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4       Lorene Hunt,

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1 legal counsel.

2 Other persons mailed written notice of the land use decision or limited  
3 land use decision by City of The Dalles, as indicated by its records in this  
4 matter, include: [Dyrk Pritchett, Century Link, 902 Wasco Street, Hood River,  
5 OR 97031; Dan Wallace, Charter Cable, 409 Union Street, The Dalles, OR  
6 97058; US Post Office, 101 W 2<sup>nd</sup> St., The Dalles, Or 97058; Mark Poppoff,  
7 213 E 9<sup>th</sup> St., The Dalles, OR 97058; The Dalles Disposal Service, PO Box  
8 1430, The Dalles, OR 97058; Jonathan Blum, 403 E 8<sup>th</sup> St. The Dalles, OR  
9 97058; Charlie Foote, Windermere Real Estate, 122 E 2<sup>nd</sup> St., The Dalles, OR  
10 97058; Alan and Sue Borton, 724 E 16<sup>th</sup> Pl., The Dalles, OR 97058; Steve and  
11 Lorene Hunt, PO Box 81, The Dalles, OR 97058; Theodore Pitt, 1804 W 13<sup>th</sup>  
12 St., The Dalles, OR 97058; Vern Beito, 1914 W 13<sup>th</sup> St., The Dalles, OR 97058;  
13 John Beck, 1606 W 13<sup>th</sup> St., The Dalles, OR 97058; Alex Maia, 1601 E 19<sup>th</sup> St.,  
14 The Dalles, OR 97058; Steve Dugick 704 E 13<sup>th</sup> St., The Dalles, OR 97058.


15 Emails sent to those receiving Notice of Decision re APL 32-18 from City of  
16 the Dalles dated July 11, 2018:

17 **To:** Amy L Pfeiffer ([Amy.L.PFEIFFER@odot.state.or.us](mailto:Amy.L.PFEIFFER@odot.state.or.us)); Arthur Smith ([arthurs@co.wasco.or.us](mailto:arthurs@co.wasco.or.us)); Ben  
18 Beseda ([BBeseda@tennesoneng.com](mailto:BBeseda@tennesoneng.com)); Bradley Cross ([bradleyc@co.wasco.or.us](mailto:bradleyc@co.wasco.or.us)); Bradley DeHart  
19 ([bradley.k.dehart@odot.state.or.us](mailto:bradley.k.dehart@odot.state.or.us)); 'Brumley, Tonya' ([tonya.brumley@nwnatural.com](mailto:tonya.brumley@nwnatural.com)); Cynthia Boyd  
20 ([cynthia.v.boyd@oregon.gov](mailto:cynthia.v.boyd@oregon.gov)); Cynthia Drake ([cynthia.m.drake@odot.state.or.us](mailto:cynthia.m.drake@odot.state.or.us)); Cynthia Keever  
21 ([ckeever@ci.the-dalles.or.us](mailto:ckeever@ci.the-dalles.or.us)); Dale McCabe ([dmccabe@ci.the-dalles.or.us](mailto:dmccabe@ci.the-dalles.or.us)); Dan Bubb; Dan Hammel  
22 ([dhammel@mcfrr.org](mailto:dhammel@mcfrr.org)); 'dan@gorge.net'; Dave Anderson ([danderson@ci.the-dalles.or.us](mailto:danderson@ci.the-dalles.or.us)); Gene  
23 Parker ([gparker@ci.the-dalles.or.us](mailto:gparker@ci.the-dalles.or.us)); Izetta F. Grossman ([igrossman@ci.the-dalles.or.us](mailto:igrossman@ci.the-dalles.or.us)); Jamie  
24 Carrico ([jcarrico@ci.the-dalles.or.us](mailto:jcarrico@ci.the-dalles.or.us)); Jeremiah McCafferty ([jeremiah.g.mccafferty@odot.state.or.us](mailto:jeremiah.g.mccafferty@odot.state.or.us));  
25 John Zalaznik ([JohnZ@co.wasco.or.us](mailto:JohnZ@co.wasco.or.us)); Julie Krueger ([jkrueger@ci.the-dalles.or.us](mailto:jkrueger@ci.the-dalles.or.us)); Pat Ashmore  
26 ([pashmore@ci.the-dalles.or.us](mailto:pashmore@ci.the-dalles.or.us)); Pat Cimmiyotti ([Patrick.M.Cimmiyotti@odot.state.or.us](mailto:Patrick.M.Cimmiyotti@odot.state.or.us)); Paul Titus

