

PLANNING COMMISSION AGENDA
May 12, 2011
7 p.m. Regular Meeting
Newberg Public Safety Building
401 E. Third Street

I. ROLL CALL

II. OPEN MEETING

III. CONSENT CALENDAR (items are considered routine and are not discussed unless requested by the commissioners)

1. Approval of April 14, 2011 Planning Commission Meeting Minutes

IV. COMMUNICATIONS FROM THE FLOOR (5 minute maximum per person)

1. For items not listed on the agenda

V. QUASI-JUDICIAL PUBLIC HEARINGS (complete registration form to give testimony - 5 minute maximum per person, unless otherwise set by majority motion of the Planning Commission). No new public hearings after 10 p.m. except by majority vote of the Planning Commissioners.

1. **APPELLANT: Shawn Irwin**
APPLICANT: Habitat for Humanity
REQUEST: Appeal of the decision to approve a two-lot partition and a variance to allow one of the lots to take primary access from an existing alley.
LOCATION: 803 E. 9th Street **TAX LOT: 3219DA-2700**
FILE NO.: PAR-11-001 & VAR-11-001/APLG **RESOLUTION NO.: 2011-290**
CRITERIA: 15.235.040, 15.215.040

VI. LEGISLATIVE PUBLIC HEARINGS (complete registration form to give testimony - 5 minute maximum per person, unless otherwise set by majority motion of the Planning Commission)

1. **APPLICANT: City of Newberg**
REQUEST: Amend the Newberg Development Code pertaining to technical specifications and signature requirements for tentative and final partition and subdivision plats.
LOCATION: Citywide
FILE NO.: DCA-11-004 **RESOLUTION NO.: 2011-288**
CRITERIA: 15.302.030(C)
2. **APPLICANT: City of Newberg**
REQUEST: Amend the Newberg Development Code requirements for signs in the Civic Corridor zoning overlay.
LOCATION: Civic Corridor overlay zone
FILE NO.: DCA-10-001 **RESOLUTION NO.: 2011-289**
CRITERIA: 15.302.030(C)

VII. ITEMS FROM STAFF

1. Update on Council items; other reports, letters or correspondence
2. Next Planning Commission Meeting: June 9, 2011

VIII. ITEMS FROM COMMISSIONERS

IX. ADJOURN

FOR QUESTIONS PLEASE STOP BY, OR CALL 537-1240, PLANNING & BUILDING DEPT. - P.O. BOX 970 - 414 E. FIRST STREET

ACCOMMODATION OF PHYSICAL IMPAIRMENTS:

In order to accommodate persons with physical impairments, please notify the City Recorder's office of any special physical accommodations you may need as far in advance of the meeting as possible and no later than 48 hours prior to the meeting. To request these arrangements, please contact the city recorder at (503) 537-1283. For TTY service please call (503) 554-7793.

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PLANNING COMMISSION MINUTES

April 14, 2011

7 p.m. Regular Meeting

Newberg Public Safety Building

401 E. Third Street

TO BE APPROVED AT THE MAY 12, 2011 PLANNING COMMISSION MEETING

I. ROLL CALL:

Present:	Philip Smith, Chair	Thomas Barnes, Vice Chair
	Lon Wall	Cathy Stuhr
	Art Smith	Allyn Edwards
	Gary Bliss	Kale Rogers, Student PC

Staff Present: Barton Brierley, Planning & Building Director
Steve Olson, Associate Planner

II. OPEN MEETING:

Chair Smith opened the meeting at 7:00 p.m. and asked for roll call.

III. CONSENT CALENDAR:

Vice Chair Smith entertained a motion to accept the minutes of the March 10, 2011 meeting. Commissioner Edwards requested that two changes be made to the manufactured housing discussion on page 5 of the packet.

MOTION #1: Barnes/Stuhr approve the minutes from the Planning Commission Meeting of March 10, 2011 as amended. (7Yes/ 0 No/ 0Absent) Motion carried.

IV. COMMUNICATIONS FROM THE FLOOR:

Vice Chair Smith offered an opportunity for non-agenda items. None were brought forth.

V. WORKSHOPS:

Workshop: Staff Update on Revised Economic Opportunities Analysis

Barton Brierley presented a PowerPoint presentation and explained these issues are being addressed as a remand from the Land Use Board of Appeals (LUBA). Staff expects to bring the revisions to the City Council in June 2011.

The City updated its Economics Opportunities Analysis (EOA) to reflect more current information. Opponents took this opportunity to appeal the EOA to LUBA and to the Court of Appeals. LUBA remanded on certain points, and the Court of Appeals affirmed all of LUBA's findings. The following four issues need to be amended to address the remand:

- Population projections not “coordinated” because they were not adopted into County Comprehensive Plan;
- Employment projections misapplied “safe harbor” by projecting slow employment growth 2008-2018, and faster after 2018;
- Site Characteristics must be “typical” and have a “meaningful relationship” to the use; and
- Late evidence not accepted.

Barton Brierley showed the Projections vs. Population Counts comparison and explained the population projections had tracked closely to projections up to the 2010 census. With the new census data, however, the difference is significant enough that it needs to be reconciled.

Chair Smith stated since the population counts show virtually no growth between 2005 and 2010, the City will need to be prepared to defend the projection methodology.

Mr. Brierley explained in regard to employment projections, when the City did their projections, from 2008 – 2018 they used the state's job projection; beyond 2018, we projected job growth at the rate of population growth. Staff will propose for the updated EOA that employment be projected to grow simply at the same rate as the population. This will result in a higher overall employment forecast. This is a defensible methodology to predict employment projections.

LUBA ruled as follows regarding Industrial Site Characteristics:

“... site characteristics are properly viewed as attributes that are (1) typical of the industrial or employment use and (2) have some meaningful connection with the operation of the industrial or employment use.” (*Friends of Yamhill County v. City of Newberg*, Or LUBA (August, 2010))

Mr. Brierley explained the City did a survey of other local community industrial areas and interviewed business owners and also talked with the state. Based on that information, staff came up with the following four site characteristics: Site size, topography of the site, proximity, and compatibility of the site.

Mr. Brierley reviewed the South Industrial Urban Growth Boundary Amendment to add industrial land. This area has all four site characteristics; no other area has been found that has these characteristics.

The City expects the following to occur:

City Council

- Approve updates to Economic Opportunities Analysis to address remand issues
- Adopt revisions to population projections
- Adopt South Industrial UGB Amendment

County Commissioners

- Adopt and coordinate revised Newberg population projection and revised county population projection

- Adopt South Industrial UGB Amendment

Workshop: Civic Corridor Sign Code Revision

Steve Olson stated the purpose of the workshop is as follows:

- Learn the existing Civic Corridor sign code
- Discuss Chehalem Cultural Center sign issues
- Discuss existing signs & corridor design themes
- Consider draft code language & suggest alternatives
- City Council Resolution 2011-2939 initiated a development code amendment process
- Process: Workshop, then PC hearing, then CC hearing

The purpose of the Civic Corridor overlay:

- Overlay runs north-south along Howard Street
- Includes most of Newberg's civic buildings
- Created in 2002 to emphasize the civic heart of the community, characterized by the Library and City Hall
- Overlay has specific design standards for buildings and signs to ensure that new development is consistent with local historic traditions

Mr. Olson reviewed the existing Civic Corridor sign code as follows:

(E) Signage standards. In addition to the C-3 signage requirements of §151.590 through §151.601, to encourage the historic character of the Civic Corridor as described in §151.526.1, signs within the Civic Corridor shall include four of the following six elements:

- (1)The most prominent element on a sign, such as the business' name, uses a serif font and does not exceed eight inches in height.
- (2)The sign includes a frame, background or lettering in natural wood materials.
- (3)The sign includes a frame, background or lettering in copper or brass in natural finishes.
- (4)The sign incorporates decorative wrought iron.
- (5)The lettering is in a raised relief.
- (6)The sign is attached to a mounting bracket and allowed to swing freely.

The proposed amendment would simplify the code, allow the Chehalem Cultural Center sign to be approved, and would set clear standards for signs within the Civic Corridor.

Mr. Olson showed some existing signs in the Civic Corridor and reviewed the following:

Corridor Design Themes:

Several design themes tie most Civic Corridor signs together.

- Raised metal or wood letters on a background wall
- Copper/brass/bronze frames or highlights
- Brick backgrounds or structures

The proposed changes:

- Current code: Signs must include at least four out of six possible design elements
- Proposal: Require signs to meet at least one of the design themes
- Simplifies the code
- Allows the CCC sign to be approved
- Sets clear standards for signs within the Civic Corridor
- Keeps the requirement to meet C-3 standards

Draft Code Changes/Alternatives:

(E) *Signage standards.* In addition to the C-3 signage requirements of § 151.590 through § 151.601, to encourage the historic character of the Civic Corridor as described in § 151.526.1, signs within the Civic Corridor shall include at least one ~~four~~ of the following ~~six~~ elements:

~~(1) The most prominent element on a sign, such as the business' name, uses a serif font and does not exceed eight inches in height.~~

~~(2) The sign includes a frame, background or lettering in natural wood materials.~~

(13) The sign includes a frame, background or lettering in copper, bronze or brass in natural finishes, comprising at least 5 percent of the sign face.

(2) The sign is a freestanding brick monument sign.

~~(4) The sign incorporates decorative wrought iron.~~

(35) The sign lettering is in a raised relief, does not exceed 12 inches in height, and is constructed of either naturally-finished metal or white-painted wood (or material that appears to be wood).

(46) The sign is attached to a mounting bracket and allowed to swing freely.

Commissioner Edwards is concerned that some design elements would allow letters taller than 12 inches, and stated the letter height should be a stand-alone requirement. Commissioner Stuhr agreed; 12 inches should be a stand-alone height standard.

Steve Olson reviewed the following test cases:

Note that the Civic Corridor (CC) standards apply to new development or redevelopment only. They do not make any existing signs non-conforming.

- Test: how would existing signs fare if owners were applying for approval?
- Proposed Cultural Center sign: Would pass –meets two Civic Corridor (CC) standards.
- Post Office: Would pass –meets one CC standard.
- Fire Dept.: Would pass –meets one CC standard.
- Public Safety Building: Would pass –meets one CC standard.
- City Hall: Would pass -meets one CC standard.
- Masonic Hall brass wall sign: Would pass –meets two CC standards. Fin sign does not meet C-3 standards, or CC standards.
- Snooty Fox: Would pass –meets two CC standards.
- Oregon First Community Bank: Would pass –monument sign meets two CC standards, and wall sign meets one CC standard.
- Wine Country Antiques: Does not pass but could be modified to pass (by adding a copper frame, for example). (Not required to change).

- Bike Shoppe: Does not pass but could be modified to pass (by adding a copper outline of a wheel to the sign, for example). (Not required to change).

VI. ITEMS FROM STAFF:

Update on Council items:

Barton Brierley stated a decision was received on the Fred Meyer Gas Station appeal to LUBA. The Planning Commission voted no on the project; it was then appealed to the City Council who said yes; it was then appealed to the Land Use Board of Appeals, who affirmed the City Council's decision. The Planning Commission did a good job of looking at the evidence and criteria, and making findings. The City Council simply made a different interpretation, and also made good findings. For example, one of the items the appellants claimed was that the design was not compatible with surrounding structures. The findings said the surrounding structures are the nearby commercial buildings, not the townhouses behind the main Fred Meyer building. LUBA agreed with that interpretation.

Barton Brierley reminded the Planning Commissioners to submit their Ethic Forms tomorrow.

There was a case in the news regarding Lane County and decision-making. The commissioners had sent emails back and forth on an issue, and discussed it via email before the hearing. The decision was made in an open forum but based on all the emails a public meeting law violation took place. It is the first time the State Court had ever ruled a public meeting occurred without people in the room at the same time. The Court then nullified the land use decision.

Mayor Bob Andrews met with and gave recognition to the Planning Commissioners a few days ago. Steve Olson passed out the Certificates of Appreciation to those Planning Commissioners who were unable to attend the Mayor's meeting.

The next Planning Commission meeting is scheduled on Thursday, May 12, 2011.

VIII. ITEMS FROM COMMISSIONERS:

Commissioner Barnes asked if anyone else had received the Land Use Appeal regarding Meridian. The Planning Commissioners responded they had not.

IX. ADJOURN:

Chair Smith adjourned the meeting at 8:24 p.m.

Approved by the Planning Commission on this 12th day of May, 2011.

AYES:

NO:

ABSENT:

ABSTAIN:

Planning Recording Secretary

Planning Commission Chair

TYPE III, QUASI-JUDICIAL PUBLIC HEARING PROCEDURE

1. OPEN THE PUBLIC HEARING, ANNOUNCE THE PURPOSE, DISCUSS TESTIMONY PROCEDURE, AND TIME ALLOTMENTS¹
2. CALL FOR ABSTENTIONS, BIAS, EX-PARTE CONTACT, AND OBJECTIONS TO JURISDICTION
3. STAFF REPORT
 - A. PROJECT SUMMARY AND RECOMMENDATION BY STAFF
 - B. STAFF SUMMARY OF LATE CORRESPONDENCE SUBJECT TO PLANNING COMMISSION REQUEST²
4. PUBLIC TESTIMONY (SEE "HOW TO TESTIFY")^{3 4}
 - A. PROPONENTS (PRINCIPLE PROPONENT/S FIRST, THEN OTHERS OR UNDECIDED)
 - B. OPPONENTS AND UNDECIDED
 - C. PRINCIPAL PROPONENT REBUTTAL
5. QUESTIONS OF PROPONENTS AND OPPONENTS FROM THE PLANNING COMMISSION DIRECTED THROUGH THE CHAIR
6. STAFF SUMMARY OF WRITTEN TESTIMONY FROM REGISTRATION FORMS
7. CLOSE OF PUBLIC TESTIMONY PORTION OF HEARING (GAVEL)
8. FINAL COMMENTS FROM STAFF
9. DELIBERATION OF COMMISSION INCLUDING DISCUSSION OF CRITERIA WITH FINDINGS OF FACT
10. ACTION BY THE PLANNING COMMISSION

NOTE: No new public hearings will be started after 10:00 p.m. (except by majority vote of the Commission).

¹ The Chair of the Planning Commission may set time limits on the public testimony portion of the hearing.

² ORS 197.763(3)(j) allows the City to establish procedures for submittal of evidence. The Planning Commission has established a period of one week prior to hearing for submittal of written evidence in order to be considered at the hearing. Written testimony received late will only be considered at the discretion of the Planning Commission.

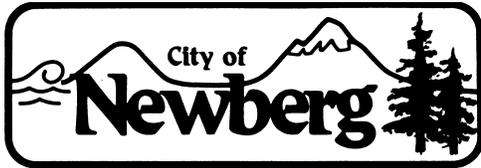
³ Questions by those wishing to testify should be directed to the Chair during the PUBLIC TESTIMONY (Step 4) portion of the public hearing.

⁴ Questions may be asked by the Commissioners thru the chair during the PUBLIC TESTIMONY (Step 4) portion of the public hearing.

**QUASI-JUDICIAL
PUBLIC HEARING PROCESS
TESTIMONY AND EVIDENCE REQUIREMENTS**

ORS 197.763 requires certain statements to be made at the commencement of a public hearing.

- The applicable City and State zoning criteria must be listed. This means that we must advise you of the standards that must be satisfied by the applicant prior to our approval of an application. The Planning Staff will list the applicable criteria during his or her presentation of the staff report.
- Persons wishing to participate in this hearing must direct their testimony or the evidence toward the criteria stated by the Planner or other specific City or State criteria which you believe apply. You must tell us why the testimony or evidence relates to the criteria.
- Any issue which might be raised in an appeal of this case to the Land Use Board of Appeals (LUBA) must be raised in person or by letter at the local level prior to the City approving or denying the application. The law states that the issue must be raised in enough detail to afford the decision-maker and the parties an opportunity to respond. This part of the law is also known as the "raise it or waive it" requirement. If you do not bring it up now, you can't bring it up at LUBA.
- Failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval in enough detail to allow the local government or its designee to respond to the issue precludes an action for damages in Circuit Court.
- Prior to the conclusion of the initial evidentiary hearing on an application, any participant may request an opportunity to present additional evidence or testimony regarding the application. The Planning Commission will grant such a request through a continuance or extension of the record.



Planning and Building Department

P.O. Box 970 ▪ 414 E First Street ▪ Newberg, Oregon 97132
503-537-1240 ▪ 503-537-1272 Fax ▪ www.ci.newberg.or.us

APPEAL OF THE PLANNING DIRECTOR'S DECISION TO APPROVE a PRELIMINARY PARTITION PLAT, VARIANCE and TYPE I SITE DESIGN REVIEW AT 803 E. NINTH STREET

STAFF REPORT to the PLANNING COMMISSION
PAR-11-001 & VAR-11-001

FILE NUMBER: PAR-11-001 & VAR-11-001
HEARING DATE: May 12, 2011
DECISION BODY: The Newberg Planning Commission
APPEAL REQUEST: Reverse the Planning Director's decision that conditionally approved: (1) a two parcel preliminary partition plat, (2) variance approval to allow the north parcel to use an existing alley for access and not have frontage on a public street or have access to a public street through an easement, and (3) type I site design review approval for a new single family home and on-site parking.

APPLICANT: Habitat for Humanity
OWNER: Habitat for Humanity
APPELLANT: Shawn Irwin
LOCATION: 803 E. Ninth Street
TAX LOT: 3219DA-2700
PLAN
DESIGNATION: MDR (Medium Density Residential)
ZONE: R-2 (Medium Density Residential)
STAFF CONTACT: Luke Pelz, AICP, Assistant Planner

ATTACHMENTS:

Tentative Resolution 2011-290 with:
Exhibit A: Tentative Findings
Exhibit B: Tentative Conditions of Approval

Attachment 1: Partition & Variance Application
Attachment 2: Director's Decision
Attachment 3: Appeal Application
Attachment 4: Public Comment



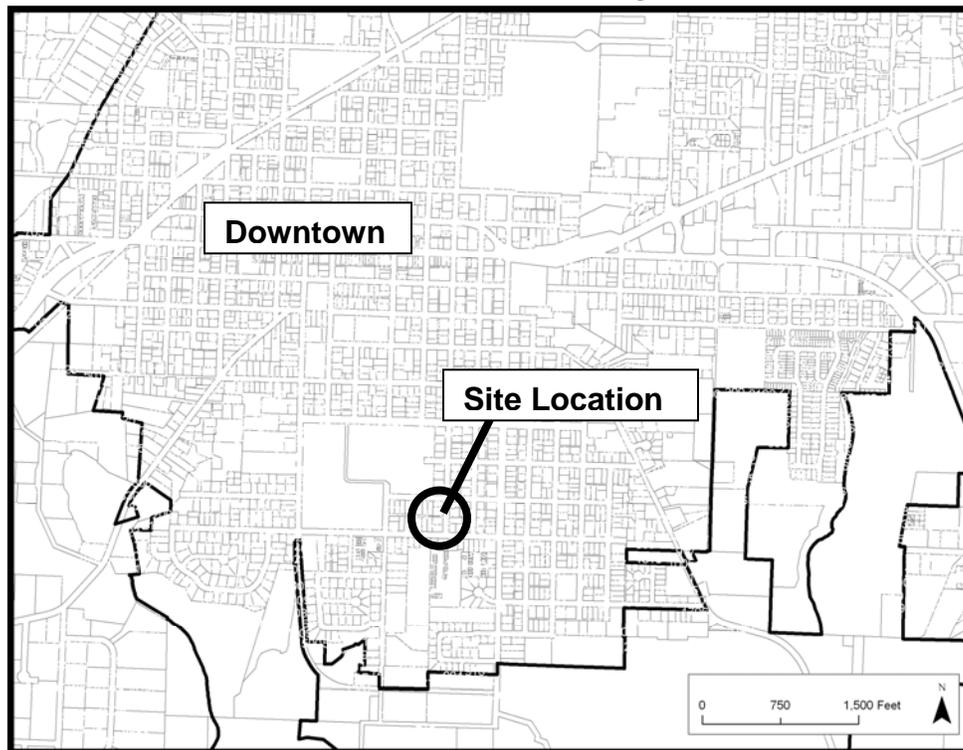
A. PROCESS:

- | | |
|-------------------|--|
| February 28, 2010 | The Director determined the application was complete. Affidavit of notice was received by the Planning Division indicating that the applicant mailed public notice to all property owners within 500 feet of the site and posted the site. |
| April 6, 2011 | The Director conditionally approved the request based on criteria found in NDC §§ 151.241, 151.163, and 151.194. |
| April 21, 2011 | A neighbor, Mr. Shawn Irwin, submitted an appeal application requesting that the Planning Commission reverse the Planning Director’s decision. |
| May 12, 2011 | The Planning Commission will hold a hearing to consider the appeal. |

B. EXISTING SITE INFORMATION & PROPOSED PARTITION PLAN:

1. Location: 803 E. Ninth Street
2. Size: ≈ 7,210 square feet
3. Comprehensive Plan Designation: MDR (Medium Density Residential)
4. Zoning Designation: R-2 (Medium Density Residential)
5. Applicable Overlay Districts: N/A
6. Topography: Flat
7. Current Land Uses: One existing single family home with garage
8. Natural Features: Several mature trees
9. Adjacent Land Uses: Single-family residential to the north, south, east, and west.
10. Access and Transportation: This property takes access from Ninth Street and an existing alley to the north of the site.
11. Utilities: The site is currently served by city sewer and water infrastructure in Ninth Street.
12. Location Maps:

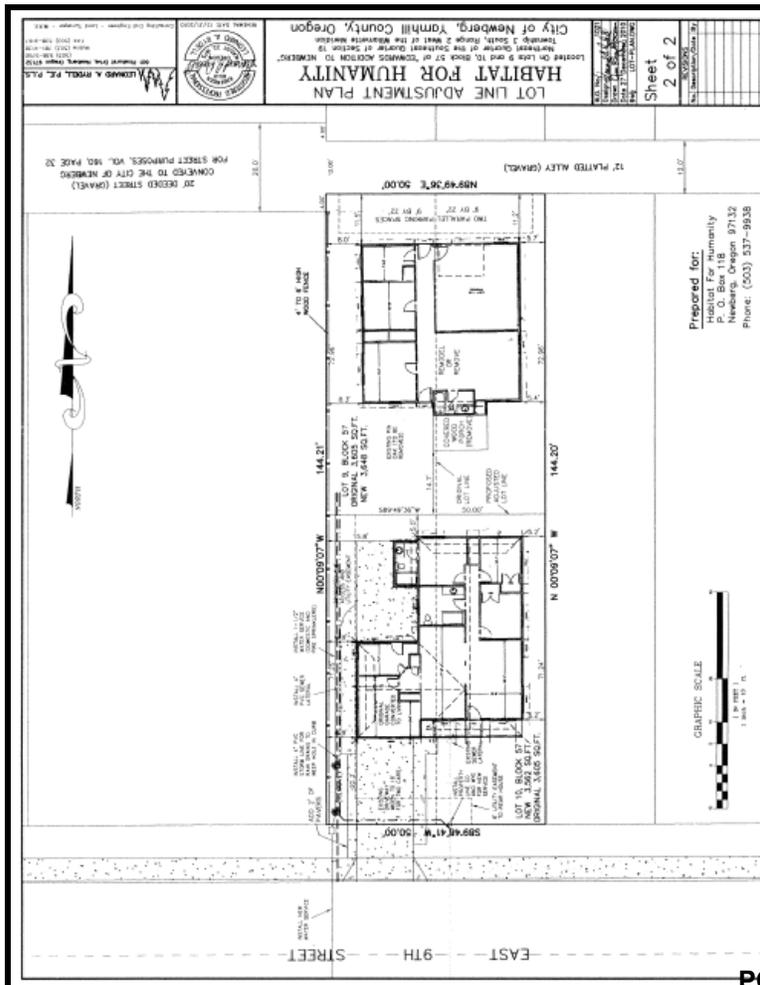
Location in Newberg



Location in Neighborhood



Proposed Partition and Site Development Plan



C. APPLICABLE REVIEW CRITERIA:

Newberg Development Code §§ 151.241, 151.163, and 151.194.

D. PUBLIC COMMENT RECEIVED:

The Planning Division received several letters in opposition to the proposal. The letters include concerns regarding: increased traffic, parking in the alley, increased noise, restricted emergency access, and condition of the alley surface. The written comments are shown in Attachment “4”.

E. BACKGROUND:

The proposed partition at 803 E. Ninth Street has an existing single family home, and previously had a detached garage that was accessed via the alley. The garage was illegally converted into an apartment and used for a period of time as a rental unit by the previous owner. In 2010 the City of Newberg Building Division was notified of the illegal occupancy and subsequently required the previous owner to bring the structure up to current Building Code standards or demolish the building. The property was later sold to Habitat for Humanity, who chose to demolish the garage. In February 2011 Newberg Area Habitat for Humanity submitted a land use application for a two parcel partition, a variance to use the alley to access the proposed north parcel, and design review for a new detached single family home on the north parcel. The application is shown in Attachment “1”. The existing lot is large enough to meet the Development Code’s minimum 3,000 square foot lot size standard for the R-2 zone. However, the existing house is located too close to the side property lines to accommodate an access drive from Ninth Street to the proposed north lot, as required by the Development Code. The west side yard is approximately 8 feet wide, and the east side yard is approximately 5 feet wide. The Development Code requires a 25 foot wide easement on a flag lot. Because an access drive on the south parcel could not be developed, Habitat for Humanity chose to request a variance to access the north lot via an existing alley. The City of Newberg staff (Fire Department, Planning & Building Department, and Engineering Division) met with Habitat for Humanity several times prior to application submittal to discuss the proposal. After submittal, City staff examined the application and public comment, and allowed the variance only with many conditions. The main conditions of approval require Habitat for Humanity to do the following to ensure adequate vehicle and emergency access to the site.

1. pave the alley from College Street to the site;
2. install a 20 foot wide drivable surface from College Street to the site to accommodate emergency vehicles;
3. install three, ninety degree parking stalls on the north parcel (one more stall than required by the Development Code);
4. dedicate four feet of right-of-way along the north of the site;
5. install street signs identifying the alley as “8 ½ Alley”; and
6. install “Fire Lane - No Parking” signs along the alley.

A neighbor appealed the Planning Director’s decision largely due to their concern for a potential increase in alley traffic. The appeal is shown in Attachment “3”.

F. ISSUES FOR CONSIDERATION:

In addition to the application, code criteria, and public testimony there are two recent City Council actions that the Planning Commission should consider prior to making a final decision on the appeal.

1. In October 2010 the Newberg City Council passed Ordinance 2730, amending the Development Code's required minimum lot size for the R-2 Medium Density Residential zone from 5,000 square feet to 3,000 square feet. Properties that have a minimum area of 6,000 may now consider a partition, where prior to the amendment the same property would need a minimum of 10,000 square feet to consider a partition. Because of this change it is likely that the City will receive more requests for partition in-fill development in the future.
2. In March 2011 the Newberg City Council passed Ordinance 2736, amending the Development Code to allow properties to use alleys for primary access. The amendment was approved during the review process for this partition request and did not go into effect until April 20 – one day before the appeal deadline. Because this application was filed before the effective date of the ordinance, ORD 2736 is not applicable to this request (ORS 227.178 (3a). The amendment is shown below:

Newberg Development Code Section 15.404.200 D. and F., Vehicular Access Standards.

D. Alley access. Where a property has frontage on an alley and the only other frontages are on collector or arterial streets, access shall be taken from the alley only. The review body may allow creation of an alley for access to lots that do not otherwise have frontage on a public street provided all of the following are met:

- 1. The review body finds that creating a public street frontage is not feasible.*
 - 2. The alley access is for no more than six dwellings and no more than six lots.*
 - 3. The alley has through access to streets on both ends.*
 - 4. One additional parking space over those otherwise required is provided for each dwelling. Where feasible, this shall be provided as a public use parking space adjacent to the alley.*
3. State law requires that local governments make a land use decision within 120 days from the date the application is deemed complete. The application was deemed complete on February 28, 2011. The 120-day deadline is June 28, 2011. The applicant may waive their right to the 120-day rule. As of the date of this report the 120-day rule has not been waived. In case any further action needs to be taken on this item, the Planning Commission will need to decide the matter at the May 12 meeting, or schedule a special meeting to render a final decision.

G. STAFF RECOMMENDATION:

At the May 12, 2011 hearing the Planning Commission should:

1. Consider the staff report, partition application (Attachment “1”), and appeal application (Attachment “3”).
2. Consider written and oral public testimony (Attachment “4”).
3. Consider the partition, variance, and site design review criteria.
4. Approve Resolution 2011-290 with the tentative findings and tentative conditions of approval shown in Exhibits “A” and “B”, affirming the Planning Director’s decision to approve:
 - a. a two parcel preliminary partition plat;
 - b. a variance to allow the north parcel to use an existing alley for access and not have frontage on a public street or have access to a public street through an easement, and;
 - c. type I site design review for a new single family home and on-site parking.

The Planning Commission may affirm, reverse, or modify in whole or in part the Planning Director’s decision. If the Planning Commission modifies or renders a decision that reverses the Planning Director’s decision the Planning Commissions should establish findings that state the reasons for taking the action.

PLANNING COMMISSION RESOLUTION No. 2011-290

A RESOLUTION DENYING THE APPEAL AND AFFIRMING THE PLANNING DIRECTOR'S DECISION TO APPROVE A TWO PARCEL PRELIMINARY PARTITION PLAT, A VARIANCE TO ALLOW THE NORTH PARCEL TO USE THE ALLEY FOR REQUIRED EMERGENCY AND SITE ACCESS, AND A TYPE I SITE DESIGN REVIEW FOR A NEW SINGLE FAMILY HOME AND ON-SITE PARKING AT 803 E. NINTH STREET, TAX LOT 3219DA-2700

RECITALS:

1. Newberg Area Habitat for Humanity filed an application for a partition, variance, and design review.
2. On April 6, 2011 the Planning Director approved the application with conditions.
3. On April 20, 2011 a neighboring property owner filed an appeal of the Planning Director's decision.
4. On May 12, 2011 the Newberg Planning Commission held a hearing to consider the appeal.
5. The Planning Commission found the proposal meets the Development Code criteria for a partition, variance, and site design review. Findings are shown in Exhibit "A".

THE PLANNING COMMISSION OF THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. The appeal is denied and the Planning Director's decision is affirmed to approve a two parcel preliminary partition plat, a variance to allow the north parcel to use the alley for required emergency and site access, and type I site design review for a new single family home and on-site parking.
2. The denial of the appeal and affirmation of the Planning Director's decision is based on the staff report, findings shown in Exhibit "A", and public testimony.

ADOPTED by the Planning Commission of the City of Newberg, Oregon, this 12th day of May, 2011

AYES:

NAYS:

ABSTAIN:

ABSENT:

ATTEST:

Planning Commission Secretary

Planning Commission Chair

Exhibits:

"A" Findings

"B" Conditions of Approval

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EXHIBIT A: TENTATIVE FINDINGS
RESOLUTION 2011-290
File: PAR-11-001 & VAR-11-001

I. Applicable Partition Criteria - Newberg Development Code § 151.241.2:

Note: The applicant is requesting approval for a two parcel partition.

(A) *Approval does not impede the future best use of the remainder of the property under the same ownership or adversely affect the safe and healthful development of such remainder or adjoining land or access thereto.*

Finding: Approval of the partition does not adversely affect future development of adjoining property. Potential future development of adjacent properties will benefit from the improvements that will be constructed as part of the conditions of approval.

(B) *The partition complies with this Code and implementing ordinances and resolutions.*

NDC §151.567 Lot Dimensions and Frontage

- 1) *Width. Width of lots shall conform to the standards of this Code.*
- 2) *Depth. Each lot and parcel shall have an average depth between the front and rear lines of not more than 2 - times the average width between the side lines. Depths of lots shall conform to the standards of this Code.*
- 3) *Area. Lot sizes shall conform to standards set forth in this Code. Lot area calculations shall not include area contained in public or private streets as defined by this Code.*
- 4) *Frontage.*
 - a) *No lot or development site shall have less than the following lot frontage standards:*
 - b) *Each lot or development site shall have either frontage on a public street for a distance of at least 25 feet or have access to a public street through an easement that is at least 25 feet wide. No new private streets, as defined in § 151.003, shall be created to provide frontage or access.*
 - c) *Each lot in an R-1, R-2, R-3 or RP zone shall have a minimum width of 50 feet at the front building line.*

Finding: The proposal meets the dimensional standards of the NDC. Each parcel is 50 feet wide. The average depth to width ratio is less than 2:1. Each parcel exceeds 3,000 square feet – the minimum parcel size required in the R-2 zone. The proposal conditionally meets the frontage standards of the NDC. The proposed north parcel does not have frontage or access to a public street through an easement. The applicant is requesting a variance to this standard. The findings for the variance request are shown in section three of the findings.

NDC § 151.565: Lot Area; Lot Area Per Dwelling Unit

- 1) *In the following districts, each lot or development site shall have an area as shown below except as otherwise permitted by this code. In the R-2, R-3, RP, C-1, C-2, and C-3 Districts, each lot or development site shall have a minimum of 3,000 square feet or as may be established by a sub-district.*
- 2) *Lot or development site area per dwelling unit. In the R-2 and R-P Districts, there shall be a minimum of 3,000 square feet of lot or development site area per dwelling unit.*

Finding: Each proposed parcel exceeds 3,000 square feet. One single family detached dwelling is proposed on each parcel. Each parcel exceeds a minimum 3,000 square feet per dwelling.

NDC § 151.718: Water Supply

All lots and parcels within subdivisions and partitions shall be served by the water system of the City of Newberg.

