

Pre-App. Meeting: N/A  
App. Submitted: June 4, 2015  
App. Complete: June 10, 2015  
120-Day Deadline: September 7, 2015

PLANNING DEPARTMENT



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Senior Planner

**Proposal:** The applicant proposes to operate a medical marijuana dispensary, called "Western Oregon Dispensary," at 15025 SW Tualatin Sherwood Road. Formerly used as a landscaping business, the dispensary portion will be approximately 1,600 square feet with the remaining 1,296 square feet of the building used for offices for the existing landscaping business. The applicant provided verification of registration and intention to comply with Oregon Health Authority(OHA) rules and installed security devices onsite as required. The site is in the Light Industrial (LI) zone, is located at least 1,000 feet from schools, parks, plazas and all other dispensaries. No medical marijuana will be consumed or grown onsite and mobile vending and drive through are prohibited. The applicant's materials are attached as Exhibit A.

**BACKGROUND**

- A. **Applicant:** Sheri Ralston  
21029 SW Lebeau Rd.  
Sherwood OR 97140
- Owner:** Bernardo Bravo  
P.O. Box 754  
Sherwood OR 97140
- B. **Location:** 15025 SW Tualatin Sherwood Rd      Tax Lot: 2S129A05000
- C. **Parcel Size:** 3.97 acres
- D. **Existing Development and Site Characteristics:** The site is a long, narrow property approximately 3.97 acres in size with 130 feet of frontage on SW Tualatin Sherwood Road. Most of the site is undeveloped. The single story building was at one time used as a personal residence but has been converted over the years to a church office, temporary school and landscaping business. The site has two gated drives with access to SW Tualatin Sherwood Road. A landscaped visual corridor with shrubs and grass is located between a fence and the curb tight sidewalk. Behind the building, the current owner stores landscaping vehicles and equipment within a graveled area that cannot be viewed from the street.

- E. **Site History:** The land was annexed into the City in 2001. The developed portion contains a single story structure where portions of the building had been converted from a single family home to church offices. Later the church received a temporary use permit for a private school within the building. (TUP 05-11).

In 2007, the current owner, Bernardo Bravo, purchased the building and began operating a landscape business, Cascade Landscape and Irrigation, holding an annual City business license from 2007-2012. The City reviewed the business license application in 2007 and determined that a site plan was not required because the site had already been converted from residential to a commercial use and Mr. Bravo did not propose any changes to the exterior of the site. There is no preliminary site plan approval for the site; therefore, any subsequent change to the site will required a site plan approval.

- F. **Zoning Classification and Comprehensive Plan Designation:** The site is zoned Light Industrial (LI). Per § 16.31, medical marijuana dispensaries are a permitted use within this zone so long as the applicant satisfies the special use criteria found in Section 16.38 (Special Uses).
- G. **Adjacent Zoning and Land Use:** Surrounding properties to the east and west are also zoned Light Industrial (LI). Property to the north is outside of the Sherwood boundary and is zoned Exclusive Farm Use under Washington County zoning.
- H. **Review Type:** A special use permit is required due to the proposed use, a medical marijuana dispensary. Medical marijuana dispensaries under the special use criteria follow a Type II land use process, a staff level decision with no public hearing.
- I. **Public Notice and Hearing:** This application was processed consistent with the standards in effect at the time it was submitted. Notice was posted on the property and distributed in five locations throughout the City on June 12, 2015 in accordance with Section 16.72.020 of the Sherwood Zoning and Community Development Code (SZCDC). Notice of the application was mailed to property owners within at least 1,000 feet on April 12, 2015.
- J. **Review Criteria:** SZDC Section 16.31, (Industrial Land Uses), Section 16.38 (Special Uses), Section 16.72.020 (Procedures for Processing Development Permits).

## II. PUBLIC COMMENTS

Staff mailed public notice on June 12, 2015 and posted notice on the property and in five locations throughout the City on June 11 and 12, 2015. Staff received no comments during the public comment period.

## III. AGENCY COMMENTS

Staff requested comments from the City Engineering and Building departments and Tualatin Valley Fire and Rescue.