(Paul-[Titus@nwasco.com](mailto:Titus@nwasco.com)); Planning Distribution List; '[rowapplications@bpa.gov](mailto:rowapplications@bpa.gov)'; Shane Johnson  
([Shane.R.Johnson@odot.state.or.us](mailto:Shane.R.Johnson@odot.state.or.us)); Wasco County Assessor ([assessor@co.wasco.or.us](mailto:assessor@co.wasco.or.us)); Wasco  
County Planning ([wcplanning@co.wasco.or.us](mailto:wcplanning@co.wasco.or.us)); Al Wynn ([al\\_wynn@kodl.com](mailto:al_wynn@kodl.com)); Byron Gibson  
([bgibson@thedalleschronicle.com](mailto:bgibson@thedalleschronicle.com)); Emily Fitzgerald ([efitzgerald@thedalleschronicle.com](mailto:efitzgerald@thedalleschronicle.com)); Eric  
Gleason ([eric\\_gleason@nps.gov](mailto:eric_gleason@nps.gov)) ; KACI FM ([rhaines@bicoastalmedia.com](mailto:rhaines@bicoastalmedia.com)); KIH  
([mbailey@bicoastalmedia.com](mailto:mbailey@bicoastalmedia.com)); KODL ([newsroom@kodl.com](mailto:newsroom@kodl.com)); Mark Gibson  
([mgibson@thedalleschronicle.com](mailto:mgibson@thedalleschronicle.com)); Neita Cecil ([ncecil@thedalleschronicle.com](mailto:ncecil@thedalleschronicle.com)); Raelynn Ricarte  
([rricarte@thedalleschronicle.com](mailto:rricarte@thedalleschronicle.com)); Rodger Nichols ([news@gorgecountry.media](mailto:news@gorgecountry.media)); Tom Peterson  
([tpeterson@thedalleschronicle.com](mailto:tpeterson@thedalleschronicle.com)) ; Y102; April Moore ([teammoorekellerwilliams@gmail.com](mailto:teammoorekellerwilliams@gmail.com));  
'Bruce Lavier' ([blavier@gorge.net](mailto:blavier@gorge.net)); Jeff Stiles; '[jeffstiles@charter.net](mailto:jeffstiles@charter.net)'; John Nelson  
([joteg@gorge.net](mailto:joteg@gorge.net)); Sherry DuFault ([sherdufault@gmail.com](mailto:sherdufault@gmail.com)) ; Steve Ross ([sgross@tonkin.com](mailto:sgross@tonkin.com)); Steve  
Harris ([sharris@ci.the-dalles.or.us](mailto:sharris@ci.the-dalles.or.us)); Steph Ziegler ([stephanie.ziegler@mccog.com](mailto:stephanie.ziegler@mccog.com)); Dan Bubb  
([exec@gorge.net](mailto:exec@gorge.net)); Lisa Farquharson ([lisa@thedalleschamber.com](mailto:lisa@thedalleschamber.com)); Y109  
([news@haystackbroadcasting.com](mailto:news@haystackbroadcasting.com)); Dawn Hert ([dhert@ci.the-dalles.or.us](mailto:dhert@ci.the-dalles.or.us)); Nikki Lesich  
([nlesich@ci.the-dalles.or.us](mailto:nlesich@ci.the-dalles.or.us)); Paula Webb ([pwebb@ci.the-dalles.or.us](mailto:pwebb@ci.the-dalles.or.us)); Riley Marcus ([rmarcus@ci.the-dalles.or.us](mailto:rmarcus@ci.the-dalles.or.us)).

**NOTICE:**

Anyone designated in paragraph IV of this Notice who desires to participate as a party in this case before the Land Use Board of Appeals must file with the Board a Motion to Intervene in this proceeding as required by OAR 661-010-0050.

  
Lorene Hunt  
Aug 1, 2018

1 CERTIFICATE OF SERVICE

2 I hereby certify that on August 1 2018, I served a true and correct copy of  
3 this Notice of Intent to Appeal on all persons listed in paragraphs III and IV of  
4 this Notice pursuant to OAR 661-010-0015(2) by first class mail and email to  
5 persons/entities receiving the Notice of Decision re APL 32-18 dated July 11,  
6 2018 via email from the City of the Dalles.

7  
8 CERTIFICATE OF FILING

9 I hereby certify that on August 1, 2018, I filed the original of the  
10 foregoing, together with two copies, with the Land Use Board of Appeals, DSL  
11 Building, 775 Summer Street NE, Suite 330, Salem OR 97301-1283, by hand  
12 delivery.

13  
14 Dated:

15 August 1, 2018

16  
17  
18 Lorene Hunt

19 Lorene Hunt

20 Signature  
21



## CITY of THE DALLES

313 COURT STREET  
THE DALLES, OREGON 97058

(541) 296-5481 ext. 1125  
PLANNING DEPARTMENT

### NOTICE OF APPEAL PUBLIC HEARING DECISION

#### **APL 32-18 Stephen Hunt**

**DECISION DATE:** June 25, 2018

**APPLICANT:** Jonathan Blum

**REQUEST:** Appeal of the May 3, 2018, Planning Commission decision approving Adjustment 18-037, a reduction of minimum lot size from 9,000 sq. ft. to 7,475 sq. ft., an adjustment of 16.9%.

**LOCATION:** The property is located at the corner of W. 13<sup>th</sup> Street and Perkins Street. Property is further described as 2N 13E 33 CC tax lot 2801. Property is zoned Low Density Residential – RL.

**PROPERTY OWNER:** Victor Blum


**AUTHORITY:** City of The Dalles Municipal Code, Title 10 Land Use and Development

**DECISION:** Based on the findings of fact and conclusions of law in Resolution 18-021 for APL 32-18 adopted on July 9, 2018, and after a hearing in front of the City Council on June 25, 2018, the request by Jonathan Blum is hereby approved with the following conditions:

1. Approval of 17% reduction to the minimum size of a corner lot in the City's Residential Low Density (RL) zone in order to allow for the development of a duplex on the subject property. *All other development standards shall be met at the time of development.*
2. Any potential development impacts shall be addressed through the separate building permit process.
3. Except as modified by this decision, all development must be completed in accordance with Land Use Development Ordinance 98-1222, as amended.

A copy of Resolution 18-021 is available from the City Clerk.

***Signed this 11th day of July, 2018, by***

  
\_\_\_\_\_  
Steven K. Harris, AICP  
Director, Planning Department

**A RESOLUTION OF THE CITY COUNCIL DENYING APPEAL #32-18 AND  
AFFIRMING THE PLANNING COMMISSION'S DECISION APPROVING  
ADJUSTMENT #18-037 OF JONATHAN BLUM TO REDUCE THE MINIMUM LOT  
SIZE FOR A PARCEL LOCATED AT WEST 13<sup>TH</sup> AND PERKINS STREETS FROM  
9,000 SQUARE FEET TO 7,745 SQUARE FEET**

Page 1 of 1

## **EXHIBIT "A"**

### **FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR RESOLUTION NO. 18-021**

**BACKGROUND:** On May 3, 2018, the City Planning Commission adopted Resolution No. P.C. 575-18 approving an adjustment application submitted by Jonathan Blum to reduce the minimum size of a parcel located at West 13<sup>th</sup> and Perkins Street, from 9,000 square feet to 7,745 square feet, which is an adjustment of 16.9%. On May 14, 2018, Steve Hunt filed an appeal of the Planning Commission's decision.

