclosure of the cultivation, drying, and trimming activities inside the building will reduce and not increase the likelihood of noise and odor being detectable off the Property. (Dana Decl. ¶ 42.) Mr. Dana would like to have outdoor lighting to mark the entrance to the building, but such lighting is of low intensity and not strictly necessary to the alteration. (*Id.*) All of the high intensity light that will be used for cultivation will be contained inside the building. (*Id.*) The proposed alteration will not create any detectable increase in vibration or dust from the Property. (*Id.*)

The structure will need an air conditioner outside the building, but modern-day air conditioners emit much less noise than ever before and the innocuous sound of such equipment should not be detectable off the Property. (Dana Decl. ¶ 43.) The building is over 200 feet from the eastern property line, and the residence at that property is several hundred feet further to the east. (*Id.*) Nobody from that property has ever complained to Mr. Dana about any aspect of the operation. (*Id.*) The property to the north is a huge agricultural property with no known residence. (*Id.*) The structure is over 350 feet from the western property line. (*Id.*) The sound of the air conditioner should create no detectable adverse impacts on the surrounding neighborhood. (*Id.*)

- (x) **“The comparative impacts to public facilities and services including but not limited to: roads, fire and police protection, sewer and water facilities, telephone and electrical service, or solid waste disposal facilities between the existing nonconforming use and the proposed alteration”**

The proposed alteration should cause no increased impacts to any public facilities or services. (Dana Decl. ¶ 44.) Enclosing outdoor activities inside the accessory structure will not materially increase the use of roads, fire or police protection services, sewer and water facilities, telephone service, or solid waste disposal facilities. (*Id.*) With or without the alteration, the operation’s reliance on these public facilities and services is minimal or non-existent, especially when compared with other agricultural farm uses. (*Id.*)

Marijuana production generally creates significant value without exposing public facilities and services to significant impacts. (Dana Decl. ¶ 45.) It does not require a large amount of labor or vehicle trips to and from the property. (*Id.*) It does not require any large commercial vehicles. (*Id.*) Ordinary pickup trucks and small trailers are used to bring soil and other materials to the Property. (*Id.*) Retail sales do not occur at the Property. (*Id.*) The operation does not require more fire or police protection than other agricultural farm uses. (*Id.*) It uses far less water than most agricultural uses. (*Id.*)

The Property has an on-site septic system, and it will soon have a system for reusing gray water. (Dana Decl. ¶ 46.) The operation does not depend on any significant volume of telephone service, and phone calls related to the operation are all made using a nationwide cellular phone service. (*Id.*) The operation produces very little non-compostable waste, and all parts of the cannabis plants grown at the Property are either consumed or turned into compost. (*Id.*) Compost produced at the Property is mixed with potting soil and used for cultivation. (*Id.*)

The only public service whose use will increase as a result of the proposed alteration is the electrical service. (Dana Decl. ¶ 47.) Cultivating cannabis indoors will increase the amount of electricity used compared with outdoor cultivation because it will use high intensity lights instead of sunlight. (*Id.*) This should not be considered an adverse or undesirable impact on the neighborhood, however, as the increased electricity used is still orders of magnitude below what can be consumed at a new server farm or other high-intensity commercial or industrial activity. (*Id.*) The availability of relatively inexpensive hydro-power and the growth in sustainable wind-generated power in the region further mitigates any adverse impact associated with increased power consumption at the Property. (*Id.*)

(xi) “The comparative amount and nature of outside storage, loading and parking between the existing nonconforming use and the proposed alteration”

The proposed alteration will not increase the minimal outdoor storage that has occurred at the Property. (Dana Decl. ¶ 48.) Even if the accessory structure is used for cultivation and trimming, there will be ample enclosed storage space at the Property. (*Id.*)

The proposed structure will have no effect on outdoor loading and parking at the Property. (Dana Decl. ¶ 49.) There may be some occasional loading and unloading at the structure, but loading and unloading is not a significant part of a marijuana production operation and a similar amount of loading and unloading would occur in the area if it continued to be used as an outdoor grow site and trim area as it was in 2015. (*Id.*)

The proposed structure will not materially affect parking at the Property, as the few cars involved in the operation will have ample space to park in other areas of the approximately 10 acre parcel. (Dana Decl. ¶ 50.)

(xii) “The comparative hours of operation between the existing nonconforming use and the proposed alteration”

The proposed alteration will have no material effect on the nonconforming use’s hours of operation. (Dana Decl. ¶ 51.) The operators have typically worked the site between 7 am and 10 pm, any day of the week. (*Id.*) The cultivation equipment proposed to be installed in the structure will be on automated schedules, which means there will be no regular need for human labor inside the structure between 10 pm and 7 am. (*Id.*) The only exception would be in the event of an emergency. (*Id.*)

(xiii) “The comparative effect on identified natural resources between the existing nonconforming use and the proposed alteration”

The proposed alteration will not increase adverse impacts on identified natural resources because there are none in proximity to the area of the proposed alteration. (Dana Decl. ¶ 52.)

(xiv) **“The comparative effect on water quality, quantity or drainage in the neighborhood between the existing nonconforming use and the proposed alteration”**

The proposed alteration will cause no adverse impacts on water quality, quantity, or drainage in the area. (Dana Decl. ¶ 53.) Only 1–2% of the water that will be used in the proposed alteration will become wastewater. (*Id.*) The Property will have a catchment system for storing and reusing this gray water, such as by applying it to vegetable gardens. (*Id.*) Water quantity is not a concern because the operation is obtaining water through the Chenoweth Water PUD and the quantity of water used is modest compared to many other agricultural operations. (*Id.*) Drainage is also a non-issue because any change to site drainage patterns associated with the new structure has already occurred, as the building has been erected and it passed final structural inspection in February 2016. (*Id.*) Thus, the proposed alteration will cause no increased adverse impacts to water quality, quantity, and drainage in the neighborhood. (*Id.*)

3. ***If the County Finds Any Increased Adverse Impact on the Neighborhood Will Result from the Proposed Alteration, It Should Craft Appropriate Conditions to Mitigate That Impact.***

As discussed above, the proposed alteration should be approved without conditions, either because it is required by state health or safety regulations or because it will create no increased adverse impact on the neighborhood. If the County disagrees with this, then it should approve the alteration subject to appropriate conditions to mitigate any increased adverse impact on the neighborhood. It should craft any such conditions after discussing them with Mr. Dana and giving him an adequate opportunity to provide input and respond.

Marijuana production is subject to a robust state-wide regulatory scheme, and it is impossible to discuss every aspect of that scheme within the context of this application. (Dana Decl. ¶ 54.) The operation at the Property has never been cited for any violation of any state law or regulation related to cannabis production, and Mr. Dana intends to ensure the operation at the Property continues to comply with all applicable state regulations in the future. (*Id.*)

Wasco County is entitled to rely on the OHA and other state agencies to enforce their rules, and need not assume responsibility for the operation’s compliance with state regulations. Any consideration of mitigating conditions, however, should take relevant state regulations into account so as to allow the operation to comply with all applicable state and local requirements.

CONCLUSION

For the forgoing reasons, the marijuana production operation at the Property in existence as of January 11, 2016, should be verified as a nonconforming use pursuant to LUDO 13.050(A).

In addition, the proposed alteration should be approved so as to allow the accessory structure that already exists in the area of the 2015 OMMP Site to be used for cultivation, drying, and trimming of marijuana. The alteration should be approved without conditions because enclosing those activities in the structure is required by state health or safety regulations that took effect on March 1, 2016. Alternatively, the proposed alteration should be approved without conditions because it will decrease and not increase any adverse impacts the nonconforming use may have on the neighborhood. If the County disagrees and concludes conditions of approval are necessary, it should work with Mr. Dana to craft appropriate conditions consistent with the state's robust body of marijuana-related laws and regulations.

Please contact me if you would like to discuss this matter further. If the application is deemed incomplete, Mr. Dana can supplement or amend it. I also respectfully request that you notify me of any comments received into the record of this application and that you forward copies of them to me or allow me to make arrangements to have them copied. Mr. Dana reserves the right to reply to any such comments, to respond to any questions or requests from the County, and to otherwise supplement his application materials as may be appropriate.