**Sherwood Engineering Department:** Bob Galati, City Engineer, Engineering Department found that there would be no impacts to the water, sanitary, or storm system with this business. The Engineering Department provided review comments concerning the transportation impacts

and system development charges that will be addressed further within this report. No other infrastructure improvements are required with this development.

### **System Development Charges (SDC's) and Transportation Development Tax (TDT) Impacts**

1. Due to the change in use classification from General Commercial to Pharmacy, the applicant will be required to pay the difference in City Transportation SDC and Washington County TDT. The applicant will provide the City Engineer with specific information regarding building area converted (square footage), for use in determining the final SDC & TDT fee amounts.
2. Due to the change in use classification from Agricultural to Health Services, the applicant will be required to pay the difference in City Parks SDC's. The applicant will provide the City Engineer with specific information regarding building area converted (square footage), for use in determining the final SDC fee amounts.

**Sherwood Building Department:** The Building Department had no comments concerning the proposal. Should the applicant make changes to the interior of the building, a building permit may be required.

**Tualatin Valley Fire and Rescue:** John Wolff, Deputy Fire Marshall II, provided general comments concerning the existing gate, the knox box requirements and premise numbering requirements. Prior to receiving a certificate of occupancy, the applicant will be required to meet the TVF&R requirements. The comments are attached as **Exhibit C**.

## **IV. APPLICABLE CODE PROVISIONS**

### **Chapter 16.38 - SPECIAL USES**

#### **16.38.010 - General Provisions**

**Special uses included in this Section are uses which, due to their effect on surrounding properties, must be developed in accordance with special conditions and standards. These conditions and standards may differ from the development standards established for other uses in the same zoning district. When a dimensional standard for a special use differs from that of the underlying zoning district, the standard for the special use shall apply.**

#### **16.38.020 - Medical Marijuana Dispensary Added**

##### **A. Characteristics**

**1. A medical marijuana dispensary is defined in Section 16.10.020.**

**2. Registration and Compliance with Oregon Health Authority Rules. A medical marijuana dispensary must have a current valid registration with the Oregon Health Authority under ORS 475.314. Failure to comply with Oregon Health Authority regulations is a violation of this Code.**

**FINDING:** The applicant provided a valid registration under OHA indicating compliance with the regulations. Therefore the applicant meets this criterion.

##### **B. Approval Process**

**Where permitted, a medical marijuana dispensary is subject to approval under Section 16.72.010.A.2, the Type II land use process.**

The application is subject to the Type II land use process.

### **C. Standards**

#### **1. Hours of Operation. A medical marijuana dispensary may not be open to the public before 10:00 a.m. and not later than 8:00 p.m. all days of the week.**

The applicant has agreed to the hours stated above. Any deviation from that would be a code compliance issue.

**FINDING:** Based on the above discussion the applicant meets this criterion. An ongoing condition is necessary to ensure compliance over time.

**CONDITION:** As an ongoing condition, the dispensary will not be open to the public before 10:00 am and no later than 8 pm.

#### **2. Security Measures Required**

##### **a. Landscaping must be continuously maintained to provide clear lines of sight from a public right of way to all building entrances.**

The site is visible from the street. The front of the site, next to the building has a landscaped area consisting of grass and low-lying shrubs. There is a fence set back from the frontage that allows a clear line of sight from the public right of way when the gate is open. The applicant proposes to remove the fence. When that occurs, the front door will be easily visible from all of SW Tualatin Sherwood Road.

**FINDING:** Based on the above discussion, the applicant appears to have met this criterion, but assurance is needed to make sure the applicant is compliant over time.

**CONDITION:** As an ongoing condition, the landscaping must be continuously maintained to provide clear lines of sight from a public right of way to all building entrances.

##### **b. Exterior lighting must be provided and continuously maintained.**

##### **c. Any security bars installed on doors or windows visible from a public right of way must be installed interior to the door or window, in a manner that they are not visible from the public right of way.**

**FINDING:** The applicant does not propose any security bars on the doors or windows. Therefore, the applicant meets this criterion. As an ongoing condition, the applicant will need to continue to comply with this requirement.

**CONDITION:** As an ongoing condition, any security bars installed on doors or windows visible from a public right of way must be installed interior to the door or window in a manner that they are not visible from a public right of way.