The property which is the subject of this appeal is located at the intersection of West 13<sup>th</sup> and Perkins Street. The property is currently vacant and has no address. The Assessor's Map and Tax Lot number for the property is 2N 13E 33 CC Tax lot 2801. The Comprehensive Plan designation and Zoning District designation for the property is "RL" Residential Low Density. The applicant is requesting a 16.9% reduction in the minimum size of the corner lot in order to allow for the development of a duplex on the subject property. Section 10.5.010.060 of the Land Use and Development Ordinance (LUDO), which is part of the City's Municipal Code, provides that the minimum lot size for a corner duplex in the RL zoning district is 4,500 square feet per dwelling unit, which means the minimum lot size for the proposed duplex would be 9,000 square feet. The adjustment requested by the applicant would reduce the size of the lot from 9,000 square feet to 7,745 square feet, which would mean that each dwelling unit would have a square footage of 3,737.5.

### **REVIEW OF APPLICABLE CRITERIA**

#### **LAND USE AND DEVELOPMENT ORDINANCE NO. 98-1222**

##### **Section 10.3.020.080. Application Review Procedures**

*Section 10.3.020.080(A). De Novo. Appeals shall be a de novo evidentiary hearing. A De Novo hearing allows for the introduction of additional evidence on issues raised at a lower level and included in the notice of appeal, and for arguments or testimony based on those issues. It does not allow for new issues to be raised, nor does it allow for evidence, arguments or testimony to be presented on issues not raised in the appeal notice.*

**FINDING #1:** The appeal hearing before the City Council is referred to as a "de novo" evidentiary hearing. This means that in addition to the record before the Planning Commission, which includes the initial staff report and minutes from the Planning Commission hearing held on May 3<sup>rd</sup>, the City Council will consider the evidence and testimony offered during the Council hearing. The testimony during the appeal hearing can include additional evidence on issues which were raised during the Planning Commission hearing, and which were included in the notice of appeal, and arguments and testimony based upon those issues. Under the City's land use rules, new issues that



were not raised before the Planning Commission cannot be presented during the appeal hearing before the Council, and the Council cannot consider evidence, arguments, or testimony of issues that were not raised in the notice of appeal. The burden of proof to establish that the applicable review criteria have been satisfied is upon the applicant.

**CONCLUSION:** The criteria in Section 10.3.020.080(A) have been satisfied.

*Section 10.3.020.080(B)(1). Right to Appeal Decisions. The following may file an appeal to decisions resulting from planning actions described in this Section:*

1. *Any party of record to the particular action.*

**FINDING #2:** The appeal of the Planning Commission's Decision of May 3, 2018, was filed on May 14, 2018, by Steve Hunt, who testified before the Planning Commission and who is a party of record.

**CONCLUSION:** The criteria in Section 10.3.020.080(B)(1) have been satisfied.

*Section 10.3.020.080(C). Filing Appeals.*

1. *To file an appeal, an appellant must file a completed notice of appeal on a form prescribed by the Department. The standard appeal fee shall be required as part of the notice of appeal.*
2. *The notice of appeal and appeal fee must be received at the Community Development Department office no later than 5:00 PM on the tenth day following the date of mailing of the notice of decision. (See Section 1.110: Computation of Time for an explanation of how days are counted).*

**FINDING #3:** The appeal with the information required under Section 10.3.020.080(C)(1) was filed on May 14, 2018, within the ten day period set forth in Section 10.3.020.080(2), along with the required filing fee.

**CONCLUSION:** The criteria in Section 10.3.020.080(C) have been satisfied.

*Section 10.3.020.080(G). Notification of Appeal Hearing. The notice of appeal, together with notice of the date, time and place of the appeal hearing shall be mailed to all parties at least 14 days prior to the hearing.*

**FINDING #4:** Notice of the appeal hearing was mailed to all parties on June 11, 2018.

**CONCLUSION:** The criteria in Section 10.3.020.080(G) have been satisfied.

*Section 10.3.020.080(H). Decision of Appeal.*

1. *The Commission or Council may affirm, reverse, or modify the planning action decision being appealed, including approving, approving with conditions, or denying a particular application.*
2. *The Commission or Council shall make findings and conclusions, and make a decision based on the hearing record.*
3. *A Notice of Appeal Decision shall be sent to the all parties participating in the appeal.*

**FINDING #5:** Once the Council has made a decision whether to affirm, reverse or modify the Planning Commission's decision to approve the application for the requested adjustment, staff will prepare a resolution setting forth the applicable findings of fact and conclusions of law, and a notice of the appeal decision will be sent to all parties participating in the appeal.

**CONCLUSION:** The criteria in Section 10.3.020.080(H) have been satisfied.

*Section 10.3.010.040 Applications*

*B. Completeness. An application shall be considered complete when it contains the information required by this Title, addresses the appropriate criteria for review and approval of the request, and is accompanied by the required fee, unless waived by the City Council per Section 10.1.120: Fees. Complete applications shall be signed and dated by the Director.*

**FINDING #6:** The application was found to be complete by the Planning Department on April 23, 2018.

**CONCLUSION:** The criteria in Section 10.3.010.040 have been satisfied.

*Section 10.3.080.020 Applicability*

*Subsection D. The quasi-judicial adjustment process may be used to change the following items:*

3. *Up to 20% reduction in required minimum lot area.*

**FINDING #7:** The application is for an adjustment to the required minimum lot area pursuant to Section 10.3.080.020(D)(3). The specific request is for a 16.9% reduction in the minimum corner lot size for a duplex, as outlined in Section 10.5.010.060 which sets forth the development standards for the RL zoning district. In an attachment filed with the notice of appeal, Mr. Hunt asserted that the Planning Commission erred in granting approval of the requested adjustment, citing the provisions of Section 10.3.080.020(B)(6) which provides that adjustments are prohibited for items which would allow an increase in the density in the RL zoning district. Mr. Hunt asserted that the proposed adjustment

would reduce the lot size for a duplex without decreasing the number of dwelling units, which would correspond to an increase in density. In his testimony before the City Council, Mr. Hunt asserted that from "a layman's point of view", if two residential structures were allowed to be placed upon the subject site, there would be an increase in density.