Very truly yours,
CHENOWETH LAW GROUP, PC



Brooks M. Foster
bfoster@northwestlaw.com

cc: client
encls: as stated

DECLARATION OF LOREN DANA (APRIL 18, 2016)

I, Loren Dana, make the following declaration based on my personal knowledge:

1. I am over the age of 18 and competent to testify to all matters herein.

2. I write this declaration in support of my application for verification and alteration of a nonconforming use pursuant to Wasco County Land Use and Development Ordinance (LUDO) Sections 13.050 and 13.060 at the property located at 2040 Seven Mile High Road in The Dalles, Oregon (the "Property"). The attached Exhibit 9 contains three maps at different scales showing the location of the Property.

3. I am the title owner of the Property, and I signed the land use application.

4. The nonconforming use was established prior to January 2016 as a farm use involving the agricultural production of marijuana from cannabis plants grown on the Property, which is zoned RR-10. It has remained in continuous operation since that time, and has been registered at all material times as a medical marijuana grow site with the Oregon Health Authority (OHA).

5. The primary marijuana cultivation and production area established in 2015 was the fenced area on the west side of the property as shown in the site map attached as Exhibit 10. There are two greenhouses in this fenced grow area. Construction on the greenhouses began in February 2015, and the fence was completed by the end of April 2015. Between then and January 11, 2016, the entire fenced grow area, including the areas inside and outside the greenhouses, was used for cultivation of cannabis plants and other activities related to production of marijuana. Sometimes the plants were inside the greenhouses and sometimes outside, depending on conditions, the needs of the plants, and the judgment of the grower.

6. Attached as Exhibit 11 are three photos from August 2015 of cannabis plants growing inside the greenhouses, between the greenhouses, and to the west of the greenhouses. The first of these photos also shows part of the fence, which encloses about

1 one acre of the Property. The entire area within the fence has been used for cannabis
2 cultivation and marijuana production activities.

3 7. The greenhouses have permitted electrical wiring. They are equipped with
4 propane heaters, exhaust fans, oscillating fans, auxiliary generators (to be used during power
5 failures), weather monitoring centers (for monitoring temperature, pressure, humidity, and
6 light), automated environment controllers. They have been equipped with removable light
7 fixtures. They feature light-deprivation screening systems, which consist of opaque cloth
8 coverings that cover the insides of the translucent parts of the greenhouses. These coverings
9 are used to block light from entering the greenhouses and to trap all light inside the
10 greenhouses and prevent it from escaping whenever the removable light fixtures are on.

11 8. Between the end of April 2015 and January 11, 2016, as many as five
12 temporary hoop houses with dimensions of about 20 by 24 feet were used at one time inside
13 the fenced grow area as shelters for cannabis plants as shown on the site map (Exhibit 10,
14 labelled "membrane portable/temporary structures"). The hoop houses are not currently in
15 place but will be needed again in the near future. I understand they will require a permit,
16 which I will obtain before putting them back up. A shipping container with dimensions of
17 about 20 by 8 feet was also placed in the area between the greenhouses and used for storage.
18 All dimensions and distances referenced in this declaration are intended to be estimates
19 stated to a reasonable certainty based on my measurements and observations at the Property.

20 9. The second area of the Property at which the marijuana production operation
21 was established in 2015 is shown on the site plan (Ex. 10) with the label "2015 OMMP Site."
22 This flat area in the northeastern part of the Property was used in 2015 for cultivation, drying,
23 and trimming of marijuana. Two temporary hoop houses were used in that area as wind and
24 weather shelters for cannabis plants. Temporary shelters were also used in that area to
25 provide shade for trimmers, who also did some of their work inside the hoop houses.

26 ///

1 10. Construction on an accessory building began in December 2015 in the area of
2 the 2015 OMMP Site. The building passed its final structural inspection in February 2016,
3 but has not yet been used as part of the marijuana production operation. Attached as Exhibit
4 12 are the permit application and inspection checklist showing the building passed final
5 inspection on February 29, 2016. The building is clean, new, and is a type of accessory
6 building commonly used in agricultural farm uses.

7 11. I propose to alter the nonconforming use by allowing cultivation, drying, and
8 trimming similar to what occurred at the 2015 OMMP Site to occur inside the new building.
9 This will ensure compliance with new state regulatory requirements that prohibit medical
10 marijuana from being grown in a location that is visible to the public. It will also tend to
11 reduce and not increase any adverse impact the nonconforming use might have on the
12 surrounding neighborhood. Before the building can be used for cultivation, drying, and
13 trimming, it will require some improvements to the structure and installation of certain
14 equipment, for which I will obtain any necessary mechanical permits.

15 12. The third marijuana cultivation and production area established in 2015 was
16 inside the house at the Property. By January 2016, one of the rooms in the house had been
17 established as an indoor cultivation room, as shown in the December 2015 photograph
18 attached as Exhibit 13. Equipment used to operate the room included lights, oscillating fans,
19 a carbon dioxide injector, an air conditioner, and controllers to automate the equipment.
20 Some of this equipment was kept in an adjacent bathroom. Another room was used for
21 trimming, which is an occasional activity that typically occurs once for each harvest, over the
22 course of several days.

23 13. Trimming occurred several times at the Property before January 11, 2016. As
24 many as eight trimmers would come to the Property to perform that work. They slept in the
25 house, in tents outdoors at the Property (such as in the flat area to the east of the house), or in
26 their cars parked at the Property, and usually prepared and ate meals inside the house.

1 [REDACTED]. Attached as Exhibit 14 is [REDACTED]
2 [REDACTED] doctor for treatment of a debilitating medical condition.

3 22. State law allows a medical marijuana patient cardholder to designate a
4 marijuana grower and grow site. The grow site is then authorized to grow cannabis plants to
5 maturity and produce marijuana for the patient's use as medicine. After the patient takes
6 what he or she needs from a harvest, state law allows the excess marijuana to be sold to
7 authorized dispensaries. The marijuana production operation at the Property has operated
8 within these parameters.

9 23. Since July 29, 2015, the Property has been [REDACTED], as shown
10 in the [REDACTED] attached as Exhibit 15. Since July 29, 2015, I have produced
11 marijuana at the Property [REDACTED] for sale to authorized dispensaries.

12 24. I obtained sworn declarations from eight other medical marijuana cardholders
13 who registered the Property as their grow site in 2015. They are [REDACTED]
14 [REDACTED]
15 [REDACTED] OHA OMMP patient identification cards are attached to
16 each of their declarations. Each declaration states the date when the declarant first
17 designated the Property as his or her grow site. The property was being used to produce
18 usable marijuana for each of these cardholder-patients and their authorized dispensaries prior
19 to January 11, 2016.

20 25. The attached Exhibit 16 contains building permits for the two greenhouses
21 used in the operation. The greenhouses were properly permitted as detached accessory
22 structures. I paid for the permits, the greenhouses passed inspections, and the permits are
23 marked "COMPLETED" as of Nov. 2, 2015. The two greenhouses at the Property have been
24 used to cultivate marijuana since before January 11, 2016.

25 26. The attached Exhibit 17 shows I obtained a permit to install a propane tank
26 and a new propane delivery line to the new greenhouses at the Property on May 5, 2015.

1 27. The attached Exhibit 18 contains two statements from Pacer Propane bearing
2 my name. They show I received deliveries of bulk propane on July 15, 2015, and December
3 31, 2015. The propane was burned to heat the greenhouses.

4 28. Since January 11, 2016, there as been no expansion in the size or area or any
5 change in the purpose of the nonconforming use. The marijuana production operation has
6 continued within the same parameters that were established before that date.

7 29. The actual nature and extent of the nonconforming use established prior to
8 January 11, 2016, includes continuous and regular activities, such as the cultivation of
9 cannabis plants, as well as sporadic or intermittent ones, such as the trimming after each
10 harvest.