NDC § 151.719: Sewage

All lots and parcels within subdivisions and partitions shall, where practicable, as determined by the Director, in accordance with the provisions of this Code, be served by the sewage system of the City.

NDC § 151.720: Land Surface Drainage

Such grading shall be done and such drainage facilities shall be constructed by the land divider as are adequate for the purpose of proper drainage of the partition or subdivision, of areas affected thereby, and for the preservation of healthful and convenient surroundings and conditions for residents of the subdivision or partition, and for the general public, in accordance with specifications adopted by the City Council under § 151.717.

NDC § 151.721: Streets and Alleys

The land divider shall grade and pave all streets and alleys in the subdivision or partition to the width specified in § 151.686, and provide for drainage of all such streets and alleys, construct curbs and gutters within the subdivision or partition in accordance with specifications adopted by the City Council under § 151.717. Such improvements shall be constructed to specifications of the City under the supervision and direction of the Director. It shall be the responsibility of the land divider to provide street signs.

NDC § 151.722: Existing Streets

A subdivision or partition abutting or adjacent to an existing road of inadequate width, shall dedicate additional right-of-way to and improve the street to the width specified in § 151.686.

NDC § 151.723: Sidewalks

Sidewalks shall be located and constructed in accordance with the provisions of § 151.717.

NDC § 151.725: Street Trees

Street trees shall be provided adjacent to all public rights-of-way abutting or within a subdivision or partition. Street trees shall be installed in accordance with the provisions of § 151.580(B)(4).

Finding: Sufficient public water and waste water infrastructure capacity exists in Ninth Street to serve the site. As a condition of approval the proposed dwelling on the north parcel is required to extend a lateral connection directly to the Ninth Street waste water mainline across the south parcel, which requires a private utility easement. At the discretion of the Public Works Director an alternate method may be approved. Specific details about the required lateral connection is shown in Exhibit “B”. One street tree is located on the Ninth Street frontage – no additional

street trees are required. The existing curb, gutter, and sidewalk along the Ninth Street frontage are in good condition and do not need to be replaced as part of this application. The Fire Code requires hydrants located within a certain distance of residential development. As a condition of approval the location of all hydrants on the block shall be shown on a revised site plan. Additional hydrants may be required, at the discretion of the Fire Marshal. At the discretion of the Fire Marshal the installation of fire sprinklers in the proposed house may be an acceptable alternative to an additional hydrant. The existing alley right of way width is 12 feet adjacent to the development site. The Fire Code requires a 20 foot wide clear area for access purposes, except as allowed by the Fire Marshal. The proposed development site's share is 4 feet of additional right of way, which would make the alley right of way 16 feet wide adjacent to the site. As a condition of approval approximately four feet of right of way shall be dedicated. The existing alley is gravel. Per the Fire Code a 20 foot clear area is required. As a condition of approval the alley is required to be improved between the site and College Street, and signed no parking. As a condition of approval all trees, shrubs, fencing, and any other structures between the development site and College Street are required to be removed from the 20 foot horizontal clear area, and the 13.5 foot vertical clear area. The design of the 20 foot horizontal clear area shall be approved by the Fire Marshal. Specific construction details regarding the required improvements are shown in Exhibit "B" conditions of approval.

(C) *Either,*

- 1) *Improvements required to be completed as part of the partition will be completed prior to final plat approval; or*
- 2) *The partitioner will substantially complete, as defined by City policies, required improvements prior to final plat approval, and enter into a performance agreement to complete the remaining improvements. The performance agreement shall include security in a form acceptable to the City in sufficient amount to insure completion of all required improvements; or*
- 3) *A local improvement district shall have been formed to complete the required improvements; or*
- 4) *The required improvements are contained in a City or other government agency Capital Improvement Project that is budgeted and scheduled for construction.*

Finding: The required improvements will be completed in accordance with City policies prior to final plat approval.

II. Applicable Type I Site Design Review Criteria - Newberg Development Code § 151.194:

Note: The applicant is requesting Type I Site Design review approval for the remodel of an existing single family home, development of one new single family detached dwelling, and on-site parking.

(A) *Type I. The following criteria are required to be met in order to approve a Type I design review request:*

- 1) *Parking. Parking areas shall meet the requirements of § 151.610.*
- 2) *Setbacks and general requirements. The proposal shall comply with §§ 151.535 et seq. dealing with height restrictions and public access; and §§ 151.550 et seq. dealing with setbacks, coverage, vision clearance, and yard requirements.*
- 3) *Landscaping requirements. The proposal shall comply with § 151.580 dealing with landscape requirements and landscape screening.*

- 4) *Signs. Signs shall comply with §§ 151.590 et seq. dealing with signs. Zoning district compliance. The proposed use shall be listed as a permitted or conditionally permitted use in the zoning district in which it is located as found in §§ 151.280 through 151.438 of this code.*

Finding: The dwellings for both parcels meet the minimum setback requirements of the R-2 zone. The proposed remodel of the existing home on the south parcel shows a 20 foot front yard setback, and 8 foot, 5 foot, and 5 foot setbacks for the interior yards. All yards on the north parcel are interior yards. The proposed house on the north parcel shows all setbacks exceeding the minimum 5 feet required. No signs are proposed. Each parcel has less than 40% maximum lot coverage. The proposal shows two single family detached homes on separate parcels, which are permitted outright in the R-2 district. The proposed parking on the south parcel meets the Development Code requirements. The parking plan for the south parcel shows that the existing driveway will be widened to 18 feet to accommodate two vehicles. The parking plan on the north parcel shows two parallel parking stalls, without right of way dedication. With the required right of way dedication the proposed parking stall design does not meet the Development Code standards. Furthermore, the proposed parallel design would make entering and exiting the site difficult and would likely result in vehicles parking in the alley. Because the north parcel is not adjacent to available on-street parking one additional off-street parking stall is required as part of the variance. As a condition of approval the site plan for the north parcel shall be revised to show three 90 degree parking stalls. This will require that the proposed location for the dwelling be moved to the south to accommodate the stalls.

III. Applicable Variance Criteria - Newberg Development Code § 151.163

Note: The applicant is requesting a variance to the Development Code standard that requires each parcel or development site to have either frontage on a public street for a distance of at least 25 feet or have access to a public street through an easement that is at least 25 feet wide.

The Type II procedure shall be used to process a variance request. The hearing body shall grant the variance if the following criteria are satisfied:

- (A) *That strict or literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of this code.*

Finding: The purpose of the frontage and access requirement is to ensure standard vehicle and emergency vehicle access to developed sites. The proposed development site has 50 feet of frontage on two public right of ways – the alley to the north and Ninth Street to the south. The City of Newberg Fire Marshal finds that with conditions, the proposed development does not compromise the safety of the new dwelling or properties that abut the alley. With conditions the proposed development will improve emergency access for all the homes that abut the alley by improving the alley surface, by ensuring that there is a 20 foot clear area for emergency vehicles, and by posting no parking signs along the alley. Currently the Development Code allows two detached single family dwellings on one parcel, with no additional frontage requirements for the second dwelling. The strict interpretation of the Development Code would be inconsistent with the objective of the code to permit two single family dwellings on a parcel in the R-2 zone. Under the current Development Code, if a second dwelling was proposed on the existing site the alley would remain unpaved, continue to be narrow, and would not have “no parking” signs.

- (B) *That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property which do not apply generally to other properties classified in the same zoning district.*

Finding: There are exceptional conditions applicable to the property. The existing home occupies most of the width of the parcel, thereby restricting access to the north portion of the site. If access was not restricted by previous development, it may have been possible to access the north parcel via an access easement. It is unreasonable to demolish a portion of the existing dwelling to create a new access when a safe alternative exists. The proposed development site is in the R-2 zone. The R-2 zone allows for a minimum parcel size of 3,000 square feet. The site is approximately 7,200 square feet, about 2 and ½ times the minimum required parcel size. This site was not originally developed to R-2 density, as the comprehensive plan and zoning map intended. Other parcels in the R-2 zone have excess parcel area, but not all parcels in the zone have excess parcel area. Today it is common for partitions to be developed closely to the minimum parcel size, making this parcel atypical for the R-2 zone.

- (C) *That strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges enjoyed by the owners of other properties classified in the same zoning district.*

Finding: Strict enforcement of the regulation would deprive the applicant of privileges enjoyed by other property owners. Taking into consideration Fire Marshal approval there are several sites in the R-2 district and sites that abut the existing alley that could be partitioned and use the alley for access. Alleys, as defined in the Newberg Development Code, are intended to provide secondary access to sites that abut a public street. The term secondary as used here means “in addition to”, not “substandard” or “less than adequate”. All alleys are required to be designed in a manner to allow for emergency vehicle access. All developed property in the R-2 district that abuts an alley is allowed to use the abutting alley for access. Homeowners are not precluded from using an existing alley more frequently than the street-side access. In Newberg many residential parcels in the R-2 district that abut an alley have vehicle parking areas that are accessed by an alley. The proposed development site has an existing garage off the alley, in addition to off street parking that uses Ninth Street access. With the proposed new dwelling, the occupants of the existing home will no longer be able to use the alley to access the garage parking. Occupants of the existing home will now use parking that is located on the south parcel, where before the partition they were allowed to use the alley to access the site. Therefore the amount of future traffic accessing the site will be about the same that was allowed prior to the partition.

- (D) *That the granting of the variance will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same zoning district.*

Finding: The granting of the variance will not be inconsistent with the limitations for other properties. All parcels in the R-2 that abut an alley and have access to a public street are allowed to use the abutting alley for site access. Other properties in the R-2 district with parcels exceeding 6,000 square feet, and abut an alley, are allowed two single family homes on one site. Establishing two parcels, where there once was one, does not create any functional difference as compared to a single parcel with two single family homes.

(E) *That the granting of the variance will not be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the vicinity.*

Finding: The granting of a variance will not be materially injurious to properties in the vicinity. The existing structure was dilapidated, apparently used for many years as an illegal and unsafe dwelling, and considered by some of the neighbors as an “eyesore”. The proposal shows demolition of the existing illegal dwelling, construction of a new single family dwelling and improved parking area, and remodel of the existing single family home located on the proposed south parcel. The granting of the variance will improve safety by improving the alley surface, by ensuring that there is a 20 foot clear area for emergency vehicles, and by posting no parking signs along the alley.

**EXHIBIT B: TENTATIVE CONDITIONS OF APPROVAL
RESOLUTION 2011-290**

File: PAR-11-001 & VAR-11-001

1. **The applicant must provide the following information for review and approval prior to construction of any improvements:**
 - a. **Revised Preliminary Partition Plat:** Provide a revised preliminary plat that shows the following:
 - i. Dedication of approximately 4 feet of right of way along the alley.
 - b. **Public Improvements Development Permit with Engineered Construction Drawings.** Submit engineered construction drawings for review and approval. The construction drawings should show a revised right of way and utility plan including:
 - i. A total alley right of way width of 16 feet abutting the site.
 - ii. The alley with a minimum 20 foot wide (16 foot wide adjacent to the parcel) horizontal drivable surface and with a 13.5 foot vertical clear area to the west of the site. The 20 foot wide clear area shall be designed in a manner to accommodate emergency vehicles. The design shall be approved by the Fire Marshal.
 - iii. A minimum 12 foot wide paved alley extending from College Street to the eastern most edge of the parcel. The asphalt shall be a minimum of 3 inches thick.
 - iv. A concrete approach and 5 foot wide concrete sidewalk at the College Street end of the alley. The approach shall have low curb openings and be a minimum of 12 feet wide. At the discretion of the Public Works Director an approach may be required on the Meridian Street end of the alley if the on-site parking is modified from the required 90 degree design.
 - v. Storm water drainage control showing run-off directed away from abutting properties.
 - vi. The location of alley “street” signs. The alley shall be named 8 ½ Alley. The signs shall be located at each end of the alley.
 - vii. The location of “Fire Lane – No Parking” signs along the entire length of the alley between Meridian Street and College Street.
 - viii. The location of all existing fire hydrants on the block. Note: additional hydrants may be required. Fire sprinklers may be an acceptable alternative to an additional fire hydrant, at the discretion of the Fire Marshal.
 - ix. The location of a new waste water lateral that taps into the existing manhole in Ninth Street using an inside drop. A 4 inch clean out is required to be installed at the right of way. At the discretion of the Public Works Director an alternate method may be approved.
 - x. A grind out of 2 inches of existing asphaltic concrete road surface on Ninth Street for 20 feet curb to curb on each side of the common waste water and water trench. Show an inlay with a slip form paver 2 inch class “C” A. C. At the discretion of the Public Works Director an alternate method may be approved.
 - xi. A common trench for new water and waste water service.
 - xii. The required water meter size.

- c. **Revised Site Plan:** Provide a revised site plan shows:
 - i. Three 90 degree paved parking stalls on the north parcel. This will require relocation of the proposed house.

2. The applicant must complete the following prior to final plat approval.

- a. **Maintenance Agreement:** Please submit a 2-year maintenance warranty bond for all public right of way improvements.
- b. **Substantially Complete Conditions of Approval:** Prior to final plat approval, complete all required conditions of approval for this application – this includes all improvements shown on the revised plans required in section “1” above.

3. Final Plat Application: In accordance with NDC § 151.250, submit the following for City review of the final plat application. Construction improvements should be substantially complete at this point.

a. Application Materials:

- i. Type I application form (found either at City Hall or on the website – www.ci.newberg.or.us in the Planning Forms section) with the appropriate fees.
- ii. A current title report for the property. “Current”, as defined here, is a report issued within 6 months prior to the application date. Include copies of all existing easements and CC&Rs that pertain to the property.
- iii. A written response to these Conditions of Approval that specifies how each condition has been met.
- iv. Two blue-line copies of the final partition plat for preliminary review by the City Engineering Division. The City Surveyor will make red-line comments on these sheets for your surveyor/engineer to correct prior to printing final Mylar copies.
- v. Any other documents required for review.

b. Dedications/Easements Required: The plat must show the following:

- i. Dedication of approximately 4 feet of right away along the entire length of the north parcel line.
- ii. Private utility easement for the house on the north parcel to access Ninth Street.

- c. **Final Mylar Copies of the Partition Plat:** Submit final Mylar copies of the corrected final partition plat (after red-line corrections have been made). Three sets (one original and two copies), 18 inches by 24 inches in size, of the final partition plan drawn in black India ink in clear and legible form. Original plats shall be in substantial conformity to the approved tentative plan and shall conform to the Yamhill County Surveyor’s specifications and requirements pertaining to material that has the characteristics of adequate strength and permanency, as well as suitability for binding and copying. Plats shall be in clear and legible form and may be placed on as many sheets as necessary, but a face sheet and an index page shall be included for all plats placed upon three or more sheets. Scale requirements shall be the same as specified for the tentative plans.

4. The final plat process must be completed prior to issuance of any building permits. The City will review the final plat application after the applicant has completed all of the conditions of approval listed above.

- a. City Review:** In accordance with NDC §§ 151.250.2 and 151.251, Planning staff shall determine that:
- i. Streets, roads, and alleys for public use are dedicated without any reservation or restriction other than reversionary rights upon vacation of any such street or road and easements for public utilities.
 - ii. The proposal complies with this code.
 - iii. The plat is in substantial conformity with the provisions of the tentative plan for the partition, as approved.
 - iv. The plat contains a donation to the public of all common improvements, including but not limited to streets, roads, parks, sewage disposal and water supply systems.
 - v. Explanations of all common improvements required as conditions of approval of the tentative plan of the partition have been accounted for and referenced on the plat.
 - vi. There will be an adequate quantity and quality of water and an adequate sewage disposal system to support the proposed use of the land described in the plat.
 - vii. Either:
 - a) Improvements as required by this code or as a condition of tentative plan approval have been filed with the Director; or
 - b) A performance agreement (bond) or suitable substitute as agreed upon by the city and applicant has been filed with the Director in sufficient amount to insure the completion of all required improvements; or
 - c) A petition for improvements has been properly executed by the applicant who is effecting the subdivision and will be assessed for said improvements.
 - viii. Taxes, as well as public liens, assessments and fees, with respect to the subdivision area have been paid, or adequate guarantee has been provided assuring said taxes, liens, assessments and fees will be paid prior to recordation.
 - ix. The partitioner has entered into agreement with the city relating to completion of improvements, payment of sewer and water hookup fees, inspection fees, public lands payments, monumentation or any other elements deemed relevant to the purpose of this or any other city ordinance, state statute or federal law.
 - x. If the conditions set at the time of tentative land division approval are not fulfilled and the final plat or final map is not recorded by the tentative plan expiration date, the tentative land division approval is null and void.
- b. Required Signatures:** According to NDC § 151.251, approval of a final partition plat must be acknowledged and signed by the following:
- i. The Director
 - ii. City Recorder
 - iii. The County Assessor
 - iv. The County Surveyor
- c. Recording:** Deliver the approved partition plat to the office of the County Clerk for recording. The County Clerk's office is located at 414 NE Evans St, McMinnville, OR 97128.

- d. Completion:** Return an exact copy of the recorded plat to the Director to complete the partition process.

- e. Development Notes:**
 - i. The Planning Division will assign addresses for the partition. Planning Division staff will send out notice of the new addresses after they receive a recorded Mylar copy of the final partition plat.
 - ii. A demolition permit is required for the existing structure.
 - iii. Fire sprinklers required for the new home if no fire hydrant is installed.



LEONARD A. RYDELL, P.E., P.L.S., W.R.E. Consulting Civil Engineer - Land Surveyor

601 PINEHURST DRIVE, NEWBERG, OREGON 97132-1625
(503) 538-5700 FAX 538-9167
larydell@teleport.com

**SITE DESIGN REVIEW AND
VARIANCE APPLICATION**

HABITAT NINTH

A Proposed 2 Lot Single Family Lot Line Adjustment

City of Newberg

Yamhill County, Oregon

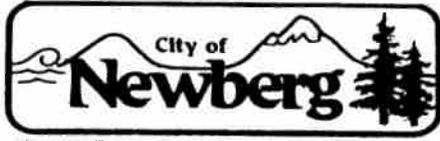
6 January 2010

PREPARED FOR:

Habitat for Humanity
P. O. Box 118
Newberg, Oregon 97132-0118

Phone: (503) 537-9938
Fax: (503) 554-1558

ATTACHMENT "1"



TYPE II APPLICATION (LAND USE) -- 2010

File #: _____

TYPES - PLEASE CHECK ONE:

- Design review
- Tentative Plan for Partition
- Tentative Plan for Subdivision

Type II Major Modification

- Variances
- Other: (Explain) Lot Line Adjustment

APPLICANT INFORMATION:

APPLICANT: Habitat For Humanity
 ADDRESS: P.O. Box 118, Newberg, OR, 97132
 EMAIL ADDRESS: Info @ Newberg Habitat. Org
 PHONE: 503 537-9938 MOBILE: _____ FAX: _____
 OWNER (if different from above): _____ PHONE: _____
 ADDRESS: _____
 ENGINEER/SURVEYOR: LEONARD A. KIDELL, PE, PLS, WRE PHONE: 503 538-5100
 ADDRESS: 601 Pinehurst Drive, Newberg, OR 97132

GENERAL INFORMATION:

PROJECT NAME: Residence Rehabilitation PROJECT LOCATION: 803 9th Street
 PROJECT DESCRIPTION/USE: Zoning for Habitat For Humanity
 MAP/TAX LOT NO. (i.e. 3200AB-400): Lot 9 Blk 57 ZONE: R2 SITE SIZE: 7200 SQ. FT. ACRE
 COMP PLAN DESIGNATION: Edwards add. TOPOGRAPHY: _____
 CURRENT USE: non occupied residential
 SURROUNDING USES:
 NORTH: residential SOUTH: residential
 EAST: residential WEST: residential

SPECIFIC PROJECT CRITERIA AND REQUIREMENTS ARE ATTACHED

General Checklist: Fees Public Notice Information Current Title Report Written Criteria Response Owner Signature

For detailed checklists, applicable criteria for the written criteria response, and number of copies per application type, turn to:

Design Review	p. 12
Partition Tentative Plat	p. 14
Subdivision Tentative Plat	p. 17
Variance Checklist	p. 19

The above statements and information herein contained are in all respects true, complete, and correct to the best of my knowledge and belief. Tentative plans must substantially conform to all standards, regulations, and procedures officially adopted by the City of Newberg. All owners must sign the application or submit letters of consent. Incomplete or missing information may delay the approval process.

Applicant Signature _____ Date 12/10

Owner Signature _____ Date 12/1/10

Leroy D. Powell
 Print Name
Construction Supervisor
 Attachments: General Information, Fee Schedule, Criteria, Checklists

NICK ROGERS FOR NEWBERG
 Print Name
ALMA HABITAT FOR HUMANS

First American Title Company ATTACHMENT "1"

McMinnville Office
775 NE Evans Street
McMinnville, OR 97128
Tel (503) 472-4627
Fax (866) 800-7294
Email cs mcminnville.or@firstam.com

Newberg Office
515 E Hancock
Newberg, OR 97132
Tel (503) 538-7361
Fax (866) 800-7290
Email: cs mcminnville.or@firstam.com

METROSCAN PROPERTY PROFILE: YAMHILL COUNTY

Prepared For :

Prepared By : Darlene Morris
Add Comments :

Date: 9/28/2010

OWNERSHIP INFORMATION

Parcel Number : R3219DA 02700 R:02W T:03S S:19 Q:SE QQ:NE
Ref Parcel : 0155889
Owner : Newberg Habitat For Humanity
Site Address : 803 E 9th St Newberg 97132
Mail Address : PO Box 118 Newberg Or 97132
Telephone : Owner Tenant
Legal : LOT 9 BLOCK 57 EDWARDS ADDITION =
ACRES LT 9 & 10

SALES AND LOAN INFORMATION

Transferred : 07/30/2010 Loan Amount :
Document # : 10411 Lender :
Sale Price : \$120,000 Loan Type :
Deed Type : Warranty Interest Rate :
Prior Doc # : 5089

ASSESSMENT AND TAX INFORMATION

	RMV	MAV	TAXES	
Land	: \$119,176	\$40,923	Exempt Type :	
Structure	: \$122,486	\$120,949	Levy Code:	29.0
Total	: \$241,662	\$161,872	09-10 Taxes :	\$2,821.29
% Improved	: 51		2008 Taxes :	\$2,728.73
			2007 Taxes :	\$2,698.89

Page 1 of 2

This title information has been furnished, without charge, in conformance with the guidelines approved by the State of Oregon Insurance Commissioner. The Insurance Division cautions intermediaries that this service is designed to benefit the ultimate insureds. Indiscriminate use only benefiting intermediaries will not be permitted. Said services may be discontinued. No liability is assumed for any errors in this report.

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EXHIBITS

- Tax Map 3 - 2 - 18DC
- Newberg Comprehensive Plan Map
- Newberg Zoning Map
- Title Report
- Volume 160, Page 32 - 20' Street Deed
- Site Plan
- Lot Plan

APPLICANT AND SITE INFORMATION

DATE: 6 January 2011

APPLICANT/OWNER: Habitat for Humanity
P. O. Box 118
Newberg, Oregon 97132-0118
Phone: (503) 537-9938
Fax: (503) 554-1999
E-Mail: NewbergHabitatforHumanity@verizon.net

ENGINEER/SURVEYOR: Leonard Rydell, P.E., P. L. S., W. R. E.
601 Pinehurst Drive
Newberg, OR 97132-1625
Phone: 503-538-5700
Fax: 503-538-5700
E-Mail: larydell@teleport.com

REQUEST: Site Design Review for a Lot Line Adjustment, and Two Variances, 1) Front Setback Variance and 2) Variance to Allow Primary Access onto an alley

LEGAL DESCRIPTION: Lots 9 and 10, Block 57, "EDWARDS ADDITION TO TOWN OF NEWBERG"

TAX LOT Tax Lot 2700, Map No. 3-2-19DA

COMPREHENSIVE PLAN: Medium Density Residential (MDR)

ZONING: Medium Density Residential (R-2)

SIZE: 7,210 square feet more or less

LOCATION: On the North Side of East Ninth Street between College and Merician Streets

SPECIFIC REQUESTS: Site Design Review and Two Variance Requests to Remodel and/or Rebuild Two Single Family Detached Residential Dwellings.

INTRODUCTION & BACKGROUND

Newberg Habitat for Humanity has purchased a foreclosed home at 803 East Ninth Street in the City of Newberg, Oregon. The property is identified as Tax Lot 2700 of Map No. 3-2-19DA. The legal description is Lots 9 and 10, Block 57, "EDWARDS ADDITION TO TOWN OF NEWBERG".

Each lot is 25 feet wide and 144 feet deep. East Ninth Street on the South has a platted right-of-way width and an alley on the North of the lots has a platted width of 12 feet, but a 20 foot wide strip of land conveyed to the City of Newberg for "street purposes" runs from the West lot line of Lot 9 to South College Street.

Two dwellings have been constructed on the property. The existing house on the South portion of the property has a concrete driveway and fronts East Ninth Street. The original single car garage has been converted to a bedroom for a total of four bedrooms. A second bathroom has been added onto the master bedroom. Newberg Habitat for Humanity would like to remodel the home and sell it to a deserving family.

A second dwelling has been constructed on the Northern portion of the property. While some permits have been obtained, the dwelling is currently red tagged and occupancy prohibited. It appears that this dwelling was originally a carport, then converted to a shop, then converted into a three bedroom house, large living and kitchen area and a bathroom. Newberg Habitat for Humanity would like to remodel or reconstruct the home and sell it to a deserving family.

Both dwellings straddle the lot line between Lots 9 and 10, A lot line adjustment is being requested to adjust the interior lot line from North to South to East to West. As Newberg's Affordable Housing Standards now allow 3,000 square foot lots in R-2 Zones, both lots would meet current size and area standards.

The property to the West, East, North and South are established residential neighborhood. The property to the South and some property to the Southeast of the site are zoned R-3, High Density Residential, and the remaining surrounding property is zoned R-2, Medium Density Residential.

Newberg Habitat for Humanity would not only like to create two separate affordable single family dwellings that could be sold to qualifying owners, but would like to demonstrate through flexibility of the codes, adapting to existing site conditions, utilizing existing improvements as far as practical without tearing everything down and starting over, and by making special improvements, that attractive, safe, pleasing, comfortable and affordable living spaces can be provided in underdeveloped areas of Newberg.

151.236 PROPERTY LINE ADJUSTMENTS.

The following procedures apply to any property line adjustment.

(A) The applicant shall file a Type I application on a form provided by the Director. The application shall include a tentative property line adjustment plan meeting the requirements for a tentative partition plan, as set forth in § 151.241.1, and such other material as required by the Director.

Finding: A Type II application is being submitted as part of a Site Design Review and two variance requests.

(B) The Director may approve, approve with conditions, or deny the application based on the following criteria:

(1) The property line adjustment does not create more lots than existed prior to the adjustment.

Finding: The property was originally platted as two separate 25 foot wide by 144 foot deep lots by the plat "EDWARDS ADDITION TO TOWN OF NEWBERG". The two lots, of Lots 9 and 10, Block 57, will be lot line adjusted to create one lot in front and one lot in back with alley access to increase the density in a developed urban area of Newberg. Therefore, no new lots will be created.

(2) The adjustment does not create any substandard condition relative to this code, including lot area, lot width, setbacks, and access. If any of the original lots do not meet these standards, the adjusted lots may remain non-conforming provided:

Finding: The adjustment itself does not create any substandard conditions. The "substandard" conditions already exist. The purpose of the adjustment is to allow the two separate dwellings on the two lots to be remodeled and individually sold. There will be no change in access to either unit, but a variance in the access width is being requested by this application to allow approval of the existing alley access. The original two lots individually do not meet the depth to width ratio, but the adjusted lots would.

(a) The adjustment cannot reasonably or practically bring the lots into conformity.

Finding: The adjustment will not change the pre-existing conditions, but it will allow the two existing dwellings to be remodeled or rebuilt to result in two separate homes, each on their own lot.

(b) *The adjustment does not worsen the non-conforming status of the lots.*

Finding: The adjustment will not change the pre-existing conditions, but it will allow the two existing dwellings to be remodeled or rebuilt to result in two separate homes, each on their own lot.

(C) *Following approval of the property line adjustment, the applicant shall:*

(1) *File deeds with the County Recorder conforming to the approved property line adjustment and O.R.S. 92.190.*

Finding: A Lot Line Adjustment Survey will be prepared and filed with the Yamhill County Surveyor's Office, and deeds and necessary easements based on the survey will be prepared and recorded.

(2) *File a survey with the County Surveyor of the adjusted property line(s). Exceptions to this requirement are:*

(a) *Where all parcels affected are greater than ten acres; or*

(b) *Where the adjustment relocates a common boundary of lots in a subdivision or a parcels in a partition a distance of even width along the common boundary.*

Finding: A Lot Line Adjustment Survey will be prepared and filed with the Yamhill County Surveyor's Office, and deeds and necessary easements based on the survey will be prepared and recorded.

(3) *File a copy of the recorded deeds and survey with the Director.*

Finding: A Lot Line Adjustment Survey will be prepared and filed with the City of Newberg Community Development Director along with copies of the deeds and easements.

YARD SETBACK REQUIREMENTS

151.551 Front Yard Setback

(A) *Residential (Figure 10)*

(1) *R-1 and R-2 Districts shall have a front yard of not less than 15 feet. Said yard shall be landscaped and maintained.*

Finding: The Southern residence meets this requirement. The Northern residence is approximately 11.2 feet from the alley. A variance for the Northern residence is being requested by this application. The existing building setback and the width of the proposed lot allows for two parallel parking spaces on the lot.

- (3) *The entrance to a garage or car port, whether or not attached to a dwelling, shall be set back at least 20 feet from the nearest property line of the street to which access will be provided. However, the foregoing setback requirement shall not apply where the garage or carport will be provided with access to an alley only.*

Finding: No carport or garage is proposed for the Southern residence. As the access to the residence will be using the alley, the garage or carport setback provision does not apply to the Northern residence.

151.552 Interior Yard Setback

- (1) *All lots or development sites in the R-1, R-2 and R-3 Districts shall have interior yards of not less than five feet, except that where a utility easement is recorded adjacent to a side lot line, there shall be a side yard no less than the width of the easement.*

Finding: Both lots will conform to the interior yard setbacks.

LOT REQUIREMENTS

151.565 Lot Area; Lot Area Per Dwelling Unit

- (A) *In the following districts, each lot or development site shall have an area shown below except as otherwise permitted by this code.*
- (2) *In the R-2, R-3, and RP Districts, each lot or development site shall have a minimum of 3,000 square feet or as may be established by a sub-district.*

Finding: The two adjusted lots meet this standard as they exceed 3,000 square feet.

- (B) *Lot or development site area per dwelling unit.*

- (2) *In the R-2, AR, and R-P Districts, there shall be a minimum of 3,000 square feet of lot or development site area per dwelling unit.*

Finding: The two adjusted lots meet this standard as they exceed 3,000 square feet.

151.567 Lot Dimensions and Frontage

A. *Width. Widths of lots shall conform to the standards of this code.*

Finding: The original Tax Lot and both adjusted lots meet the minimum lot width.

B. *Depth. Each lot and parcel shall have an average depth between the front and rear lines of not more than 2.5 times the average width between the side lines. Depths of lots shall conform to the standards of this code.*

Finding: The original tax lot does not meet this requirement, but the adjusted lot lines do conform to this requirement.

C. *Area. Lot sizes shall conform to standards set forth in this code. Lot area calculations shall not include area contained in public or private streets as defined by this code.*

Finding: Both adjusted lots meet the required lot areas. There are no "private streets" proposed for the project.

D. *Frontage.*

1. *No lot or development site shall have less than the following lot frontage standards:*

a. *Each lot or development site shall have access to a public street for a distance of at least 25 feet or have access to a public street through an easement that is at least 25 feet wide. No new private streets, as defined in 151.003, shall be created to provide frontage or access.*

Finding: The Southern adjusted lot has 50 feet of frontage onto East Ninth Street, a public street. The North adjusted lot has 50 feet of frontage on an alley as platted by "EDWARDS ADDITION TO THE TOWN OF NEWBERG". The North adjusted lot has 12 feet of access to a public street to the East through an alley, and 20 feet of access through a tract of land conveyed to the City of Newberg for "street purposes" to a public street to the West. The 20 foot access to the West meets Chapter 5 of the Oregon Fire Code as it is 20 feet wide. The 12 foot wide public "alley" is not a public "street" as defined by the Newberg Development Code, therefore the 50 foot frontage of the lot on the alley does not by itself meet the "access to a public street" requirement. The 20 foot deeded "public street" to the West would need a

ATTACHMENT "1"

variance to the 25 foot width to 20 feet is hereby being requested as part of this application. Technically, all "public streets" are really "easements", so the 20 foot deeded "street" can be interpreted as an "easement", or if "access to a public street" is interpreted as "frontage on a public street" and the 20 foot deeded street is interpreted as an "alley" (an alley can only be used for secondary access) a variance from 25 feet to zero (0) feet is necessary and hereby being requested as applicable.

- b. *Each lot in an R-1, R-2, R-3 or RP Zone shall have a minimum width of 50 feet at the front building line.*

Finding: The two adjusted lots meet this standard.

151.568 Lot Coverage and Parking Coverage Requirements

- A. *For all buildings and uses, the following shall mean the maximum permitted lot coverage, maximum coverage of public or private parking areas or garages, and/or combined maximum lot and parking combined coverage required in various districts expressed in percentage of area of the lot or development site in which district such coverage is permitted or required (Fig. 4).*

(1) *Maximum lot coverage*

(a) *R-1: 30%*

(b) *R-2 and RP: 50%*

(c) *R-3: 50%*

Finding: The Southern adjusted lot has a proposed coverage of 38% which the Northern adjusted lot has a proposed coverage of 36%. Both lots meet the requirements of this section.