Mr. Hunt's interpretation of Section 10.3.080.020(B)(6) is inconsistent with other provisions of the LUDO. Section 10.5.010.020(A)(2)(c) allows duplexes to be constructed upon corner lots as an outright permitted use in the RL zoning district. Under Section 10.2.030, the term "density" is defined as "the number of dwelling units per acre". Section 10.2.030 defines a duplex dwelling as "two dwelling units on a single lot or development site placed so that some structural parts are in common". The duplex that was proposed by the applicant is consistent with the type of use permitted outright in the RL zoning district.

Section 10.5.00.060 of the RL zoning district, which sets forth the development standards for the district, includes a footnote which sets out a formula used to determine how compliance with the minimum density standard (not more than 10,000 net buildable square feet per dwelling unit) is determined. The development site consists of .17 acres, which is equivalent to 7,405.2 net buildable square feet. Dividing the net buildable square feet (7,405.2) by the minimum density footage standard of 10,000 yields a negative number. As the Planning Director advised the City Council during the hearing, applying the formula used to determine the minimum number of dwelling units which an application must propose, is often problematic in the case of single vacant lots. The Council finds and concludes that the proposed adjustment includes two dwelling units, which is consistent with the minimum number of units typically provided in a duplex, and that the proposed adjustment does not result in an increase in density associated with the proposed use of the development site.

**CONCLUSION:** The criteria in Section 10.3.080.020 have been satisfied.

*Section 10.3.020.050(B) Staff Report. The Director shall prepare and sign a staff report for each quasi-judicial action which identifies the criteria and standards applying to the application and summarizes the basic findings of fact. The staff report may include a recommendation for approval, approval with conditions, or denial.*

**FINDING #8:** An agenda staff report was submitted for the Council hearing as required by Section 10.3.020.050(B).

**CONCLUSION:** The criteria in Section 10.3.020.050(B) have been satisfied.

*Section 10.3.020.050(D) Notice of Hearing. At least 10 days before a scheduled quasi-judicial public hearing, notice of the hearing shall be mailed to:*

- 1. The applicant and owners of property within 300 feet of the subject property. The list shall be compiled from the most recent property tax assessment roll.*

*Section 10.3.020.080(G) Notification of Appeal Hearing. The notice of appeal, together with notice of the date, time, and place of the appeal hearing shall be mailed to all parties at least 14 days prior to the hearing.*

**FINDING #9:** Notices of the appeal hearing were mailed to the applicant and owners of property within 300 feet of the development site, and to interested parties on June 11, 2018.

**CONCLUSION:** The criteria in Section 10.3.020.050(D) and Section 10.3.020.080(G) have been satisfied.

*Section 10.3.080.040 Applications*

*A. Review Criteria.*

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

As a preliminary note, Section 10.3.080.040(A)(6) provides that one of the review criteria is that "Application of the regulation in question would preclude all reasonable economic use of the site". The site is capable of being developed with a single family residential dwelling; therefore it appears that application of the regulation would not preclude all reasonable economic use of the site. Since the application cannot comply with all of the review criteria in Section 10.3.080.040(A)(6) through (8), those review criteria will not be reviewed as part of the appeal hearing.

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

**FINDING #10:** The terms "livability" and "appearance" are not included in Section 10.2.030 which provides the meanings of specific words and terms in the City's LUDO. Section 10.2.010 entitled "Meaning of Words Generally" provides as follows:

*"All words and terms used in this Title have their commonly accepted, dictionary meaning unless they are specifically defined in this Title, or the context in which they are used clearly indicates to the contrary."*

According to Webster's New World Dictionary of the American Language, Second College Edition, the term "livability" is a form of the term "livable", which means "fit or pleasant to live in; habitable; said of a house, room, etc.". The term "appearance" is defined as "the look or outward aspect of a person or thing".

At the Planning Commission hearing, the applicant submitted drawings of the proposed duplex to be placed upon the subject site. These drawings show the proposed structure appears to be compatible with single family dwellings in the neighborhood of the subject site in terms of size, scale, and elevation. The drawings also contain architectural features (including the placement of windows and door entries) which are common to single-family dwellings. The applicant testified the proposed construction would result in new, clean rental units which would use the current landscape and retain the existing

mature trees on the site. At the Council hearing, the applicant testified that driveway and access enhancements on 13<sup>th</sup> Street and Perkins Street would improve off-street parking and minimize the impact of access to the property. The applicant also noted the multiple accesses for the proposed duplex were similar in nature to the surrounding single-family dwelling units which have multiple accesses. These factors would make the proposed duplex an attractive and pleasant place in which to live, which supports the livability of the neighborhood surrounding the subject site. The proposed duplex would contain architectural and design features similar to those of single family dwellings, giving the structure the look and outward aspect of a single family dwelling. The City Council finds the proposed duplex is consistent with the appearance of the single family dwellings the surrounding neighborhood.

**CONCLUSION:** The criteria in Section 10.3.080.040(A)(1) have been satisfied.

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

**FINDING #11:** The applicant has requested only one adjustment. There is no need for the Council to determine whether the application presents the potential for cumulative effects which could be inconsistent with the overall purposes of the RL zoning district.

**CONCLUSION:** The criteria in Section 10.3.080.040(A)(2) have been satisfied.

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

**FINDING #12:** Staff has not identified any scenic resources or historic resources which could be potentially impacted by the proposed application. The proposed application does not have any negative impact upon any City-designated scenic resource or historic resource.