11 30. I believe the Property is a legal parcel in the sense that it is a unit of land
12 created as a lot in an existing, duly recorded subdivision or a parcel in an existing, duly
13 recorded major or minor land partition. This was verified by Joseph Shearer (Senior Planner
14 at the Wasco County Planning Department) on June 27, 2014. In addition, when I purchased
15 the Property in July 2014, I obtained a full title report, title insurance, and a statutory
16 warranty deed. A true copy of the deed is attached as Exhibit 19. The deed described the
17 property as "Lot 4, MARTIN TRACTS, in the County of Wasco and State of Oregon."

18 31. The nonconforming use has continued since January 11, 2016, and no aspect
19 of it has been discontinued or abandoned.

20 32. In addition to verification of the nonconforming use, I seek approval of a
21 minor alteration in which cultivation, drying, and trimming activities that formerly occurred
22 outdoors or under temporary hoop houses and shelters at the 2015 OMMP Site will occur
23 inside the new accessory building that began construction in that area in December 2015.
24 Allowing those activities to occur inside the building will take them out of public view
25 because the building has no windows.

26 ///

1 33. As of January 11, 2016, the only established part of the marijuana production
2 operation that was not already obscured from public view was the 2015 OMMP Site. The
3 fence around the primary grow area obscures that area from public view. The areas used in
4 the dwelling as part of the operation are obscured from public view. Only the 2015 OMMP
5 Site was not obscured from public view when it was used for outdoor cultivation, drying, and
6 trimming in 2015. The entire Property has a fence around it, but it is not the type of fence
7 that obscures what is inside from public view. Therefore, the 2015 OMMP Site was visible
8 to people using the Halliburton Road.

9 34. The proposed alteration will obscure an established part of the nonconforming
10 use from public view. Any former adverse visual impact that part of the use may have had
11 on the neighborhood will be eliminated. The appearance of the accessory building is benign
12 and unobjectionable, and it has already been constructed and permitted. The structure has no
13 windows so the activities inside will not be visible from outside the structure. It has a clean
14 visual appearance consistent with that of other accessory farm use structures typical of the
15 neighborhood and of properties in the RR-10 zone at which agricultural and other farm uses
16 occur. The proposed alteration will therefore reduce any adverse visual impacts that may be
17 associated with the nonconforming use.

18 35. The proposed alteration will not change the manner or purpose of the use.
19 Like the other areas of the Property used in the marijuana production operation, the 2015
20 OMMP Site was used for cultivation, drying, and trimming of marijuana. The proposed
21 alteration would continue those same types of activities inside the accessory building.

22 36. The proposed alteration will not change the geographic location of the
23 marijuana production activities that occurred at the 2015 OMMP Site. Therefore, it will not
24 result in any greater nonconformity with respect to any property line setback or resource
25 buffer requirements.

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1 37. The proposed alteration involves no geographic relocation of any part of the
2 nonconforming use.

3 38. The structure proposed to be used in the alteration has already been erected
4 and passed final structural inspection as an accessory structure. To the best of my
5 knowledge, it complies with all applicable local codes related to geologic hazards, fire safety,
6 and flood damage.

7 39. I am not aware of any adverse impact the proposed alteration might have on
8 the character or needs of the neighborhood. Nearby properties are used primarily for
9 residential and farm uses. The property across Haliburton Road to the north is a large tract
10 with no known residence. Enclosing the activities that occurred at the 2015 OMMP Site
11 inside the new accessory structure will make the nonconforming use more consistent than
12 ever with the character and needs of the neighborhood.

13 40. The proposed alteration will not materially alter the relationship between the
14 character and history of the use and its relationship to development in the neighborhood. The
15 use was recently established as a farm use permitted by right at the property. The Property is
16 an ideal location for this type of operation. The neighborhood is characterized by
17 agricultural farm uses and residential land uses. There are other marijuana production
18 operations in the vicinity. The alteration will not alter the fundamental relationship between
19 the nonconforming use and other development in the neighborhood, which is already one of
20 compatibility.

21 41. The proposed alteration will create little or no increased noise, light, vibration,
22 dust, odor, fumes, glare, or smoke impacts detectable within the neighborhood. I do not
23 believe the 2015 OMMP Site created any impacts detectable within adjacent properties from
24 noise, light, vibration, dust, odor, fumes, glare, or smoke. There was some incidental noise
25 from growers and trimmers working in the area and some odor from the plants, but I believe

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1 this noise and odor dissipated before crossing over the property lines and did not have any
2 material adverse impact on the neighborhood.

3 42. The same is generally true of the proposed alteration, except that the enclosure
4 of the cultivation, drying, and trimming activities inside the building will reduce and not
5 increase the likelihood of noise and odor being detectable off the Property. I would like to
6 have outdoor lighting to mark the entrance to the building, but such lighting is of low
7 intensity and not strictly necessary to the alteration. All of the high intensity light that will be
8 used for cultivation will be contained inside the building. The proposed alteration will not
9 create any detectable increase in vibration or dust from the Property.

10 43. The structure will need an air conditioner outside the building, but modern-
11 day air conditioners emit much less noise than ever before and the innocuous sound of such
12 equipment should not be detectable off the Property. The building is over 200 feet from the
13 eastern property line, and the residence at that property is several hundred feet further to the
14 east. Nobody from that property has ever complained to me about any aspect of the
15 operation. The property to the north is a huge agricultural property with no known residence.
16 The structure is over 350 feet from the western property line. The sound of the air
17 conditioner should create no detectable adverse impacts on the surrounding neighborhood.

18 44. The proposed alteration should cause no increased impacts to any public
19 facilities or services. Enclosing outdoor activities inside the accessory structure will not
20 materially increase the use of roads, fire or police protection services, sewer and water
21 facilities, telephone service, or solid waste disposal facilities. With or without the alteration,
22 the operation's reliance on these public facilities and services is minimal or non-existent,
23 especially when compared with other agricultural farm uses.

24 45. Marijuana production generally creates significant value without exposing
25 public facilities and services to significant impacts. It does not require a large amount of
26 labor or vehicle trips to and from the property. It does not require any large commercial

1 vehicles. Ordinary pickup trucks and small trailers are used to bring soil and other materials
2 to the Property. Retail sales do not occur at the Property. The operation does not require
3 more fire or police protection than other agricultural farm uses. It uses far less water than
4 most agricultural uses.

5 46. The Property has an on-site septic system, and it will soon have a system for
6 reusing gray water. The operation does not depend on any significant volume of telephone
7 service, and phone calls related to the operation are all made using a nationwide cellular
8 phone service. The operation produces very little non-compostable waste, and all parts of the
9 cannabis plants grown at the Property are either consumed or turned into compost. Compost
10 produced at the Property is mixed with potting soil and used for cultivation.

11 47. The only public service whose use will increase as a result of the proposed
12 alteration is the electrical service. Cultivating cannabis indoors will increase the amount of
13 electricity used compared with outdoor cultivation because it will use high intensity lights
14 instead of sunlight. This should not be considered an adverse or undesirable impact on the
15 neighborhood, however, as the increased electricity used is still orders of magnitude below
16 what can be consumed at a new server farm or other high-intensity commercial or industrial
17 activity. The availability of relatively inexpensive hydro-power and the growth in
18 sustainable wind-generated power in the region further mitigates any adverse impact
19 associated with increased power consumption at the Property.

20 48. The proposed alteration will not increase the minimal outdoor storage that has
21 occurred at the Property. Even if the accessory structure is used for cultivation and
22 trimming, there will be ample enclosed storage space at the Property.

23 49. The proposed structure will have no effect on outdoor loading and parking at
24 the Property. There may be some occasional loading and unloading at the structure, but
25 loading and unloading is not a significant part of a marijuana production operation and a

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1 similar amount of loading and unloading would occur in the area if it continued to be used as
2 an outdoor grow site and trim area as it was in 2015.

3 50. The proposed structure will not materially affect parking at the Property, as
4 the few cars involved in the operation will have ample space to park in other areas of the
5 approximately 10 acre parcel.