VARIANCE APPLICATION

151.162 APPLICATION.

The property owner desiring a variance shall file an application with the Director on a form prescribed by the Director, which shall include the following data:

- (A) *Statement of the precise nature of the variance requested and the practical difficulty or unnecessary physical hardship inconsistent with the objectives of the Newberg comprehensive plan and code, which would result from a strict or literal*

ATTACHMENT "1"

interpretation and enforcement of a specified regulation of this code, together with any other data pertinent to the findings prerequisite to the granting of a variance prescribed in this chapter.

Statement: The developer requests two variances in order to allow two existing dwelling units to be remodeled and sold as separate lots. The goal is to provide affordable home ownership by utilizing existing facilities and maintaining existing conditions.

Variance No. 1 - A variance from the required 15 foot front yard to approximately 11.2 to 11.4 feet to allow remodeling of an existing dwelling unit.

Variance No. 2 - A variance from the required 25 foot wide access to a 20 foot wide access or a variance from the 25 foot "access" (interpreted as "frontage") to zero (0) feet.

- (B) *When a requested variance is for aesthetic reasons, as they relate to the front yard, fences or walls, on the basis of a substitute plan of equal aesthetic value, a statement of the precise nature of the variance requested shall be submitted.*

Finding: Variance No. 1 is being requested to allow the remodeling of the existing residence constructed on the proposed Northern adjusted lot. This is an existing structure of 1331 square feet. Rather than tear down a portion of the existing building and reduce the size of the rear yard, for aesthetic reasons, it is requested that the variance be granted to allow retaining of the original structure to enable the rear yard and its Southern exposure to be maintained.

Finding: Variance No. 2 does not relate to the front yard fences or walls. Providing any access other than the existing alley access would greatly increase the cost, reduce the size of units (requiring demolition) and convert most of the existing outdoor living spaces to a substandard access.

- (C) *An accurate scale drawing of the site and any adjacent property affected, showing all existing and proposed locations of streets, property lines, uses, structures, driveways, pedestrian walks, off-street parking and off-street loading facilities and landscaped areas.*

Finding: The site, proposed property lines and surrounding development are shown on the "Site Plan" and "Lot Plan" attached.

151.163 TYPE II VARIANCE CRITERIA.

The Type II procedure shall be used to process a variance request. The hearing body shall grant the variance if the following criteria are satisfied:

ATTACHMENT "1"

- (A) *That strict or literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of this code.*

Finding: Variance No. 1 (Front Yard) is being requested to allow the remodeling of the existing residence constructed on the proposed Northern adjusted lot. This is an existing structure of 1331 square feet. Rather tear down a portion of the existing building and reduce the size of the rear yard, for aesthetic reasons, it is requested that the variance be granted to allow retaining of the original structure to enable the rear yard and its Southern exposure to be maintained. The goal is affordable housing and urban infill, and the affordable goal cannot be met if strict standards are applied retroactively to existing conditions.

Finding: Variance No. 2 (Access) Providing any access other than the existing 12' alley and 20' deeded street accesses would greatly increase the cost, reduce the size of units (requiring demolition), reduce livability and convert most of the existing outdoor living spaces to an substandard access. A 16 foot wide access from East 9th Street across the front parcel alone would require 1,140 square feet or 16% of the total area of the two lots and would constitute a large portion of the available outdoor living space.

- (B) *That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property which do not apply generally to other properties classified in the same zoning district.*

Finding: Variance No. 1 (Front Yard) Two dwelling units exist on the property, and the goal is to do a sustainable development by bringing existing improvements up to current building codes, minimize changes to the neighborhood, adapt to existing conditions and uses, and provide an example of affordable housing opportunities that can be provided in the original platted areas of Newberg.

Finding: Variance No. 2 (Access) Providing any access other than the existing alley access would greatly increase the cost, reduce the size of units (requiring demolition), reduce livability and convert most of the existing outdoor living spaces to an substandard fire access.

- (C) *That strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges enjoyed by the owners of other properties classified in the same zoning district.*

Finding: Variance No. 1 (Front Yard) Adjoining property have existing buildings that do not meet setback requirements. The variance is being requested to allow remodeling of an existing building. Denial of the variance while allowing a neighbor to ignore setbacks would deprive the applicant of a privileges enjoyed by adjoiners.

ATTACHMENT "1"

The goal of this application is to do a sustainable and affordable housing development by bringing existing improvements up to current building codes, minimize changes to the neighborhood, adapt to existing conditions and uses, and provide an example of affordable housing opportunities that can be provided in the original platted areas of Newberg. Strict or literal application of the standards can easily eliminate the ability to provide affordable new housing, thus limiting affordable housing to existing development.

Finding: Variance No. 2 (Access) Other lots in this area can access their property from the alley. Just because a lot line adjustment is being proposed, primary access is prohibited by the current code. However, the existing 20 foot wide alley to the West meets Chapter Five requirements of the Oregon Fire Code. Providing any access other than the existing alley access would greatly increase the cost, reduce the size of units (requiring demolition), reduce livability and convert most of the existing outdoor living spaces to an substandard access. Strict or literal application of the standards can easily eliminate the ability to provide affordable new housing, thus limiting affordable housing to existing development.

- (D) *That the granting of the variance will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same zoning district.*

Finding: Variance No. 1 (Front Yard) Adjoining properties have existing buildings that do not meet setback requirements. The variance is being requested to allow remodeling of an existing building. Denial of the variance while allowing a neighbor to ignore setbacks would deprive the applicant of a privileges enjoyed by adjoiningers. The goal of this application is to do a sustainable development by bringing existing improvements up to current building codes, minimize changes to the neighborhood, adapt to existing conditions and uses, and provide an example of affordable housing opportunities that can be provided in the original platted areas of Newberg. Strict or literal application of the standards can easily eliminate the ability to provide affordable new housing, thus limiting affordable housing to existing development.

Finding: Variance No. 2 (Access) Other lots in this area can access their property from the alley. Just because a lot line adjustment is being proposed, primary access is prohibited by the current code. However, the existing 20 foot wide alley to the West meets Chapter Five requirements of the Oregon Fire Code. Providing any access other than the existing alley access would greatly increase the cost, reduce the size of units (requiring demolition), reduce livability and convert most of the existing outdoor living spaces to an substandard access. Strict or literal application of the standards can easily eliminate the ability to provide affordable new housing, thus limiting affordable housing to existing development.

- (E) *That the granting of the variance will not be detrimental to the public health, safety*

or welfare or materially injurious to properties or improvements in the vicinity.

Finding: Variance No. 1 (Front Yard) Allowing an existing building to remain in its current location will not change anything, i.e. it will not create anything new that would *"be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the vicinity."*

Finding: Variance No. 2 (Access) Other lots in this area can access their property from the alley. Just because a lot line adjustment is being proposed, primary access is prohibited by the current code. However, the existing 20 foot wide deeded "street" to the West meets Chapter Five requirements of the Oregon Fire Code. Providing any access other than the existing alley or deeded "street" access would greatly increase the cost, reduce the size of units (requiring demolition), reduce livability and convert most of the existing outdoor living spaces to an substandard access, so not allowing the access would *"be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the vicinity."* It would also set a precedent against similar housing projects in the City of Newberg.

PARTITION APPLICATIONS

151.241.1 PARTITION APPLICATIONS

The tentative plan shall be drawn with pencil or india ink on a good quality linen tracing cloth or suitable drafting material having the same or better characteristics of strength, stability and transparency, and shall show all pertinent information to scale. The scale shall be standard, being 1" = 10' , 20' , 30' , 40' , 50' , 100' or multiples of 100' . The tentative plan shall contain the following information:

(A) *Date, North point, scale, dimensions of all lines and a vicinity map locating the partitioning in relation to the surrounding area.*

Finding: The Site Plan and Lot Plan has been prepared by an Oregon Licensed Land Surveyor and Engineer and is drawn at scales of 1" = 10' and 1" = 20'. Reduced 11" by 17" copies are provide in this application booklet.

(B) *Name and address of the land owner, all title holders, subdivider, mortgagee, if any, and the surveyor employed to make necessary surveys and prepare the description of each tract involved.*

Finding: The Preliminary Plat includes the name, address, phone number and e-mail addresses of the applicant, owner and engineer/surveyor.

ATTACHMENT "1"

(C) *A statement regarding contemplated sewage disposal systems and water supply systems.*

Finding: Domestic water supply will be provided by the City of Newberg. One new water meters will be installed as shown by the Lot Plan.

Domestic sewage will be served by a proposed double lateral on East Ninth Street. Utilization of the existing sewer lateral will eliminate the cost and expense of digging up the recently paved East Ninth Street. A private utility easement will be granted across the South Parcel to the North Parcel.

(D) *For land adjacent to and within the tract to be partitioned, the locations, names and existing widths of streets, location and size of sewer and water lines (including laterals, drainage ways, and the location of power poles and any easements).*

Finding: Widths of existing streets are shown on the "Site Plan" and the "Lot Plan".

(E) *Outline and location of existing buildings, trees and features to remain in place.*

Finding: There are two existing residences on the property. Approximate locations of the residences are shown. A large Pin Oak in the center of the lot is proposed to be removed. The remaining trees are proposed to be retained.

(F) *Outline and location of existing buildings, trees, and features to be removed.*

Finding: Facilities and trees that will or may be removed are shown on the "Lot Plan".

(G) *Contour lines related to federal or city data.*

Finding: The lot is relatively level and a topography survey has not been performed.

(H) *Legal description for each newly created parcel.*

Finding: The legal description of each newly created parcel will be "Parcel 1" or "Parcel 2" of Partition 2008-XX where XX is the number assigned by the County Recorder when the final partition plat is recorded.

(I) *Preliminary site grading and utility plan.*

Finding: No change in the existing grading is proposed other than perhaps adding rain gardens. Proposed piped utilities are shown on the "Lot Plan".

(J) *Such additional information as is required by the Director.*

Finding: Available Information is shown on the "Site Plan" and the "Lot Plan".

151.241.2 PARTITION REQUIREMENTS - TYPE II.

The Director shall approve a partition of three parcels or less under a Type II procedure if the resulting parcels comply with the following approval criteria:

(A) *Approval does not impede the future best use of the remainder of the property under the same ownership or adversely affect the reasonable development of such remainder or adjoining land or access thereto.*

Finding: This partition is being submitted to do a lot line adjustment between two existing lots so that the existing two dwellings are located on their own lot. There is no "remainder" property, and since the historic access will continue to be used, no adjoining property use will be adversely affected. An easement will be obtained across the South Parcel to service the North Parcel.

(B) *The partition complies with this code and implementing ordinances and resolutions.*

Finding: It is the intent of this application to conform to the requirements of the code and allow denser use of existing developed properties in the City of Newberg.

(C) *Either:*

- (1) Improvements to be completed as part of the partition will be completed prior to final plat approval; or
- (2) The partitioner will substantially complete, as defined by city policies, required improvements prior to final plat approval, and enter into a performance agreement to complete the remaining improvements. The performance agreement shall include security in a form acceptable to the city in sufficient amount to insure the completion of all required improvements; or
- (3) A local improvement district shall have been formed to complete the required improvements; or
- (4) The required improvements are contained in a city or other government agency capital improvement project that is budgeted and schedule for construction.

Finding: No public improvements other than a sewer property line cleanout and a new two water service should be required as part of the process, and the improvements can be

installed as part of the building permit.

IMPROVEMENTS/SPECIFICATIONS

151.718 Water Supply

All lots and parcels within subdivisions and partitions shall be served by the water system of the city.

Finding: The South dwelling will continue to use its original water service and meter. The North dwelling will have a new oversized water service installed on East Ninth Street with a water service placed in the new utility easement across the West side of the South Parcel.

151.719 Sewage

All lots and parcels within the subdivisions and partitions shall, where practicable, as determined by the Director, in accordance with the provisions of the Code, be served by the sewage system of the City.

Finding: To avoid cutting the new pavement on East Ninth Street, it is proposed that a property line cleanout be installed on the existing sewer lateral to the South Parcel. A wye will be installed downstream of the cleanout and a new service lateral installed in a new utility easement across the lot frontage to the West, then North parallel to the West line of the South Parcel to the North Parcel.

151.720 Land Surface Drainage

Such grading shall be done and such drainage facilities shall be constructed by the land divider as are adequate for the purpose of proper drainage of the partition or subdivision, of areas affected thereby, and for the preservation of healthful and convenient surroundings and conditions for residents of subdivision or partition, and for the general public, in accordance with specifications adopted by the City Council under 151.717.

Finding: Construction of rain gardens are proposed, but overflow from any rain gardens on the North Parcel will be piped through the proposed utility easement on the West side of the South Parcel to a weep hole in the curb on East Ninth Street. The applicant desires to construct a low impact sustainable development and attempt to retain as much water on site as possible. A longer time of concentration through the proposed gardens will remove pollutants and reduce the impact of this development on downstream drainage ways.

151.721 Streets and Alleys

The land divider shall grade and pave all street and alleys in the subdivision or partition to the width specified in 151.686, and provide for drainage of all streets and alleys, construct curbs and gutters within the subdivision or partition in accordance with specifications adopted by the City Council under 151.717 above. Such improvements shall be constructed to specifications of the City under the supervision and direction of the Director. It shall be the responsibility of the land divider to provide street signs.

Finding: No new streets or alleys are proposed by this application, nor are they included in the property to be subdivided.

151.722 Existing Streets

A subdivision or partition abutting or adjacent to an existing road of inadequate width, shall dedicate additional right-of-way to and improve the street to the width specified in 10.60.115.

Finding: No additional right-of-way dedication is proposed for the Partition, nor are the widths inadequate.

151.723 Sidewalks

Sidewalks shall be located and constructed in accordance with provisions of 151.717.

Finding: A new sidewalk fronting the property on East Ninth Street will be installed as necessary as part of the remodeling of the South Residence.

151.724 Pedestrian Ways

A walk strip, not less than five feet in width, shall be paved in the center of all dedicated pedestrian ways. Such paving shall conform to specifications adopted by the City Council under 151.717.

Finding: No pedestrian ways are proposed.

151.725 Street Trees

Street trees shall be provided adjacent to all public right-of-ways abutting or within a subdivision or partition. Street trees shall be installed in accordance with the provisions of 151.580 (B)(4).

Finding: There are existing street trees along East Ninth Street..

151.615 Parking Area and Service Drive Improvements

All public or private parking areas, outdoor vehicle sales areas, and service drives shall be improved according to the following:

- (G) *Parking areas for residential uses shall not be located in a required front yard, except as follows:*
- (1) *Attached or detached single family or two family - parking is authorized in a front yard on a service drive which provides access to an improved parking area outside the front yard.*

Finding: Both residences are existing and have parking in the front yard. Two parking spaces will be provided for each residence to be remodeled. Two head in parking spaces will be located on the existing driveway for the South Parcel, and two parallel parking spaces are proposed along the alley for the Northern Parcel.

FIRE DEPARTMENT CONCERNS

Meetings with City Staff by the Applicant have been held regard the lot line adjustment/partition to obtain two legal residences. These concerns and the responses are as follows:

1. The street/alley should be one way.

Response: While the applicant has no objecting to signing the alley, as a practical matter, there is will be only one residence on this road, so one must wonder what would be accomplished by this requirement other than increasing the driving time for the North residence. It is recommended that this requirement not be mandatory until such time as there is more than one primary access on the street/alley.

2. The street/alley should be signed "NO PARKING".

Response: While the applicant has no objecting to signing the alley, as a practical matter, there is will be only one residence on this road, so one must wonder what would be accomplished by this requirement. Other alleys in Newberg are not typically signed. Off street parking will be provided. It is recommended that this requirement not be mandatory until such time as there is more than one primary access on the street/alley.

3. The North residence should have a residential sprinkler system installed.

Response: The applicant concurs with the recommendation and feels that public policy is better served by residential sprinkler systems that provide immediate fire protection

instead of converting our vegetated landscapes to paved streets, roads and alleys.

4. The street/alley should be named so that there is an address for emergency vehicles.

Response: The applicant has no objection for naming the alley. Suggested names are:

- Habitat Lane
- Habitat Way
- 8-1/2 Street
- Eight and One Half Street
- Eight Dot Five Street
- Eight Point Five Street\
- Giles Street (after original owner)

CONCLUSION

The proposed Newberg Habitat for Humanity Partition/Lot Line Adjustment and Variances will provide two individual single family dwellings on two existing platted lots. This project is intended to demonstrate how recent Affordable Housing Code Revisions to allow smaller lots and more flexibility in development standards while addressing liveability and safety standards, can create additional affordable individual home ownership options in developed areas of the City of Newberg.

As stated in this application, there are different interpretations of Newberg's Development Code that can greatly increase the cost of the project. The enclosed review of the code provisions points out that with the right interpretation of the code, costs and development approval timelines can be minimized to promote affordable housing in Newberg.

Approval of the Partition/Lot Line Adjustment, Site Design Review and the two Variance Requests as submitted under a Type II review is hereby requested.

THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY

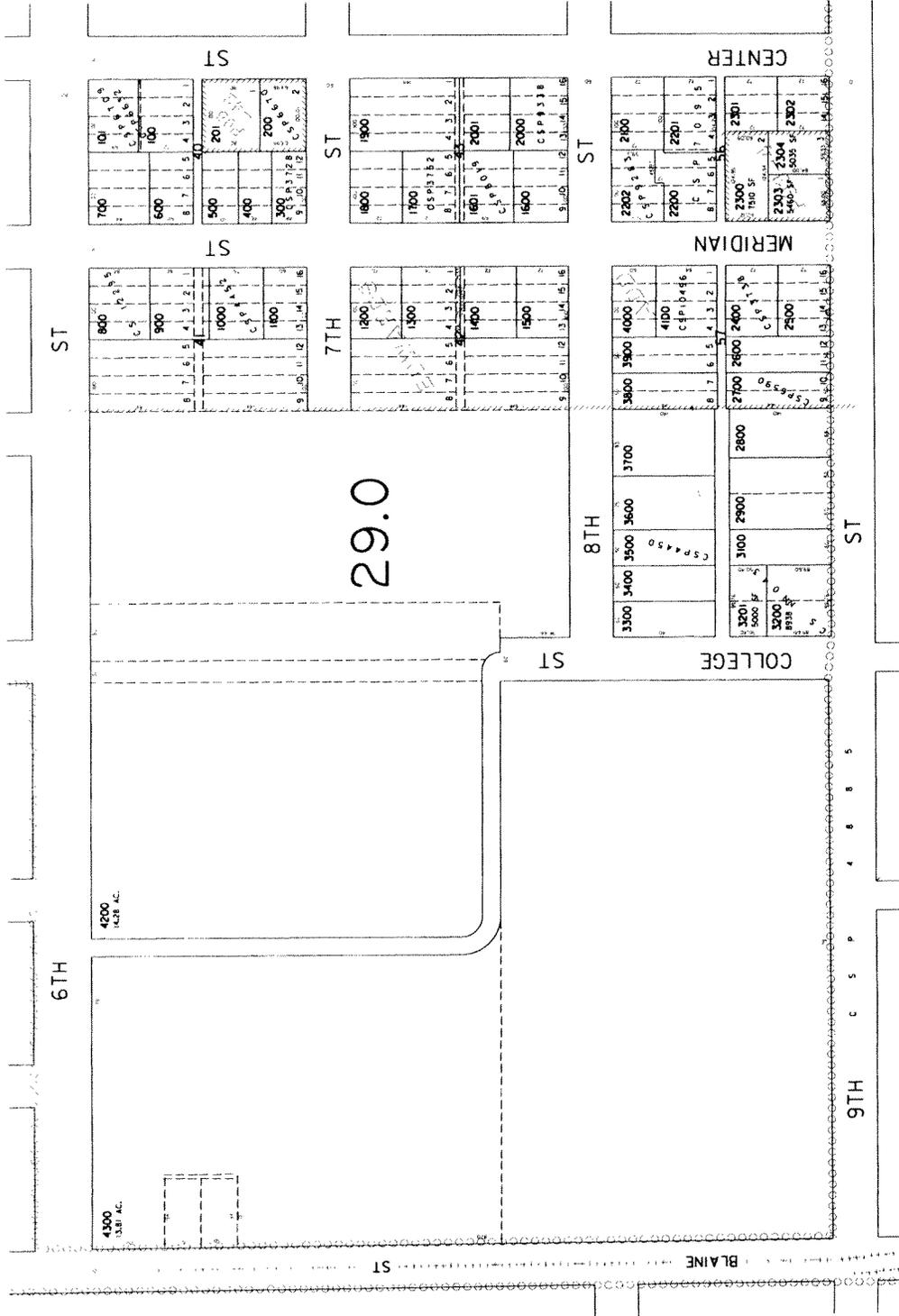
NE 1/4 SE 1/4 SEC 19 T3S R2W W.M.
YAMHILL COUNTY

3 2 19DA
NEWBERG

CANCELLED
102
3000

SEE MAP 3 2 1940

SEE MAP 3 2 194C



SEE MAP 3 2 1900

SEE MAP 3 2 20CC

REVISED 3-2-55

3 2 19DA



First American

First American Title Insurance Company of Oregon
775 NE Evans Street
McMinnville, OR 97128
Phn - (503)472-4627
Fax - (866)800-7294

FOR ALL QUESTIONS REGARDING THIS PRELIMINARY REPORT, PLEASE CONTACT:

Clayton Carter, Title Officer

Phone: (503)472-4627 - Fax: (866)800-7294 - Email: ctcarter@firstam.com

Newberg Area Habitat for Humanity
620 N Morton St PO Box 118
Newberg, OR 97132-2216

Order No.: 1039-1666702
December 13, 2010

Attn: Jared E. Jones
Phone No.: (503)537-9938 - Fax No.:
Email: jaredejones@cal.berkeley.edu

Re:

Preliminary Title Report

2006 ALTA Owners Standard Coverage	Liability \$	Premium \$
2006 ALTA Owners Extended Coverage	Liability \$	Premium \$
2006 ALTA Lenders Standard Coverage	Liability \$	Premium \$
2006 ALTA Lenders Extended Coverage	Liability \$	Premium \$
Endorsement		Premium \$
Govt Service Charge		Cost \$
Other		Cost \$

We are prepared to issue Title Insurance Policy or Policies in the form and amount shown above, insuring title to the following described land:

LOTS 9 AND 10, BLOCK 57, OF EDWARDS ADDITION IN THE CITY OF NEWBERG, YAMHILL COUNTY, OREGON.

and as of December 06, 2010 at 8:00 a.m., title to the fee simple estate is vested in:

Newberg Habitat for Humanity

Subject to the exceptions, exclusions, and stipulations which are ordinarily part of such Policy form and the following:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records; proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.

This report is for the exclusive use of the parties herein shown and is preliminary to the issuance of a title insurance policy and shall become void unless a policy is issued, and the full premium paid.

2. Facts, rights, interests or claims which are not shown by the public records but which could be ascertained by an inspection of the land or by making inquiry of persons in possession thereof.
3. Easements, or claims or easement, not shown by the public records; reservations or exceptions in patents or in Acts authorizing the issuance thereof; water rights, claims or title to water.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments or other facts which a correct survey would disclose.
5. Any lien, or right to a lien, for services, labor, material, equipment rental or workers compensation heretofore or hereafter furnished, imposed by law and not shown by the public records.

The exceptions to coverage 1-5 inclusive as set forth above will remain on any subsequently issued Standard Coverage Title Insurance Policy.

In order to remove these exceptions to coverage in the issuance of an Extended Coverage Policy the following items are required to be furnished to the Company; additional exceptions to coverage may be added upon review of such information:

- A. Survey or alternative acceptable to the company
- B. Affidavit regarding possession
- C. Proof that there is no new construction or remodeling of any improvement located on the premises. In the event of new construction or remodeling the following is required:
 - i. Satisfactory evidence that no construction liens will be filed; or
 - ii. Adequate security to protect against actual or potential construction liens;
 - iii. Payment of additional premiums as required by the Industry Rate Filing approved by the Insurance Division of the State of Oregon
6. The rights of the public in and to that portion of the premises herein described lying within the limits of streets, roads and highways.

- END OF EXCEPTIONS -

NOTE: Taxes for the year 2010-2011 PAID IN FULL

Tax Amount:	\$2,921.36
Map No.:	R3219DA-2700
Property ID:	55889
Tax Code No.:	29.0

Situs Address as disclosed on Yamhill County Tax Roll:

803 E 9th St., Newberg, OR 97132

**THANK YOU FOR CHOOSING FIRST AMERICAN TITLE!
WE KNOW YOU HAVE A CHOICE!**

RECORDING INFORMATION

Filing Address:

Yamhill County
535 NE Fifth Street
McMinnville, OR 97128

Recording Fees: \$ **41.00** for the first page
\$ **5.00** for each additional page



First American Title Insurance Company of Oregon

SCHEDULE OF EXCLUSIONS FROM COVERAGE

ALTA LOAN POLICY (06/17/06)

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
 - (i) the occupancy, use, or enjoyment of the Land;
 - (ii) the character, dimensions, or location of any improvement erected on the Land;
 - (iii) the subdivision of land; or
 - (iv) environmental protection;
 or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.
- (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters
 - (a) created, suffered, assumed, or agreed to by the Insured Claimant;
 - (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
 - (c) resulting in no loss or damage to the Insured Claimant;
 - (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 11, 13, or 14); or
 - (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Insured Mortgage.
4. Unenforceability of the lien of the Insured Mortgage because of the inability or failure of an Insured to comply with applicable doing-business laws of the state where the Land is situated.
5. Invalidity or unenforceability in whole or in part of the lien of the Insured Mortgage that arises out of the transaction evidenced by the Insured Mortgage and is based upon usury or any consumer credit protection or truth-in-lending law.
6. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction creating the lien of the Insured Mortgage, is
 - (a) a fraudulent conveyance or fraudulent transfer, or
 - (b) a preferential transfer for any reason not stated in Covered Risk 13(b) of this policy.
7. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the Insured Mortgage in the Public Records. This Exclusion does not modify or limit the coverage provided under Covered Risk 11(b).

ALTA OWNER'S POLICY (06/17/06)

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
 - (i) the occupancy, use, or enjoyment of the Land;
 - (ii) the character, dimensions, or location of any improvement erected on the Land;
 - (iii) the subdivision of land; or
 - (iv) environmental protection;
 or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.
- (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters
 - (a) created, suffered, assumed, or agreed to by the Insured Claimant;
 - (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
 - (c) resulting in no loss or damage to the Insured Claimant;
 - (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risks 9 and 10); or
 - (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Title.
4. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction vesting the Title as shown in Schedule A, is
 - (a) a fraudulent conveyance or fraudulent transfer; or
 - (b) a preferential transfer for any reason not stated in Covered Risk 9 of this policy.
5. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.

SCHEDULE OF STANDARD EXCEPTIONS

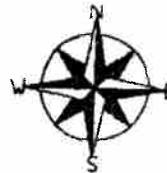
1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records; proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.
2. Facts, rights, interests or claims which are not shown by the public records but which could be ascertained by an inspection of the land or by making inquiry of persons in possession thereof.
3. Easements, or claims of easement, not shown by the public records; reservations or exceptions in patents or in Acts authorizing the issuance thereof; water rights, claims or title to water.
4. Any encroachment (of existing improvements located on the subject land onto adjoining land or of existing improvements located on adjoining land onto the subject land), encumbrance, violation, variation, or adverse circumstance affecting the title that would be disclosed by an accurate and complete land survey of the subject land.
5. Any lien" or right to a lien, for services, labor, material, equipment rental or workers compensation heretofore or hereafter furnished, imposed by law and not shown by the public records.

NOTE: A SPECIMEN COPY OF THE POLICY FORM (OR FORMS) WILL BE FURNISHED UPON REQUEST

TI 149 Rev. 7-22-08

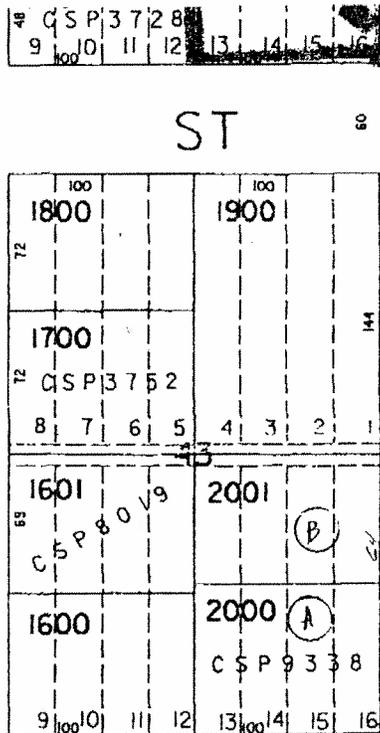
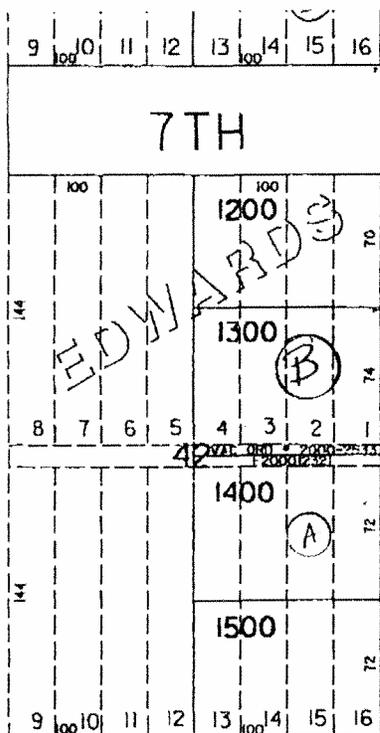


**First American
Title Insurance Company
of Oregon**



This map is furnished for illustration and to assist in property location. The company assumes no liability for any variation in dimensions by location ascertainable by actual survey

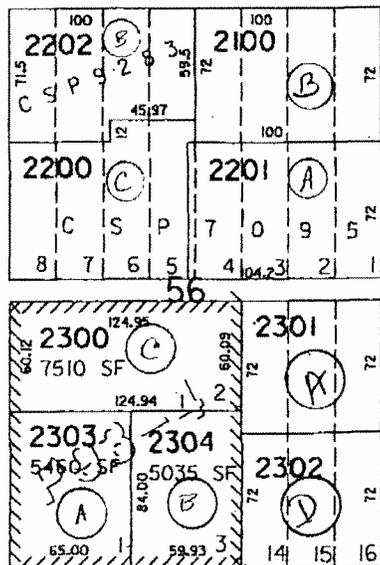
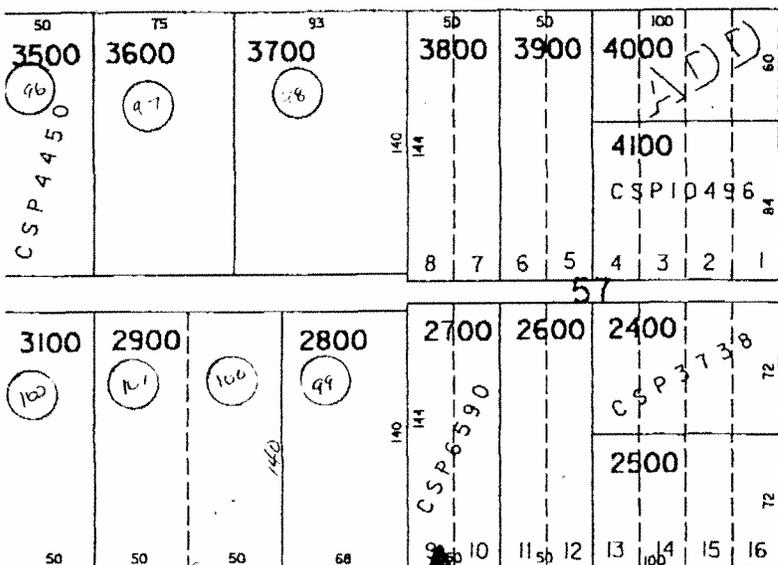
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SEE MAP 3 2 20CB

8TH

ST



CENTER



ST

RECORDING REQUESTED BY:
Fidelity National Title Company of Oregon

GRANTOR'S NAME:
Deutsche Bank National Trust Company, as
indenture trustee, on behalf of the holders of the
Accredited Mortgage Loan Trust 2005-4 Asset
Backed Notes

GRANTEE'S NAME:
Newberg Habitat for Humanity

SEND TAX STATEMENTS TO:
Newberg Habitat for Humanity
PO Box 118
Newberg, OR 97132

AFTER RECORDING RETURN TO:
Newberg Habitat for Humanity
P.O. Box 118
Newberg, OR 97132

Escrow No: 4610015167-FTEUG03
803 East 9th Street
Newberg, OR 97132

OFFICIAL YAMHILL COUNTY RECORDS
REBEKAH STERN DOLL, COUNTY CLERK



\$46.00

201010411 2:43:56 PM 7/30/2010

DMR-DDMR Cnt=1 Str=1 KAREN
\$10.00 \$10.00 \$11.00 \$15.00

SPACE ABOVE THIS LINE FOR RECORDER'S USE

SPECIAL WARRANTY DEED - STATUTORY FORM
(INDIVIDUAL or CORPORATION)

Deutsche Bank National Trust Company, as indenture trustee, on behalf of the holders of the Accredited Mortgage Loan Trust 2005-4 Asset Backed Notes, Grantor, conveys and specially warrants to Newberg Habitat for Humanity

Grantee, the following described real property free and clear of encumbrances created or suffered by the grantor except as specifically set forth below:

Lots 9 and 10, Block 57, Edward's Addition, In the City of Newberg, County of Yamhill, State of Oregon.