**CONCLUSION:** The criteria in Section 10.3.080.040(A)(3) have been satisfied.

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

**FINDING #13:** Staff has not identified any known impacts due to the requested lot size reduction which would require mitigation. Several owners of adjacent properties testified during the Planning Commission hearing that the requested proposal would result in a reduction of their property values. No specific evidence, data, or documentation was submitted during the Planning Commission and City Council hearings to prove that approval of the requested reduction in the lot size of the subject property would in fact result in reduction of property value for surrounding properties. Testimony concerning alleged claims of reduction in property values does not address relevant review criteria for the application.

Several opponents testified as to a concern related to hazards related to increased traffic associated with the proposed duplex. No specific documentation, such as traffic counts reflecting the level of traffic to be generated by the proposed use, or a traffic impact study analyzing impacts associated with the proposed use, was submitted to the Planning Commission or the City Council to support the assertion that the proposed adjustment would in fact contribute to traffic congestion or create traffic hazards. One opponent cited examples of increased traffic violations, illegal drug use, and nuisance conditions including garbage and dog feces, which he asserted was caused by increased housing density in the neighborhood. There was no direct testimony presented to the Council to establish that the proposed adjustment would in fact create these types of conditions. The applicant testified that in his opinion, offering housing opportunities would often have a positive effect in addressing these types of problems.

The Council finds and concluded that the proposed application satisfies the intent of this review criteria to ensure that any identified negative impact resulting from a requested reduction in the size of the lot be addressed to the extent practical.

**CONCLUSION:** The criteria in Section 10.3.080.040(A)(4) have been satisfied.

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

**FINDING #14:** The subject site proposed for development of the duplexes is not located within any environmentally sensitive area. The proposed application satisfies the intent of this review criteria to ensure that any environmentally sensitive area would be protected.

**CONCLUSION:** The criteria in Section 10.3.080.040(A)(5) have been satisfied.

*B. Additional Criteria. If the applicant meets the approval criteria of subsection A above, then the approving authority may also take into consideration, when applicable, whether the proposal will:*

4. *Result in a structure that conforms to the general character of the neighborhood or zone district.*

**FINDING #15:** The term "character" is not defined in the City's Land Use and Development Ordinance. Using the dictionary source cited in Finding #10, the term character can be defined as follows:

"essential quality, nature; kind or sort".

During the City Council hearing, the Planning Director advised the Council that the neighborhood surrounding the development site was "eclectic" in nature. He noted that there were stick built homes and manufactured homes, a large metal garage, and a multi-family apartment complex in surrounding neighborhood. He also noted a majority of the residential dwellings adjacent to the development site contained dwellings averaging

1,200 to 1,300 square feet in size, and that the size of the proposed duplex was approximately 800 square feet. In his testimony before the Council, the applicant described the proposed duplex to be constructed on the site as "modest" in nature. During his testimony before the Council, the appellant acknowledged there were "modest homes" in the vicinity of the development site. The neighborhood surrounding the site of the proposed development includes single family dwellings, and the "RH" High Density Residential Dwelling District, which includes a multi-family dwelling. As noted in Finding #10, the drawings submitted by the Applicant during the Planning Commission hearing showed that the proposed duplex contains design and architectural features which are similar in nature to those of single-family dwellings. The multiple accesses for the proposed duplexes are similar in nature to the surrounding single-family dwellings which have multiple accesses. The applicant noted in his testimony before the Planning Commission that the adjoining RH zoning district allows for higher densities in the area surrounding the subject site. All of the factors cited above support a finding that the proposed duplex is in conformance with the general character of the neighborhood.

**CONCLUSION:** The criteria in Section 10.3.080.040(B)(4) have been satisfied.

#### **ADDITIONAL CRITERIA DETERMINED TO BE NOT RELEVANT**

**FINDING #16:** In a letter submitted to the City Council, Mr. Theodore Pitt asserted that the proposed adjustment did not comply with Section 10.3.080.010 which sets forth the purpose of the adjustment provisions of the LUDO. The Council finds and concludes that this section sets forth language which is aspirational in nature, and is not intended to set forth mandatory review criteria for review of adjustment applications. Mr. Pitt also asserted the proposed adjustment did not comply with setback requirements. The Council finds that the review criteria for adjustments contains no reference to setback requirements. The Council also notes the Planning Director advised the Council the site plan submitted by the applicant established compliance with setback requirements for the RL zoning district. Mr. Pitt also asserted there had been no public hearing to address possible changes to the LUDO or the City's Comprehensive Plan. The Council finds and concludes the adjustment application did not require any change to either the LUDO or the City's Comprehensive Plan. Mr. Pitt also asked whether the applicant was required to propose any improvements to the adjacent streets. The Council finds and concludes this was not a requirement of the adjustment application.

**CONCLUSION:** The arguments raised in Finding #16 by Mr. Pitt do not address any relevant review criteria.

#### **COMPREHENSIVE PLAN GOAL #10 – HOUSING, AND ORS 197.303 (NEEDED HOUSING)**

Goal #10 of the City's Comprehensive Plan is "To provide for the housing needs of citizens of the state". The Background section for Goal #10 includes the following statement:

“All local jurisdictions in the State must develop plans which “shall encourage the availability of adequate numbers of housing units at price ranges and rent levels which are commensurate with the financial capabilities of Oregon households and allow for flexibility of housing location, type, and density.”

The Housing Strategies Report dated April 21, 2017 prepared by Angelo Planning Group for the City included the following statement outlining the interplay between Statewide Planning Goal #10 and the Housing Needs Analysis (HNA) conducted by Angelo Planning Group:

“Having affordable, quality housing in safe neighborhoods with access to community services is essential for all Oregonians. Like other cities in Oregon, the City of The Dalles is responsible for helping to ensure that its residents have access to a variety of housing types that meet the housing needs of households and residents of all incomes, ages and specific needs. Towards that end the City is conducting a Housing Needs Analysis and Buildable Lands Inventory to update the Housing Element of its Comprehensive Plan; complete an updated, realistic assessment of future land needs and supply; and comply with Oregon Statewide Goal 10 (Housing)”. Page 2 of Housing Strategies Report.

