

Council accepts comments on agenda items during the meeting. Fill out a form identifying the item you wish to speak on prior to the agenda item beginning and turn it into the City Recorder. (The exception is formal land use hearings, which requires a specific public hearing process.)

**CITY OF NEWBERG
CITY COUNCIL AGENDA
DECEMBER 6, 2010
7:00 P.M. MEETING
PUBLIC SAFETY BUILDING TRAINING ROOM
401 EAST THIRD STREET**

I. CALL MEETING TO ORDER*

II. ROLL CALL

III. PLEDGE OF ALLEGIANCE

IV. CITY MANAGER'S REPORT

V. APPOINTMENTS

1. Consider a motion appointing Thomas Barnes, Gary Bliss, Allyn Edwards, and Art Smith to the City of Newberg Planning Commission. (Pgs. 3-5)
2. Consider a motion appointing Karl Birky, Dianna Cotter, Shannon Eoff, and Josi Fettig to the City of Newberg Traffic Safety Commission. (Pgs. 7-9)

VI. PUBLIC COMMENTS

(30 minutes maximum, which may be extended at the Mayor's discretion, with an opportunity to speak for no more than 5 minutes per speaker allowed)

VII. CONSENT CALENDAR

1. Consider a motion approving **Resolution No. 2010-2923** adopting a process for the evaluation of the municipal judge. (Pgs. 11-28)
2. Consider a motion approving **Resolution No. 2010-2924** initiating amendments to the Newberg Comprehensive Plan and Development Code to reflect the Tier 2 bypass alignment. (Pgs. 29-32)
3. Consider a motion approving City Council Minutes for November 1, 2010. (Pgs. 33-39)

VIII. PUBLIC HEARINGS

Consider a motion approving **Order No. 2010-0030** amending the Comprehensive Plan map designation from Low Density Residential (LDR) to High Density Residential (HDR) and amend the Zoning designation from R-1 (Low Density Residential) to R-3 (High Density Residential) for a property located at 1103 North Meridian Street. (Pgs. 41-645)

IX. COUNCIL BUSINESS

X. ADJOURNMENT

*The Mayor reserves the right to change the order of items to be considered by the Council at their meeting. No new items will be heard after 11:00 p.m., unless approved by the Council.

INDEX OF ORDERS, ORDINANCES, AND/OR RESOLUTIONS:

ORDER(S):

Order No. 2010-0030 amending the Comprehensive Plan map designation from Low Density Residential (LDR) to High Density Residential (HDR) and amending the Zoning designation from R-1 (Low Density Residential) to R-3 (High Density Residential) for a property located at 1103 N. Meridian Street, Tax Lot 3218DA-2100.

RESOLUTION(S):

Resolution No. 2010-2923 establishing a process for evaluating the performance of the Municipal Judge; adopting the forms to be used in the process; and providing for an opportunity for public comment.

Resolution No. 2010-2924 initiating amendments to the Newberg Comprehensive Plan and Development Code to reflect the Tier 2 bypass alignment of the Newberg-Dundee Bypass Corridor

ACCOMMODATION OF PHYSICAL IMPAIRMENTS: In order to accommodate persons with physical impairments, please notify the City Manager's office of any special physical or language 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 Norma Alley, City Recorder, at (503) 537-1283.

Public testimony will be heard on agenda items at the Council meeting. The City Council asks written testimony be submitted to the City Recorder before 5:00 p.m. on the preceding Thursday. Written testimony submitted after that will be brought before the Council on the night of the meeting for consideration and a vote to accept or not accept it into the record.

*The Mayor reserves the right to change the order of items to be considered by the Council at their meeting. No new items will be heard after 11:00 p.m., unless approved by the Council.

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: December 6, 2010

Order ___ Ordinance ___ Resolution ___ Motion XX Information ___
No. No. No.

SUBJECT: Appoint Thomas Barnes, Gary Bliss, Allyn Edwards, and Art Smith to the City of Newberg Planning Commission.

Contact Person (Preparer) for this Motion: **Bob Andrews, Mayor**

Dept.: **Administration**
File No.:

RECOMMENDATION:

To consent to the appointment, by the Mayor, of Thomas Barnes, Allyn Edwards, and Art Smith for three positions with terms expiring December 31, 2010, on the Newberg Planning Commission for new terms expiring December 31, 2013, and appoint Gary Bliss to fill a vacant position with a term expiring December 31, 2012.

EXECUTIVE SUMMARY:

The Newberg Planning Commission is a seven member committee that has three positions with expiring terms effective December 31, 2010, and one vacant position with a term expiring December 31, 2012. Public notice of this vacancy was posted in City buildings, advertised in the local Newberg Graphic, and posted on the City's website. Four applications were received prior to the final deadline of 5:00 p.m., Friday, October 29, 2010. All applications were considered and the Mayor has selected Thomas Barnes, Gary Bliss, Allyn Edwards, and Art Smith to fill the positions.