6 51. The proposed alteration will have no material effect on the nonconforming
7 use's hours of operation. I and the other operators have typically worked the site between 7
8 am and 10 pm, any day of the week. The cultivation equipment proposed to be installed in
9 the structure will be on automated schedules, which means there will be no regular need for
10 human labor inside the structure between 10 pm and 7 am. The only exception would be in
11 the event of an emergency.

12 52. The proposed alteration will not increase adverse impacts on identified natural
13 resources because there are none in proximity to the area of the proposed alteration.

14 53. The proposed alteration will cause no adverse impacts on water quality,
15 quantity, or drainage in the area. Only 1-2% of the water that will be used in the proposed
16 alteration will become wastewater. The Property will have a catchment system for storing
17 and reusing this gray water, such as by applying it to vegetable gardens. Water quantity is
18 not a concern because the operation is obtaining water through the Chenoweth Water PUD
19 and the quantity of water used is modest compared to many other agricultural operations.
20 Drainage is also a non-issue because any change to site drainage patterns associated with the
21 new structure has already occurred, as the building has been erected and it passed final
22 structural inspection in February 2016. Thus, the proposed alteration will cause no increased
23 adverse impacts to water quality, quantity, and drainage in the neighborhood.

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1 54. Marijuana production is subject to a robust state-wide regulatory scheme, and
2 it is impossible to discuss every aspect of that scheme within the context of this application.
3 The operation at the Property has never been cited for any violation of any state law or
4 regulation related to cannabis production, and I intend to ensure the operation at the Property
5 continues to comply with all applicable state regulations in the future.

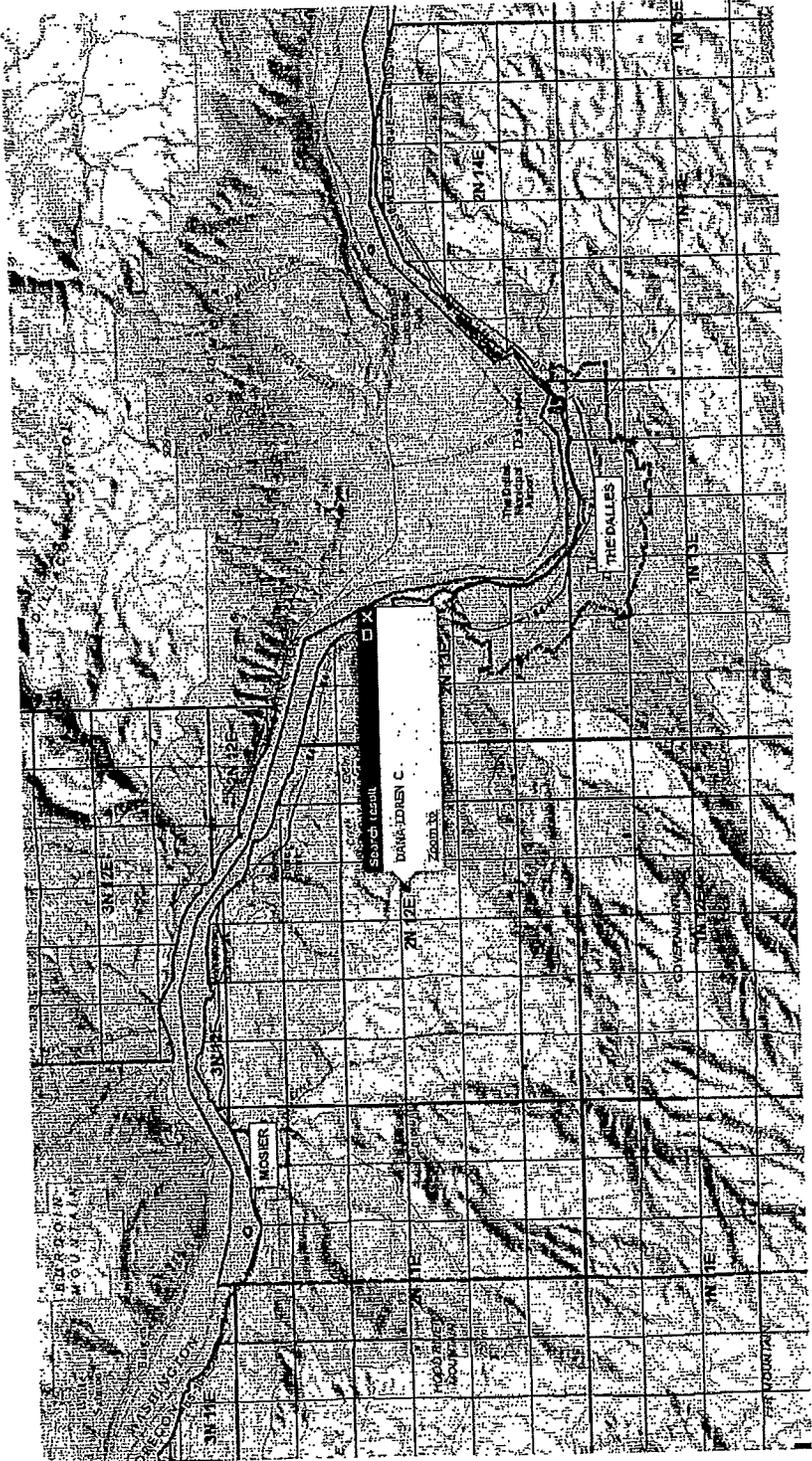
6 I HEREBY DECLARE THAT THE ABOVE STATEMENT IS TRUE TO THE
7 BEST OF MY KNOWLEDGE AND BELIEF, AND THAT I UNDERSTAND IT IS MADE
8 FOR USE AS EVIDENCE IN COURT AND IS SUBJECT TO PENALTY FOR PERJURY.

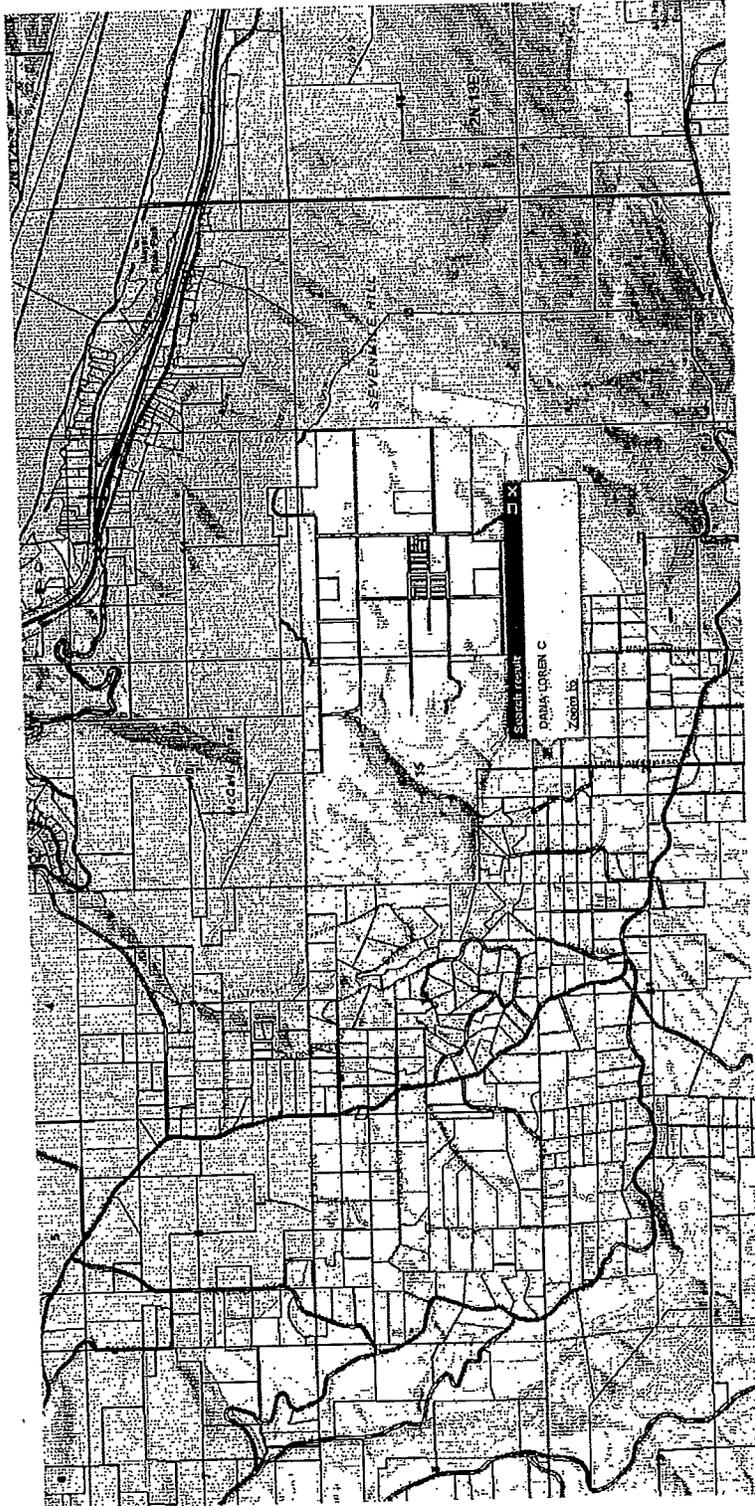
9 DATED: April 19, 2016.