On pages 3 to 5 of the Housing Strategies Report, Angelo Planning Group summarized data and findings from the HNA, including the following:

#### Demographic Trends

- The Dalles’ estimated median household income was \$47,000 in 2016...Median income has grown an estimated 33% between 2000 and 2006, in real dollars. Inflation was an estimated 36% over this period, so as is the case regionally and nationwide, the local median income has not kept pace with inflation.
- According to the U.S. Census, the official poverty rate in The Dalles has been increasing over time from 9% of individuals in 2000, to an estimated 13.8% over the most recent period reported (2014 5-year estimates).
- One measure of poverty as it related to housing is the share of income local households are spending on their housing costs. The Census estimates that over 42% of all households spend more than 30% of their income on housing costs. Among renters, nearly 62% of households spend more than 30% of their income on housing costs, while 39% of renter households spend more than 50% of their income.
- Communities like The Dalles which face a future of growing within limited boundaries are likely to see increased pressure to generate denser housing than they have historically experienced in some parts of the community.



- Many of these (younger family) households will seek good first-time home buying opportunities, meaning a stock of existing and new homes in low-to-middle price ranges. The younger and lower income members of this generation will need a sufficient stock of multi-family rentals.
- The Dalles, like many communities, currently has a persistent shortage of housing available to the lowest-income households, particularly rental units.

#### Projected Housing Needs

- There is a projected need for 1,769 new housing units by 2036.
- Of the new units needed, roughly 59% are projected to be ownership units, while 41% are projected to be rental units.
- The greatest need for rental units is found at the lowest price points. This reflects the finding that many of The Dalles renter households currently pay more than 30% of their income towards housing costs. There is still a strong need for affordable housing. At the same time, there is also support for some new, more expensive rental supply.
- Duplex through four-plex units are projected to represent an additional 11% of the total need. Duplex units would include a detached single-family home with an accessory dwelling unit on the same lot, or with a separate unit in the home (for instance, a rental basement unit).

#### Comparison of Projected Need and Buildable Land Supply

- There is a total forecasted need for 1,769 units over the next 20 years. This is well below the capacity of 3,689 units. After projected need is accommodated, there is an estimated remaining capacity of over 1,900 additional units, mostly in the high-density residential zone.
- There is currently sufficient buildable capacity within The Dalles to accommodate projected need. Much of this capacity is in the form of parcels for development or infill with future multi-family units. The size of the available remaining capacity assumes that some high density and medium density zoned lands are built out at higher averaged densities than these areas have traditionally achieved in the past.

ORS 197.303 defines “needed housing” in the following manner:

- (1) As used in ORS 197.307, “needed housing” means housing types determined to meet the need shown for housing within an urban growth boundary at particular price ranges and rent levels, including at least the following household types:

- (a) Attached and detached single-family housing and multiple family housing for both owner and renter occupancy;
  - (b) Government assisted housing;
  - (c) Mobile home or manufactured dwelling parks as provided in ORS 197.475 to 197.490;
  - (d) Manufactured homes on individual lots planned and zoned for single-family residential use that are in addition to lots within designated manufactured dwelling subdivisions; and
  - (e) Housing for farmworkers.
- (2) Subsection 1(a) and (d) of this section shall not apply to:
- (a) A city with a population of less than 2,500.
  - (b) A county with a population of less than 15,000.
- (3) A local government may take an exception under ORS 197.732 to the definition of “needed housing” in subsection (1) of this section in the same manner that an exception may be taken under the goals.

**FINDING #17:** At the Planning Commission and City Council hearings, the applicant testified as to the shortage of rental housing units in The Dalles. The findings set forth above from the April 21, 2017 Housing Strategies Report prepared by Angelo Planning Group clearly establish there is a housing need for rental units in the city of The Dalles. The applicant presented testimony during the Planning Commission and City Council hearings that he is planning to construct a duplex upon the development site. The proposed duplex units will assist with filling the need of 11% of the total projected housing needs for The Dalles. As the Housing Strategies Report prepared by Angelo Planning Group noted, many of the renter households in the city of The Dalles currently pay more than 30% of their income towards housing costs. The Housing Strategies Report also established there is a strong need to provide rental housing, which can include duplexes, for younger family households and low-income households. The type of housing proposed by the applicant can assist in meeting this need. The Housing Strategies Report established there is a need for rental housing (which would include duplexes) at price ranges and rental levels for renter occupancy, particularly for low-income households, which comes within the definition of “needed housing” under ORS 197.303. The City Council finds that the type of housing represented by the applicant’s proposal fits within the definition of “needed housing” under ORS 197.303. Approval of rental housing such as the type proposed by the applicant will encourage the availability of housing at a price range and rent level which is commensurate with the financial capabilities of many households in The Dalles, including low-income households, and

encourage flexibility in the location, type, and density of housing, consistent with Goal #10 of the City's Comprehensive Plan.

**CONCLUSION:** The provisions of Goal #10 Housing of the City's Comprehensive Plan, and ORS 197.303 Needed Housing, have been satisfied.



## CITY of THE DALLES

313 COURT STREET  
THE DALLES, OREGON 97058

(541) 296-5481 ext. 1125  
PLANNING DEPARTMENT

### NOTICE OF PUBLIC HEARING DECISION

#### ADJ 18-037 Jonathan Blum

**DECISION DATE:** May 3, 2018

**APPLICANT:** Jonathan Blum

**REQUEST:** Requesting a reduction of minimum lot size from 9,000 sq. ft. to 7,475 sq. ft., an adjustment of 16.9%.

**LOCATION:** The property is located at the corner of W. 13<sup>th</sup> Street and Perkins Street. Property is further described as 2N 13E 33 CC t.l. 2801. Property is zoned Low Density Residential – RL.