#### **3. Co-location Prohibited**

##### **a. A medical marijuana dispensary may not be located at the same address as a marijuana manufacturing facility, including a grow operation.**

**b. A medical marijuana dispensary may not be located at the same address with any facility or business at which medical marijuana is inhaled or consumed by cardholders.**

**FINDING:** The applicant proposes to only dispense medical marijuana and not grow or consume products on site. This is an ongoing Oregon Health Authority requirement and an ongoing condition of the applicant's license.

**4. Mobile and Delivery Businesses Prohibited**

**a. A dispensary may not operate as a mobile business as defined in Section 16.10.020.**

**b. A dispensary may not operate to deliver medical marijuana.**

**FINDING:** The applicant is not providing a mobile business for delivering medical marijuana. Therefore, the applicant meets this criterion.

**5. Drive-Through and Walk-Up. A medical marijuana dispensary may not engage in product sales outside of the facility or building through means of a walk-up window or drive-through access.**

**FINDING:** The applicant is not providing a drive-through or walk up window. Therefore, the applicant meets this criterion.

**6. Proximity Restrictions**

**A medical marijuana dispensary may not be located within 1,000 feet of any of the uses listed below. For purposes of this paragraph, the distance specified is measured from the closest points between the property lines of the affected properties:**

**a. An educational institution: public or private elementary, secondary, or career school that is attended primarily by children under 18 years of age.**

**b. Another medical marijuana dispensary.**

**c. A public park or plaza.**

Staff researched the proposed location of the site and evaluated the site as it relates to the buffers described above. The site is not within 1,000 feet of a school, another marijuana dispensary, or public park or plaza. (See **Exhibit D**, Map of site in relation to the established buffers)

**FINDING:** Based on the above discussion, the applicant meets this criterion.

**16.106.080 - Traffic Impact Analysis (TIA)**

**A. Purpose**

**The purpose of this section is to implement Sections 660-012-0045(2)(b) and -0045(2)(e) of the State Transportation Planning Rule (TPR), which require the City to adopt performance standards and a process to apply conditions to land use proposals in order to minimize impacts on and protect transportation facilities. This section establishes requirements for when a traffic impact analysis (TIA) must be prepared and submitted; the analysis methods and content involved in a TIA; criteria used to review the TIA; and authority to attach conditions of approval to minimize the impacts of the proposal on transportation facilities.**

This section refers to the TSP for performance standards for transportation facilities as well as for projects that may need to be constructed as mitigation measures for a proposal's projected impacts. This section also relies on the City's Engineering Design Manual to provide street design standards and construction specifications for improvements and projects that may be constructed as part of the proposal and mitigation measures approved for the proposal.

#### **B. Applicability**

A traffic impact analysis (TIA) shall be required to be submitted to the City with a land use application at the request of the City Engineer or if the proposal is expected to involve one (1) or more of the following:

1. An amendment to the Sherwood Comprehensive Plan or zoning map.
2. A new direct property approach road to Highway 99W is proposed.
3. The proposed development generates fifty (50) or more PM peak-hour trips on Highway 99W, or one hundred (100) PM peak-hour trips on the local transportation system.
4. An increase in use of any adjacent street or direct property approach road to Highway 99W by ten (10) vehicles or more per day that exceed the twenty thousand-pound gross vehicle weight.
5. The location of an existing or proposed access driveway does not meet minimum spacing or sight distance requirements, or is located where vehicles entering or leaving the property are restricted, or such vehicles are likely to queue or hesitate at an approach or access connection, thereby creating a safety hazard.
6. A change in internal traffic patterns that may cause safety problems, such as back up onto the highway or traffic crashes in the approach area.

According to the City Engineer, The proposed improvements constitute a change of use and do imply impacts to the transportation system. Code Section 16.106.080 Traffic Impact Analysis, specifies that a Traffic Impact Analysis (TIA) is required if the proposed improvements meet certain criteria:

- a. Subsection B.5 indicates that one of the criteria is "...located where entering or leaving the property are restricted, or such that vehicles are likely to queue or hesitate at an approach or access connection, thereby creating a safety hazard."

In the case of this proposal, a simple TIA is to be performed to determine if there are any impacts to the vehicle queueing at the signalized intersections of Langer Farms Parkway at Tualatin-Sherwood Road, or at Century Drive at Tualatin-Sherwood Road, or safety at the entry onto Tualatin-Sherwood Road from the site.