For privacy purposes, the original applications are retained in the City Recorder's Office. Please call (503) 537-1283 to request a copy.

FISCAL IMPACT:

None

STRATEGIC ASSESSMENT:

The Newberg Planning Commission serves a very important role in the betterment of our community and downtown.

PLANNING COMMISSION - CITY OF NEWBERG

**Newberg
City Limits**

Occupation

Yes Army Dist. 6	Thomas Barnes	Term: 3 years Appointed: 12/3/07 Term Expires: 12/31/10	Retired US
	VACANT	Term: 3 years Appointed: Re-appointed: Term Expires: 12/31/12	
Yes Dist. 4	Derek Duff	Term: 3 years Appointed: 4/21/2008 Term Expires: 12/31/10	
Yes Dist. 2	Philip Smith	Term: 3 years Appointed: 12/2/02 Re-Appointed: 12/5/05, 12/15/08 Term Expires: 12/31/11	GFU Professor
No County	Cathy Stuhr	Term: 3 years Appointed: 7/5/05 Re-Appointed: 12/5/05, 12/15/08 Term Expires: 12/31/11	Business Owner
Yes Dist. 4	Nick Tri	Term: 3 years Appointed: 10/15/01 Re-Appointed: 12/6/04, 12/3/07 Term Expires: 12/31/10	Semi-Retired Antique Dealer
Yes Dist. 2	Lon Wall	Term: 3 years Appointed: 11/6/06, 12/7/09 Term Expires: 12/31/12	Business Man
Yes Dist. 6	Kale Rogers	Student Planning Commissioner Term: School year Appointed: Term Expires: 08/31/2011	H.S. Student

PRESS RELEASE

City of Newberg
PO Box 970
Newberg, OR 97132

October 5, 2010

Contact: Norma Alley, City Recorder

For Immediate Release

SUBJECT: City Committee and Commission Openings

The City of Newberg is seeking applications from citizens to serve on a Committee or Commission. This is an opportunity to serve your community and be part of the decision-making team that governs your community. These positions will be open as of December 31st, 2010.

If you would like to participate on any of the below committee or commissions, please stop by the City Recorder's Office at City Hall (414 E. First Street) or call 503-537-1283 and we will be happy to provide you with an application. An application also is available at the City's website Application to Serve on a Committee | City of Newberg Oregon (or look under the Departments/City Council/Committee Applications heading). **Applications are due by 5 p.m. on Friday, October 29, 2010.** The City reserves the right to accept applications after this due date or extend the deadline at the Mayor's discretion.

The Mayor of Newberg appoints members with the consent of the City Council. Applicants will be notified of the date the City Council will consider the appointment and should plan on attending.

Planning Commission

The Planning Commission has four openings for applicants. Three openings have terms expiring on December 31, 2013, and one opening is to fill a vacant position with a term expiring December 31, 2012. The Planning Commission meets at 7 p.m. on the second Thursday of every month. Additional meetings, usually on the fourth Thursday of each month, are occasionally required. The Planning Commission hears requests for annexations, comprehensive plan changes, zone changes, conditional use permits, appeals, and other land use applications. Its duties are to hold hearings, make findings, and typically present its recommendation to the Newberg City Council. For some types of applications the Planning Commission makes the final decision.

Applicant Requirements:

- Reside within the city limits except one member may live within one mile of the Urban Growth Boundary.
- No more than one member of the Commission may engage in the buying, selling or the developing of real estate for profit as individuals or be members of any partnership or officers of any corporation that engages principally in the buying, selling or developing of real estate for profit. No more than two members shall engage in the same kind of occupation, business trade or profession.

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REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: December 6, 2010

Order ___ Ordinance ___ Resolution ___ Motion XX Information ___
No. No. No.

SUBJECT: Appoint Karl Birky, Dianna Cotter, Shannon Eoff, and Josi Fettig to the City of Newberg Traffic Safety Commission.

Contact Person (Preparer) for this Motion: **Bob Andrews, Mayor**

Dept.: **Administration**
File No.:

RECOMMENDATION:

To consent to the appointment, by the Mayor, of Karl Birky, Dianna Cotter, and Shannon Eoff for three positions with terms expiring December 31, 2010, on the Newberg Planning Commission for new terms expiring December 31, 2013, and appoint Josi Fettig to fill a vacant student commissioner position with a term expiring August 31, 2011.