ENCUMBRANCES: 2010-11 taxes a lien not yet payable, rights of the public, easements, resevations, covenants, conditions and restrictions of record, of any

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 195.338 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009. 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, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009.

The true consideration for this conveyance is \$120,000.00.

Dated July 7, 2010

Deutsche Bank National Trust Company, as
indenture trustee, on behalf of the holders of the
Accredited Mortgage Loan Trust 2005-4 Asset
Backed Notes, by Select Portfolio Servicing, Inc., as
attorney in fact

BY: [Signature]
AS: DEBRA REILLY, DOC. CONTROL OFFICER

TICOR TITLE COMPANY

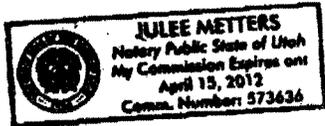
3626027756 TO

State of Utah

COUNTY of Salt Lake

This instrument was acknowledged before me on July 7, 2012
by DEBRA REILLY, DOC. CONTROL OFFICER of Select Portfolio Servicing, Inc.,
attorney in fact for Deutsche Bank National Trust Company, as indenture trustee, on behalf of the
Accredited Mortgage Loan Trust 2005-4 Asset Backed Notes.

Julee Metters, Notary Public - State of Utah
My commission expires: _____



E-W ALLEY

VOL 1160 PAGE 32

DEED

KNOW ALL MEN BY THESE PRESENTS, That we, JESSE B. GILES and ETHEL M. GILES, husband and wife, in consideration of Ten and no/100ths Dollars to us paid by the City of Newberg, and in further consideration of the benefits to be derived by us, our heirs and assigns, do hereby grant, bargain, sell and convey unto THE CITY OF NEWBERG, a municipal corporation of Yamhill County, State of Oregon, its successors and assigns, for street purposes, all the following real property, with the tenements, hereditaments and appurtenances:

Beginning at a point on the East line of College Street in the City of Newberg, Yamhill County, State of Oregon, 110 feet North of the intersection of the said East line of College Street with the North line of 9th Street in said city; running thence North along said East line of College Street 20 feet; thence East parallel with the North line of 9th Street 318 feet to the West line of Block 57, Edwards Addition to the City of Newberg, Oregon; thence South along said West line of said Block 57, Edwards Addition 20 feet; thence West parallel with the said North line of 9th Street 210 feet to the place of beginning.

To Have and to Hold, the above described and granted premises unto the said CITY OF NEWBERG, its successors and assigns, forever.

Witness our hands and seals this 6th day of December, 1950.

Executed in the presence of:

Jesse B. Giles

Ethel M. Giles

STATE OF OREGON)
County of COOS) ss.

BE IT REMEMBERED, That on this 6th day of December, 1950, before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named JESSE B. GILES and ETHEL M.

GILES, husband and wife, who are known to me to be the identical individuals described in and who executed the within instrument and acknowledged to me that they executed the same free and voluntarily.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal the day and year last above written.



[Signature]
Notary Public for Oregon

My commission expires: 3-31-53

27103

STATE OF OREGON
County of _____
I, A. R. McL...
do hereby certify that
received and has t
_____ of the R
_____ day of _____



LEONARD A. ROEBL, P.E., P.L.S.
 801 Parkhurst Drive, Newberg, Oregon 97132-1828
 Phone: (503) 538-5700
 Fax: (503) 781-4138
 Website: (503) 538-9187
 leo@leorob.com
 Consulting Civil Engineer - Land Surveyor - R.L.S.
 LICENSE NO. 12731
 EXPIRES DATE 12/31/2012



PROPOSED DEVELOPMENT PLAN
HABITAT FOR HUMANITY
 Located On Lots 9 and 10, Block 57 of EDWARDS ADDITION TO THE CITY OF NEWBERG,
 Northeast Quarter of the Southeast Quarter of Section 19
 Township 3 South, Range 2 West of the Willamette Meridian
 City of Newberg, Yamhill County, Oregon

Prepared for:
 Habitat For Humanity
 P. O. Box 118
 Newberg, Oregon 97132
 Phone: (503) 537-9938

V.L.O. No. 1031
 Design: [Signature]
 Drawn: [Signature]
 Date: 22 December 2010
 Draw: 10215151.DWG

Sheet
 1 of 2



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 ©2010 Google

LEONARD A. RYDELL, P.E., P.L.S.
 601 Pinhurst Drive, Newberg, Oregon 97132
 (503) 538-5700
 Mobile (503) 781-4138
 FAX (503) 538-9188
 Consulting Civil Engineer - Land Surveyor - W.R.E.
 RENEWAL DATE 12/31/2010

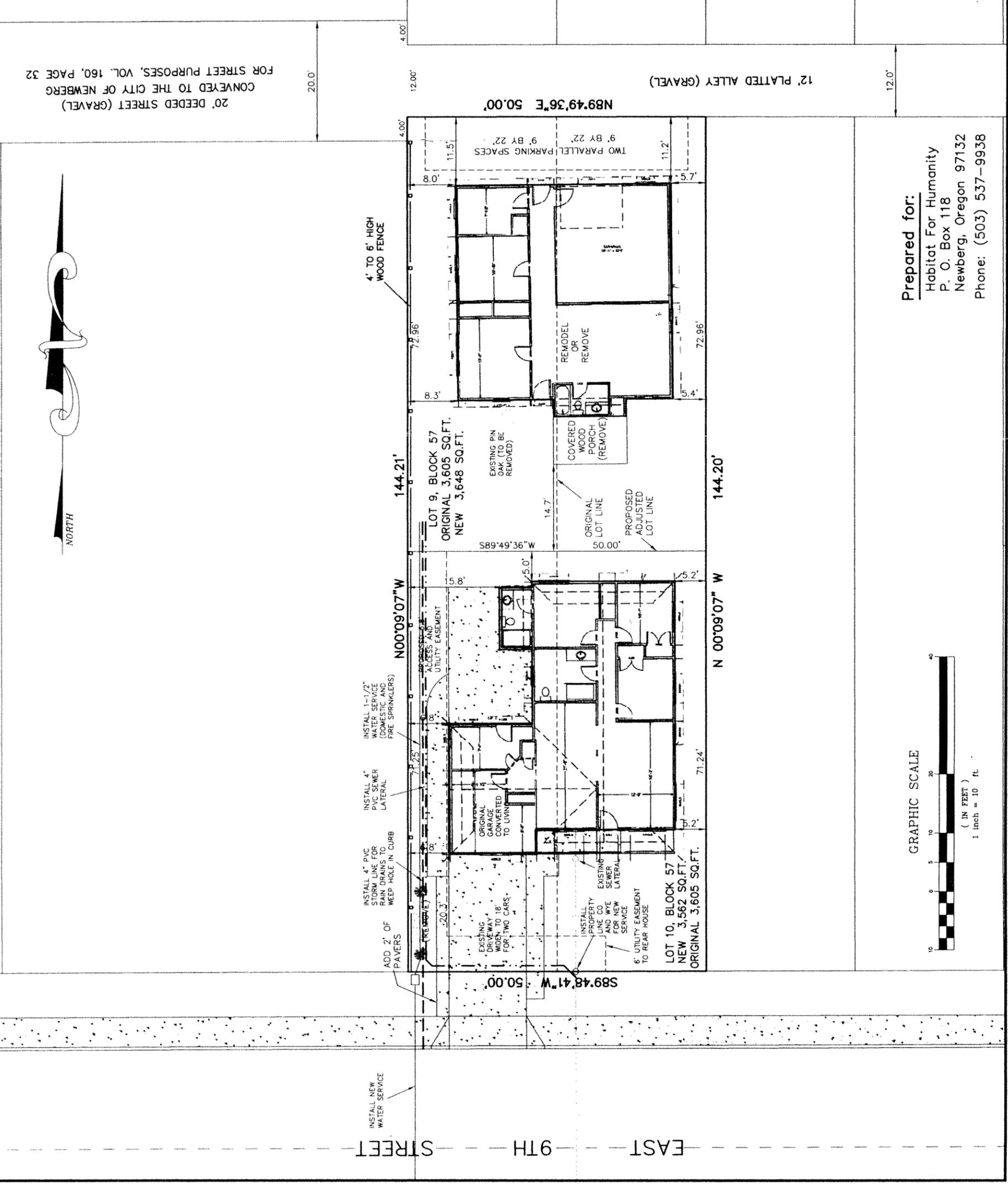


LOT LINE ADJUSTMENT PLAN
HABITAT FOR HUMANITY
 Located On Lots 9 and 10, Block 57 of "EDWARDS ADDITION TO NEWBERG"
 Northeast Quarter of the Southeast Quarter of Section 19
 Township 3 South, Range 2 West of the Willamette Meridian
 City of Newberg, Yamhill County, Oregon

W.O. No. 10921
 Design: *[Signature]*
 Drawn: *[Signature]*
 Date 27 December 2010
 Bldg LOT-PLAN.DWG

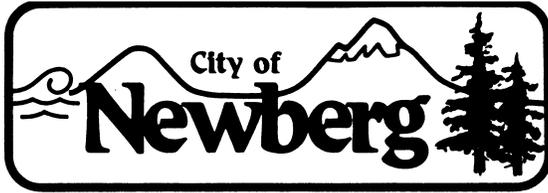
REVISIONS	
No.	Description/Date

Sheet
 2 of 2



Prepared for:
 Habitat For Humanity
 P. O. Box 118
 Newberg, Oregon 97132
 Phone: (503) 537-9938





Planning and Building Department
P.O. Box 970 ▪ 414 E First Street ▪ Newberg, Oregon 97132
503-537-1240 ▪ Fax 503-537-1272 ▪ www.ci.newberg.or.us

NOTICE OF PRELIMINARY PARTITION PLAT, TYPE I SITE DESIGN REVIEW, & VARIANCE DECISION

April 7, 2011

Habitat for Humanity
P.O. Box 118
Newberg, OR 97132-0118

Subject: Preliminary plat approval for a two parcel partition, variance approval to allow the north parcel to use an existing alley for access and not have frontage on a public street, and type I site design review approval for a new single family home, and on-site parking; tax lot 3219DA-2700 (File: PAR-11-001 & VAR-11-001)

The Newberg Planning and Building Director approved the tentative partition plan, variance, and site plan, subject to the conditions listed in the attached report. The decision will become final on April 21, 2011 unless an appeal is filed.

All persons entitled to notice or anyone providing written comments within 14 calendar days prior to the date of the decision may appeal this decision in accordance with Newberg Development Code §151.056. All appeals must be in writing on a form provided by the Planning Division. Anyone wishing to appeal must submit the written appeal form together with the required fee of \$415 to the Planning Division within 14 days of the date of this decision.

The deadline for filing an appeal is 5:00 pm on April 21, 2011.

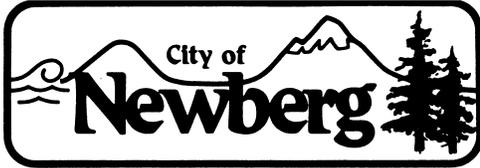
In order to fully complete the partition, site design review and variance process, you must meet all conditions of approval and file a final partition plat application with the Planning Division. The final partition plat must be recorded within two years of the date of this letter (by April 7, 2013). If you are approaching the expiration date, please contact the Planning Division regarding extension opportunities.

If you have any questions, please contact me at 503-554-7744 or via email at luke.pelz@newbergoregon.gov.

Sincerely,

Luke Pelz, AICP
Assistant Planner

cc: Referral list, anyone who provided comment



Planning and Building Department
P.O. Box 970 ▪ 414 E First Street ▪ Newberg, Oregon 97132
503-537-1240 ▪ 503-537-1272 Fax ▪ www.ci.newberg.or.us

**PRELIMINARY PLAT, TYPE I SITE DESIGN REVIEW and VARIANCE
STAFF REPORT
803 E. Ninth Street
PAR-11-001 & VAR-11-001**

FILE NUMBER: PAR-11-001 & VAR-11-001

REQUEST: (1) Preliminary plat approval for a two parcel partition, (2) variance approval to allow the north parcel to use an existing alley for accesses and not have frontage on a public street or have access to a public street through an easement, and (3) type I site design review approval for a new single family home, remodel of an existing home, and on-site parking.

APPLICANT: Habitat for Humanity

OWNER: Habitat for Humanity

LOCATION: 803 E. Ninth Street

TAX LOT: 3219DA-2700

PLAN

DESIGNATION: MDR (Medium Density Residential)

ZONE: R-2 (Medium Density Residential)

ATTACHMENTS:

- Exhibit A: Findings
- Exhibit B: Conditions of Approval
- Exhibit C: Tentative Partition Plat
- Exhibit D: Public Comment – by reference
- Exhibit E: Application – by reference



ATTACHMENT "2"

A. PROCESS: The application has met the provisions of the Newberg Development Code § 151.022 as follows:

- | | |
|-------------------|--|
| February 24, 2011 | The applicant mailed public notice to all property owners within 500 feet of the site and posted the site. The public comment period extends for two weeks following this date. Several comments were received regarding this application. |
| February 28, 2010 | Affidavit of notice was received by the Planning & Building Department. The Director determined the application was complete. |
| April 6, 2011 | The Director made a decision based on criteria found in NDC §§ 151.241 and 151.194. |

B. SITE INFORMATION:

1. Location: 803 E. Ninth Street
2. Size: ≈ 7,210 square feet
3. Comprehensive Plan Designation: MDR (Medium Density Residential)
4. Zoning Designation: R-2 (Medium Density Residential)
5. Applicable Overlay Districts: N/A
6. Topography: Flat
7. Current Land Uses: One existing single family home with garage
8. Natural Features: Several mature trees
9. Adjacent Land Uses: Single-family residential to the north, south, east, and west.
10. Access and Transportation: This property takes access from Ninth Street and an alley to the north of the site.
11. Utilities: The site is currently served by city sewer and water infrastructure in Ninth Street.

C. APPLICABLE REVIEW CRITERIA: Newberg Development Code §§ 151.241 and 151.194.

D. PUBLIC COMMENT RECEIVED: A total of seven letters were submitted in opposition to the proposal. The letters raise concerns regarding a potential for increased traffic, parking and noise in the alley, the condition of the existing alley, and the potential for restricted emergency access.

ATTACHMENT "2"

EXHIBIT A: FINDINGS PAR-11-001 & VAR-11-001

Preliminary Partition Plat, Type I Site Design Review, and Variance Approval – 803 E. Ninth Street

I. Applicable Partition Criteria - Newberg Development Code § 151.241.2:

Note: The applicant is requesting approval for a two parcel partition.

(A) *Approval does not impede the future best use of the remainder of the property under the same ownership or adversely affect the safe and healthful development of such remainder or adjoining land or access thereto.*

Finding: Approval of the partition does not adversely affect future development of adjoining property. Potential future development of adjacent properties will benefit from the improvements that will be constructed as part of the conditions of approval.

(B) *The partition complies with this Code and implementing ordinances and resolutions.*

NDC §151.567 Lot Dimensions and Frontage

- 1) *Width. Width of lots shall conform to the standards of this Code.*
- 2) *Depth. Each lot and parcel shall have an average depth between the front and rear lines of not more than 2 - times the average width between the side lines. Depths of lots shall conform to the standards of this Code.*
- 3) *Area. Lot sizes shall conform to standards set forth in this Code. Lot area calculations shall not include area contained in public or private streets as defined by this Code.*
- 4) *Frontage.*
 - a) *No lot or development site shall have less than the following lot frontage standards:*
 - b) *Each lot or development site shall have either frontage on a public street for a distance of at least 25 feet or have access to a public street through an easement that is at least 25 feet wide. No new private streets, as defined in § 151.003, shall be created to provide frontage or access.*
 - c) *Each lot in an R-1, R-2, R-3 or RP zone shall have a minimum width of 50 feet at the front building line.*

Finding: The proposal meets the dimensional standards of the NDC. Each parcel is 50 feet wide. The average depth to width ratio is less than 2:1. Each parcel exceeds 3,000 square feet – the minimum parcel size required in the R-2 zone. The proposal conditionally meets the frontage standards of the NDC. The proposed north parcel does not have frontage or access to a public street through an easement. The applicant is requesting a variance to this standard. The findings for the variance request are shown in section three of the findings.

NDC § 151.565: Lot Area; Lot Area Per Dwelling Unit

- 1) *In the following districts, each lot or development site shall have an area as shown below except as otherwise permitted by this code. In the R-2, R-3, RP, C-1, C-2, and C-3 Districts, each lot or development site shall have a minimum of 3,000 square feet or as may be established by a sub-district.*
- 2) *Lot or development site area per dwelling unit. In the R-2 and R-P Districts, there shall be a minimum of 3,000 square feet of lot or development site area per dwelling unit.*

ATTACHMENT "2"

Finding: Each proposed parcel exceeds 3,000 square feet. One single family detached dwelling is proposed on each parcel. Each parcel exceeds a minimum 3,000 square feet per dwelling.

NDC § 151.718: Water Supply

All lots and parcels within subdivisions and partitions shall be served by the water system of the City of Newberg.

NDC § 151.719: Sewage

All lots and parcels within subdivisions and partitions shall, where practicable, as determined by the Director, in accordance with the provisions of this Code, be served by the sewage system of the City.

NDC § 151.720: Land Surface Drainage

Such grading shall be done and such drainage facilities shall be constructed by the land divider as are adequate for the purpose of proper drainage of the partition or subdivision, of areas affected thereby, and for the preservation of healthful and convenient surroundings and conditions for residents of the subdivision or partition, and for the general public, in accordance with specifications adopted by the City Council under § 151.717.

NDC § 151.721: Streets and Alleys

The land divider shall grade and pave all streets and alleys in the subdivision or partition to the width specified in § 151.686, and provide for drainage of all such streets and alleys, construct curbs and gutters within the subdivision or partition in accordance with specifications adopted by the City Council under § 151.717. Such improvements shall be constructed to specifications of the City under the supervision and direction of the Director. It shall be the responsibility of the land divider to provide street signs.

NDC § 151.722: Existing Streets

A subdivision or partition abutting or adjacent to an existing road of inadequate width, shall dedicate additional right-of-way to and improve the street to the width specified in § 151.686.

NDC § 151.723: Sidewalks

Sidewalks shall be located and constructed in accordance with the provisions of § 151.717.

NDC § 151.725: Street Trees

Street trees shall be provided adjacent to all public rights-of-way abutting or within a subdivision or partition. Street trees shall be installed in accordance with the provisions of § 151.580(B)(4).

Finding: Sufficient public water and waste water infrastructure capacity exists in Ninth Street to serve the site. As a condition of approval the proposed dwelling on the north parcel is required to extend a lateral connection directly to the Ninth Street waste water mainline across the south parcel, which requires a private utility easement. At the discretion of the Public Works Director an alternate method may be approved. Specific details about the required lateral connection is shown in Exhibit "B". One street tree is located on the Ninth Street frontage – no additional

ATTACHMENT "2"

street trees are required. The existing curb, gutter, and sidewalk along the Ninth Street frontage are in good condition and do not need to be replaced as part of this application. The Fire Code requires hydrants located within a certain distance of residential development. As a condition of approval the location of all hydrants on the block shall be shown on a revised site plan. Additional hydrants may be required, at the discretion of the Fire Marshal. At the discretion of the Fire Marshal the installation of fire sprinklers in the proposed house may be an acceptable alternative to an additional hydrant. The existing alley right of way width is 12 feet adjacent to the development site. The Fire Code requires a 20 foot wide clear area for access purposes, except as allowed by the Fire Marshal. The proposed development site's share is 4 feet of additional right of way, which would make the alley right of way 16 feet wide adjacent to the site. As a condition of approval approximately four feet of right of way shall be dedicated. The existing alley is gravel. Per the Fire Code a 20 foot clear area is required. As a condition of approval the alley is required to be improved between the site and College Street, and signed no parking. As a condition of approval all trees, shrubs, fencing, and any other structures between the development site and College Street are required to be removed from the 20 foot horizontal clear area, and the 13.5 foot vertical clear area. The design of the 20 foot horizontal clear area shall be approved by the Fire Marshal. Specific construction details regarding the required improvements are shown in Exhibit "B" conditions of approval.

(C) *Either,*

- 1) *Improvements required to be completed as part of the partition will be completed prior to final plat approval; or*
- 2) *The partitioner will substantially complete, as defined by City policies, required improvements prior to final plat approval, and enter into a performance agreement to complete the remaining improvements. The performance agreement shall include security in a form acceptable to the City in sufficient amount to insure completion of all required improvements; or*
- 3) *A local improvement district shall have been formed to complete the required improvements; or*
- 4) *The required improvements are contained in a City or other government agency Capital Improvement Project that is budgeted and scheduled for construction.*

Finding: The required improvements will be completed in accordance with City policies prior to final plat approval.

II. Applicable Type I Site Design Review Criteria - Newberg Development Code § 151.194:

Note: The applicant is requesting Type I Site Design review approval for the remodel of an existing single family home, development of one new single family detached dwelling, and on-site parking.

(A) *Type I. The following criteria are required to be met in order to approve a Type I design review request:*

- 1) *Parking. Parking areas shall meet the requirements of § 151.610.*
- 2) *Setbacks and general requirements. The proposal shall comply with §§ 151.535 et seq. dealing with height restrictions and public access; and §§ 151.550 et seq. dealing with setbacks, coverage, vision clearance, and yard requirements.*
- 3) *Landscaping requirements. The proposal shall comply with § 151.580 dealing with landscape requirements and landscape screening.*

ATTACHMENT "2"

- 4) *Signs. Signs shall comply with §§ 151.590 et seq. dealing with signs. Zoning district compliance. The proposed use shall be listed as a permitted or conditionally permitted use in the zoning district in which it is located as found in §§ 151.280 through 151.438 of this code.*

Finding: The dwellings for both parcels meet the minimum setback requirements of the R-2 zone. The proposed remodel of the existing home on the south parcel shows a 20 foot front yard setback, and 8 foot, 5 foot, and 5 foot setbacks for the interior yards. All yards on the north parcel are interior yards. The proposed house on the north parcel shows all setbacks exceeding the minimum 5 feet required. No signs are proposed. Each parcel has less than 40% maximum lot coverage. The proposal shows two single family detached homes on separate parcels, which are permitted outright in the R-2 district. The proposed parking on the south parcel meets the Development Code requirements. The parking plan for the south parcel shows that the existing driveway will be widened to 18 feet to accommodate two vehicles. The parking plan on the north parcel shows two parallel parking stalls, without right of way dedication. With the required right of way dedication the proposed parking stall design does not meet the Development Code standards. Furthermore, the proposed parallel design would make entering and exiting the site difficult and would likely result in vehicles parking in the alley. Because the north parcel is not adjacent to available on-street parking one additional off-street parking stall is required as part of the variance. As a condition of approval the site plan for the north parcel shall be revised to show three 90 degree parking stalls. This will require that the proposed location for the dwelling be moved to the south to accommodate the stalls.

III. Applicable Variance Criteria - Newberg Development Code § 151.163

Note: The applicant is requesting a variance to the Development Code standard that requires each parcel or development site to have either frontage on a public street for a distance of at least 25 feet or have access to a public street through an easement that is at least 25 feet wide.

The Type II procedure shall be used to process a variance request. The hearing body shall grant the variance if the following criteria are satisfied:

- (A) *That strict or literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of this code.*

Finding: The purpose of the frontage and access requirement is to ensure standard vehicle and emergency vehicle access to developed sites. The proposed development site has 50 feet of frontage on two public right of ways – the alley to the north and Ninth Street to the south. The City of Newberg Fire Marshal finds that with conditions, the proposed development does not compromise the safety of the new dwelling or properties that abut the alley. With conditions the proposed development will improve emergency access for all the homes that abut the alley by improving the alley surface, by ensuring that there is a 20 foot clear area for emergency vehicles, and by posting no parking signs along the alley. Currently the Development Code allows two detached single family dwellings on one parcel, with no additional frontage requirements for the second dwelling. The strict interpretation of the Development Code would be inconsistent with the objective of the code to permit two single family dwellings on a parcel in the R-2 zone. Under the current Development Code, if a second dwelling was proposed on the existing site the alley would remain unpaved, continue to be narrow, and would not have “no parking” signs.

ATTACHMENT "2"

- (B) *That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property which do not apply generally to other properties classified in the same zoning district.*

Finding: There are exceptional conditions applicable to the property. The existing home occupies most of the width of the parcel, thereby restricting access to the north portion of the site. If access was not restricted by previous development, it may have been possible to access the north parcel via an access easement. It is unreasonable to demolish a portion of the existing dwelling to create a new access when a safe alternative exists. The proposed development site is in the R-2 zone. The R-2 zone allows for a minimum parcel size of 3,000 square feet. The site is approximately 7,200 square feet, about 2 and ½ times the minimum required parcel size. This site was not originally developed to R-2 density, as the comprehensive plan and zoning map intended. Other parcels in the R-2 zone have excess parcel area, but not all parcels in the zone have excess parcel area. Today it is common for partitions to be developed closely to the minimum parcel size, making this parcel atypical for the R-2 zone.

- (C) *That strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges enjoyed by the owners of other properties classified in the same zoning district.*

Finding: Strict enforcement of the regulation would deprive the applicant of privileges enjoyed by other property owners. Taking into consideration Fire Marshal approval there are several sites in the R-2 district and sites that abut the existing alley that could be partitioned and use the alley for access. Alleys, as defined in the Newberg Development Code, are intended to provide secondary access to sites that abut a public street. The term secondary as used here means “in addition to”, not “substandard” or “less than adequate”. All alleys are required to be designed in a manner to allow for emergency vehicle access. All developed property in the R-2 district that abuts an alley is allowed to use the abutting alley for access. Homeowners are not precluded from using an existing alley more frequently than the street-side access. In Newberg many residential parcels in the R-2 district that abut an alley have vehicle parking areas that are accessed by an alley. The proposed development site has an existing garage off the alley, in addition to off street parking that uses Ninth Street access. With the proposed new dwelling, the occupants of the existing home will no longer be able to use the alley to access the garage parking. Occupants of the existing home will now use parking that is located on the south parcel, where before the partition they were allowed to use the alley to access the site. Therefore the amount of future traffic accessing the site will be about the same that was allowed prior to the partition.

- (D) *That the granting of the variance will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same zoning district.*

Finding: The granting of the variance will not be inconsistent with the limitations for other properties. All parcels in the R-2 that abut an alley and have access to a public street are allowed to use the abutting alley for site access. Other properties in the R-2 district with parcels exceeding 6,000 square feet, and abut an alley, are allowed two single family homes on one site. Establishing two parcels, where there once was one, does not create any functional difference as compared to a single parcel with two single family homes.

ATTACHMENT "2"

- (E) *That the granting of the variance will not be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the vicinity.*

Finding: The granting of a variance will not be materially injurious to properties in the vicinity. The existing structure was dilapidated, apparently used for many years as an illegal and unsafe dwelling, and considered by some of the neighbors as an “eyesore”. The proposal shows demolition of the existing illegal dwelling, construction of a new single family dwelling and improved parking area, and remodel of the existing single family home located on the proposed south parcel. The granting of the variance will improve safety by improving the alley surface, by ensuring that there is a 20 foot clear area for emergency vehicles, and by posting no parking signs along the alley.

ATTACHMENT "2"

EXHIBIT B: CONDITIONS OF APPROVAL PAR-11-001 & VAR-11-001

Preliminary Partition Plat, Type I Site Design Review, and Variance Approval – 803 E. Ninth Street

1. **The applicant must provide the following information for review and approval prior to construction of any improvements:**
 - a. **Revised Preliminary Partition Plat:** Provide a revised preliminary plat that shows the following:
 - i. Dedication of approximately 4 feet of right of way along the alley.
 - b. **Public Improvements Development Permit with Engineered Construction Drawings.** Submit engineered construction drawings for review and approval. The construction drawings should show a revised right of way and utility plan including:
 - i. A total alley right of way width of 16 feet abutting the site.
 - ii. The alley with a minimum 20 foot wide (16 foot wide adjacent to the parcel) horizontal clear area and with a 13.5 foot vertical clear area to the west of the site. The 20 foot wide clear area shall be designed in a manner to accommodate emergency vehicles. The design shall be approved by the Fire Marshal.
 - iii. A minimum 12 foot wide paved alley extending from College Street to the eastern most edge of the parcel. The asphalt shall be a minimum of 3 inches thick.
 - iv. A concrete approach and 5 foot wide concrete sidewalk at the College Street end of the alley. The approach shall have low curb openings and be a minimum of 12 feet wide. At the discretion of the Public Works Director an approach may be required on the Meridian Street end of the alley if the on-site parking is modified from the required 90 degree design.
 - v. Storm water drainage control showing run-off directed away from abutting properties.
 - vi. The location of alley “street” signs. The alley shall be named 8 ½ Alley. The signs shall be located at each end of the alley.
 - vii. The location of “Fire Lane – No Parking” signs along the entire length of the alley between Meridian Street and College Street.
 - viii. The location of all existing fire hydrants on the block. Note: additional hydrants may be required. Fire sprinklers may be an acceptable alternative to an additional fire hydrant, at the discretion of the Fire Marshal.
 - ix. The location of a new waste water lateral that taps into the existing manhole in Ninth Street using an inside drop. A 4 inch clean out is required to be installed at the right of way. At the discretion of the Public Works Director an alternate method may be approved.
 - x. A grind out of 2 inches of existing asphaltic concrete road surface on Ninth Street for 20 feet curb to curb on each side of the common waste water and water trench. Show an inlay with a slip form paver 2 inch class “C” A. C. At the discretion of the Public Works Director an alternate method may be approved.
 - xi. A common trench for new water and waste water service.
 - xii. The required water meter size.

- c. **Revised Site Plan:** Provide a revised site plan shows:
 - i. Three 90 degree paved parking stalls on the north parcel. This will require relocation of the proposed house.

2. The applicant must complete the following prior to final plat approval.

- a. **Maintenance Agreement:** Please submit a 2-year maintenance warranty bond for all public right of way improvements.
- b. **Substantially Complete Conditions of Approval:** Prior to final plat approval, complete all required conditions of approval for this application – this includes all improvements shown on the revised plans required in section “1” above.

3. Final Plat Application: In accordance with NDC § 151.250, submit the following for City review of the final plat application. Construction improvements should be substantially complete at this point.

a. Application Materials:

- i. Type I application form (found either at City Hall or on the website – www.ci.newberg.or.us in the Planning Forms section) with the appropriate fees.
- ii. A current title report for the property. “Current”, as defined here, is a report issued within 6 months prior to the application date. Include copies of all existing easements and CC&Rs that pertain to the property.
- iii. A written response to these Conditions of Approval that specifies how each condition has been met.
- iv. Two blue-line copies of the final partition plat for preliminary review by the City Engineering Division. The City Surveyor will make red-line comments on these sheets for your surveyor/engineer to correct prior to printing final Mylar copies.
- v. Any other documents required for review.

b. Dedications/Easements Required: The plat must show the following:

- i. Dedication of approximately 4 feet of right away along the entire length of the north parcel line.
- ii. Private utility easement for the house on the north parcel to access Ninth Street.

- c. **Final Mylar Copies of the Partition Plat:** Submit final Mylar copies of the corrected final partition plat (after red-line corrections have been made). Three sets (one original and two copies), 18 inches by 24 inches in size, of the final partition plan drawn in black India ink in clear and legible form. Original plats shall be in substantial conformity to the approved tentative plan and shall conform to the Yamhill County Surveyor’s specifications and requirements pertaining to material that has the characteristics of adequate strength and permanency, as well as suitability for binding and copying. Plats shall be in clear and legible form and may be placed on as many sheets as necessary, but a face sheet and an index page shall be included for all plats placed upon three or more sheets. Scale requirements shall be the same as specified for the tentative plans.

ATTACHMENT "2"

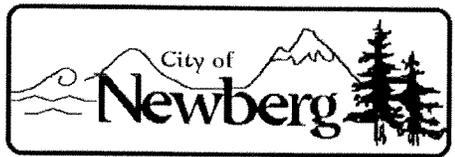
4. The final plat process must be completed prior to issuance of any building permits. The City will review the final plat application after the applicant has completed all of the conditions of approval listed above.

- a. City Review:** In accordance with NDC §§ 151.250.2 and 151.251, Planning staff shall determine that:
- i. Streets, roads, and alleys for public use are dedicated without any reservation or restriction other than reversionary rights upon vacation of any such street or road and easements for public utilities.
 - ii. The proposal complies with this code.
 - iii. The plat is in substantial conformity with the provisions of the tentative plan for the partition, as approved.
 - iv. The plat contains a donation to the public of all common improvements, including but not limited to streets, roads, parks, sewage disposal and water supply systems.
 - v. Explanations of all common improvements required as conditions of approval of the tentative plan of the partition have been accounted for and referenced on the plat.
 - vi. There will be an adequate quantity and quality of water and an adequate sewage disposal system to support the proposed use of the land described in the plat.
 - vii. Either:
 - a) Improvements as required by this code or as a condition of tentative plan approval have been filed with the Director; or
 - b) A performance agreement (bond) or suitable substitute as agreed upon by the city and applicant has been filed with the Director in sufficient amount to insure the completion of all required improvements; or
 - c) A petition for improvements has been properly executed by the applicant who is effecting the subdivision and will be assessed for said improvements.
 - viii. Taxes, as well as public liens, assessments and fees, with respect to the subdivision area have been paid, or adequate guarantee has been provided assuring said taxes, liens, assessments and fees will be paid prior to recordation.
 - ix. The partitioner has entered into agreement with the city relating to completion of improvements, payment of sewer and water hookup fees, inspection fees, public lands payments, monumentation or any other elements deemed relevant to the purpose of this or any other city ordinance, state statute or federal law.
 - x. If the conditions set at the time of tentative land division approval are not fulfilled and the final plat or final map is not recorded by the tentative plan expiration date, the tentative land division approval is null and void.
- b. Required Signatures:** According to NDC § 151.251, approval of a final partition plat must be acknowledged and signed by the following:
- i. The Director
 - ii. City Recorder
 - iii. The County Assessor
 - iv. The County Surveyor
- c. Recording:** Deliver the approved partition plat to the office of the County Clerk for recording. The County Clerk's office is located at 414 NE Evans St, McMinnville, OR 97128.