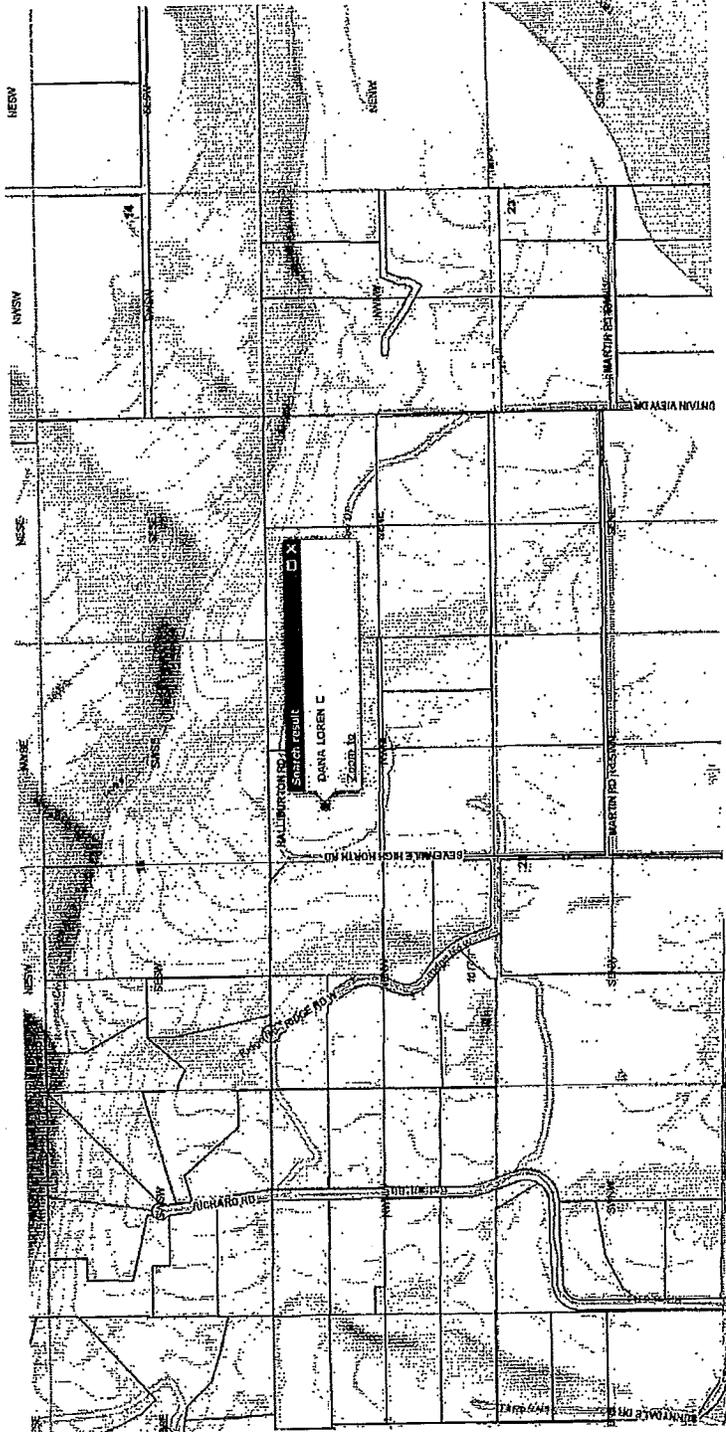
A handwritten signature in black ink, consisting of several loops and a long horizontal stroke, positioned above the name Loren Dana.

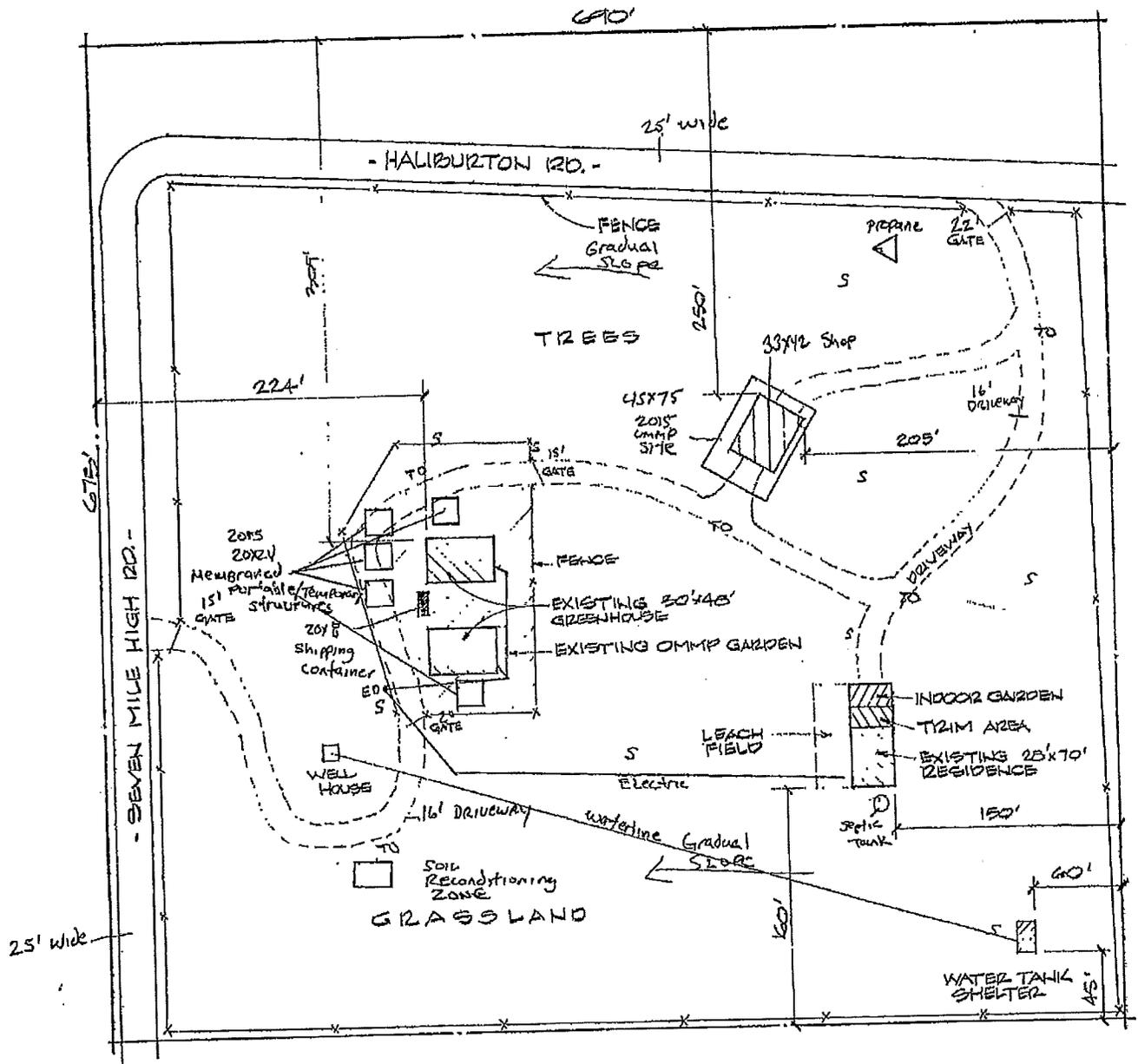
Loren Dana

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SITE PLAN 11.80'