EXECUTIVE SUMMARY:

The Newberg Traffic Safety Commission is a seven member committee that has three positions with terms expiring December 31, 2010, and one student commissioner position with a term expiring August 31, 2011. Public notice of this vacancy was posted in City buildings, advertised in the local Newberg Graphic, and posted on the City's website. Five applications (one is for the student position) were received prior to the final deadline of 5:00 p.m., Friday, October 29, 2010. All applications were considered and the Mayor has selected Karl Birky, Dianna Cotter, Shannon Eoff, and Josi Fettig to fill the positions.

For privacy purposes, the original applications are retained in the City Recorder's Office. Please call (503) 537-1283 to request a copy.

FISCAL IMPACT:

None

STRATEGIC ASSESSMENT:

The Traffic Safety Commission provides a valuable service to the City of Newberg by promoting traffic safety through investigation, study and analysis of traffic safety programs; conducting educational efforts among the public in the matters of public safety; considering all traffic safety programs which are referred to them for recommendation by the City Council and making reports to the City Council on matters of traffic safety and traffic safety programs. The Traffic Safety Commission makes decisions regarding parking, crosswalks, safety zones, traffic lanes, truck routes and all manner of traffic control devices within the community.

Traffic Safety Committee

Council District	Member/Contact Info	Term Appointments
5	Doris Brandt	Appointed: 1996 Re-Appointed: 1/21/97, 2/22/00, 1/17/06, 12/15/08 Term Expires: 12/31/2011
	VACANT	Appointed: Re-appointed: Term Expires: 12/31/2010
6	Dianna Cotter	Appointed: 12/7/09 Re-appointed: Term Expires: 12/31/2010
6	James Oravetz	Appointed: 12/7/2009 Re-appointed: Term to expire: 12/31/2012
5	Neal S. Klein	Appointed: 1/05/2009 Re-appointed: Term Expires: 12/31/2011
4	Ronald Johns	Appointed: 12/7/2009 Re-Appointed: Term to expire: 12/31/2012
	VACANT	Appointed: Re-appointed: Term Expires: 12/31/2010
3	Ronald Sult	Appointed: 01/05/2004 Re-appointed: 01/17/2006, 12/15/2008 Term expires: 12/31/2011
3	Lesley Woodruff	Appointed: 01/01/2007 Re-appointed: 12/7/09 Term Expires: 12/31/2012

PRESS RELEASE

City of Newberg
PO Box 970
Newberg, OR 97132

October 5, 2010

Contact: Norma Alley, City Recorder

For Immediate Release

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The City of Newberg is seeking applications from citizens to serve on a Committee or Commission. This is an opportunity to serve your community and be part of the decision-making team that governs your community. These positions will be open as of December 31st, 2010.

If you would like to participate on any of the below committee or commissions, please stop by the City Recorder's Office at City Hall (414 E. First Street) or call 503-537-1283 and we will be happy to provide you with an application. An application also is available at the City's website Application to Serve on a Committee | City of Newberg Oregon (or look under the Departments/City Council/Committee Applications heading). **Applications are due by 5 p.m. on Friday, October 29, 2010.** The City reserves the right to accept applications after this due date or extend the deadline at the Mayor's discretion.

The Mayor of Newberg appoints members with the consent of the City Council. Applicants will be notified of the date the City Council will consider the appointment and should plan on attending.

Traffic Safety Commission

The Traffic Safety Commission has four openings for applicants. Three openings have terms expiring on December 31, 2013, and one opening is reserved for a high school student with a term expiring August 31, 2011. The Traffic Safety Commission meets on the second Monday of each month, whenever business warrants, but not less than quarterly. The purpose of the Traffic Safety Commission is to promote traffic safety through investigation, study and analysis of traffic patterns. The Commission makes decisions on the location of parking, crosswalks, safety zones, traffic lanes, truck routes, and all manner of traffic control devices within the community. In addition, they conduct and promote traffic safety programs.

Applicant Requirements:

- Reside within the city limits.
- One prospective candidate may live outside the Newberg city limits, providing the residence is within the Urban Growth Boundary of the City of Newberg.

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REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: December 6, 2010

Order ___ Ordinance ___ Resolution XX Motion ___ Information ___
No. No. No. 2010-2923

SUBJECT: Adopt a process for the evaluation of the Municipal Judge.

Contact Person (Preparer) for this
Resolution: Dawn Wilson

Dept.: City Attorney's Office

File No.:
(if applicable)

RECOMMENDATION:

Adopt **Resolution No. 2010-2923**, which provides for a process of evaluating the Municipal Judge.

EXECUTIVE SUMMARY:

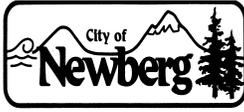
The City has had a number of processes to evaluate the Municipal Judge. The latest process was adopted by resolution in 1999 (Resolution No. 99-2166). It is the responsibility of the City Council to appoint and evaluate the Municipal Judge. The agreement with the Municipal Judge calls for an evaluation after the initial nine (9) months of service. This evaluation is the first evaluation of Judge Larry Blake, Jr. (Judge Blake), who was appointed in February of 2010, for an 18th month term. The purpose of the evaluation is to assess the quality and efficiency of judicial services provided by Judge Blake.