ATTACHMENT "2"

- d. Completion:** Return an exact copy of the recorded plat to the Director to complete the partition process.
- e. Development Notes:**
 - i. The Planning Division will assign addresses for the partition. Planning Division staff will send out notice of the new addresses after they receive a recorded Mylar copy of the final partition plat.
 - ii. A demolition permit is required for the existing structure.
 - iii. Fire sprinklers required for the new home if no fire hydrant is installed.

APPEAL APPLICATION



OFFICE USE ONLY: (Pre-Application Conference is Optional for Type I)		
Total Ap Fee: _____	File#: _____	Project Cost: _____
Less Pre-Ap Fee: _____	Date: _____	Receipt: _____
Balance Due: _____	Date: _____	Receipt: _____

TYPE - PLEASE CHECK ONE:

- Appeal of a Type I Decision (i.e. Design Review for a Duplex, Sign, or Single Family Residence)
- Appeal of a Type II Decision (i.e. Variance, or Design Review, Subdivision)
- Appeal of a Type III Decision (i.e. Conditional Use Permit)
- Other (explain): _____

APPLICANT INFORMATION:

APPELLANT: SHAWN IRWIN

ADDRESS: 809 SO. MERIDIAN ST., NEWBERG

PHONE: 503.588.1322 MOBILE: 503.560.0877 FAX: _____

CO-APPELLANT (if applicable): _____ PHONE: _____

ADDRESS: _____

GENERAL INFORMATION:

PROJECT NAME: HABITAT NINTH FILE NUMBER OF PROJECT BEING APPEALED: PAR-11-001
JAB-11-001

PROJECT LOCATION: 803 E. NINTH ST., NEWBERG

PROJECT DESCRIPTION/USE: TWO PARCEL PARTITION + VARIANCE

BRIEFLY DESCRIBE THE REASON FOR YOUR APPEAL: _____

SPECIFIC APPEAL REQUIREMENTS ARE ATTACHED

General Checklist: Fees Notice Information Written response supporting appeal.

The above statements and information herein contained are in all respects true, complete, and correct to the best of my knowledge and belief. I affirm that I was party to the initial proceedings.

[Signature]

Appellant Signature

4.20.11

Date

SHAWN IRWIN

Print Name

ATTACHMENT "3"

comment: reason for appeal

file no. PAR / VAR-11-001
Habitat Ninth; 803 E. 9th St.
Leonard Rydell project
tax lot #: 3219DA-2700

Barton Brierley, Planning and Building Director
City of Newberg
Planning and Building Department
414 E. First Street
Newberg, Oregon 97132

Dear Mr. Brierley

I respectfully appeal the partition and variance decision relative to this project. My reasoning and comments are summarized.

As a preface, and as I've stated previously, the Newberg Habitat for Humanity and the Affordable Housing Action Plan - including the new Code changes associated, are all positive initiatives. No exception is being taken.

That said, it is seen as a matter of implementation. Is the implementation, as it's currently proposed, appropriate? Is this the best implementation support the mission to "*Help Shape a Well Rounded Community*"? Is this the best implementation to *serve citizens, promote safety, and maintain a healthy community*? My appeal is that it is not. Not the right thing to do, right here, in the way that is currently outlined to proceed.

In response, I would ask that the Planning Department deny or substantially revise the conditions of approval for this request.

Thank you for your time and consideration,



Shawn Irwin
809 South Meridian Street
Newberg, Oregon 97132
503-560-0877
shawnirwin@gmail.com

(enclosure)

comment: reason for appeal

The reason for my appeal is summarized in previous comments and the following:

Reduction in livability due to noise and disruption:

The true baseline for the proposed changes is **an alley** – used as an alley. Secondary access. In this case, that is infrequent use – the occasional load of compost or backyard brush removal. The use is limited, calm and generally quiet. It is generally neighbors – people that you know or recognize. It is largely daytime weekend use. This character of use is evidenced by the minimal or lack of fences observed along the current alleyway.

1. The illegal use of a makeshift apartment, as proposed in the finding section 151.163, (C), is not a valid baseline for comparison to proposed use. It was illegal. It wasn't OK. Residents, including myself, were constantly frustrated by the ongoing noise and disruption, speed of the traffic, blockage of the alley, and intrusion into other's properties. Finding that it would be *about the same* as "not OK" - is still not OK!
2. Even forgoing the validity of the "as it was" baseline, the noise and disruption generated by the development, as currently proposed, would be substantially greater than the previous use - even the previous illegal use! Compare:
 - Occasional, respectful use mainly by people invested in the block - neighbors
 - No primary access
 - Generally daytime weekend use – yard maintenance

versus (illegal use)

- Primary access with X number of trips in and out each day
- Nighttime use
- Visitors in and out at any hour – people not known, higher speed, stereos, less neighborhood "ownership"

versus (proposed use)

- Primary access with X number of trips in and out each day
- Nighttime use
- Visitors in and out at any hour – people not known, higher speed, stereos, less neighborhood "ownership"
- Daily services; mail, paper, etc.
- **Trash service!**
- Other occasional services, solicitations and drive-by's; parcel delivery, etc.

The impact to livability for the existing residents and the current neighborhood is substantial and negative. The potentially positive offset of having the West half of the alley paved is negligible by comparison.

Certainly, if implemented as approved, there will be more and bigger fences along the alley and less neighborly interactions. This seems contrary to the City Mission, the Planning Mission and even the stated goals in the Residential Development Guidelines.

comment: reason for appeal

Compromises in safety:

Not unlike the compromises in livability, this implementation represents meaningful compromise in dimensions of safety.

Feeling safe:

As noted, the alley has historically been a low use access to the back of properties on the block. In many cases, with no or low fences, residents are attentive to the alley's use – a type of "block watch" is ongoing. The informal notion that the alley is appropriately used, by known neighbors - primarily during the daytime - on weekends, affords block residents not only a peaceful enjoyment of their back yards, but also a more general feeling of safety. Literally, neighbors "watch your back" (yard). I think that the Habitat workers would attest to this. As the usage of the alley would change with this implementation, this dimension of safety will be compromised. Fences will go up. It will be increasingly more difficult to tell who "belongs". And the general feeling of safety – if not the actual – will be reduced.

An analogy: When someone knocks at your front door it's fairly innocuous. It's appropriate. It generally only initiates a moderate apprehension. When someone knocks at your back door it's alarming! *Why is someone out there? - What are they doing? - Why are they knocking on my back door?* It creates uncertainty and fear.

Having more traffic in the alley is not the same as having someone knock on your back door, but it elicits the same emotion.

Again, this seems contrary to the larger aspirations of Newberg.

Pedestrian safety:

How pedestrians might access the proposed residence is nowhere addressed. No sidewalks or walkways are proposed. It must be assumed that they would pass down the 12' wide alleyway – in competition with vehicle traffic. This might be marginally OK during the day (although I'd hate to face a trash truck on 12' of alley) it will be simply dangerous at night. Near the school, this is an active neighborhood with children regularly knocking with some sort of fund-raiser or activity. This typically occurs after work hours, and during the shorter daylight portion of the year, this occurs at night. There is no lighting in the alleyway (nor should there be) and it will be dangerous. This would be a compounded factor on Halloween when parents commonly "track" their children in their cars. This implementation, as it's currently planned, puts pedestrians in harms way. This will be furthered with no traffic controls (speed, direction and no policing) on the alley.

Fire safety:

While adequate fire **access** to the new dwelling (20' wide X 13.5' vertical) would be provided for at the West end of the alley, a 12' gravel alley remains at the East end. This is substantially less than the access requirement and impacts **egress** ability. This will impact emergency staff's ability to exit or evacuate in a normal or emergency situation.

Creation of a backyard "street":

In this implementation, the alley becomes a "STREET" by function and by definition – but not by construction. Pedestrian safety compromises, as previously noted, stem from this. Additionally:

- One of the strongest and most frequent objections noted in the initial site review commentaries was traffic. It is addressed in terms of "noise and disruption" and "compromises in safety", but it is relevant to note that the most convenient access to the new residence is the 12' gravel to the East. With the previous unapproved use access was almost always taken from the East - 1.) It is the most direct route to a local street and 2.) It is a shorter route to an arterial and to common destinations. For example, in a typical trip to Fred Meyer, it represents a .2 mile savings. 350 feet of paving will not likely change this. It is this aspect of traffic that most directly impacts me personally. With this portion of alley being narrow and gravel, it is noisy and commonly dusty. With a common setback distance to my residence, it puts a *street* right next to my bedroom.
- With three perpendicular stalls, parking at the new residence may be substantially provided for. However, a common complaint of homeowners along the alley is that people park in or drive in their yards. With the alley signed "No Parking" this situation will likely get worse. As noted previously, some residents do not have alley fencing so parking in a yard is, while inappropriate, not difficult. Additionally, with only 16' of alley adjacent to the residence property, turning in and out will be difficult. By comparison, a typical parking lot aisle requirement is substantially greater. This will contribute to or even obligate driving through other's yards to effectively park.

Compromising good Planning for the sake of a good Cause:

Recent Code changes adopted to support the Affordable Housing Action Plan go far in accommodating the development of affordable housing. New limits have been established in a number of areas to accomplish this. The current request asks to go beyond – farther than what was just defined and approved as the new limits.

- Even the latest "Flexible Development Standards" call for a minimum of 20' of frontage – this is not a standard, but a conditional minimum. The current request provides 16' – significantly less than the conditional minimum. This should be a "red flag" that this implementation is not appropriate - that this implementation may not align with the Planning and Newberg mission, goals and aspirations.
- The newly adopted standards specify "*through access*" as a condition of "allowing alley access". In this case, with the 12' gravel East end, the "through-ness" of this particular alley is substandard.
- An additional condition of "allowing alley access" is "*that creating a public street frontage is not feasible*". In this implementation, creating access to 9th street would seem to be as or more feasible than allowing 16' of substandard access to the alley, paving the alley, creating drainage for the alley, indefinitely maintaining (at the City's expense) 350' of new paved alley, fire clearance and drainage, and the obligation to enforce the speed, parking, and fire clearance along the alley.

comment: reason for appeal

Summary and Final Comments

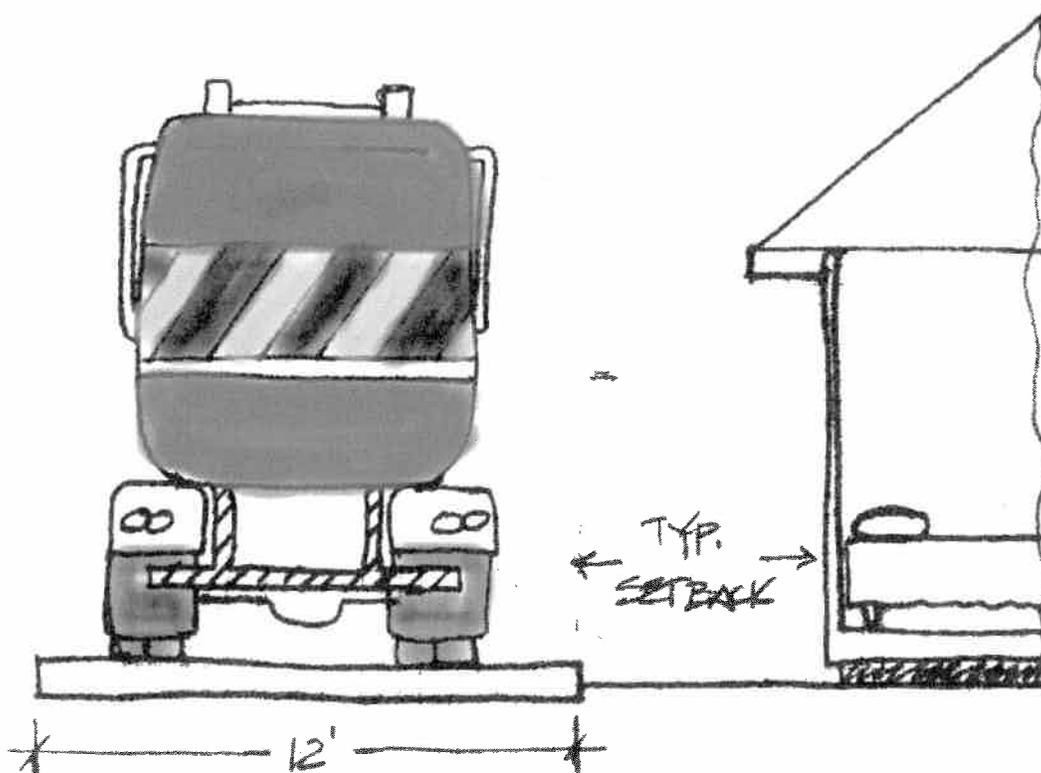
Again, it's not the initiatives at work that are challenged. It is this particular implementation that is being appealed.

- This case pushes Planning beyond the newly adopted limits which were extended for the very purpose of accommodating affordable housing. *It's a call to question when we adopt new limits and the first implementation begs us to go beyond!*
- This implementation puts a street in our backyards and carries meaningful compromises in safety. This is particularly relevant when half the alley is only 12' wide and gravel – *that's particularly relevant to me.*
- As it is currently planned, will directly and negatively impact the value and livability of my property and the majority of properties on this block. This has been demonstrated with the previous unapproved use

Please consider reversing the approval or revisiting the conditions of approval. As it's currently set forth, this implementation has too many flaws.

Thanks for reading!

- Shawn



One of my big objections!
approximately to scale.

ATTACHMENT "4"

comment: proposed new development in my neighborhood

file no. PAR-11-001
Habitat for Humanity
Leonard Rydell project
tax lot #: 3219DA-2700

Barton Brierley, AICP, Planning and Building Director
City of Newberg
Planning and Building Department
414 E. First Street
Newberg, Oregon 97132

Dear Mr. Brierley

I appreciate the opportunity to comment on this important project. I have reviewed the Site Design Review and Variance Application and I have serious concern.

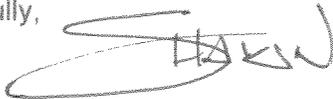
While the Newberg Habitat for Humanity and the Affordable Housing Action Plan are both positive initiatives, neither dismisses the obligation to do solid quality Planning for Newberg's future. The application in review disregards the Development Code. It begs poor Planning. It would create inequity in the surrounding neighborhood. And, it sets bad precedent for our city.

As instructed in the City Manager's letter, I have articulated my specific comments and concerns relative to the cited decision criteria in layperson's terms and in an order mirroring the developer's application (next pages).

Additionally, I have solicited comment from my community neighbors – both door-to-door and in opening my home for a neighborhood forum to discuss the proposed changes. The residents in this block know and understand the impact of the proposed and permanent changes as the previous residents of the discussed property occupied not only the house, but also the unapproved makeshift apartment fronting the alley. I have summarized some of the issues that raise opposition and collected their comments in opposition (attached).

In response, I would ask that the Planning Department adhere to City's Development Code, demonstrate the accountability of responsible quality community Planning and reinforce that Newberg's Code has purpose by rejecting: 1.) the partition / lot line adjustment request 2.) the variance request #1 to allow a less than standard front yard and 3.) the variance request #2 to allow primary access onto an alley.

Respectfully,



Shawn Irwin
809 South Meridian Street
Newberg, Oregon 97132
503-560-0877
shawnrirwin@gmail.com

(enclosure)

ATTACHMENT "4"

Comments regarding the Newberg Development Code and Developer's Application: (decision criteria)

Regarding the Application section titled *Introduction and Background*:

1. The developer's introduction does affirm that it is an "alley" (not a street) to the North of the property – although later begs that the alley might be considered a "street" based on language from a 1950 deed.



The alley west: This is consistent with a typical alley and consistent with the Code's definition of "ALLEY". This clearly does not meet the definition of a "STREET" nor is there any evidence that it was ever intended as to - despite the width and the unsolicited trimming already performed for neighbors by the Habitat for Humanity work team.

2. The developer's introduction premise is fundamentally flawed. The application assumes that a legitimate *home* exists on the Northern portion of the property when, in fact, this was an unapproved makeshift apartment created by enclosing a carport. The developer then incorrectly proposes to "right the wrong" by establishing access to the second *home* when the "wrong" truly is the assumption that there is a valid second *home* pre-existing on the north half of the property.
3. Closing this section, the developer makes a final emotional appeal, citing the desire to demonstrate a "make it work" approach to "underdeveloped" areas of Newberg. With this comment, the developer seems to insinuate that this is an "undeveloped" block or possibly that it is, in some way, not OK to have a backyard and garden. While neither Newberg's Comprehensive Plan nor its Development Code define "underdeveloped" it would be hard to argue that the residents in this neighborhood has not made good use of their modest properties with effective yards and gardens. Further, it would be absurd to characterize a property with a fenced back yard and a garden space as "underdeveloped". By premising that this is an "underdeveloped area" the developer clearly illustrates a lack of understanding – or it wishes to simply disallow – the effective dynamic of a simple neighborhood with modest yards and gardens. On the contrary, allowing shoehorn development in the proposed manner will only serve to unbalance a long and stably established area of Newberg directly proximal to Edwards school. This is not a neighborhood that needs to be "fixed"!

ATTACHMENT "4"

Re: 151.236 Property Line Adjustments:

Under section "(B)", the developer again grounds his argument and finding on the basis that two appropriate dwellings preexist (including appropriate access) and attempts to take the position of "righting the wrong". This argument, "righting the wrong", is grounded on false premise. Clearly, two dwellings are not legally established and this is supported by current tax records (acct. 55889) and recent sales data.

Related to item (B.2.a,b), a "substandard condition" would indeed be created by the proposed lot line change in that there would be no primary access to the newly defined north lot. The following access variance request is then, by this argument, necessitated to "fix" the substandard condition created by the lot line change.

Currently both existing lots have appropriate access from 9th street and, contrary to the application's *Finding*, no substandard condition previously/currently exists.

The clear purpose of the adjustment is articulated in the *Finding* under (B.2.) where, "*The purpose of the adjustment is to allow the two separate dwellings on the two lots to be remodeled and individually sold.*" While this would be convenient and profitable for the developer, it is not a legitimate rationale for poor planning - the granting of a lot line adjustment which creates a "substandard condition". This is restated similarly under (B.2.b).

Re: 151.551 Front Yard Setback:

Regarding (A.1.), while the Southern residence meets the requirement, the developer indirectly requests a complete dismissal, rather than a variance, of the front yard requirement for the proposed Northern residence. Zero front yard is directly in conflict with the livability described in the broader Comprehensive Plan and Purpose (151.002) of Newberg's Development Code.

Regarding (A.3.), the Code's requirement in this section assumes that the alley will be used consistent with its "ALLEY" definition – defined as a secondary access. The Code is ambiguous as to how it applies in a proposed primary access case. In this section, the developer finds benefit and exception from Code requirements in a literal interpretation of the "alley". Characterizing the alley as an "alley" suits the developer's purpose in this requirement as an alley does not obligate a front yard. Common logic would find that a requirement relative to a primary access would be relevant in any established primary access.

Re: 151.567 Lot Dimensions and Frontage:

Regarding section (D), it is evident (and acknowledged in the application) that neither existing lot nor the proposed North adjusted lot have street frontage to the North as required in the Development Code – the north frontage is clearly to an alley and, at the frontage, the alley is only 12 feet wide. Beyond that, to say that the property has 20 feet of access through the alley to the West is completely inaccurate as the 20 foot wide portion of the alley does not begin until the Western most line of lot 9.

Fronting a 12 foot alley does not address the Code frontage standards in any way. The developer simply dismisses this requirement by not addressing it. In contrast to section 151.551, where the developer defines the alley as an "alley", the developer, in this section, characterizes the alley as simply, "*a tract of land conveyed to the City of Newberg for 'street purposes'*" uses the term "*Public Street*" and later "*deeded street*" for the Westward alley as it is more favorable to his purpose. Through this manipulation of language, the developer seeks to interpret each section of the Development Code in a manner most favorable to his purpose. Without addressing the frontage issue specifically, the developer proceeds to two variance requests based on a hopeful interpretation about access:

ATTACHMENT "4"

Continuing, the developer floats two possible "force it to work" scenarios:

1. The developer asks to consider a compounding series of extrapolations. Consider that the West alley is a "deeded 'public street'" and consider that "all 'public streets' are really 'easements'" and, despite being only 20 feet wide, interpret that the alley satisfies easement "access" – yet this progression never directly addresses the frontage requirement.

or, "if access is interpreted as 'frontage on a public street' and the 20 foot deeded street is interpreted as an 'alley'"

2. Just dismiss the requirement all together, citing that "a variance from 25 feet to zero (0) feet is necessary and hereby being requested as applicable".

This section of the Code is about "Frontage". It is titled such, and section "D" is titled nothing other than "Frontage". Section (D.1.a) clearly articulates access in terms of a frontage requirement – which is in no way satisfied by a North adjusted lot. Likewise, it is clear from the Code Definitions that the alley is not a "deeded public street". In these regards, the partition and variance request can only be seen as an unacceptable dismissal of Development Code frontage requirements.

Additionally in this section's *Finding*, the developer suggests that the access to the West meets Chapter 5 of the 2010 Oregon Fire Code as it is 20 feet wide. While, on the surface, this portion of the Fire Code may seem satisfied, the Fire Code goes on to state (503.2.1 Dimensions.) that the 20 feet must be unobstructed to a height of not less than 13 feet 6 inches. Interpreting this requirement, it becomes incumbent on the City to indefinitely maintain this 20 foot clearance to insure appropriate fire safety. Seeing the current overgrowth of fences along the alley, this is neither practical nor a good use of taxpayer monies.

If it is interpreted that the alley indeed provides adequate fire access, it is observed that this fire access dead-ends at the lot 9 Westward line where the clearance then becomes only 12 feet wide and less than 13 feet 6 inches high. The Fire Code is clear about this situation (503.2.5 Dead ends.) and calls for an *approved* area for turning around fire apparatus. This is overlooked in the application.

Frontage and access are the most dramatic deficiencies of this variance application. They are areas of fundamental shortcoming relative to Newberg Development Code and establish significant long term Planning compromises. On another front, they represent substantial compromises to neighborhood welfare, safety, and will almost certainly negatively impact property values in the vicinity. As mentioned previously, this is based on previous experience – not simply a projection.

Additional consideration must be given to the future. Looking forward, if allowed, it must be considered that each property along the alley (and other alley's across the city like this one) would have precedent for partitioning, fronting and establishing primary access off of an alley. *Allowing this for everyone*, in this block alone, could mean up to 12 residences taking primary access of the alley. This situation would certainly be unworkable, unsafe and inconsistent with the objectives of the Newberg Comprehensive Plan and Code as well as in contradiction to the stated purpose of the Street and Transportation Standards (151.680 Purpose) The other option, restraining that eventuality to *just this one exception* creates a significant special privilege for this developer and a strong inequity amongst area property holders. It effectively establishes a publicly maintained private driveway – clearly a irresponsible and unjust use of taxpayer dollars.

Re: 151.162 Application:

In section (B), a weak appeal to aesthetic considerations is framed relative to variance #1. The aesthetic appeal cites retaining rear yard aesthetics but neglects to offer that it is at the compromise of front yard aesthetics – which affects the broader neighborhood. More generally, and throughout

ATTACHMENT "4"

sections (151-163, A-E), the motivations are characterized in terms of an "affordable goal" and articulated in how developing the property to Code would "greatly increase the cost".

Re: 151.163 Type II Variance Criteria:

The developer articulates the nature of the variance requests in section (A), but fails to address "*strict or literal interpretation and enforcement of a specified regulation would result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of the Code*". An aesthetic appeal, similar to the previous section, is framed relative to variance #1 but again neglects to offer that it is at the compromise of the more prominent front yard aesthetics. More broadly, the motivations consistently characterized in this application are framed in terms of cost".

In section (B), the *Finding* cites the goals of *bringing existing improvements up to current Building Code* and of *minimizing the changes to the neighborhood* when it is clear that the partition and variances requested defy the Building Code and will dramatically change the neighborhood by permanently allowing a residence to take primary access from the alley. Because the previous residents used the unapproved makeshift garage apartment, the residents of this neighborhood are very experienced in the negative impact implied by this change, with significant uncontrolled traffic, congestion, noise and activity in the alley. Furthermore, it is typically the East alley access that is/was typically used. Despite being only 12 feet wide, the East access is not only shorter, but also, Meridian Street represents more direct egress from the neighborhood. In that this portion of the alley is only 12 feet wide, it is routinely overdriven all the way out to Meridian Street. This situation is again repeating itself with the addition of the Habitat for Humanity construction traffic. A comment related to variance #2 alludes to a potential substandard fire access if this variance is not allowed, however no rationale is given. Rationale in this section again focuses on the cost and affordability motives.



Left: The alley west with a typical example of the adjoining yards being overdriven

Right: The alley east showing silt running into the street - the effects of traffic and improper drainage

ATTACHMENT "4"

The *Finding* of section (C) is founded on the logic that neighboring properties set precedent for future developments. Clearly this is not consistent with Newberg Development Code or modern development practice, otherwise all new construction would have no insulation and tin can lids nailed over knot holes – it costs less! Also in the section (C) *Finding* related to variance #2 (access), the argument is made that “*primary access is prohibited*” tenuously “*just because a lot line adjustment is being proposed*”. It should be noted that a Development Code is specifically in place to prohibit this type of problem – prohibiting a partition, as in this case, that creates a substandard condition. It stands as clear rationale for rejecting this application. An alley is clearly defined in Newberg Development Code as being for secondary access and there is no unique compelling reason that this partition must occur. This section again focuses on the cost and affordability motives.

In section (D) the neighboring property precedent logic is again used, along with the goals previously cited. This section again mentions the cost and affordability motives. It is important to note in this section that allowing the partition and variances will indeed effectively grant special privilege to the developer. It is observed that there are no other cases within a ¼ mile radius of the property in question where the residents are allowed to take primary (and only) access from an alley.

In section (E), the developer claims that not allowing the variance #2 (primary alley access) will *be detrimental to the public health, safety or welfare or materially injurious to properties or improvement in the vicinity*, yet offers no facts to support any of these claims. In fact, the contrary is more accurately the case. If the alley is allowed to serve as primary access, livability as cited will be diminished for the entire block with constant traffic to and from the property. Pedestrian safety in the alleyway will be compromised and, as noted previously, property values along the whole block will be negatively impacted. Actual experience shows this! Additionally, allowing a home central to the block with compromised fire safety creates a compromise in the fire safety for all residents on the block.

In summarizing this “Application” section, it must be remembered that the developer is proposing this plan of his own volition and for the profitable motive of selling two residences. There is no practical difficulty or unnecessary physical hardship (inconsistent with the objectives of the Newberg comprehensive plan and code) articulated or observed that compel partition of this property and associated variances. It is simply profit driven and thus a poor justification for compromising good sound Planning.

Re: 151.241.2 Partition Requirements:

In section (B), the partition requirement states that the partition complies with the Code but, in that it proposes a Northern residence without allowed primary access, the partition itself does not comply. It is stated in the *Findings* under that it is the intent of this application to conform to the requirements of the Code.

Re: 151.721 Streets and Alleys:

The developer finds favor in this requirement in recognizing the alley again as simply an alley, not a “*dede*ded ‘*public street*’”. It would follow simple logic that any instance of a development’s primary access be paved to Code to include curbs, gutters, sidewalks and appropriate drainage. In this hypothetical case, it would be doubtful that either alley end would provide adequate curb return radii for good access.

Re: 151.704 Sidewalks:

Sidewalks are addressed in the *Findings* for the proposed South residence, but completely omitted in the application for the proposed North residence. In this regard, pedestrian / public access is simply not provided for in the proposed plan.

ATTACHMENT "4"

Re: 151.615 Parking Area and Service Drive Improvements:

The *Finding* under section (G.1.) indicates that parking is provided for on the Northern Parcel by two proposed parallel parking spaces. Experience with this, as it was used unapproved by previous owners, is that this is completely inadequate. There simply is not adequate room to maneuver into a parallel space off of the alleyway without encroaching on the adjoining properties. This was observed consistently. Additionally, this plan provides no visitor parking and obligates that to either Meridian or College Streets. Without adequate sidewalks or pedestrian access, as noted above, this creates a safety hazard with cars (unregulated) and pedestrians competing for the same space – sometimes in the dark and with no lighting.

Fire Code Concerns:

According to the application, the City Fire Staff has made four recommendations regarding a lot line adjustment/partition to obtain two legal residences. Two of the four have been dismissed by the developer with only third and fourth adopted.

Regarding recommendation #1: The street/alley should be one way.

The *Response* suggests that the requirement is unnecessary and only serves to increase the driving time for the proposed North residence. There is no explanation given to this increase, but in one regard this seems to validate the experience previously observed where access is almost always taken down the 12 foot wide section of the alley way to Meridian Street. The travel to a main street is shorter in this direction and Meridian makes significantly better connections than College in this block. It is presumed that this preference would prevail if the application is approved despite any improvements in the West, 20 foot wide, end of the alley – unless the alley is dedicated one way. Regarding the specific recommendation, it is easy to understand Fire Staff's potential concerns of meeting a car head on in an uncontrolled alley during an emergency situation where residents are trying to evacuate while Fire Staff is trying approach. This easy understanding in contrast with the apparent ease with which the developer dismisses Fire Staff's concerns is troublesome and leads one to speculate about what other safety concerns are simply dismissed - and why. Is safety compromised to save the project cost? It seems that the developer may be advocating that the next developer bear the burden of these improvements with its recommendation "*that this requirement not be mandatory until such time as there is more than one primary access on the street/alley*".

Regarding recommendation #2: The alley should be signed "NO PARKING".

The *Response* is nearly a parrot of the first. As a layperson, it is easy to understand the importance of not blocking a primary access in the case of emergency / fire. Alley blockage was regularly observed in the past with occupancy of the garage. This continues even today, for hours on end, with Habitat for Humanity staff. It is anticipated that this would prevail if the application is approved.

ATTACHMENT "4"



The alley west, 2/26/11: showing typical blockage with vehicle parking and typical encroachment onto neighboring properties.

Another dimension of the Newberg Development Code that is applicable but not addressed in the application is:

Re: 151.538 Public Access Required:

No building or structure shall be erected or altered except on a lot fronting or abutting on a public street or having access to a public street over a private street or easement of record approved in accordance with provisions contained in this code. New private streets may not be created to provide access except as allowed under § 151.449.2(B)(8) and § 151.448.1(B)(24). Existing private streets may not be used for access for new dwelling units, except as allowed under § 151.567. No building or structure shall be erected or altered without provisions for access roadways as required in the Uniform Fire Code, as adopted by the city.

Allowance of a proposed Northern adjusted lot is in breach of this requirement.

ATTACHMENT "4"

Summary and Final Comments

Again, the Newberg Habitat for Humanity and the Affordable Housing Action Plan are both positive initiatives, but neither dismisses the obligation to do solid quality Planning for Newberg's future.

In this particular case, the accommodations requested in this plan go beyond even those proposed in the Affordable Housing Action Plan's Strategy #4: *Change development code standards*. Beyond sensible future focused Planning.

The application in question disregards the Development Code and its Requirements. It simply begs poor Planning. It would create inequity in the surrounding neighborhood, and sets bad precedent for our city.

Regarding precedent, approval of this application would set a bad example for the spending of taxpayer monies –funding indefinite maintenance of what is essentially a private driveway.

I'm opposed to the developer's partition and variance request because granting such request broadly represents poor Planning.

It represents poor Planning because it requires such a high degree of variance and accommodation to "make it work".

It represents poor Planning because making it work creates inequity and imbalance in the neighborhood and sets bad precedent for future development in a number of dimensions.

I'm opposed to the developer's partition and variance request because:

- It will directly and negatively impact the livability of my property as previously experienced from the unapproved use of the makeshift garage apartment with added traffic, congestion, noise and activity.
- The additional uncontrolled primary access traffic and congestion will compromise my safe use of the alley.
- Having a home central to the block with compromised fire access will compromise my personal fire safety.
- Adding housing that skirts Code and is inconsistent with all existing properties on the block will disrupt the current stability and future outlook of a quiet and established neighborhood. It will disincentivise private neighborhood home improvement motivations and will ultimately fuel neighborhood degeneration. In this way, it will directly impact my current and future welfare.
- Having additional residences shoehorned into the block will compromise my already reduced property values.

I would ask that the Planning department sustain the accountability of responsible quality Planning, reinforce that the Building Code has purpose, and reject the 1.) partition, 2.) front yard, and 3.) primary alley access variance requests.

ATTACHMENT "4"

This is a response to: File No. PAR-11-001

To the City of Newberg,

We ask that you hear the voices of the community:

We the neighbors of property 803 East 9th Street, Newberg oppose the approval of a two-lot partition and a variance allowing for one of the lots to take primary access from an existing alley, as stated in the letter received by the City of Newberg Planning & Building Department in regards to the file number above.