**PROPERTY OWNER:** Victor Blum

**AUTHORITY:** City of The Dalles Land Use and Development Ordinance 98-1222.

**DECISION:** Based on the findings of fact and conclusions in the staff report of ADJ 18-037 and after a hearing in front of the Planning Commission on May 3, 2018, the request by Jonathan Blum is hereby approved with the following conditions:

1. Approval of 17% reduction to the minimum size of a corner lot in the City's Residential Low Density (RL) zone in order to allow for the development of a duplex on the subject property. *All other development standards shall be met at the time of development.*
2. Any potential development impacts shall be addressed through the separate building permit process.
3. Except as modified by this decision, all development must be completed in accordance with Land Use Development Ordinance 98-1222, as amended.

**Signed this 3<sup>rd</sup> day of May, 2018, by**

Steven K. Harris, AICP  
Director, Planning Department

**TIME LIMITS:** The period of approval is valid for the time period specified for the particular application type in Ordinance No. 98-1222. All conditions of approval shall be fulfilled within the time limit set forth in the approval thereof, or, if no specific time has been set forth, within a reasonable time. Failure to fulfill any of the conditions of approval within the time limits imposed can be considered grounds for revocation of approval by the Director.

**Please Note!** No guarantee of extension or subsequent approval either expressed or implied can be made by the City of The Dalles Community Development Department. Please take care in implementing your approved proposal in a timely manner.

**APPEAL PROCESS:** The Planning Commission's approval, approval with conditions, or denial is the City's final decision, and may be appealed to the City Council if a completed Notice of Appeal is received by the Director no later than 5:00 p.m. on the 10<sup>th</sup> day following the date of the mailing of the Notice of Public Hearing Decision. The following may file an appeal of administrative decisions:

1. Any party of record to the particular public hearing action.
2. A person entitled to notice and to whom no notice was mailed. (A person to whom notice is mailed is deemed notified even if notice is not received.)
3. The Historic Landmarks Commission, the Planning Commission, or the City Council by majority vote.

A complete record of application for public hearing action is available for review upon request during regular business hours, or copies can be ordered at a reasonable price, at the City of The Dalles Community Development Department. Notice of Appeal forms is also available at The Dalles Community Development Office. The fee to file a Notice of Appeal is \$380.00. **The appeal process is regulated by Section 3.020.080: Appeal Procedures of Ordinance No. 98-1222, The City of The Dalles Land Use and Development Ordinance.**



## CITY of THE DALLES

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THE DALLES, OREGON 97058

(541) 296-5481 ext. 1125  
Planning Department

### CERTIFICATE OF MAILING

I hereby certify that I served the attached notice of Decision  
regarding:

ADJ 18-037 Blum

On 5-4-18, by mailing a correct copy thereof, certified by me as such,  
contained in a sealed envelope, with postage paid and deposited on the post office at The Dalles  
Oregon on said day. Between the said Post Office and the address to which said copy was mailed,  
there is a regular communication by US Mail.

DATED: 5-4-18

Paula Webb  
Secretary, Planning Department

Dyrk Pritchett  
Century Link  
902 Wasco Street  
Hood River, OR 97031

Dan Wallace  
Charter Cable  
409 Union Street  
The Dalles, OR 97058

US Post Office  
101 W. 2<sup>nd</sup> Street  
The Dalles, OR 97058

Mark Poppoff  
213 E. 9<sup>th</sup> Street  
The Dalles, OR 97058

The Dalles Disposal Service  
PO Box 1430  
The Dalles, OR 97058

Applicant  
Interested Parties of Record  
Property File

Email: Julie Krueger  
Izetta Grossman Gene Parker  
Dave Anderson Dale McCabe  
Planning Comm. Media  
Pat Cimmiyotti

Planning Dept. Paul Titus  
Steve Baska Arthur Smith  
Pat Ashmore Bradley Cross  
Cynthia Keever WC Assessor  
Cynthia Drake

WC Planning Dan Hammel  
John Zalasnik Tonya Brumley  
Ben Beseda Dan Bubb  
Bldg Codes Michael Duncan  
rowapplications@bpa.gov

Jonathan Blum  
403 E. 8<sup>th</sup> Street  
The Dalles, OR 97058

Lorraine and Steve Hunt  
PO Box 81  
The Dalles, OR 97058

Wendy Palmer  
1902 W. 13<sup>th</sup> Street  
The Dalles, OR 97058

Ruth Beecher  
500 W. 11<sup>th</sup> Street  
The Dalles, OR 97058



## CITY of THE DALLES

313 COURT STREET  
THE DALLES, OREGON 97058

(541) 296-5481 ext. 1125  
PLANNING DEPARTMENT

### RESOLUTION NO. P.C. 575-18

Approval of Adjustment Application 18-037 of Jonathan Blum to reduce minimum lot size from 9,000 sq. ft. to 7,475 sq. ft., an adjustment of 16.9%.

#### I. RECITALS:

- A. The Planning Commission of the City of The Dalles has on May 3, 2018 conducted a public hearing to consider the above request. A staff report was presented, stating the findings of fact, conclusions of law, and a staff recommendation.
- B. Staff's report of Adjustment 18-037 and the minutes of the May 3, 2018 Planning Commission meetings, upon approval, provide the basis for this resolution and are incorporated herein by reference.

#### II. RESOLUTION:

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

- A. In all respects as set forth in Recitals, Part "I" of this resolution. Adjustment 18-037 is hereby approved with the following conditions of approval:
  - 1. Approval of 17% reduction to the minimum size of a corner lot in the City's Residential Low Density (RL) zone in order to allow for the development of a duplex on the subject property. *All other development standards shall be met at the time of development.*
  - 2. Any potential development impacts shall be addressed through the separate building permit process.
  - 3. Except as modified by this decision, all development must be completed in accordance with Land Use Development Ordinance 98-1222, as amended.