ALL DISTANCES ARE APPROXIMATE



- S = Sicket
- TU = Turnout
- ED = Electric Drop

LOREN DANA - OWNER
(503) 679-1897

2040 SEVEN MILE ROAD
THE DALLES, OR. 97058







1184/871



APPLICATION FOR STRUCTURAL PERMIT

Mid-Columbia Building Codes Services
1113 Kelly Avenue
The Dalles, OR 97058

p: (541) 298-4461 f: (541) 298-2667

DEPARTMENT USE ONLY	
Permit #:	
Office:	
By:	Issue Date:

Applicant must hold an Oregon registration to conduct a construction business or must be the property owner. Permits expire if: a) work is not started within 365 days of issuance; or b) suspended for 365 days; or c) the work exceeds three years from permit issuance.

JOB SITE INFORMATION	OWNER INFORMATION
Address: 2040 Seven Mile High Road	I am the property owner doing my own work (INIT)
City: The Dalles County: WASCO	Name: Loren Dana
Directions to inspection site:	Mailing Address: 2040 Seven Mile High Road
	City: The Dalles State: OR Zip: 97058
	Phone: Cell: 503 677 7627
Is property inside city limits: Y (N)	Email:

LOCAL GOVERNMENT APPROVALS		
R-RC10/EPO-8 Zoning Information verified and approved? Y (N) Signature: Dawn David Jurisdiction: Wasco Co. Date: 9/23/14 Tax Lot#: 2N12E22#300	Flood Plain Y (N) Signature: Dawn David Jurisdiction: Wasco Co.	Sanitation Information verified and approved? Y (N) Signature: _____ Jurisdiction: _____ Date: _____

PLAMNS-14-09- STRUCTURAL PERMIT FEES, Effective Jan. 1, 2014

(1) Valuation Information: 0040 TWO 46'x31'x21.6' TALL GREENHOUSES AND ONE 42'x33'x30' TALL DETACHED SHOP

(a) Job Description _____
 (b) Occupancy _____
 (c) Construction Type _____
 (d) Square Feet _____
 (e) Cost/Sq Ft _____
 (f) New/Alteration/Addition New Alteration Addition
 (g) Is this a foundation ONLY permit? Y N
 (h) Is this a plan review ONLY? Y N
 (i) Total valuation _____

(2) Building Fees
 (a) Permit Fee _____
 (b) 12% state surcharge _____

(3) Plan Review Fees
 (a) Plan Review (permit fee X 0.65) _____
 (b) Fire & Life Safety (permit fee X 0.40) _____
 Subtotal of fees above _____

(4) Miscellaneous Fees
 (a) Seismic Fee (permit fee X 0.01) _____
 (b) Re-inspection Fee \$78.00/hour _____
 (b) Investigation Fee \$78/hour _____
 Total Due _____

Contractor:
 Address: _____
 City: _____ State: _____ Zip: _____
 Phone: _____
 Email: _____
 BCD License: _____
 CCB License: _____
 VISA Mastercard Phone: _____
 Credit Card #: _____
 Amount: \$ _____ Expires: _____ V.CODE: _____
 Name shown on card: _____
 Signature: _____

I hereby certify that, to my knowledge, the above information is true and correct. All work to be performed shall be in accordance with all governing laws and rules. I have read and do understand the attached "Information Notice to Property Owners About Construction Responsibilities"

Applicant Name: _____ City: _____ State: _____ Zip: _____
 Mailing Address: _____ E-mail: _____ Date: 9.22.14

INSPECTION CHECKLIST

565-14-002719-STR

MID COLUMBIA BUILDING CODE
 1113 Kelly Ave
 The Dalles, OR 97058
 541-298-4461
 FAX: 541-298-2667

stephanie.ziegler@mccog.com
 IVR Phone Nbr: 1-888-299-2821
 IVR NUMBER: 565164790958

<http://mccog.com/building-codes>
 INSPECTOR ASSIGNED: CLIFTON, TONY

Inspection Date:

Owner:
 DANA LOREN

Address
 2040 SEVEN MILE HI RD, THE
 DALLES, OR 97058

Contractor:

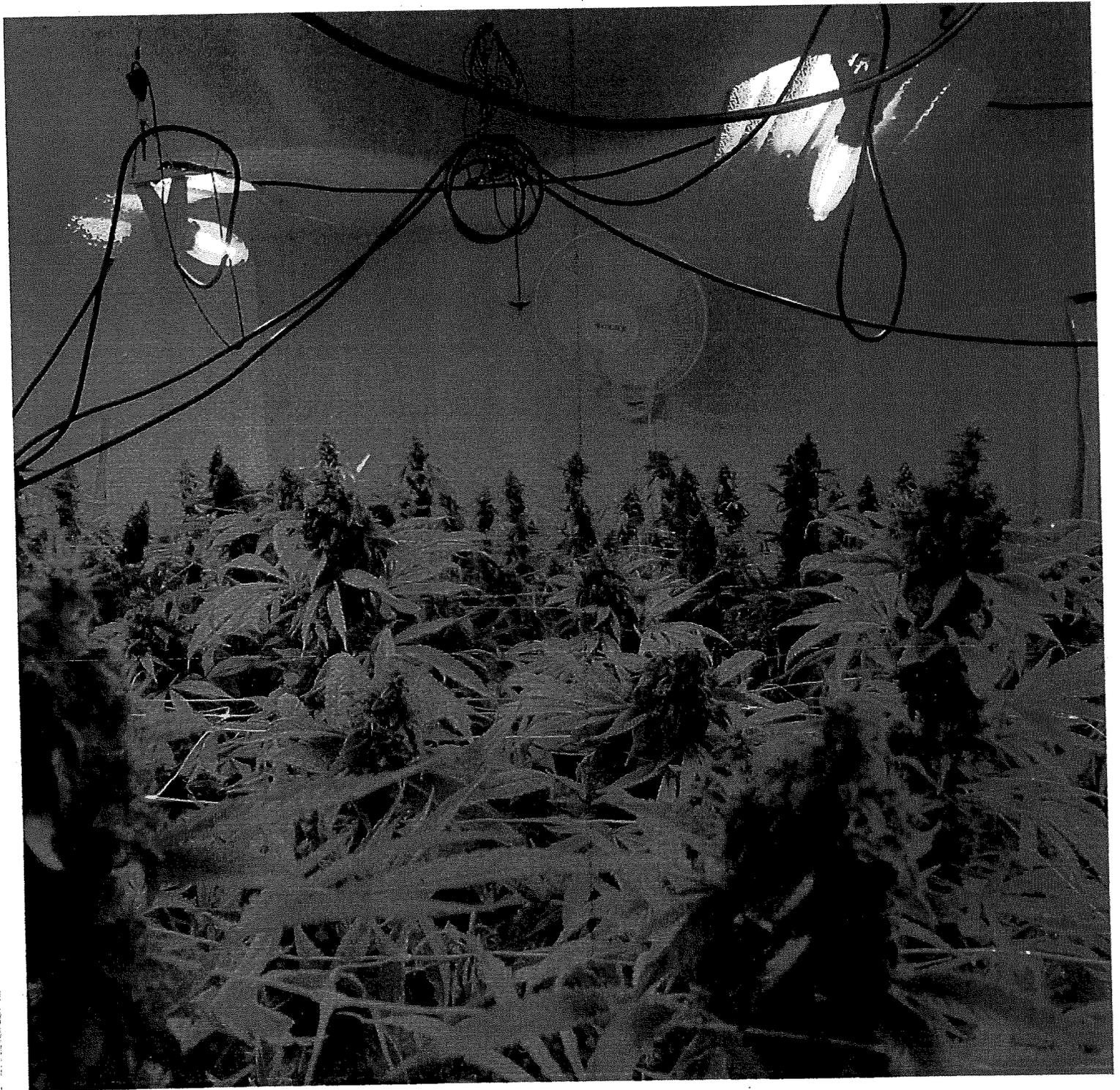
License:

Previous:	Inspection Type	Inspection Date	Status	Inspector Name
	1999 Final Building	02/25/2016	Denied	Tony Clifton
Comments: FRAME/FINAL: 1)ATTIC ACCESS REQUIRED. REINSPECTION RESCHEDULED FOR 2-29				
	1260 Framing	01/28/2016	Denied	Tony Clifton
Comments: APPROVED PLANS REQUIRED ON SITE. REINSPECTION REQUIRED				
	1110 Footing	11/30/2015	Approved	Tony Clifton
Comments:				
	1120 Foundation	11/30/2015	Approved	Tony Clifton

COMPLETED

02/29/2016

1999 Final Building
 Request Comments: none
Notes:
Comments:



OHA OMMP
Patient Identification Card
LOREN C DANA
Patient Card No: 1048228
DOB: 5/22/1970
Id: A005013
Patient Card Issue Date: 7/29/2015
Patient Card Effective Date: 7/29/2015
Card Expiration Date: 7/29/2016

Oregon Health Authority
Oregon Medical Marijuana Program
800 NE Oregon Street
Portland, OR 97232-2162

OMMP Mailing Address:
OHA/OMMP
PO Box 14450
Portland, OR 97232-0450
Phone: (971) 673-1234

Oregon Medical Marijuana Program

Registration Information

Grower Name : LOREN C DANA
Grower Card No : 1048229
DOB : 5/22/1970
Address : 2040 SEVEN MILE HIGH RD
THE DALLES, OR
97058-9575

Record No : 265858/423147
Grower Card Issued : 7/29/2015
Patient Card Effective : 7/29/2015
Card Expires : 7/29/2016

Patient Name : LOREN C DANA
Patient Card No : 1048228
DOB : 5/22/1970
Address : 2040 SEVEN MILE HIGH RD
THE DALLES, OR
97058-9575

Growsite Location : 2040 SEVEN MILE HIGH RD
THE DALLES, OR
97058-9575

This Card must be posted at Growsite.

The Oregon Medical Marijuana Program protects medical marijuana users who comply with its requirements from state and criminal prosecution for production, possession or delivery of a controlled substance.

"The (State) Act neither protects marijuana users from seizures nor individuals from prosecution if the federal government chooses to take action against patients, caregivers, or growers under the federal Controlled Substance Act."

"Driving under the influence of marijuana is not allowed under the Oregon Medical Marijuana Act."

761122

OHA 8500 (09/11)



Building Permit

Residential Structural

MID COLUMBIA BUILDING CODES

1113 Kelly Ave
The Dalles, OR 97058
541-298-4461
Fax: 541-298-2667

565-14-002850-STR

stephanie.zlegler@mccog.com

<http://mccog.com/building-codes>

Permit Issued: December 22, 2014

TYPE OF WORK	
Type of Work: New	Category of Construction: Detached Accessory Structure
Description of Work: GREEN HOUSE #1	Valuation: \$60,576

JOB SITE INFORMATION	
Property Address: 2040 Seven Mile HI Rd, The Dalles, OR 97058	Parcel: 2N12E22300 - Primary
Owner: DANA LOREN	Address: 2040 SEVEN MILE HIGH RD THE DALLES OR 97058

LICENSED PROFESSIONAL INFORMATION	
Work is being performed by the Property Owner	Property Owner Affidavit Has Been Filed

REQUIRED INSPECTIONS	
The list of inspections below represents the inspections required for this project at the time of permit printing. Additional inspections may be required through the life of the project. You will receive notification of any additional inspection requirements for project completion. All required inspections must be completed and approved.	
1110 Footing	1120 Foundation
1999 Final Building	1280 Framing
Schedule Inspections online at www.buildingpermits.oregon.gov or by calling: 1-888-299-2821 or 541-298-4461	
When calling for an inspection, use IVR Number: 565179869866	

PERMIT FEES		
Fee Description	Quantity	Amount
Structural plan review fee	502.90 Ea	\$326.89
Structural building permit fee	1.00 Ea	\$502.90
State of Oregon Surcharge - Bldg (12% of applicable fees)	502.90 Ea	\$60.35
Total Fees:		\$890.14

Calculated Job Value		Unit Amount	Unit	Unit Cost	Job Value
Construction Type	Occupancy Type	1,426	Sq Ft	\$42.48	\$60,576.48
VB	U Utility, misc.				
Total Job Value:					\$60,576.48

COMPLETED
11-22-15
[Signature]

Permits expire if work is not started within 365 Days of issuance or if work is suspended for 365 Days or longer depending on the issuing agencies policy.

All provisions of laws and ordinances governing this type of work will be complied with whether specified herein or not. Granting of a permit does not presume to give authority to violate or cancel the provisions of any other state or local law regulating construction or the performance of construction.

ATTENTION: Oregon law requires you to follow rules adopted by the Oregon Utility Notification Center. Those rules are set forth in OAR 952-001-0010 through OAR 952-001-0090. You may obtain copies of the rules by calling the center. (Note: the telephone number for the Oregon Utility Notification Center is (503) 232-1987).

All persons or entities performing work under this permit are required to be licensed unless exempted by ORS 701.010.



Building Permit

Residential Structural

MID COLUMBIA BUILDING CODES

1113 Kelly Ave
The Dalles, OR 97058
541-298-4461
Fax: 541-298-2667

565-14-002851-STR

<http://mccog.com/building-codes>

stephanie.ziegler@mccog.com

Permit Issued: December 22, 2014

TYPE OF WORK	
Type of Work: New	Category of Construction: Detached Accessory Structure
Description of Work: GREENHOUSE #2	Valuation: \$60,576

JOB SITE INFORMATION	
Property Address: 2040 Seven Mile Hi Rd, The Dalles, OR 97058	Parcel: 2N12E22300 - Primary
	Owner: DANA LOREN
	Address: 2040 SEVEN MILE HIGH RD THE DALLES OR 97058

LICENSED PROFESSIONAL INFORMATION	
Work is being performed by the Property Owner	Property Owner Affidavit Has Been Filed

REQUIRED INSPECTIONS

The list of inspections below represents the inspections required for this project at the time of permit printing. Additional inspections may be required through the life of the project. You will receive notification of any additional inspection requirements for project completion. All required inspections must be completed and approved.

1110 Footing	1120 Foundation	1260 Framing
1999 Final Building		

Schedule inspections online at www.buildingpermits.oregon.gov or by calling: 1-888-299-2821 or 541-298-4461

When calling for an inspection, use IVR Number: 565170263420

PERMIT FEES			
Fee Description	Quantity		Amount
Structural building permit fee	1.00	Ea	\$502.90
State of Oregon Surcharge - Bldg (12% of applicable fees)	502.90	Ea	\$60.35
Total Fees:			\$563.25

Calculated Job Value			
Construction Type	Occupancy Type	Unit Amount	Unit Cost
VB	U Utility, misc.	1,426	Sq Ft
			\$42.48
Total Job Value:			\$60,576.48

COMPLETED 11.2.15
[Signature]

Permits expire if work is not started within 365 Days of issuance or if work is suspended for 365 Days or longer depending on the issuing agencies policy.

All provisions of laws and ordinances governing this type of work will be complied with whether specified herein or not. Granting of a permit does not presume to give authority to violate or cancel the provisions of any other state or local law regulating construction or the performance of construction.

ATTENTION: Oregon law requires you to follow rules adopted by the Oregon Utility Notification Center. Those rules are set forth in OAR 952-001-0010 through OAR 952-001-0090. You may obtain copies of the rules by calling the center. (Note: the telephone number for the Oregon Utility Notification Center is (503) 232-1987).