Here are some issues that raise an appeal to this case:

1. Additional noise to our private backyards (and for some side yards). This was already experienced while the garage was used as a residence.
2. Dust and noise created by more traffic in the gravel alley.
3. Having our backyards now face someone's front yard (for some) affects our peaceful enjoyment of our large back yards.
4. Speed of traffic and increased traffic down a currently quiet alley.
5. Compromise safety at the ends of the alleyway for pedestrians and through traffic.
6. Creating more alleyway traffic congestion disruption and activity.
7. Compromising the peaceful enjoyment of your back yard.
8. Compromising safety with cars, pedestrians and play competing for the same space.
9. Create additional congestion with vehicles entering and exiting the alleyway.
10. This change could affect the property values of the neighbors on the block of 803 East 9th Street.

and lastly:

11. No exceptional circumstance seen to require the change from the Newberg development code.

In signing this response, I am in agreement with some or all of the issues stated above. My additional comments are added below.

Name: Dana R. Cleverger Date: 2/27/2011

Address: 806 E 8th St, Newberg, Or 97132

Comments: _____

ATTACHMENT "4"

This is a response to: File No. PAR-11-001

Name: Tawny Stock Date: 2/27/2011

Address: 705 E 9th St.

Comments: traffic too much already

Name: Gerry Linhart Date: 2/27/2011

Address: 825 E 9th St

Comments: worried about blocking fire trucks

Name: Beverly June Fleener Date: 3-5-2011

Address: 800 E 8th St Newburg OR 97132-3408

Comments: I am opposed to having a dwelling on the back side of the 803 East 9th lot. Facing an alley is unsafe

Name: Verle S. Fleener Date: 3-5-2011

Address: 800 E 8th St Newburg OR 97132-3408

Comments: See above Fleener

Name: Ramsay Stewart Date: 3-5-2011

Address: 710 E 8th Street

Comments: I attached a letter from Ramsay and Stephanie Stewart

Name: Noelia Spaniol Date: 3-8-11

Address: 704 S. Meridian St

Comments: Safety, Purpose of Building codes, I've also submitted a letter.

ATTACHMENT "4"

This is a response to: File No. PAR-11-001

Name: SHAWN IRWIN Date: 3/8/11
Address: 809 SOUTH MERIDIAN ST., NEWBERG.
Comments: PLEASE SEE PRIVATE RESPONSE LETTER

Name: _____ Date: _____

Address: _____

Comments: _____

FROM THE DESK OF
NOELIA SPANIOL

March 6, 2011
704 South Meridian St
Newberg, OR 97132

City of Newberg - City Manager.

In response to File No. PAR-11-001

There are several issues that raise opposition to approving the request of the two variances allowing two existing dwelling units to be remodeled and sold as separate lots.

The main concern I have from reading the "Site Design Review and Variance Application" is the findings and recommendations from the Newberg Fire Department and the response from the applicant. There are reasons why we have codes in place like *"access to a public street for a distance of at least 25 feet or have access to a public street through and easement that is at least 25 feet wide"*. The northern lot does not have "frontage" to the so called 20' deduced "public street". I would hope that the City does not ignore this building code. I'm hoping the City of Newberg will consider the safety of *all* on these two blocks and therefore not approve the request for the variance. From the plans shown, it looks like access from 9th street is possible.

It seems like the applicant is asking for a special privilege by having primary access from an alley and to allow special building codes to one property in this neighborhood. While the idea of providing affordable new housing in Newberg is noble and important for our community, I think there are better opportunities to accomplish this without creating special privileges from the City of Newberg when it comes to following building codes.

The applicant makes comments that by dividing the lots and having to follow code, it would deprive the applicant of privileges enjoyed by neighbors. On the contrary, neighbors currently enjoy having private backyards, the applicant would in fact be depriving the neighbors of the peacefulness they've had and enjoyed. It would deprive them of the choice they had when purchasing their properties of only having a street in their front yards and *backyards* in their backyards. It would also affect the safety of sidewalk pedestrians on Meridian Street, pedestrians on College Street, and ignores the idea of pedestrians "in" the alley.

The applicant also mentions that by not allowing primary access to the alley it would greatly increase the cost to the project. The applicant acknowledges that a variance allowance would still result in substandard access for the proposed northern property. So one would wonder, why split the lot?

Sincerely yours,



Noelia Spaniol

ATTACHMENT "4"

To: City of Newberg Planning and Building Department

I am writing to express my concerns about the partition variance and site design review application for 803 East 9th street, Newberg. I live on 8th street and just a few lots down from the lot in question and I have some concerns about how approval of this application will affect my neighborhood and my own property. I would like to express my opposition of this matter by listing a few of my concerns that I hope you will consider while reviewing this application. I am concerned that it is going to create an excessive amount of traffic down the alley between 8th and 9th street which is now quiet and enjoyable I am also concerned that it is going to cause excessive disruption to the back of my property. Further it is not a paved drive which would create excessive dust and noise from traffic and as my bedroom is at the back of the house it would disrupt my comfort in my own home. I am also concerned about the privacy of my backyard by facing the front of someone else's house, as well as from the traffic caused by using the alley as a main drive. Right now I enjoy the peacefulness of my back yard and this will undoubtedly be disrupted. Furthermore it will compromise the safety of pedestrians competing for the same small alley space. Also it would affect the safety of pedestrian including the school children who walk to and from school at either end of the alley. I am also concerned about how this is going to affect my property value, as I have just purchased my home one year ago and would have never considered purchasing in this area if I thought that I was just going to be putting money into a losing investment. Also it has been brought to my attention the lack of access for the fire department and other emergency vehicles, this is a major safety concern for me and my neighbors. There is also an issue of the garbage disposal and the access for the trash trucks. This also brings up issues about the condition of the road in the ally not being appropriate for the heavy duty vehicles. In talking with my neighbors, parking issues have been brought up about cars blocking the ally not allowing me access to my back yard and denying appropriate access to the ally for emergency vehicles if so needed. Thank you for your consideration of my concerns and I hope you make the right choice for the existing residence in this community.

Sincerely,

Ramsey and Stephanie Stewart

710 East 8th street

ATTACHMENT "4"

TO:

**City of Newberg
Planning & Building Development
Newberg, Oregon**

Written Comments: File No. PAR – 11-001

FROM:

**Kirk Davis
709 E 9th St
Newberg, OR.**

**RECEIVED
MAR - 8 2011**

ATTACHMENT "4"

To Whom It May Concern,

I am writing in regards to the Application for a variance to tax lot # 3129DA-2700. This is the property located at 803 E 9th St, Newberg, OR. As a homeowner who lives one lot away from this property, I would like to voice my opposition to this proposal. There are a number of factors that lead me to this decision. I have walked over to the property to try and visualize the changes to the property. As it stands, the new single family dwelling they refer to is in essence nothing more than a converted two car garage that already sits closer to the alley than any other structure on this block. It never was zoned or designed to be a family dwelling. Trying to add two parking spaces in the very limited area would be a dangerous place to park cars with those parking places being directly on the right of way of the alley, and could lead to cars being parked askew and impinging on the normal egress through the alley. Then there is the additional concern that a barely traveled alley starts to now become more like a street with additional traffic.

East 9th street in this area is already a heavy traffic area so I do not see adding more traffic through an unimproved alley to be a benefit to our neighborhood. Then there is the fact that in order to make it two dwellings you must squeeze two families into what is a single family lot, that could barely fit a garage in the first place. Now you would have two families sharing that same lot and with the additional total of four parking places needed, the lot then becomes nothing but house and parking places and no yard to speak of. If you were to view the rest of the houses on the block they all have a yards and this change is not something that fits into the fabric of the block.

ATTACHMENT "4"

With the proposed changes it would give that property the appearance of apartments and could possibly degrade the value of the rest of the homes around it. The house and the lot it sits on are not designed to support two single family dwellings. Now as someone who owns property that is sub-dividable through the existing city ordinances, would you want to see me add three additional single family dwellings a mere 50 feet away from this property to make a total of four single family dwellings? I would hope that no one would want that type of development to start here. IF that were the case then by merely following the example of this property in question I could transform this block in to something that would appear like apartments and in turn destroy the neighborhood feel.

We already live in a neighborhood where there is a large volume of traffic and very limited parking. It would set an unwanted precedent on this block and would detract from the character of our neighborhood. Please do not allow this change to happen. Just because you can convert a garage into living quarters does not mean that it should then be turned into a dwelling because in order to do so you must shoehorn that into a lot that cannot support it, add traffic and parking woes to an area that already has them and start destroying the look and feel of a neighborhood along with the possibility of degrading property values.

In turn if the property values decrease than the taxable income from the surrounding properties will go down. And driving down value in a declining market cannot be something that the city should be in favor of pursuing. The planning board cannot want to start decreasing the taxable revenue of a multitude of houses in order to fit one very undersized dwelling that is out of place in this type of neighborhood. There are

ATTACHMENT "4"

already apartments across the street from the proposed address that via for the very limited number of parking places on the street. Adding to this dilemma and in turn forcing two houses into one lot cannot be a decision made in good faith of the families that already live here. Please decline this application. If there is any doubt about your decision I beg you to take the time and to drive to the property to view it personally so you can truly understand what is being asked of not only you, but what you are in turn asking us to accept. The public notice document does not give you an accurate feel for the neighborhood but rather it is just a piece of paper with measurements on it. Don't take the family feel of our neighborhood away but allowing what in essence and in appearance is like putting apartment buildings here. Seeing as the lot was purchased at an already low figure, I also feel that they are only trying to double their investment money without any regard for the rest of the folks who already live here. This is a business venture and not a family who is looking to build a life here. And as a business venture I see no reason that they should be granted special favor in order to gain income at others expense.

Thank You,

Kirk Davis

709 E 9th St.

City of Newberg
Planning and Building Dept.

We are opposed to the building of a second house at 803 East 9th St. To use the alley as the main driveway.

We have had many problems with the previous occupants.

- Ex: Increased speed and volume of traffic,
- Parking in the alley and blocking the alley,
- Parking in our yards, and turning into our yards.

By allowing the driveway to open onto the alley will only increase these problems.

Thank you
W. T. Levensen
Doro R. Cleveland

ATTACHMENT "4"

March 2, 2011

Written Comments: File No. PAR-11-001
City of Newberg
Planning & Building Department
P.O. Box 970
Newberg, OR 97132

Re: The partition and variance request for 803 East 9th Street Newberg, OR
Tax lot number 3219DA-2700

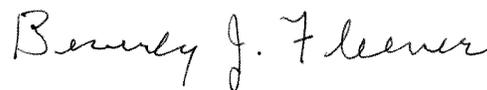
We are opposed to this variance and partition. We have already experienced having people living in the building on the backside of that lot. It was not pleasant. They created a lot of activity, dust, noise and loud music, blocked the alley frequently and made the alley unsafe.

However at that time we still had some privacy as our shrubs were thick enough to filter some of the sound and dust. These new builders took it upon themselves to reach through the fence and trim off our shrubs exposing our poor dilapidated fence and destroying our privacy.

An alley is not designed to handle that much traffic. To maintain the alley the city keeps dumping more gravel. More gravel in the alley has caused more water backup in our yard.

It is sad that the builders are pushing to build on an inferior lot when there are so many vacant lots in Newberg.

Sincerely,



Verle S. and Beverly J. Fleener
800 E. 8th Street
Newberg, OR 97132-3408

Pete Champagne

815 So. Meridian

Newberg, OR 97132

Members- Planning Commission:

I am writing on behalf of my Dad, Pete Champagne, who is unable to write or attend the hearing and appeal for a proposed building site owned by Habitat for Humanity - 803 E North St.

My Dad has lived at 815 So. Meridian since mid 1960. For many years - a building that appeared the use was meant for a garage, was used as a residence - same location as new proposed building site. We always questioned the legality of that which was not the real problem - it was the traffic coming and going all hours of the night - a motion detector light and the many cars parked in the area - the dust - noise. It has been much more peaceful in the neighborhood with the building unoccupied.

Habitat for Humanity is a wonderful

organization, however we do not approve of the proposed building site for a new home with access only from the alley. When was an alley meant to be a thorough fare?

At the present time - back yards border the alley - most are fenced. We have no problem with a neighbor building a garage on their property - access from the alley - the alley also allows access to yards for property maintenance. A home - access to the front of a house from the alley only changes the complexion of the neighborhood completely. What would keep anyone from going to property owners and encouraging them to sell off back halves of lots for future building? This is high density housing - in fill. Call it what you like - we don't want it.

Thank you.

Pauline Champagne (Tombach) for
Pete Champagne

ATTACHMENT "4"

May 2, 2011

Written Comments: File No. PAR-11-001/APLG
City of Newberg
Planning & Building Department
P.O. Box 970
Newberg, OR 97132

More than 50% of the homeowners who have property that borders on the alley between 8th and 9th streets are opposed to a new dwelling being constructed on the north side of 803 East 9th Street.

A few of our concerns are:

With the alley used as a street, through traffic in the alley at all hours does create disruptive noise and activity. We have already had the experience of having people living in a building on the back of that lot. Even with partial improvement, the width and construction of this alley was never intended to support this type of use.

There are no street lights or sidewalks making pedestrian traffic extremely dangerous.

There is a drainage problem on this block. There was a legally build carport on the north side of 803 East 9th. Through the years several rooms were illegally added to that structure. With each addition our drainage problems have become worse.

With the new dwelling and its paved parking expected to take up most of the lot we can all expect even more back up of water.

Our property values have plummeted and can be expected to fall further if would be buyers find that spacious back yards with room for kids, pets and gardens are no normal for this block.

Sincerely,




Verle S. Fleener
Beverly June Fleener
800 E. 8th Street
Newberg, OR 97132-3408

RECEIVED
MAY 3 2011

To The Planning Commission:

We are writing to express our concerns about the house to be built, with access to the alley between 8th and 9th streets, between Collage and Meridian. House number is 803 E. 9th.

Some of our main concerns are:

① Drainage: When the alley is paved the water will drain off into our yards. As two of the houses have basements, it causes more backup in them.

② Increased traffic: Many people use the alley to avoid heavy traffic on 8th and 9th. In the past we have many cars parked in our yards and block the alley.

③ People coming up the alley use our yards to go to the school on 8th St.

These are some of the problems we have had, but there are several others.

We hope you will consider what ~~our~~ concerns are:

Thank You

William T. Sawyer
Dana R. Cleverger

ATTACHMENT "4"



*Now More Than Ever.
Help Build It!*

Planning Commission
City of Newberg
PO Box 970
Newberg, OR 97132

May 5, 2011

Re: Appeal to PAR/VAR – 11-001, 803 E 9th Street

Dear Commissioners and Student Representative:

We believe the conditions of approval outlined by the Planning and Building Department in the staff report dated April 7, 2011 completely address the concerns raised in the appeal submitted by Mr. Shawn Irwin on April 20, 2011.

In Mr. Irwin's submittal he cites noise and disruption, safety, and the creation of a backyard 'street' as the basis for his objection. We believe the April 7 staff report address these issue, specifically:

I. Safety - the conditions of approval require that we:

- 1) Pave from College Street to the edge of our property
- 2) Maintain a horizontal clear area
- 3) Install signage indicating 'Fire Lane - No parking'
- 4) Potentially install a new fire hydrant or fire sprinklers in the new home

As noted in the staff report, (Section III a) all of these actions "will improve emergency access for all the homes that abut the alley". With the required improvements, safety will be improved in the neighborhood.

II. Regarding noise and disruption and the creation of a backyard 'street':

The staff report notes (Section III b), that the area in which Mr. Irwin lives "was not originally developed to R-2 density, as the comprehensive plan and zoning map intended."

RECEIVED
MAY 5 2011



ATTACHMENT "4"

*Now More Than Ever.
Help Build It!*

Not building to density has been a historic problem for the City of Newberg and one that the award-winning Affordable Housing Action Plan seeks to address. Building to density requires change. The perceived change is what Mr. Irwin objects to. However it should be noted, that the alley, in its unimproved state, is already in use.

III. Design and Neighbor Input:

Newberg Area Habitat for Humanity is a community-based volunteer organization and as such, we take input from our neighbors seriously. We initiated a meeting with our 9th Street neighbors on March 10. We then met individually with Mr. Irwin on April 15.

Hearing input from the neighbors, we revised our plans. While we once envisioned a two-story three bedroom home, we heard the neighbors' concerns and now plan a 900 square foot single-story two-bedroom cottage on the 3500 square foot lot.

The house will be home to a single mother and her son. This revision will further reduce the impact on the alley.

IV. Conclusion:

In conclusion, good planning, good design and good land use are all essential to the creation of vibrant neighborhoods. We feel that our application for the partition of the lot at 803 E 9th Street meets and will further these objectives.

We further believe this 7200 square foot R-2 parcel offers the opportunity to showcase solid planning, design and land use decisions while implementing some of the objectives of the City of Newberg's Affordable Housing Action Plan.

The safe, decent, affordable 900 square foot home that we build on this site will be a solid addition to the neighborhood and to the City of Newberg.

Thank you for your time.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Rogers", written over a white background.

Rick Rogers
Executive Director

TYPE IV, LEGISLATIVE PUBLIC HEARING PROCEDURE

1. OPEN THE PUBLIC HEARING, ANNOUNCE THE PURPOSE, DISCUSS TESTIMONY PROCEDURE, AND TIME ALLOTMENTS¹
2. CALL FOR ABSTENTIONS, CONFLICTS OF INTEREST AND OBJECTIONS TO JURISDICTION
3. STAFF REPORT
 - A. PROJECT SUMMARY AND RECOMMENDATION BY STAFF
 - B. STAFF SUMMARY OF LATE CORRESPONDENCE SUBJECT TO PLANNING COMMISSION REQUEST²
4. PUBLIC TESTIMONY (SEE "HOW TO TESTIFY" FORM)^{3 4}
 - A. THE PLANNING COMMISSION CHAIR WILL CALL YOUR NAME WHEN IT'S YOUR TURN TO TESTIFY (NOTE: COMMISSIONERS MAY ASK QUESTIONS DURING THE TESTIMONY PERIOD, AT THE DISCRETION OF THE CHAIR)
5. STAFF SUMMARY OF WRITTEN TESTIMONY FROM REGISTRATION FORMS
6. CLOSE OF PUBLIC TESTIMONY PORTION OF HEARING (GAVEL)
7. FINAL COMMENTS FROM STAFF
8. DELIBERATION OF COMMISSION
9. ACTION BY THE PLANNING COMMISSION

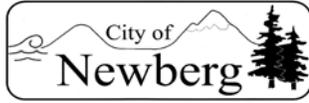
NOTE: No new public hearings will be started after 10:00 p.m. (except by majority vote of the Commission).

¹ The Chair of the Planning Commission may set time limits on the public testimony portion of the hearing.

² ORS 197.763(3)(j) allows the City to establish procedures for submittal of evidence. The Planning Commission has established a period of one week prior to hearing for submittal of written evidence in order to be considered at the hearing. Written testimony received late will only be considered at the discretion of the Planning Commission.

³ Questions by those wishing to testify should be directed to the Chair during the PUBLIC TESTIMONY (Step 4) portion of the public hearing.

⁴ Questions may be asked by the Commissioners thru the chair during the PUBLIC TESTIMONY (Step 4) portion of the public hearing.



MEMORANDUM
PUBLIC WORKS DEPARTMENT
ENGINEERING

TO: Newberg Planning Commission
FROM: Annette de Paz, PLS, City Surveyor
CC:
SUBJECT: Proposed Amendment to Chapter 15.235 of the Newberg Development Code: Specifications for Subdivision and Partition Plats
DATE: May 12th, 2011

Newberg Development Code §15.235.030 to §15.235.170 contain detailed specifications for the submittal of tentative and final subdivision and partition plats. Some of these specifications, such as type of drafting material, ink, scale, and sheet size no longer represent the review and archiving methods of the City and/or the County. Other specifications, such as those which contain references to blocks, legal descriptions, coordinate system and datum do not adequately represent current land survey practices. The code chapter contains inconsistencies in the use of the terms “map,” “plat,” “parcel,” “lot,” “block,” “tract,” “exact,” “approximate,” and “average” within the chapter itself and with respect to their current use in the land survey profession.

The proposed amendments clarify, homogenize, and modernize the terminology and consistency of the language in the chapter while updating the specifications to reflect current professional practices and the administrative processing practices of governing bodies.

Newberg Development Code §15.235.170 to §15.235.190 contain requirements for professional affidavits and city certifications for plats and land dedication documents. §15.235.180 (B) 4 requires the signature of the City Recorder certifying that all liens on the property have been paid. While verification of payment of taxes and public liens is a function performed by the Planning and Building Director per section §15.235.160 (B) 9, the City does not have the records infrastructure nor the presence in the process of title transfer necessary to perform verification that all liens have been paid. These professional affidavit and city signature requirements are not consistent with the requirements of other governing bodies or the ability of the City to certify to payment of liens. Furthermore, these requirements do not consistently provide for city acceptance of infrastructure, easements, and land dedications on behalf of the public.

It is proposed that the requirement for signature by the City Recorder on plats be removed and replaced with a requirement for the City Surveyor’s signature indicating acceptance of public infrastructure, rights-of-way, easements, and other interests in real property as shown on the land division plat. Pertinent references to signature requirements on other land dedication documents are also edited to be consistent with plat requirements. This signature requirement would be consistent with actual review and verification procedures employed by city staff.

Attachments:

1. Resolution No. 2011-288
Exhibit A: Proposed Amendments
2. Newberg City Council Resolution No. 2011-2942

PLANNING COMMISSION RESOLUTION NO. 2011-288

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWBERG
RECOMMENDING THAT THE CITY COUNCIL AMEND TENTATIVE AND FINAL PLAT
SPECIFICATIONS IN THE NEWBERG DEVELOPMENT CODE**

RECITALS:

1. On April 7th, 2011, the Newberg City Council adopted resolution No. 2011-2942 initiating amendments to Newberg Development Code Chapter 15.235.
2. Newberg Development Code §15.235.030 to §15.235.190 contain detailed specifications for the submittal and official signature of tentative and final subdivision and partition plats.
3. The proposed amendments would update printing specifications such as sheet size, material and scale, homogenize and modernize the use of land survey terms such as block, map, and average, and replace the requirement for signature by the City Recorder with that of the City Surveyor.
4. After proper noticing as required by Newberg Development Code and Oregon Revised Statute §92.048, the Planning Commission held a hearing on May 12, 2011, and considered public testimony.

NOW THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Newberg that it recommends that the City Council approve the proposed Development Code amendments shown in Exhibit "A". This recommendation is based on the staff memorandum and public testimony.

Adopted by the Newberg Planning Commission this 12th day of May, 2011.

AYES: NAYS: ABSTAIN: ABSENT:

ATTEST:

Planning Commission Secretary

Planning Commission Chair

Exhibit A: Proposed Development Code Amendments

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EXHIBIT “A”

(Note: Additions are underlined, deletions are ~~struck through~~)

Chapter 15.235 SUBDIVISIONS

Sections:

Article I. Land Division Procedures

- 15.235.010 Division of land.
 - 15.235.020 Tentative plan application and copies.
 - 15.235.030 Partition applications.
 - 15.235.040 Partition requirements – Type II.
 - 15.235.050 Subdivision applications.
 - 15.235.060 Subdivision requirements – Type II and Type III.
 - 15.235.070 Future street plan required.
 - 15.235.080 Type III future street plan.
 - 15.235.090 Recording and filing a future street plan.
 - 15.235.100 Revision of a future street plan.
 - 15.235.110 Criteria for approval of a future street plan.
 - 15.235.120 Tentative plan expiration date.
 - 15.235.130 Extension of partitions and subdivisions.
 - 15.235.140 Modifications of an approved tentative plan.
 - 15.235.150 Final partition map and subdivision plats – Drafting requirements.
 - 15.235.160 Submission and review of final partition or subdivision plat ~~or final partition map~~.
 - 15.235.170 Information required.
 - 15.235.180 Approval signatures for final partition map and subdivision plats.
- #### Article II. Standards for Land Divisions
- 15.235.190 Dedication.
 - 15.235.200 Lot and parcel side lines.
 - 15.235.210 Suitability for intended use.
 - 15.235.220 Future subdivision or partition of lots or parcels.
 - 15.235.230 Platting standards.

Article I. Land Division Procedures

15.235.010 Division of land.

No land may be divided without first obtaining a development permit.

A. No land may be divided prior to approval of a partition or subdivision in accordance with this code.

B. A land division is processed by approving a tentative plan prior to approval of the final land division plat ~~or map~~. Land divisions shall be processed under the Type II procedure unless a hearing is requested pursuant to NMC 15.100.040(G). These procedures shall apply to the tentative plan approval. If there is compliance with the approved tentative plan requirements and conditions, the director shall approve final plats ~~and maps~~ for land divisions as a Type I development permit. [Ord. 2619, 5-16-05; Ord. 2451, 12-2-96. Code 2001 § 151.240.1.]

15.235.020 Tentative plan application and copies.

An application for tentative plan approval of a land division shall be made by the person proposing the land division on a form provided by the director and meeting the submittal requirements identified in this code and in the application provided by the director. [Ord. 2619, 5-16-05; Ord. 2451, 12-2-96. Code 2001 § 151.240.2.]

15.235.030 Partition applications.

The tentative plan shall ~~be drawn with pencil or India ink on a good quality linen tracing cloth or suitable drafting material having the same or better characteristics of strength, stability and transparency and shall show all pertinent information to scale. The scale shall be standard, being stated in multiples of 10, one inch equals 10 feet, 20 feet, 30 feet, 40 feet, 50 feet, 100 feet or multiples of 100 feet.~~ The tentative plan shall contain the following information:

A. Date, north point, scale, dimensions of all lines and a vicinity map locating the partitioning in relation to the surrounding area.

B. Name and address of the land owner, all title holders, subdivider, mortgagee, if any, and the surveyor employed to make necessary surveys ~~and prepare the description of each tract involved.~~

C. A statement regarding contemplated wastewater disposal systems and water supply systems.

D. For land adjacent to and within the tract to be partitioned, the locations, names and existing widths of streets, location and size of wastewater and water lines (including laterals, drainage ways, and the location of power poles and any easements).

E. Outline and location of existing buildings, trees and features to remain in place.

F. Outline and location of existing buildings, trees, and features to be removed.

G. Contour lines ~~related to federal or city data~~ and statement of reference datum.

~~H. Legal description for each newly created parcel.~~

~~H.~~ Preliminary site grading and utility plan.

~~J.~~ Such additional information as is required by the director. [Ord. 2619, 5-16-05; Ord. 2451, 12-2-96. Code 2001 § 151.241.1.]

15.235.040 Partition requirements – Type II.

The director shall approve a partition of three parcels or less under a Type II procedure if the resulting parcels comply with the following approval criteria:

A. Approval does not impede the future best use of the remainder of the property under the same ownership or adversely affect the reasonable development of such remainder or adjoining land or access thereto.

B. The partition complies with this code and implementing ordinances and resolutions.

C. Either:

1. Improvements to be completed as part of the partition will be completed prior to final plat approval; or
2. The partitioner will substantially complete, as defined by city policies, required improvements prior to final plat approval, and enter into a performance agreement to complete the remaining improvements. The performance agreement shall include security in a form acceptable to the city in sufficient amount to insure the completion of all required improvements; or
3. A local improvement district shall have been formed to complete the required improvements; or
4. The required improvements are contained in a city or other government agency capital improvement project that is budgeted and scheduled for construction. [Ord. [2619](#), 5-16-05; Ord. [2529](#), 7-3-00; Ord. [2451](#), 12-2-96. Code 2001 § 151.241.2.]

15.235.050 Subdivision applications.

A. Drafting. The tentative plan shall show all pertinent information ~~to scale, normally at a scale of one inch equals 100 feet. For subdivision, the scale may be increased or decreased to fit standard size sheets of 18 inches by 24 inches. However, in all multiples of 100 feet to the inch. The scale shall be stated in multiples of 10.~~ Tentative plans for subdivisions shall be prepared by an ~~Oregon registered engineer or~~ Oregon licensed land surveyor.

B. Information Required. The application itself or the tentative plan must contain the following information with respect to the subject area:

1. Name and ~~block~~ numbering of proposed subdivisions. Except for the words “town,” “city,” “place,” “court,” “addition,” or similar words, the name shall be clearly different than, and clearly pronounced differently than, the name of any other subdivision in the county, unless the subject subdivision is contiguous to or platted by the same party that platted the preceding subdivision bearing that name. All subdivisions must continue the ~~block~~ ~~lot~~ numbers of the subdivision of the same name last filed.

2. The date, north point, and scale of the drawing, and sufficient description to define the location and boundaries of the proposed subdivision and the names of all recorded subdivisions contiguous to such area.
3. The names and addresses of the owner and ~~engineer or~~ surveyor.
4. The location of existing and proposed right-of-way lines for existing or projected streets as shown on the transportation system plan.
5. The locations, names, ~~and~~ widths and grades of all existing and proposed streets and roads.
6. Contours on the site and within 100 feet of the site and statement of reference datum.
 - a. One-foot contour intervals for ground slopes up to five percent.
 - b. Two-foot contour intervals for ground slopes between five and 10 percent.
 - c. Five-foot contour intervals for ground slopes exceeding 10 percent.
7. Preliminary site grading plan, prepared by an Oregon registered engineer or land surveyor.
8. The approximate width and location of all existing and proposed easements for public utilities, and all reserve strips proposed to satisfy requirements which may be required as provided for in NMC 15.505.080.
9. The approximate radii of all curves.
10. The general design of the proposed subdivision including the approximate dimension of all proposed lots and ~~parcels~~ tracts.
11. The approximate location of areas subject to inundation of stormwater, and the approximate location, average width, and direction ~~or of~~ flow of all watercourses.
12. The existing and proposed uses of the property, including the location of all existing structures that the applicant intends will remain in the subject area.
13. The domestic water system proposed to be installed, including the source, quality, and quantity of water, if from other than a public water supply.
14. All proposals for wastewater disposal, flood control and easements or deeds for drainage land, including profiles of proposed drainage ways.

15. All public areas proposed to be dedicated by the applicant and the proposed uses of the public areas.

16. All public improvements proposed to be made or installed, and the time within which such improvements are envisioned to be completed.

17. A legal description and drawing of the boundaries of the entire area owned by the applicant of which the proposed subdivision is a part; provided, that where the proposal comprises all of such area a written statement of such fact shall accompany the tentative plan.

18. Outline and location of existing buildings, features, and trees (in excess of four inches dbh) to remain in place on the site and within 100 feet of the site.

19. Outline and location of existing buildings, features, and trees (in excess of four inches dbh) to be removed on the site.

20. Such additional information as is required by the director.

C. Traffic Study. A traffic study shall be submitted for any project that generates in excess of 40 trips per p.m. peak hour. This requirement may be waived by the director when a determination is made that a previous traffic study adequately addresses the proposal and/or when off-site and frontage improvements have already been completed which adequately mitigate any traffic impacts and/or the proposed use is not in a location which is adjacent to an intersection which is functioning at a poor level of service. A traffic study may be required by the director for projects below 40 trips per p.m. peak hour where the use is located immediately adjacent to an intersection functioning at a poor level of service. The traffic study shall be conducted according to the City of Newberg design standards. [Ord. 2619, 5-16-05; Ord. 2507, 3-1-99; Ord. 2451, 12-2-96. Code 2001 § 151.242.1.]

15.235.060 Subdivision requirements – Type II and Type III.

A. The director (Type II) or planning commission (Type III) shall approve a subdivision of four **parcels lots** or more under a Type II or Type III procedure if the resulting **parcels lots** comply with the following approval criteria:

1. Approval does not impede the future best use of the remainder of the property under the same ownership or adversely affect the safe and healthful development of such remainder or adjoining land or access thereto.
2. The subdivision complies with this code including but not limited to NMC 15.340.010 through 15.440.080 and NMC 15.235.030 et seq.
3. Either:

- a. **Required I** improvements **required** to be completed prior to final plat approval; or
- b. The subdivider will substantially complete, as defined by city policies, required improvements prior to final plat approval, and enter into a performance agreement to complete the remaining improvements. The performance agreement shall include security in a form acceptable to the city in sufficient amount to insure completion of all required improvements; or
- c. A local improvement district shall have been formed to complete the required improvements; or
- d. The required improvements are contained in a city or other government agency capital improvement project that is budgeted and scheduled for construction.

B. A subdivision shall be processed under the Type II or Type III procedure. Notice shall be mailed to the applicant and those identified by this code to receive notice. [Ord. 2619, 5-16-05; Ord. 2529, 7-3-00; Ord. 2451, 12-2-96. Code 2001 § 151.242.2.]

15.235.070 Future street plan required.

A. A future street plan shall not be required for any portion of an area for which a proposed street layout has been established by either the Newberg comprehensive plan, its implementing ordinances, or a future street plan previously approved by a hearing body.

B. A future street plan is a conceptual plan in that its adoption does not establish a precise alignment. The plan shall demonstrate how access can be provided to adjoining parcels. The director may require that a traffic study be submitted where access to the land division includes streets that are classified as a collector or greater functional classification status.

C. Except as provided in subsection (A) of this section, a future street plan shall be filed and reviewed as part of an application for a partition or subdivision. [Ord. 2619, 5-16-05; Ord. 2451, 12-2-96. Code 2001 § 151.243.1.]

15.235.080 Type III future street plan.

The city council or planning commission may initiate a future street plan for any area which impacts traffic conditions inside the urban growth boundary, providing the street plan is given consideration through a Type III procedure. [Ord. 2451, 12-2-96. Code 2001 § 151.244.]

15.235.090 Recording and filing a future street plan.

Upon final approval, a future street plan shall be recorded with the county recorder's office as follows:

- A. Evidence of recordation shall be provided to the director by the applicant; or if there is no applicant, the director shall record the future street plan.