#### **System Development Charges (SDC's) and Transportation Development Tax (TDT) Impacts**

1. Due to the change in use classification from General Commercial to Pharmacy, the applicant will be required to pay the difference in City Transportation SDC and Washington County TDT. The applicant will provide the City Engineer with specific information regarding building area converted (square footage), for use in determining the final SDC & TDT fee amounts.
2. Due to the change in use classification from Agricultural to Health Services, the applicant will be required to pay the difference in City Parks SDC's. The applicant will provide the

City Engineer with specific information regarding building area converted (square footage), for use in determining the final SDC fee amounts.

**FINDING:** Based on the above discussion, the applicant has not met this criterion, but can do so with the following condition.

**CONDITION:** Prior to Engineering Plan approval, submit a Traffic Impact Analysis to determine if there are any impacts to the vehicle queueing at the signalized intersections impacted by the development and make any necessary improvements to mitigate the negative impact of the medical marijuana dispensary.

### **DECISION**

Based upon review of the applicant's submittal information, review of the code, and consideration of the applicant's submittal, staff finds that the proposed special use permit does not fully comply with the standards but can be conditioned to comply. Therefore, staff **approves the proposal subject to the conditions below.**

## **IV. CONDITIONS OF APPROVAL**

### **A. General Conditions**

1. **This approval is valid for a period of two (2) years from the date of the decision notice.** Extensions may be granted by the City as afforded by the Sherwood Zoning and Community Development Code.
2. The site must be maintained in accordance with the approved notice of decision and supporting application documents. In the event that landscaping is not maintained, in spite of the assurances provided, this would become a code compliance issue.
3. The continual operation of the property shall comply with the applicable requirements of the Oregon Health Authority, Oregon State statutes and regulations and the Sherwood Zoning and Community Development Code and Municipal Code. Non-compliance of any of these conditions will result in a suspension or termination of the special use permit.
4. Any exterior changes to the site will require a site plan review.
5. The applicant must notify the City within 7 days of any changes in ownership of the medical marijuana dispensary or if Western Oregon Dispensary is no longer operating at 15025 SW Tualatin Sherwood Rd.
6. The dispensary will not be open to the public before 10:00 am and no later than 8 pm.
7. The landscaping must be continuously maintained to provide clear lines of sight from a public right of way to all building entrances
8. Any security bars installed on doors or windows visible from a public right of way must be installed interior to the door or window in a manner that they are not visible from a public right of way.

### **B. Prior to Engineering Department approval.**

1. Submit a Traffic Impact Analysis to determine if there are any impacts to the vehicle queueing at the signalized intersections impacted by the development and make any necessary improvements to mitigate the negative impact of the business.

**C. Prior to receiving Certificate of Final Occupancy**

1. Obtain appropriate business licenses and comply with any tenant improvements necessary for compliance with the City’s Building Code.
2. Submit documentation from the Oregon Health Authority that all of conditions for issuance of the medical marijuana dispensary license have been satisfied.
3. Submit documentation that shows compliance with TVF&R requirements concerning the gate, Knox box and site numbering.

**VII. Exhibits**

- A. Applicant’s submittal with narrative and supporting documents dated June 4, 2015
- B. Comments from Bob Galati, P.E., City Engineer, Engineering Department dated July 30, 2015
- C. Comments John Wolff, TVF&R dated June 24, 2015.
- D. Sherwood Medical Marijuana Dispensary Buffer Map

**APPEAL**

This decision shall become final 14 days from the date of the mailing of this decision unless otherwise appealed. This decision is **final unless an appeal is received by 5:00 pm August 14, 2015**. The appeal shall be submitted on forms provided by the City, shall include the appeal fee, as identified in the most recently adopted fee schedule, and shall have a petition for review as described in SZCDC § 16.76.030.

**End of Report**

STATE OF OREGON            )  
  )  
Washington County        )

I, Michelle Miller, Senior Planner for the Planning Department, City of Sherwood, State of Oregon in Washington County, do hereby certify that the Notice of Decision on Case File No. SUP 15-01, Western Oregon Dispensary was placed in a U.S. Postal receptacle on July 31, 2015.

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Planning Department