All persons or entities performing work under this permit are required to be licensed unless exempted by ORS 701.010.



Building Permit

Commercial Mechanical

MID COLUMBIA BUILDING CODES
1113 Kelly Ave
The Dalles, OR 97058
541-298-4461
Fax: 541-298-2667

565-15-001009-MECH

stephanie.ziegler@mccog.com

<http://mccog.com/building-codes>

Permit Issued: May 05, 2015

Job Name:

TYPE OF WORK

Type of Work: New
Submitted Value: \$1,575.00
Category of Construction: Commercial
Description of Work: INSTALLING PROPANE TANK & LINE TO NEW GREENHOUSE

JOB SITE INFORMATION

Property Address: 2040 Seven Mile HI Rd, The Dalles, OR 97058
Parcel: 2N12E22300 - Primary
Owner: DANA LOREN
Address: 2040 SEVEN MILE HIGH RD THE DALLES OR 97058

LICENSED PROFESSIONAL INFORMATION

Business Name	License	License Nbr	Phone
HICKSGAS LLC	CCB	197899	503-829-5560

INSPECTIONS

The list of Inspections below represents the minimum inspections recommended for this project at the time of permit printing. Additional inspections may be required through the life of the project.

2250 Gas Piping
2999 Final Mechanical

Schedule Inspections online at www.buildingpermits.oregon.gov or by calling: 1-888-299-2821 or 541-298-4461

When calling for an inspection, use IVR Number: 565190718211

OR search "ePermitting" at the Apple App Store to download the Oregon ePermitting Inspection App for IOS.

PERMIT FEES

Fee Description	Quantity	Amount
Commercial mechanical permit (based on mechanical job value)		\$60.00
State of Oregon Surcharge - Mech (12% of applicable fees)		\$7.20
Total Fees:		\$67.20

Permits expire if work is not started within 365 Days of issuance or if work is suspended for 365 Days or longer depending on the issuing agencies policy.

All provisions of laws and ordinances governing this type of work will be complied with whether specified herein or not. Granting of a permit does not presume to give authority to violate or cancel the provisions of any other state or local law regulating construction or the performance of construction.

ATTENTION: Oregon law requires you to follow rules adopted by the Oregon Utility Notification Center. Those rules are set forth in OAR 952-001-0010 through OAR 952-001-0090. You may obtain copies of the rules by calling the center. (Note: the telephone number for the Oregon Utility Notification Center is (503) 232-1987).

All persons or entities performing work under this permit are required to be licensed unless exempted by ORS 701.010.



SERVICE IS OUR BUSINESS

VISIT US AT: 3000 W 2ND STREET, THE DALLES, OR 97058
CONTACT US AT: 3000 W 2ND STREET, THE DALLES, OR 97058
OR CALL US AT: (541)298-2111

CUSTOMER NAME LOREN DANA
ACCOUNT NUMBER DANALO

STATEMENT DATE 07/31/15
PAGE: 1 of 1

DATE	INVOICE #	DESCRIPTION	CHARGES	PAYMENTS	BALANCE
07/15/15	U0124593	BULK: 774.50	\$851.95		\$854.67
07/15/15	U0124593	Fuel Surcharge	\$2.72		
THIS IS YOUR BALANCE AS OF 7/31/15					

000002054-A

CURRENT \$854.67	30 DAYS \$0.00	60 DAYS \$0.00	90 DAYS \$0.00	BALANCE \$854.67	PLEASE PAY THIS AMOUNT \$854.67
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**1.5% LATE CHARGE ON BALANCES OUTSTANDING MORE 30 DAYS FROM DATE OF STATEMENT (18% PER ANNUM)

654446 (PC2)

IF ANY OF THE FOLLOWING IS INCORRECT OR HAS CHANGED, PLEASE INDICATE

Your Name _____

Street _____

City _____ State _____ Zip _____

Phone _____



SERVICE IS OUR BUSINESS

VISIT US AT: 3000 W 2ND STREET, THE DALLES, OR 97058
CONTACT US AT: 3000 W 2ND STREET, THE DALLES, OR 97058
OR CALL US AT: (541)298-2111

CUSTOMER NAME LOREN DANA
ACCOUNT NUMBER DANALO

STATEMENT DATE 12/31/15
PAGE: 1 of 1

DATE	INVOICE #	DESCRIPTION	CHARGES	PAYMENTS	BALANCE
12/31/15	U0034418	BULK: 4.00	\$5.00		
12/31/15	U0034418	Fuel Surcharge	\$2.35		\$7.35
12/31/15	U0034419	BULK: 846.30	\$1057.88		
12/31/15	U0034419	Fuel Surcharge	\$2.35		\$1060.23
THIS IS YOUR BALANCE AS OF 12/31/15					

00002395-A

CURRENT \$1067.58	30 DAYS \$0.00	60 DAYS \$0.00	90 DAYS \$0.00	BALANCE \$1067.58	PLEASE PAY THIS AMOUNT \$1067.58
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**1.5% LATE CHARGE ON BALANCES OUTSTANDING MORE 30 DAYS FROM DATE OF STATEMENT (18% PER ANNUM)

654446.(PC2)



3000 W 2ND STREET
THE DALLES, OR 97058-4124

HAVE QUESTIONS? PLEASE CONTACT US AT:
(541) 298-2111

ACCOUNT # DANALO	STATEMENT DATE 12/31/15
AMOUNT DUE 1067.58	SHOW AMOUNT PAID HERE \$

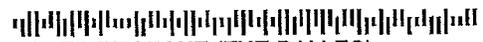
THANK YOU. WE APPRECIATE YOUR PROMPT PAYMENT.



008705
0101



LOREN DANA
2040 7 MILE HIGH RD
THE DALLES, OR 97058-9575



PACER PROPANE (THE DALLES)
3000 W 2ND STREET
THE DALLES, OR 97058-4124

11466-3YK3*TJA0KR00N000304



Loren Dana Decl.
Ex. 18
2 of 2

THIS SPACE RESERVED FOR RECORDER'S USE



After recording return to:

Loren Charles Dana

2573 Seahorse Avenue

Ventura, CA 93001

Until a change is requested all tax statements shall be sent to the following address:

Loren Charles Dana

2573 Seahorse Avenue

Ventura, CA 93001

Escrow No. AD0031698

Title No. 0031698

SWD r.020212

Wasco County Official Records 2014-002411

DEED-D

Cnt=1 SIn=1 WASCO COUNTY 07/30/2014 03:11 PM

\$10.00 \$11.00 \$20.00 \$10.00 \$15.00

\$66.00



00064928201400024110020023

I, Linda Brown, County Clerk for Wasco County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.



STATUTORY WARRANTY DEED

Richard P. Nichols and Margaret C. Bolton, as tenants by the entirety,

Grantor(s), hereby convey and warrant to

Loren Charles Dana, an unmarried man,

Grantee(s), the following described real property in the County of WASCO and State of Oregon free of encumbrances except as specifically set forth herein:

Lot 4, MARTIN TRACTS, in the County of Wasco and State of Oregon, Together with that certain Manufactured Home described as follows: 1996 Guerdon, Manufacturer ID Number GDSTOR289618337 A & B

FOR INFORMATION PURPOSES ONLY, THE MAP/TAX ACCT #(S) ARE REFERENCED HERE:

871, 1184, 76109 78160

02N12E22 300

The true and actual consideration for this conveyance is \$240,000.00.

The above-described property is free of encumbrances except all those items of record, if any, as of the date of this deed and those shown below, if any:

2014-2015 Real Property Taxes a lien not yet due and payable.

AMERITITLE 31698TE

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

Dated this 29th day of July, 2014

Richard P. Nichols
Richard P. Nichols

Margaret C. Bolton
Margaret C. Bolton

State of Oregon
County of WASCO

This instrument was acknowledged before me on July 29, 2014 by Richard P. Nichols and Margaret C. Bolton.

Sheila Weed
(Notary Public for Oregon)

My commission expires 10/21/2017