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

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



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

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

APPROVED AND ADOPTED THIS 3RD DAY OF MAY, 2018.



Bruce Lavier, Chair  
Planning Commission

I, Steven K. Harris, Planning Director for the City of The Dalles, hereby certify that the foregoing Resolution was adopted at the regular meeting of the City Planning Commission, held on the 3rd day of May, 2018.

AYES: DuFault, Lavier, Nelson, Poppoff, Ross

NAYS: Stiles

ABSENT: —

ABSTAIN: —

ATTEST:



Steven K. Harris – AICP  
Planning Director, City of The Dalles



# PLANNING COMMISSION STAFF REPORT CITY OF THE DALLES

## PLANNING DEPARTMENT

Adjustment No. 18-037

Jonathan Blum

Prepared by: Garrett McAllister, Planner

Procedure Type: Quasi-Judicial

Hearing Date: May 3, 2018

Assessor's Map: Township 2 North, Range 13 East, Map 33 CC

Tax Lot: 2801

Address: Not addressed

Comprehensive Plan Designation: "RL" Residential Low Density

Zoning District: "RL" Residential Low Density

Request: Applicant is requesting a 17% reduction to the minimum size of a corner lot in the City's Residential Low Density (RL) zone in order to allow for the development of a duplex on the subject property. The current standard is 4,500 square feet per dwelling unit, which is 9,000 square feet total for duplex development. The adjustment would reduce the lot size from 9,000 square feet to 7,475 square feet (3,737.5 per dwelling unit).

### NOTIFICATION

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

### COMMENTS RECEIVED

No comments were received as of April 25, 2018.

### RECOMMENDATION

Staff recommends approval with conditions, based on the following findings of fact.

**LAND USE AND DEVELOPMENT ORDINANCE 98-1222:**  
**Section 3.010.040 Applications**

**B. Completeness.**

**FINDING #1:** The application was found to be complete on March 16, 2018.  
**Criterion met.**

**Section 3.020.050 Quasi-Judicial Actions**

**Subsection A. Decision Types.**

- **FINDING #2:** This application is for an adjustment as per Section 3.080. The specific request is for a 17% reduction to a minimum corner lot size in the City's RL zone for the development of a duplex on the subject property as outlined in Section 5.010.060 Development Standards. This request follows Section 3.080.020 (D) Quasi-Judicial Adjustment procedure. **Criterion met.**

**Subsection B. Staff Report.**

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

**FINDING #3:** This document serves as the staff report. **Criterion met.**

**Subsection C. Public Hearings.** *Complete applications for quasi-judicial planning actions shall be heard at a regularly scheduled Commission or Council meeting within 45 days from the date the application is deemed complete.*

**FINDING #4:** Application deemed complete March 16, 2018 and public hearing set for Thursday, May 3, 2018 at 6:00PM. **Criterion met.**

**Subsection D. Notice of Hearing.** *To be completed at least 10 days before scheduled quasi-judicial public hearing.*

**FINDING #5:** Appropriate mailings were sent to property owners within 300 feet and notice to affected departments and agencies were made on April 23, 2018.  
**Criterion met.**

**Section 3.080.020 Applicability**

**D. The Quasi-Judicial Adjustment** process may be used to change the following:

(3). Up to 20% reduction in minimum lot area.

**Finding #6:** Applicant is requesting a 17% reduction to a minimum corner lot size in the City's RL zone for the development of a duplex on the subject property. The request is less than the 20% allowed with this review application. **Criterion met.**

**Section 3.080.040 Applications**

**A. Review Criteria.**

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

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

**FINDING #7:** The subject property is located in the RL – Residential Low Density zone, which permits residential uses outright. Pursuant to Section 5.010.060 Development Standards, the minimum corner lot size for duplex development is 4,500 square feet per unit (9,000 square feet total). The request reduces the

minimum lot size for development but does not significantly detract from livability or appearance of the residential area. This is due in part to the fact that the subject property is within one tax lot from the RH – Residential High Density zone. In addition, the adjustment request is consistent with proposed changes to lot size and density standards in the Housing Needs Analysis Code Amendments Memorandum. The suggested amendments to Section 5.010.060 Development Standards include reducing minimum corner duplex lot sizes from 4,500 square feet per dwelling unit to 2,500 square feet per dwelling unit. If adopted, this request would meet that standard. **Criterion met.**

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

**FINDING #8:** Only one adjustment is requested. **Criterion not applicable.**

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

**FINDING #9:** There are no known scenic or historic resources in this area. **Criterion not applicable.**

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

**FINDING #10:** There are no known impacts due to requested lot size reduction. **Criterion met.**

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

**FINDING #11:** There are no known environmentally sensitive areas at this site. **Criterion not applicable.**

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

**FINDING #12:** Application of the regulation in question without the adjustment does preclude any duplex development on the lot, but it does not preclude single-family home development. **Criterion not met.**

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

**FINDING #13:** The adjustment is the minimum necessary to allow duplex development on the subject property, which is a permitted use outright in the City's RL zone. **Criterion met.**

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

**FINDING #14:** There are no known impacts due to the adjustment. Impacts due to duplex development on the subject property will be addressed at the time a building permit is submitted. **Criterion met with conditions.**

### **Section 3.080.050 Conditions of Approval:**

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

**FINDING #14:** Staff recommends approval with the following conditions.

### **Conditions of Approval**

1. Approval of 17% reduction to the minimum size of a corner lot in the City's Residential Low Density (RL) zone in order to allow for the development of a duplex on the subject property. *All other development standards shall be met at the time of development.*
2. Any potential development impacts shall be addressed through the separate building permit process.
3. Except as modified by this decision, all development must be completed in accordance with Land Use Development Ordinance 98-1222, as amended.