B. Filed by the director in the future street plan index. [Ord. 2451, 12-2-96. Code 2001 § 151.245.]

15.235.100 Revision of a future street plan.

An approved future street plan may be revised by the director under a Type II procedure in conjunction with a land division application or by the planning commission under a Type III procedure. An approved future street plan may be revised by the city council in conjunction with a revision of the Newberg comprehensive plan or implementing ordinances or resolutions. [Ord. 2451, 12-2-96. Code 2001 § 151.246.]

15.235.110 Criteria for approval of a future street plan.

A. Approval does not impede the future best use of the remainder of the property under the same ownership or adversely affect the safe and healthful development of such remainder or any adjoining land or access thereto; and

B. The future street plan complies with this code and its implementing ordinances and resolutions, and standards and policies of the Newberg comprehensive plan and the Newberg transportation system plan.

C. Except as provided by the provisions of this code, approval as stipulated herein does not relieve the applicant from other applicable provisions of the Oregon Revised Statutes or contained elsewhere in this code.

D. The future street plan shall adequately serve traffic with an origin in, and destination to, the area of the plan.

E. The future street plan shall provide for the logical extension of streets, to serve circulation and access needs within a district or neighborhood. [Ord. 2619, 5-16-05; Ord. 2451, 12-2-96. Code 2001 § 151.247.]

15.235.120 Tentative plan expiration date.

Within two years following the effective date of the approval of a tentative land division plan, the subdivider or partitioner shall complete all required conditions, submit the final plat to the director for review and approval, and record the final plat with the county recorder. [Ord. 2529, 7-3-00; Ord. 2451, 12-2-96. Code 2001 § 151.248.]

15.235.130 Extension of partitions and subdivisions.

A. Partition Extension. The director may, upon written request of the applicant prior to the expiration of the approval and following the Type I procedure, grant a one-time extension for an additional six months upon a written finding that the facts upon which the approval was based have not significantly changed. If the director makes a finding that the circumstances have changed to a minor extent, through the Type II process the director may add conditions to the partition to bring the partition into compliance with all current standards and ordinances and

extend the expiration date for up to six months. If conditions have substantially changed the director shall direct the applicant to refile the application for a new partition.

B. Subdivision Extension. Upon written request of the applicant prior to the expiration of the approval and following the Type I procedure, the director may grant a one-time extension for an additional six months upon a written finding that the facts upon which the approval was based have not significantly changed. If the director makes a finding that the circumstances have changed to a minor extent, through the Type II process, or Type III process, an extension may be granted. The Type II process shall be used if original approval was a Type II. The Type III process shall be used if the original approval was a Type III. The director or planning commission may add conditions to the subdivision to bring the subdivision into compliance with all current standards and ordinances and extend the expiration date for up to six months. If conditions have substantially changed the director shall direct the applicant to refile the application for a new subdivision.

C. Phased Subdivisions. Each filing of a final plat (phase) shall extend the expiration of the tentative plan by 12 months from the date of its expiration or the date of the previously filed final plat, whichever is later. Prior to the expiration of each phase, the applicant may apply for an extension to the phase which is about to expire through subsection (B) of this section. The extension of a phase under subsection (B) of this section shall also extend any subsequent phases. The total number of extensions shall not extend the tentative plan more than five years from its approval. [Ord. [2451](#), 12-2-96. Code 2001 § 151.249.]

15.235.140 Modifications of an approved tentative plan.

Following tentative plan approval, an applicant may make modifications to the plan consistent with the following procedures. The director will determine whether the proposed modification is a minor or major modification.

A. Minor modifications are those in keeping with the general layout and pattern of the approved plan and include minor relocations of property lines, streets, walkways and alleys, changes in the site utilities, and changes which do not increase the number of lots by more than five percent. The director may approve a minor modification under a Type I procedure upon finding that the modification is substantially consistent with the approved tentative plan, is consistent with the provisions of this code and the conditions of approval, and does not have substantially greater impacts on surrounding properties than the original tentative plan.

B. Other modifications including changes which increase the number of lots by more than five percent, changes in the patterns of streets, alleys, or walkways, changes in the site utilities and substantial changes to the conditions of approval are major modifications. A change in the whole application or substantive parts of an application shall be considered a new application. Major modifications may be approved using the same procedure as the original application. The criteria for approval shall be those for tentative plan approval.

C. An application for a modification shall be considered a new application for purposes of the 120-day time limit for processing applications in accordance with NMC 15.100.100 and state statutes. The applicant shall acknowledge in writing that this is a new application for purposes of the 120-day rule.

D. The city council shall establish a fee for modification of approved tentative plans by resolution. [Ord. 2590, 11-6-03. Code 2001 § 151.249.2.]

15.235.150 Final partition ~~map~~ and subdivision plats – Drafting requirements.

~~A. Partition Plats. The application for final partition plat approval shall include one original and two copies drawn in black India ink in clear and legible form. Original plats shall be in substantial conformity to the Yamhill County surveyor’s specifications and requirements, but in any event, scale requirements shall be the same as specified for tentative plans. Sheet dimensions and size shall be specified by the county recording officer for partition plats offered for record.~~

BA. Subdivision Final Plats.

1. The application for a final partition or subdivision plat approval shall include one original and two exact copies, 18 inches by 24 inches in size, and drawn with black India ink. Original plats and exact copies shall be in substantial conformity to the approved tentative plan and shall conform to the Yamhill County surveyor’s specifications and requirements pertaining to ink and material that has characteristics of adequate strength and permanency, as well as sheet size and suitability for binding and copying.

2. Plats shall be in clear and legible form and may be placed on as many sheets as necessary, but a face sheet and an index page shall be included for all plats placed upon three or more sheets. Scale requirements shall be the same as specified for tentative plans adjusted in multiples of ten (10) such that all lettering, symbols, line styles, and dimensions and the dedication and affidavit of the surveyor shall be of such size or type as will be clearly legible, and no part of the plat shall come nearer than one inch to any edge of any sheet. [Ord. 2619, 5-16-05; Ord. 2451, 12-2-96. Code 2001 § 151.250.1.]

15.235.160 Submission and review of final partition or subdivision plat ~~or final partition map~~.

A. The final subdivision or partition plat ~~or final partition map~~ shall be submitted to the director for final approval. Through a Type I procedure, the director shall determine whether the material conforms with the tentative plan approval requirements and with the applicable requirements of this code. If the director determines that the material does not conform, the applicant shall make corrections.

B. The director shall determine that:

1. Streets, roads, and alleys for public use are dedicated without any reservation or restriction other than reversionary rights upon vacation of any such street or road and easements for public utilities.
2. Streets and roads held for private use and indicated on the tentative plan of such subdivision or partition have been approved by the city.
3. The proposal complies with this code.
4. The plat is in substantial conformity with the provisions of the tentative plan for the subdivision or partition, as approved.
5. The plat contains a donation to the public of all common improvements within rights-of-way, tracts of land, or easements dedicated to the public or to the city, including but not limited to streets, roads, parks, stormwater systems, wastewater disposal and water supply systems.
6. Explanations and maintenance provisions for ~~of~~ all common improvements required as conditions of approval of the tentative plan of the subdivision or the partition and intended to be privately owned and maintained have been accounted for and referenced on the plat.
7. There will exist an adequate quantity and quality of water and an adequate wastewater disposal system to support the proposed use of the land described in the plat.
8. Either:
 - a. Improvements as required by this code or as a condition of tentative plan approval have been completed ~~filed with the director~~; or
 - b. A performance agreement (bond) or suitable substitute as agreed upon by the city and applicant has been filed with the director in sufficient amount to insure the completion of all required improvements; or
 - c. A petition for improvements has been properly executed by the applicant who is effecting the partition or subdivision and will be assessed for said improvements.
9. Taxes, as well as public liens, assessments and fees, with respect to the subdivision area have been paid, or adequate guarantee has been provided assuring said taxes, liens, assessments and fees will be paid prior to recordation.
10. The subdivider has entered into agreement with the city relating to completion of improvements, payment of wastewater and water hookup fees, inspection fees, public lands payments, monumentation or any other elements deemed relevant to the purpose of this or any other city ordinance, state statute or federal law.

C. If the conditions set at the time of tentative land division approval are not fulfilled and the final plat ~~or final map~~ is not recorded by the tentative plan expiration date, the tentative land division approval is null and void. [Ord. 2619, 5-16-05; Ord. 2451, 12-2-96. Code 2001 § 151.250.2.]

15.235.170 Information required.

The proposed subdivision or partition plat must contain the following information with respect to the subject area:

A. The lengths of all chords, radii points of curvature, and tangent bearings shown.

B. The lot lines of all lots within the subdivision, or all parcel lines within the partition, with dimensions in feet and hundredths of feet and with all bearings shown. Area in square feet for each lot or parcel.

C. Numbers designating each ~~block and~~ lot in subdivisions, ~~or each parcel in partitions~~, lots ~~or parcels in each block~~ to be numbered consecutively.

D. Where a ~~subdivision~~ plat is an addition to a plat previously recorded, numbers of ~~blocks and~~ lots in consecutive continuation from such previous plat.

E. The description and location of all permanent reference monuments, including a ~~two (2) ties~~ to the city ~~Oreogn State Plane~~ coordinate system ~~as defined by Oregon Revised Statutes~~.

F. An affidavit of a surveyor who is an ~~Oregon registered engineer or~~ Oregon licensed land surveyor, and who surveyed the subdivision or partition, conforming to the requirements of the Oregon Revised Statutes.

G. The date, north point, and scale of the drawing, and a sufficient description to define the location and boundaries of the subdivision or partition.

H. The locations, names and widths of all streets, existing or created.

I. The location, dimensions, ~~and~~ purpose ~~and beneficiary~~ of all recorded and proposed public and private easements and all reserve strips shall be shown on the subdivision or partition plat along with the county clerk's recording reference if the easement has been recorded with the county clerk.

J. Before a partition or subdivision ~~plat~~ can be approved, there shall appear thereon a restriction providing that no building, structure, or other obstruction shall be placed or located on or in a public utility easement.

K. A designation of all areas covered by water, and the approximate location and direction of flow of all watercourses.

L. A designation of all areas dedicated by the applicant, including proposed uses, and an effective written dedication of the areas.

M. Designation of all areas reserved for donations to the public of all common improvements, including but not limited to streets, roads, parks, stormwater systems, wastewater disposal and water systems, the donation dedication of which was made a condition of approval of the tentative plan for the subdivision or partition.

N. A copy of all protective deed restrictions and maintenance agreements being proposed and reference to recording of proposed restrictions and agreements on the face of the plat.

O. A title report issued no more than thirty (30) days prior to the date of final plat recordation by a title insurance company licensed by the State of Oregon, verifying ownership by the applicant of the real property that is to be dedicated to the public and listing title insurance exclusions. [Ord. 2619, 5-16-05; Ord. 2451, 12-2-96. Code 2001 § 151.250.3.]

15.235.180 Approval signatures for final partition ~~map~~ and subdivision plats.

~~A. Approval of a final partition map, together with the effective date, shall be noted in writing on the final map by the director.~~

~~BA.~~ Approval of a final partition or subdivision plat shall be acknowledged by including on the plat the authorized signature of:

1. The director, whose signature shall certify that the final plat conforms to the conditions of tentative plan approval.
2. The county assessor, certifying that all taxes on the property have been paid or bonded for in accordance with state law.
3. The county or city surveyor, certifying that the subdivision plat complies with applicable survey laws.
4. The city surveyor recorder, whose signature shall certify that all liens on the property have been paid indicate acceptance by the City of public improvements and rights-of-way, land and easements granted to the city or to the public as indicated on the final plat.
5. Additional county officials as required by the county surveyor.

~~CB.~~ Deliver one original and two exact copies of the approved subdivision plat to the office of the county clerk for recording.

~~DC.~~ Return one of the approved an exact copies of the recorded plat to the director. The copy shall be made with permanent black India-type ink or silver halide permanent photocopy on three millimeter polyester film. [Ord. 2451, 12-2-96. Code 2001 § 151.251.]

Cross-reference: See ORS 92.095 for prepayment of taxes before recording of subdivision plats can occur.

Article II. Standards for Land Divisions

15.235.190 Dedication.

A. Generally. The director may require right-of-way for adequate and proper streets, including arterials, collector streets, local streets, and other streets, to be dedicated to the public by the applicant of such design and in such locations as are necessary to facilitate provision for the transportation and access needs of the community and the subject area in accordance with the purpose of this code.

B. Special Safety Requirements. Where necessary to ensure safety, reduce traffic hazards, and promote the welfare of the general public and residents of the subject area, the director may require that local streets be so designated as to discourage their use by nonlocal traffic.

C. Ownership Verification of Dedications. In the event approval of a land division is conditioned upon the dedication of a portion of the area to the public, the applicant shall submit to the director a title report issued **within the past thirty (30) days** by a title insurance company licensed in the State of Oregon, verifying ownership by the applicant of the real property that is to be dedicated to the public.

D. Approval Required on Dedications. No instrument dedicating land, **rights-of-way or easements** to the public **or to the city** shall be accepted for recording unless such instrument bears the **approval authorized signature** of the **city surveyor director**.

E. Inclusion of a transportation route in the transportation plan is intended to indicate the public's need to acquire a public right-of-way in the area through legally and constitutionally allowed means. Notwithstanding other provisions of this code or the comprehensive plan, inclusion of such a route does not restrict the use of the property by the owner who owns the property when the route is first included in any city plan, unless the review body finds the restriction is exempt from those provisions of ORS Chapter 197, as amended by Ballot Measure 49, passed November 6, 2007, or that just compensation will be paid in accordance with that section. [**Ord. 2005-2619**, 5-16-05; Ord. 2451, 12-2-96. Code 2001 § 151.252.1.]

15.235.200 Lot and parcel side lines.

As far as is practicable, lot and parcel side lines shall run at right angles to the street upon which the lots or parcels face, except that on curved streets they shall be radial to the curve. [Ord. 2619, 5-16-05; Ord. 2451, 12-2-96. Code 2001 § 151.252.2.]

Penalty: See NMC 15.05.120.

15.235.210 Suitability for intended use.

All lots and parcels shall be suitable for the purpose for which they are intended to be used. No lot or parcel shall be of such size or design as to be detrimental to the health, safety, or sanitary needs of the residents of the subdivision or partition, or of such lot or parcel, as determined by the director, in accordance with this code. [Ord. 2619, 5-16-05; Ord. 2451, 12-2-96. Code 2001 § 151.252.3.]

Penalty: See NMC 15.05.120.

15.235.220 Future subdivision or partition of lots or parcels.

Where the subdivision or partition will result in a lot or parcel one-half acre or larger in size, which in the judgment of the director is likely to be further divided in the future, the director may require that the location of lot and parcel lines and other details of layout be such that future division may readily be made without violating the requirements of this code, and without interfering with orderly extension of adjacent streets. Any restriction of buildings within future street locations shall be made a matter of record if the director deems it necessary for the purpose of future land division. [Ord. 2619, 5-16-05; Ord. 2451, 12-2-96. Code 2001 § 151.252.4.]

15.235.230 Platting standards.

A. Drainage. Where land in the subdivision or partition is or will be periodically subject to accumulations of surface water, or is traversed by any watercourse, channel, stream, or creek, the director may require the applicant to provide for adequate unrestricted drainage over drainage land by dedicating to the public easements approved by the director for protection of such needs by conveying ownership of such drainage purposes to the city or to an incorporated drainage district, or domestic water supply district, within which such land may be located.

B. Railroads.

1. Crossings. Special requirements may be imposed by the director, including but not limited to provisions for separation of street and railroad grades, connection with any railroad crossing, which will immediately affect the safety of the residents of the subdivision or partition, for the protection of such residents and the safety of the general public in accordance with the purpose of this code.

2. Subdivision or Partition Adjacent to Right-of-Way. Where the subdivision or partition is adjacent to a railroad right-of-way, and the surrounding economic and physical conditions indicate such property will be used for industrial purposes in the normal growth of the community, all streets shall be located at a sufficient distance from said right-of-way to allow for reasonable sites for industrial use adjacent to said right-of-way.

C. Partial Development. Where the subdivision or partition include only a part of the area owned by the applicant, the director may require a sketch of a tentative layout of streets in the remainder of said ownership.

D. Unsuitable Areas. Areas subject to slippage, flooding, or other natural hazards shall not be divided in a manner that would be dangerous to the health and safety of those who would live in said areas, or the general public. [Ord. 2619, 5-16-05; Ord. 2451, 12-2-96. Code 2001 § 151.252.5.]

Penalty: See NMC 15.05.120.



Yamhill County Surveyor

2060 Lafayette Avenue, McMinnville, OR 97128

Ph. 503.434.7415 Fax 503.472.4068 E-mail: surveyor@co.yamhill.or.us
Dan Linscheid, P.L.S., County Surveyor

ATTACHMENT A

May 4, 2011

Written Comments
Newberg Public Works – Engineering Division
P.O. Box 970
Newberg, OR 97132

Re: Public Hearing on Development Code Amendment

Honorable Planning Commission member or City Council member:

I'm a little unclear if the intent of the proposed amendment would be to have the city surveyor serve in lieu of my office as it relates to plat and field checks of subdivisions and/or partitions. ORS 92.100(1)(b) is fairly clear in requiring specific language to that effect in the ordinance language.

When I first assumed office in 1995, both Newberg and McMinnville required that city staff perform field and mathematical checks of subdivisions, and signed on an approval line. On many occasions, my staff subsequently found problems with monument positions on the ground as related to the plat, and I was eventually able to get these cities out of the field check and approval process. Additionally, this office checks for conformance strictly against ORS 209.250, and these checks are now uniform in all cities in the county.

I believe Annette DePaz would concur with me regarding the distinction between services provided by city staff and this office regarding plat processing and approval: her office check for code compliance, and mine confirms positional accuracy of monuments and other survey requirements of ORS 209.250, as required under ORS 92.

I am also uncomfortable with amending drafting requirements, since these requirements on plats by my office pretty closely reflects the statewide requirements, relating to size, material, ink, etc. Unless our two requirements reflect each other, it will be an undue burden on the landowners, developers and/or the land surveyors to ensure that the differences in the plats are complied with.

I thank you in advance for giving my concerns consideration.

Respectfully,


Dan Linscheid, PLS
Yamhill County Surveyor

RECEIVED

MAY 5 2011

ATTACHMENT A

Newberg City Planning Commission
Newberg City Council

May 5, 2011

RE: Development Code Amendments, Subdivision Requirements

I am wondering what the need would be to replace the City Recorder signature on a plat with the City Surveyor.

- 1) Can the City Surveyor accept street dedications for the city?
- 2) At present the County Surveyor checks the plats to see that the plats meet all the requirements of the State Statutes and the County Surveyor charges a fee for this. The City Surveyor is not allowed to review plats without the permission of the County Surveyor. I am not aware that the County Surveyor has been advised of this change. Will citizens be charged twice for the same service? The City of Newberg now charges a review fee before the city will review plats. This is in addition to the application fees. Are we already paying twice for the same service?
- 3) The City of McMinnville does not have a City Surveyor. The city reviews plats to make sure the subdivision meets all the conditions of approval, but they do not review any surveyor requirements. That is done by the County Surveyor. Also, there is no fees charged for plat review in the City of McMinnville.

Respectfully,



Matt Dunckel
Surveyor
3765 Riverside Drive
McMinnville, OR 97128

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MAY 5 2011



Larry Anderson Engineering, Inc.

ATTACHMENT A

May 5, 2011

Newberg Planning Commission
Newberg City Council
414 E. First St.
Newberg, OR 97132

RE: Proposed changes to Newberg Development Code NDC15.235

The changes to Newberg's subdivision ordinance proposed by the city surveyor points out some changes that are really needed.

Most of the technical plat requirements should not be updated, they should be eliminated. Newberg's code should describe any of their local requirements and then refer to the county surveyor's plat standards and leave it at that. When the county surveyor changes a term or requirement, Newberg's code will change along with it.

The county surveyor's office is responsible for approving and archiving survey plats in Yamhill County. The position of city surveyor in a town the size of Newberg is rare and unnecessary. Requiring their signature on a plat only serves to secure that job title by ordinance.

Some of these updates are not based on changes in the law but on a lack of understanding of the law and the development process. There are changes that will prohibit registered professional engineers from preparing subdivision tentative plans. A city surveyor can not arbitrarily change Oregon law. Nor do they have the credentials to let them substitute for the review and approval by the city public works director or the city recorder. These ill-advised changes illustrate the point very well.

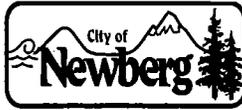
In recent years, Newberg's engineering department has bulged to twice the staff with ten times the travel and training budget of McMinnville's engineering department. To address the budget shortfall, they propose to postpone some projects and reduce FTE's. But they will increase their spending on travel and training. For us, that means fewer staff spending even more time away from the office and unavailable when we need them for an unnecessary signature.

Sincerely,

Larry Anderson, PE
Larry Anderson Engineering, Inc.
112 N. Springbrook Road
Newberg, Oregon 97132

RECEIVED
MAY 5 2011

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RESOLUTION No. 2011-2942

A RESOLUTION INITIATING AMENDMENTS TO NEWBERG DEVELOPMENT CODE CHAPTER §15.235 PERTAINING TO TECHNICAL SPECIFICATIONS AND SIGNATURE REQUIREMENTS FOR PARTITION AND SUBDIVISION PLATS

RECITALS:

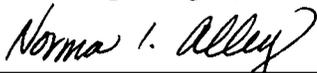
1. Newberg Development Code §15.235.030 to §15.235.190 contain detailed specifications for the submittal and official signature of tentative and final subdivision and partition plats.
2. Technical specifications contained in Newberg Municipal Code may be updated from time to time to reflect the changing standards and practices of industry professionals and governing bodies.
3. Newberg Development Code §15.100.060 defines an amendment to Newberg Development Code as a legislative action requiring a Type IV Procedure.
4. Oregon Revised Statute §92.048 provides procedural guidelines for amendments to local regulations for approval of tentative and final subdivision and partition plats.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. The City Council hereby initiates amendments, through the review process, to Newberg Development Code Chapter §15.235. The proposed amendments are shown in Exhibit "A," which is attached. Exhibit "A" is hereby incorporated.
2. The City Council hereby directs staff to guide the initiated amendment through the public hearing and review process as required by the Type IV Procedure as provided in Newberg Development Code §15.100.060.
3. The City Council hereby directs staff to comply with additional procedural guidelines required by Oregon Revised Statute §92.048.

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: April 5, 2011.

ADOPTED by the City Council of the City of Newberg, Oregon, this 4th day of April 2011.



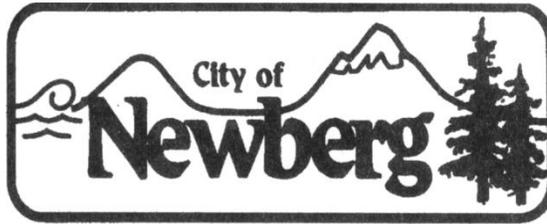
Norma I. Alley, City Recorder

ATTEST by the Mayor this 7th day of April 2011.



Bob Andrews, Mayor

City of Newberg
414 E. First Street
P.O. Box 970
Newberg, OR 97132



City Manager
(503) 538-9421
(503) 538-5013 FAX

Planning and Building Department

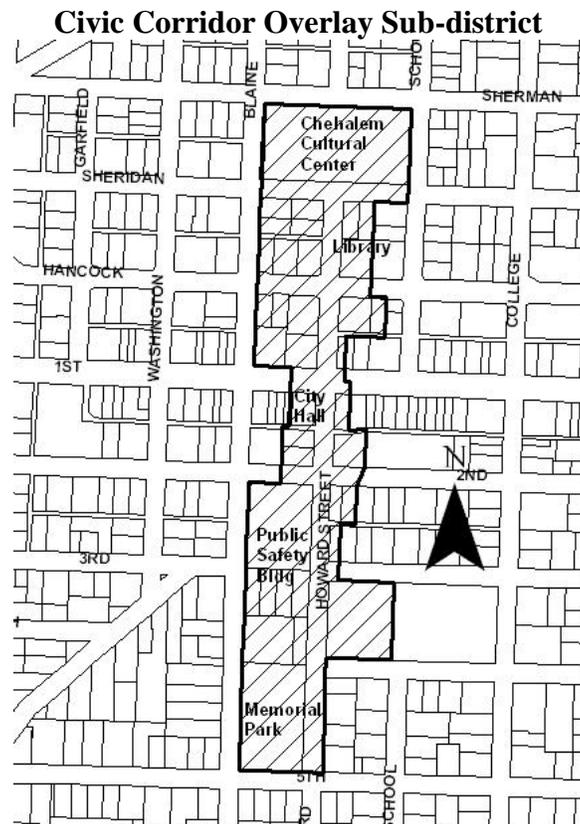
P.O. Box 970 • 414 E. First Street • Newberg, Oregon 97132 • (503) 537-1240 • Fax (503) 537-1272

STAFF REPORT – CIVIC CORRIDOR SIGN CODE AMENDMENTS

FILE NO: DCA-10-001
REQUEST: Amend Newberg's Development Code to make the Civic Corridor sign code more flexible.
APPLICANT: City of Newberg
PREPARED BY: City of Newberg Planning Staff
HEARING DATE: May 12, 2011 Planning Commission

ATTACHMENTS:

- Resolution No. 2011-289
 - Exhibit A: Proposed Amendments
 - Exhibit B: Findings
- 1. City Council Resolution 2011-2939
- 2. Photos of Civic Corridor signs
- 3. Public comments received to date (none)



I. SUMMARY

The current Civic Corridor sign code is quite restrictive, and requires signs to meet at least four out of six Civic Corridor design elements. In practice, it is very difficult to meet the Civic Corridor standards; a proposed sign for the Chehalem Cultural Center, for example, consists of raised bronze letters and appears to be a good fit for the Civic Corridor but cannot be approved as it only meets two out of six Civic Corridor design elements. The proposed code amendment would change the Civic Corridor design elements to better match the design themes of signs and buildings in the corridor, and only require signs to meet one design theme. This will simplify the sign standards and add flexibility while preserving the intent of the Civic Corridor overlay.

II. BACKGROUND

The Civic Corridor Overlay is a zone that runs north-south along Howard Street and includes most of Newberg's civic buildings. The overlay was created in 2002 to emphasize the civic heart of the community, and has specific design standards for buildings and signs. The purpose of the overlay is to ensure that new development is consistent with historic buildings, such as the Library and City Hall. Staff feels that the Civic Corridor sign code is too inflexible, and can prevent good signs from being approved. Staff developed potential code changes that would allow the Cultural Center sign to be approved, would simplify the sign standards, and better align the standards with design themes within the corridor. The code language in the attached resolution exhibit is intended as a starting point for the discussion.

The City Council initiated a development code amendment to the Civic Corridor sign code through Resolution 2011-2939 on April 4, 2011. The Planning Commission held a workshop on April 14, 2011 to discuss Newberg's existing Civic Corridor sign code and potential code changes.

III. DISCUSSION

The current Civic Corridor sign regulations are not flexible. Proposed signs must meet the C-3 downtown sign standards plus meet four out of six Civic Corridor design elements. In practice, good signs that appear to fit the historic designs within the Civic Corridor sometimes cannot be approved. The proposed Chehalem Cultural Center sign, for example, consists of raised bronze letters over the front entrance and is very similar to the raised letters on City Hall, the Post Office, the Fire Department and the Public Safety Building. This sign easily meets the C-3 sign standards but only meets two out of four Civic Corridor standards and cannot be approved. Another example is the *Newberg Graphic* brick monument sign, which is located just outside the Civic Corridor; this sign easily meets the C-3 downtown sign standards but could not have been approved if it was within the Civic Corridor.

Current requirements = 4 of 6 Civic Corridor standards + 10 points on C-3 standards

Civic Corridor sign design elements

1. The most prominent element on a sign, such as the business' name, uses a serif font and does not exceed eight inches in height.
2. The sign includes a frame, background or lettering in natural wood materials.
3. The sign includes a frame, background or lettering in copper or brass in natural finishes.
4. The sign incorporates decorative wrought iron.
5. The lettering is in a raised relief.
6. The sign is attached to a mounting bracket and allowed to swing freely.

C-3 sign point system

Points Possible	Element
	Sign Type
4	The sign is attached to a mounting bracket and allowed to swing freely.
4	The sign is on an awning and meets the standards in NMC 15.435.080 .
3	The sign is a fin sign extending at least two feet from the building surface.
3	The sign primarily includes raised or engraved individual letters or graphics on a background wall.
2	The sign is freestanding and less than six feet high.
	Sign Material
4	The sign is sandblasted or carved wood.
4	The sign includes natural finished wood in the frame, background or lettering (plywood excluded).
4	The sign includes a frame, background or lettering in aluminum, copper or brass in natural finishes.
2	The sign is on an opaque fabric awning made of cotton-based canvas or woven acrylic and includes free-hanging trim or vertical front.
2	The sign incorporates decorative wrought iron.
	Sign Face
4	The outline of the sign frame (or the letters and graphics if no frame) is predominantly curved or nonrectangular.
3	All colors on the sign are low intensity, such as muted earth tones. Bright, fluorescent, or neon colors are excluded.
2	The most prominent lettering on the sign, such as the business' name, uses a serif or cursive font.
2	At least 15 percent of the sign area is a landscape, nature, or similar art scene.
	Lighting
2	The sign uses neon tube lighting for letters or graphics.
minus 2	The sign uses internal illumination with greater than 30 percent transparent or light-colored face.
minus 2	The sign is on a backlit, translucent awning.
minus 4	The sign uses blinking, flashing, or chasing lights.
	Sign Size
1 point per 20 percent reduction	For major attached signage, one point for each full 20 percent reduction in the total sign area allowed on that building frontage. For major freestanding signage, one point for each full 20 percent reduction in the total area allowed for that sign.

Staff reviewed the existing signs in the Civic Corridor and determined that there are several design themes that tie the corridor signs together: (1) raised metal or wood letters on a background wall (letters up to 12 inches tall); (2) copper/brass/bronze frames or highlights; and (3) brick backgrounds or structures. The existing Civic Corridor sign code encourages freely-swinging signs on mounting brackets; this design element fits the downtown historic character well and could be kept as a design element. Engraved letters in metal or masonry also fit the historic character of the Civic Corridor. The code could be simplified to require signs to meet at least one of the design themes noted above for signs in the Civic Corridor, while still meeting the C-3 downtown standards. This would simplify the code, allow the Chehalem Cultural Center sign to be approved, and would set clear standards for signs within the Civic Corridor. This would also provide more flexibility for future signage at the Library and within the Cultural District area.

Staff sent a copy of the proposed code change to all property owners and public agencies within the Civic Corridor overlay, and received one comment. Leah Griffith, Library Director, wanted to know how the code change would affect the Library when they wanted to change their existing readerboard sign. Would they be able to have a readerboard sign similar to the *Newberg Graphic* sign or the Library's old monument sign? Leah did like the proposed Cultural Center sign, and was in favor of code changes to allow it. She asked how the proposed changes would fit with any ideas that come out of the Cultural District project.

The proposed changes will make the Civic Corridor sign code more flexible and give the Library and the Cultural District more design options in the future. Under the current code the Library could not build a readerboard sign like the *Graphic's* (the sign is a freestanding brick monument sign with a curved top, raised metal letters, and a readerboard). That sign would easily meet the C-3 standards but only meets two out of six Civic Corridor standards and could not be approved. The proposed changes would allow the Library to have a readerboard sign like the *Graphic*, and allow additional flexibility for the Cultural District project.

IV. STAFF RECOMMENDATION

The staff recommendation is made in the absence of public testimony and may be modified prior to the close of the hearing. At this time, staff recommends:

Adopt Resolution 2011-289, recommending that the City Council adopt the proposed Development Code amendments to the Civic Corridor sign regulations.

PLANNING COMMISSION RESOLUTION NO. 2011-289

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWBERG RECOMMENDING THAT THE CITY COUNCIL MODIFY THE DEVELOPMENT CODE RELATING TO CIVIC CORRIDOR SIGNS

RECITALS:

1. The Newberg Development Code currently requires signs in the Civic Corridor to meet four out of six design elements. This is very restrictive, and can prevent the approval of signs that appear to meet the intent of the Civic Corridor overlay zone.
2. The code could allow some additional flexibility by modifying the sign design elements to better match the character of the Civic Corridor, and only requiring signs to meet one design element. The proposed code changes would still meet the intent of the Civic Corridor sign regulations, which is to ensure that new signs fit the historic character of the corridor.
3. On April 4, 2011, the Newberg City Council adopted Resolution 2011-2939, initiating potential amendments to the Development Code.
4. On April 14, 2011, the Planning Commission held a public workshop to discuss Newberg's existing Civic Corridor sign code and potential code changes.
5. On April 21, 2011, notice of the proposed changes and public hearing was mailed to all property owners within the Civic Corridor overlay zone.
6. On April 22, 2011, notice of the public hearing was posted in four public locations (City Hall, Library, Fire Station, and Public Safety Building)
7. On April 27, 2011, notice of the public hearing on the proposed changes was published in the *Newberg Graphic*.
8. On May 12, 2011, the Newberg Planning Commission held a public hearing on the proposed amendments.

NOW THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Newberg that it recommends that the City Council approve the amendment to the Newberg Development Code as shown in Exhibit A.

This recommendation is based on the staff report, the findings in Exhibit B, and testimony.

Adopted by the Newberg Planning Commission on this 12th day of May, 2011.

AYES: NAYS: ABSTAIN: ABSENT:

ATTEST:

Planning Commission Secretary

Planning Commission Chair

Exhibit A: Development Code Text Amendments

Exhibit B: Findings

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Exhibit A to Resolution 2011-289
Proposed Amendment to Newberg Development Code

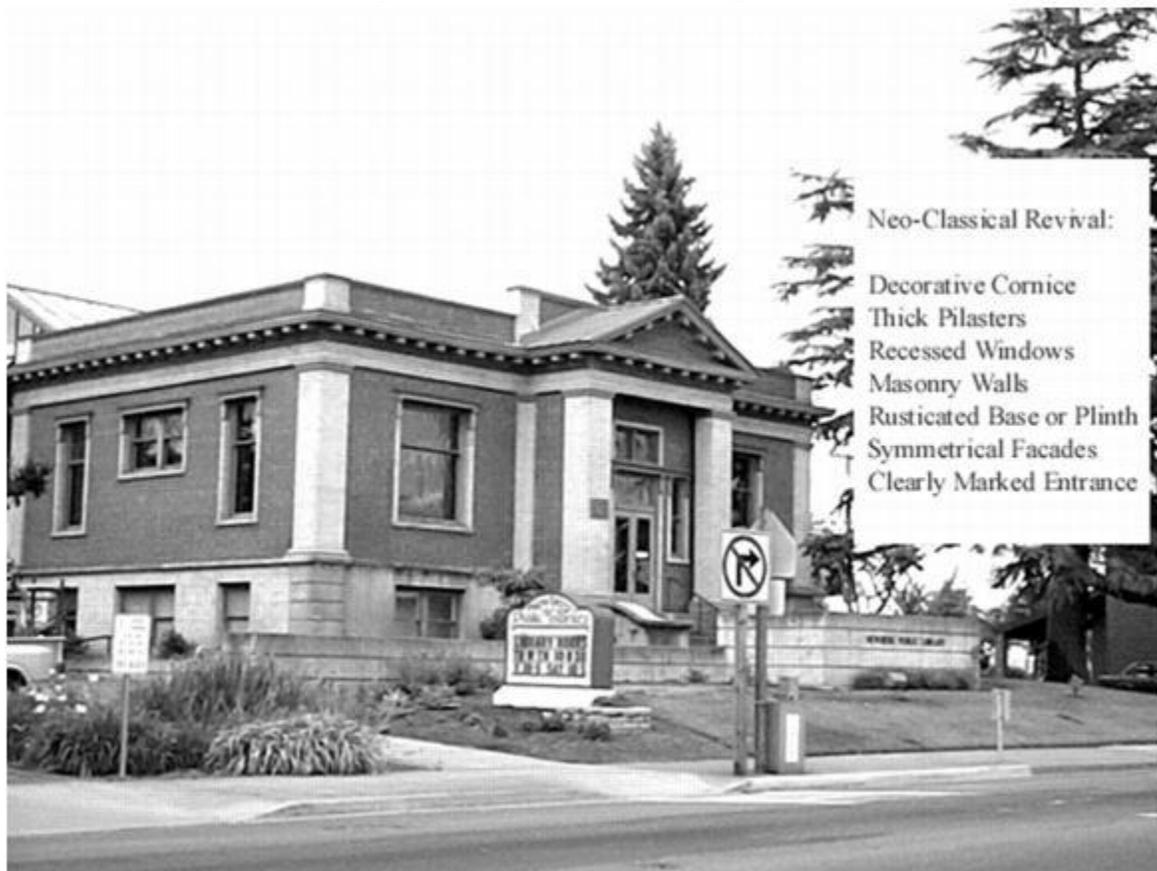
Newberg Development Code shall be amended as follows:

(Note: Additions to the code are underlined, deletions are ~~struck through~~.)

Part 18.1. CIVIC CORRIDOR OVERLAY (CC) SUB-DISTRICT

15.350.010 PURPOSE.

(A) The Civic Corridor Overlay Sub-district is designed to emphasize the civic heart of the community and to capitalize on the significant amenity that Newberg's historic downtown buildings represent. Two buildings which characterize the historic style of Newberg are City Hall, built in 1913 and the library, built in 1912. The important architectural features of this style are illustrated in the figure below.



(B) Specific design standards will ensure that new development is consistent with the regional and local historical traditions that these buildings represent. While incorporating historic ornament and detail into new buildings is encouraged, it is recognized that the current cost of such detail may not be feasible. Instead, historical compatibility is better achieved by relating to the vertical proportions of historic facades,

the depth and quality of windows and doors, and emulating the simple vertical massing of historical buildings.

(C) The CC Sub-district is intended to emphasize the civic and historic character of that portion of downtown Newberg generally bounded by Sherman Street on the north, Blaine Street on the west, 5th Street on the south, and Howard and School Streets on the east and as depicted on the zoning map. The sub-district overlay may be applied within any zoning district within these boundaries. The sub-district shall be designated by the suffix "CC" added to the symbol of the parent district. Permitted uses include those permitted by the underlying zoning district and other uses specifically allowed within the CC Sub-district that are compatible with the uses in the underlying zoning. (Ord. 2002-2561, passed 4-1-02)

15.350.020 GENERAL PROVISIONS.

The uses, procedures, and standards contained within § 15.350.030 through § 15.350.060 apply in addition to the development standards of the underlying zone. Where there is a conflict between the uses and standards of this section and those of the base zone, the uses and standards of this section shall prevail. (Ord. 2002-2561, passed 4-1-02)

15.350.060 DEVELOPMENT STANDARDS.

In addition to the standards of § 15.220.080, the following development standards shall apply to new development or redevelopment within the Civic Corridor Overlay Sub-district.

(E) *Signage standards.* In addition to the C-3 signage requirements of § 15.435.010 through § 15.435.120, to encourage the historic character of the Civic Corridor as described in § 15.350.010, signs lettering within the Civic Corridor shall not exceed 12 inches in height, and signs shall include at least one ~~four~~ of the following ~~six~~ elements:

- ~~(1) The most prominent element on a sign, such as the business' name, uses a serif font and does not exceed eight inches in height.~~
- ~~(2) The sign includes a frame, background or lettering in natural wood materials.~~
- (13) The sign includes a frame, background or lettering in copper, bronze or brass in natural finishes, comprising at least 5 percent of the sign face.
- (2) The sign is a freestanding brick monument sign.
- ~~(4) The sign incorporates decorative wrought iron.~~
- (35) The sign lettering is in a raised relief, and is constructed of either naturally-finished metal or white-painted wood (or material that appears to be wood).
- (4) The sign lettering is engraved in either metal or masonry.
- ~~(56) The sign is attached to a mounting bracket and allowed to swing freely.~~

End of proposed amendment.

Exhibit B to Resolution 2011-289 Findings

Newberg Development Code § 15.350.010 PURPOSE – CIVIC CORRIDOR OVERLAY.

- (A) *The Civic Corridor Overlay Sub-district is designed to emphasize the civic heart of the community and to capitalize on the significant amenity that Newberg’s historic downtown buildings represent. Two buildings which characterize the historic style of Newberg are City Hall, built in 1913 and the library, built in 1912. The important architectural features of this style are illustrated in the figure below.*
- (B) *Specific design standards will ensure that new development is consistent with the regional and local historical traditions that these buildings represent. While incorporating historic ornament and detail into new buildings is encouraged, it is recognized that the current cost of such detail may not be feasible. Instead, historical compatibility is better achieved by relating to the vertical proportions of historic facades, the depth and quality of windows and doors, and emulating the simple vertical massing of historical buildings.*

Newberg Comprehensive Plan

J. URBAN DESIGN

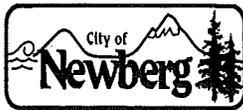
GOAL 1: *To maintain and improve the natural beauty and visual character of the City.*

POLICIES:

1. General Policies

- g. *Community appearance should continue to be a major concern and subject of a major effort in the area. Street tree planting, landscaping, sign regulations and building improvements contribute to community appearance and should continue to be a major design concern and improvement effort.*

Findings: As stated in the above purpose statement and policies, maintaining and improving the visual character of the city is important to the community. The historic character of the Civic Corridor, as characterized by City Hall and the Library, is an area of special focus. The existing Civic Corridor sign code is inflexible, and can prevent signs that have historic character and meet the purpose of the Civic Corridor regulations from being approved. The proposed amendments will change the design elements to better match the observed historic character of the Civic Corridor, and only require signs to incorporate one design element. These amendments will make the Civic Corridor sign code more flexible for institutions and businesses within the corridor, while protecting the historic character of the corridor. The proposed development code amendment therefore conforms to the Newberg Comprehensive Plan by maintaining and improving the visual character of Newberg.



RESOLUTION No. 2011-2939

A RESOLUTION INITIATING AN AMENDMENT TO THE NEWBERG DEVELOPMENT CODE REGARDING SIGNS IN THE CIVIC CORRIDOR

RECITALS:

1. The proposed Chehalem Cultural Center sign does not meet the Civic Corridor sign standards. Staff believes the sign is a good fit for the Civic Corridor, and that therefore the Civic Corridor sign standards should be reviewed.
2. The Civic Corridor sign standards currently require signs to include four out of six possible design elements. Staff reviewed the existing signs in the Civic Corridor and determined that there are three design themes that tie the corridor signs together: (1) raised metal or wood letters on a background wall; (2) copper/brass/bronze frames or highlights; and (3) brick backgrounds or structures. The code could be simplified to require signs to meet at least one of the three design themes noted above for signs in the Civic Corridor.
3. This potential amendment would simplify the code, allow the Chehalem Cultural Center sign to be approved, and would set clear standards for signs within the Civic Corridor.
4. The City Council would like to consider a potential amendment to change the Civic Corridor sign standards to focus on the three identified design themes.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. The City initiates an amendment to the Newberg Development Code that could potentially change the Civic Corridor design standards. The code language in Exhibit "A" is a starting point.
2. By initiating this amendment, the Council does not commit to taking any particular action on the amendment. It only wishes to consider potential amendments through a public hearing process.

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: April 5, 2011.

ADOPTED by the City Council of the City of Newberg, Oregon, this 4th day of April, 2011.



 Norma I. Alley, City Recorder

ATTEST by the Mayor this 7th day of April, 2011.



 Bob Andrews, Mayor

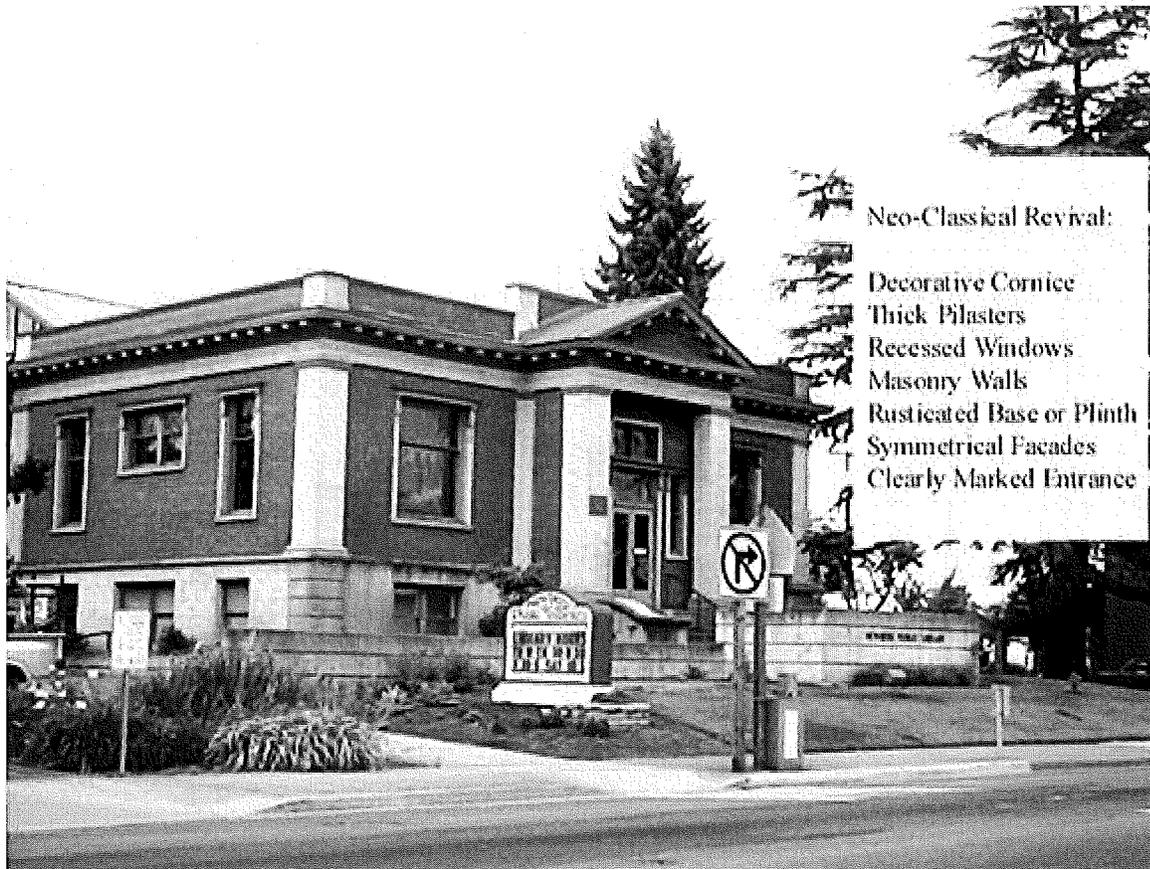
Potential Development Code Amendment

(Note: Additions to the code are underlined, deletions are ~~struck through~~.)

Part 18.1. CIVIC CORRIDOR OVERLAY (CC) SUB-DISTRICT

151.526.1 PURPOSE.

(A) The Civic Corridor Overlay Sub-district is designed to emphasize the civic heart of the community and to capitalize on the significant amenity that Newberg's historic downtown buildings represent. Two buildings which characterize the historic style of Newberg are City Hall, built in 1913 and the library, built in 1912. The important architectural features of this style are illustrated in the figure below.



(B) Specific design standards will ensure that new development is consistent with the regional and local historical traditions that these buildings represent. While incorporating historic ornament and detail into new buildings is encouraged, it is recognized that the current cost of such detail may not be feasible. Instead, historical compatibility is better achieved by relating to the vertical proportions of historic facades, the depth and quality of windows and doors, and emulating the simple vertical massing of historical buildings.

(C) The CC Sub-district is intended to emphasize the civic and historic character of that portion of downtown Newberg generally bounded by Sherman Street on the north, Blaine Street on the west, 5th Street on the south, and Howard and School Streets on the east and as depicted on the zoning map. The sub-district overlay may be applied within any zoning district within these boundaries. The sub-district shall be designated by the suffix "CC" added to the symbol of the parent district. Permitted uses include those permitted by the underlying zoning district and other uses specifically allowed within the CC Sub-district that are compatible with the uses in the underlying zoning.

(Ord. 2002-2561, passed 4-1-02)

151.526.2 GENERAL PROVISIONS.

The uses, procedures, and standards contained within § 151.526.3 through § 151.526.6 apply in addition to the development standards of the underlying zone. Where there is a conflict between the uses and standards of this section and those of the base zone, the uses and standards of this section shall prevail.

(Ord. 2002-2561, passed 4-1-02)

151.526.6 DEVELOPMENT STANDARDS.

In addition to the standards of § 151.197, the following development standards shall apply to new development or redevelopment within the Civic Corridor Overlay Sub-district.

(E) *Signage standards.* In addition to the C-3 signage requirements of § 151.590 through § 151.601, to encourage the historic character of the Civic Corridor as described in § 151.526.1, signs within the Civic Corridor shall include at least one ~~four~~ of the following ~~six~~ elements:

~~(1) The most prominent element on a sign, such as the business' name, uses a serif font and does not exceed eight inches in height.~~

~~(2) The sign includes a frame, background or lettering in natural wood materials.~~

~~(13) The sign includes a frame, background or lettering in copper, bronze or brass in natural finishes, comprising at least 5 percent of the sign face.~~

~~(2) The sign is a freestanding brick monument sign.~~

~~(4) The sign incorporates decorative wrought iron.~~

~~(35) The sign lettering is in a raised relief, does not exceed 12 inches in height, and is constructed of either naturally-finished metal or white-painted wood (or material that appears to be wood).~~

~~(46) The sign is attached to a mounting bracket and allowed to swing freely.~~

(Ord. 2002-2561, passed 4-1-02)

End of proposed amendment.

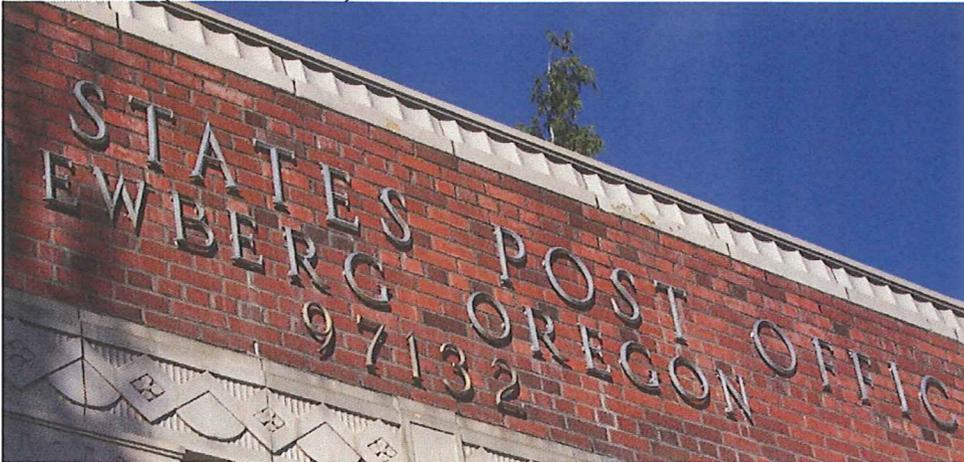
Test cases:

Note that the Civic Corridor standards apply to new development or redevelopment only. They do not make any existing signs non-conforming. It is instructive to test the proposed changes on existing signs, however, to verify how they would apply.

- Proposed Cultural Center sign: Would pass – meets two Civic Corridor (CC) standards.
- Post office: Would pass – meets one CC standard.
- Fire Dept.: Would pass – meets one CC standard.
- Public Safety Building: Would pass – meets one CC standard.
- City Hall: Would pass - meets one CC standard.
- Masonic Hall brass wall sign: Would pass – meets two CC standards. Fin sign does not meet C-3 standards, or CC standards.
- Snooty Fox: Would pass – meets two CC standards.
- Oregon First Community Bank: Would pass – monument sign meets two CC standards, and wall sign meets one CC standard.
- Wine Country Antiques: Does not pass but could be modified to pass (by adding a copper frame, for example). (Note: for illustration only – the existing sign is not required to be changed).
- Bike Shoppe: Does not pass but could be modified to pass (by adding a copper outline of a bike or wheel to the sign, for example). (Note: Existing sign is not required to be changed – historic signs are exempt).

Civic Corridor signs

Post Office (raised letters)



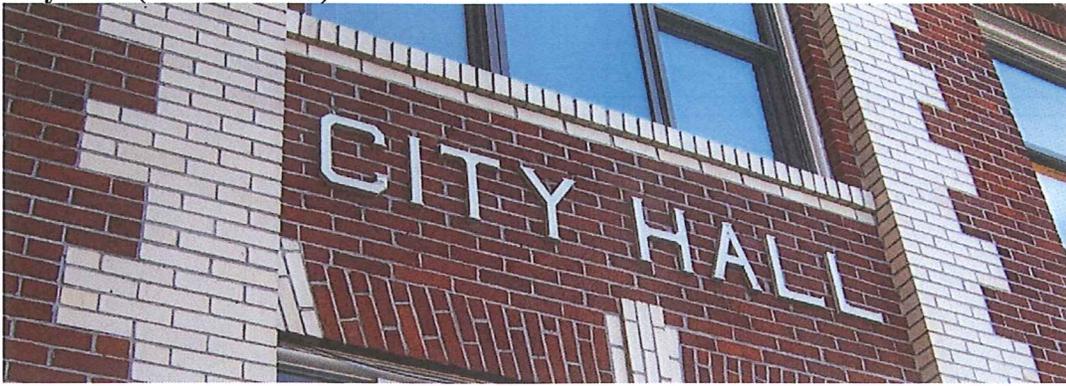
Fire Department (raised letters)



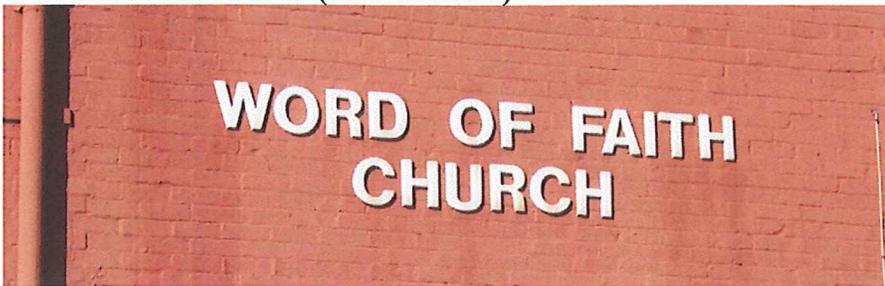
Public Safety Building (raised letters)



City Hall (raised letters)



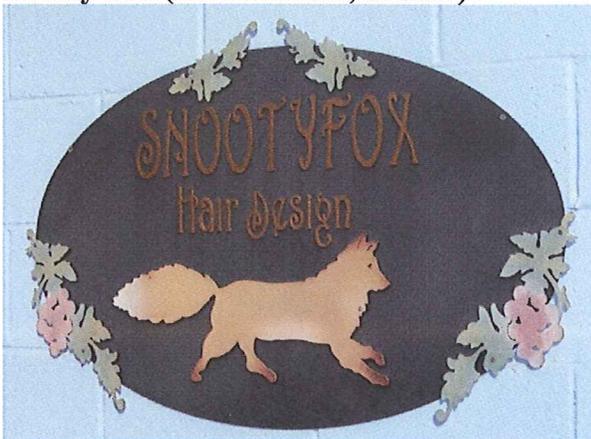
Word of Faith Church (raised letters)



Masonic Hall (raised letters, bronze)



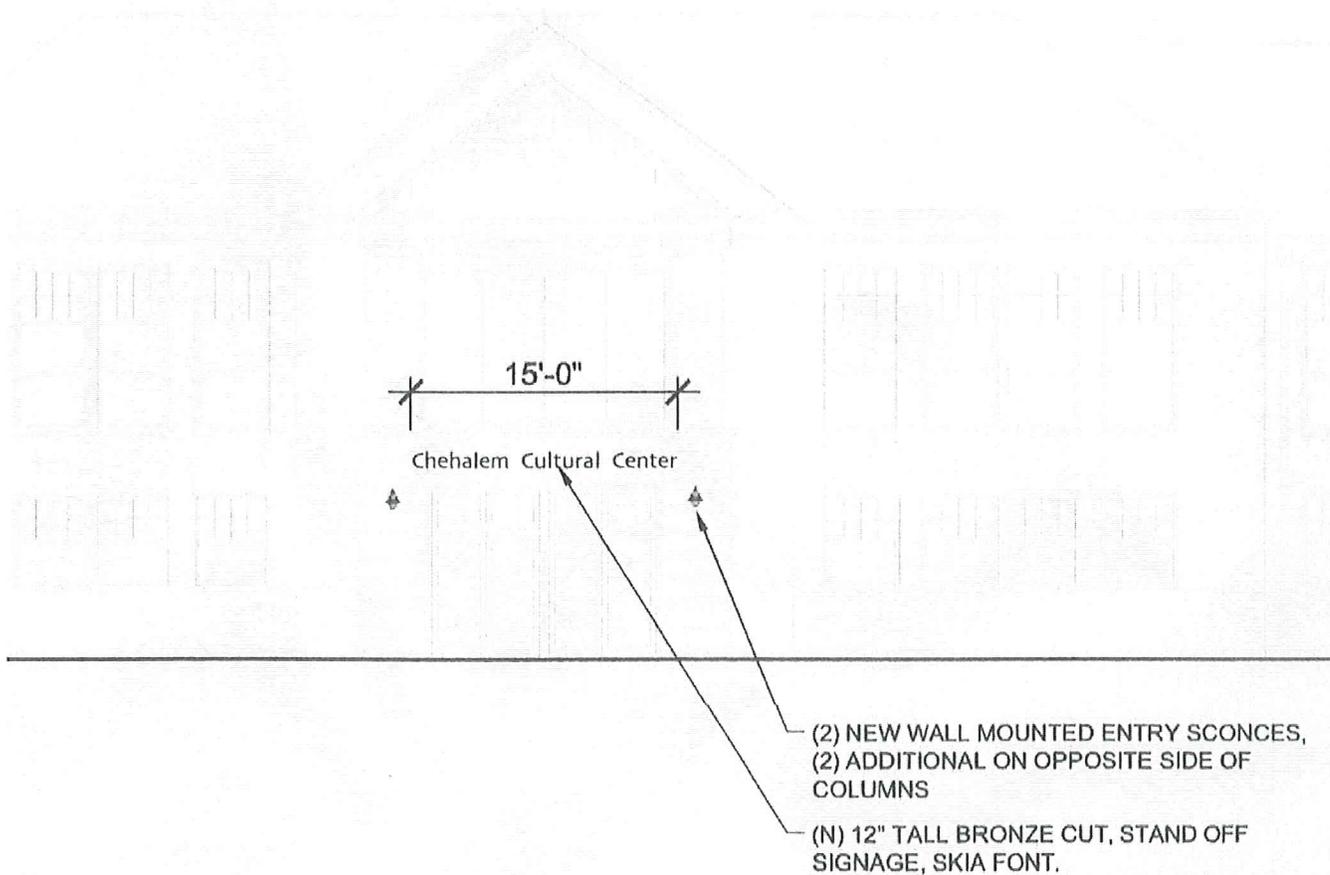
Snooty Fox (raised letters, bronze)



Oregon First Community Credit Union (copper frame, brick monument)



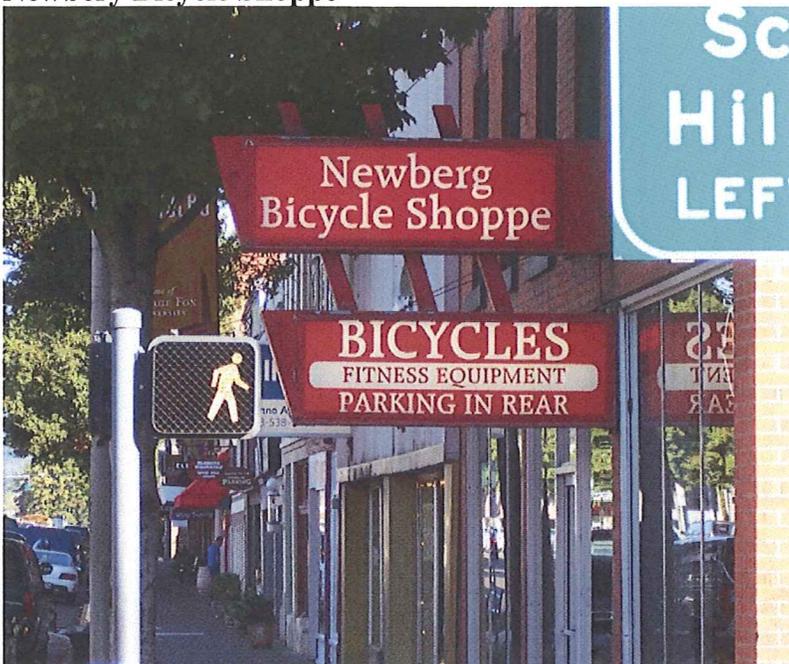
Proposed Chehalem Cultural Center sign (raised letters, bronze)



Wine Country Antiques

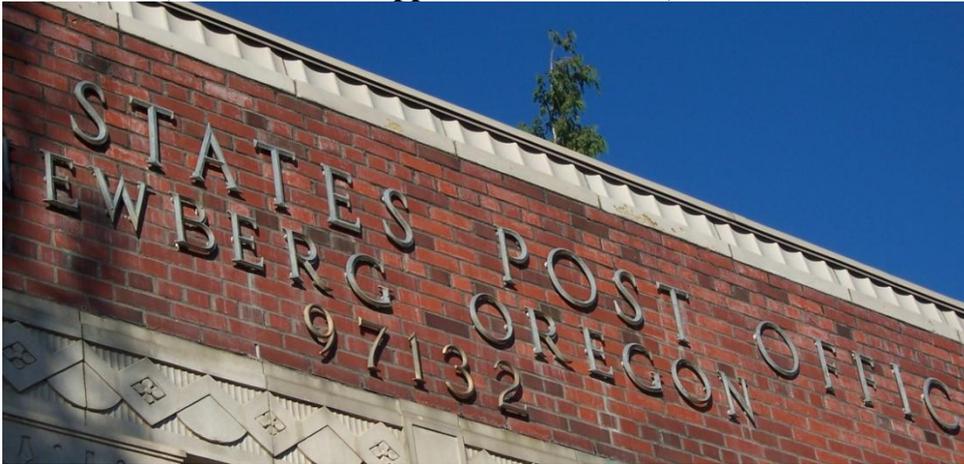


Newbery Bicycle Shoppe



Attachment 2: Civic Corridor signs

Post Office (raised letters – approx. 12 inches tall)



Fire Department (raised letters – approx. 10 inches tall)



Public Safety Building (raised letters – 8 inches tall)



City Hall (raised letters – approx. 12 inches tall)



Word of Faith Church (raised letters – approx. 6 inches tall)



Masonic Hall (raised letters, bronze)



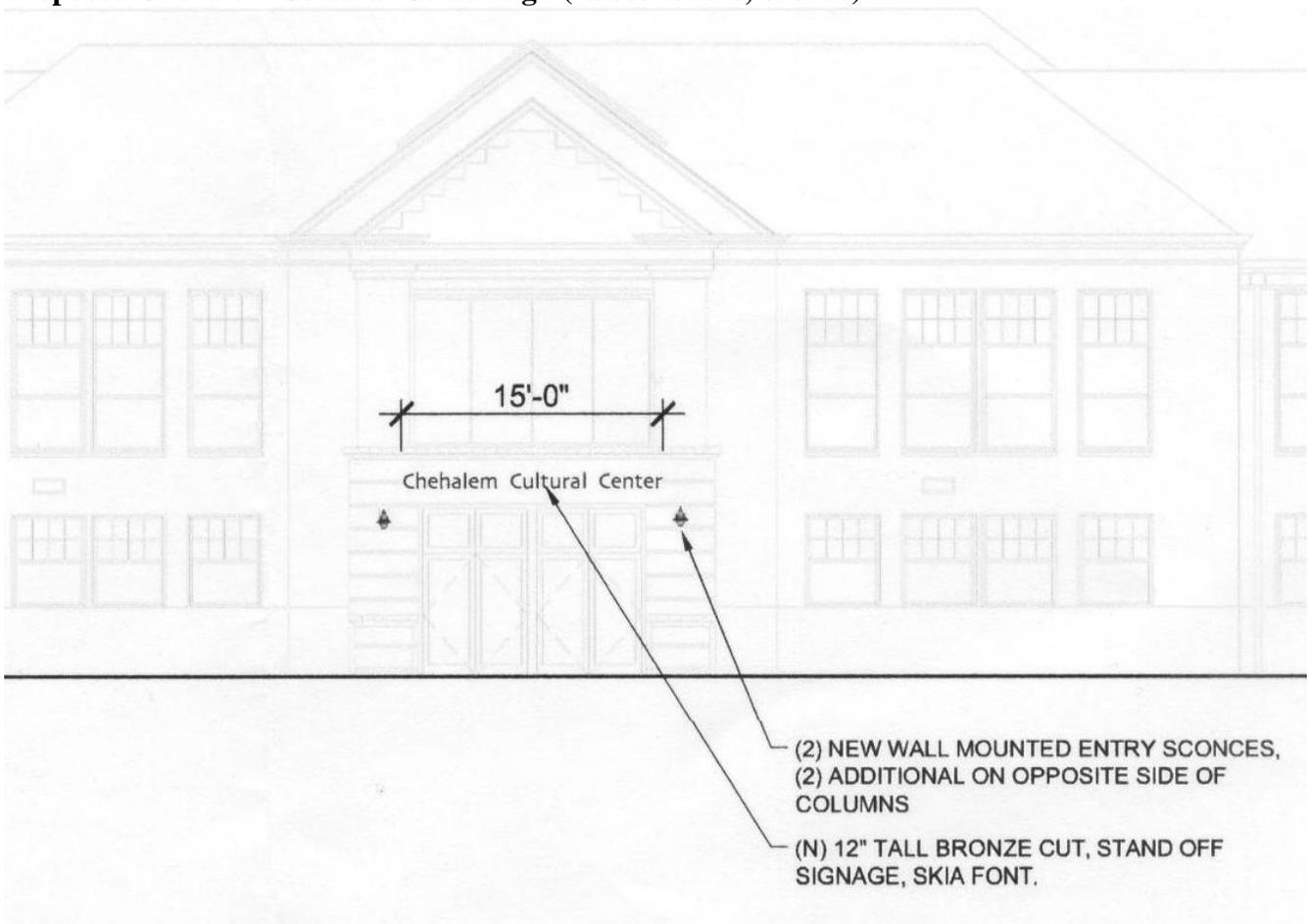
Snooty Fox (raised letters, bronze)



OR First Community Credit Union (copper frame, brick monument – tallest letter approx. 15 inches)



Proposed Chehalem Cultural Center sign (raised letters, bronze)



Wine Country Antiques (tallest letter approx. 14 inches)



Newberg Bicycle Shoppe



Examples of sign types (these are downtown signs but not in Civic Corridor)

Brick monument sign, raised metal letters (letters less than 12 inches tall)



Sign with copper background (letters are not raised, are less than 12 inches tall)



Sign attached to a mounting bracket and allowed to swing freely