FISCAL IMPACT:

To ensure that contractual obligation costs are fulfilled. Following a successful evaluation, there will be a \$200/month (\$2,400/year) increase in judicial pay.

STRATEGIC ASSESSMENT:

To provide accountability for the Municipal Judge.



RESOLUTION No. 2010-2923

A RESOLUTION ESTABLISHING A PROCESS FOR EVALUATING THE PERFORMANCE OF THE MUNICIPAL JUDGE; ADOPTING THE FORMS TO BE USED IN THE PROCESS; AND PROVIDING FOR AN OPPORTUNITY FOR PUBLIC COMMENT

RECITALS:

1. The City Charter of the City provides for the City Council to appoint the Municipal Judge, and the Municipal Judge is responsible to the City Council.
2. The City adopted Resolution No. 99-2167 in March of 1999, which established a process, as well as standards, criteria, and policy directives by which to evaluate the judge's performance.
3. The Municipal Judge Larry Blake, Jr. ("Judge Blake") was appointed as the City's municipal judge in February, 2010 for an initial 18 month term, and pursuant to the agreement for judicial services, the Council is to evaluate the judge after the first nine (9) months.
4. Mayor Bob Andrews and Council President Marc Shelton have worked together to develop a new process with forms in order to provide a fair evaluation of the judicial performance of Judge Blake.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. **Council's Responsibility:** The Council's responsibility is to appoint and evaluate the Municipal Judge; however, the Council exercises no control over the judicial authority of the Municipal Judge; and evaluates the judge in order to assess the efficiency and appropriateness of the services provided by the Municipal Judge through the Municipal Court to the City, as well as to the citizens of the city.
2. **Job Description:** The Council has approved a job description for the Municipal Judge that was approved by motion on January 4, 2010, and is part of the agreement for judicial services. That job description shall be used as a basis for the evaluation, which is attached as Exhibit "A" and by this reference incorporated.
3. **Process:** The process that the Council will follow in evaluation of the Municipal Judge is generally as follows:
 - a. There will be a self-evaluation by the Municipal Judge
 - b. The Council will evaluate the Municipal Judge individually.
 - c. These evaluations will be collected by the mayor, and a compilation of their comments will be made for use in the evaluation.
 - d. The Council will seek input from court staff and other appropriate sources.
 - e. The Council will share with the Municipal Judge the compilation of comments from

individual Council members and any other information that is appropriate.

- f. The Council will hold an executive session in which they will discuss the evaluation and the Judge’s performance with the Municipal Judge.
- g. The Council will adopt an evaluation of the Judge in open public meeting where the public has a chance to comment and provide their input.
- h. The final evaluation adopted by the Council will be placed in the Municipal Judge’s personnel file.

- 4. **Forms:** The Mayor and the Council President have developed forms to be used in the evaluation process and the Council adopts the those forms to be used in evaluating the Municipal Judge. The forms are hereby attached to this Resolution and by this reference incorporated as follows:
 - a. Council Evaluation Form, Exhibit “B”
 - b. Self Evaluation Form, Exhibit “C”
 - c. Staff Evaluation Form, Exhibit “D”

- 5. **Previous Resolution:** This Resolution establishing the process for evaluation and adopting the forms replaces Resolution No. 99-2166, which had previously established a process for evaluation. Resolution No. 99-2166 is attached as Exhibit “E” and is hereby by this reference incorporated.

- 6. **Future Evaluation and Delegation of Certain Responsibilities:** The Mayor is hereby authorized to initiate future evaluations of the Municipal Judge and to alter or change the process and/or forms. The Mayor is further delegated the authority to appoint or choose any other Council Member to assist in carrying out these tasks. The Council will strive to conduct an annual review after the initial nine (9) month review but may conduct more frequent reviews or less frequent reviews as the Council or Mayor deems appropriate. Failure to conduct a review shall have no legal consequences either contractually or otherwise.

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: December 7, 2010.

ADOPTED by the City Council of the City of Newberg, Oregon, this 6th day of December, 2010.

Norma I. Alley, City Recorder

ATTEST by the Mayor this 9th day of December, 2010.

Bob Andrews, Mayor

LEGISLATIVE HISTORY

By and through _____ Committee at ____/____/2010 meeting. Or, X None.
(committee name) (date) (check if applicable)

City of Newberg
Position Description

TITLE: Municipal Court Judge **SALARY RANGE:** To be Determined

DEPARTMENT: Finance **LOCATION:** Public Safety Building

CHARTER LEVEL:

- **Position:** The municipal court judge position designated by Charter.
- **Personnel:** Municipal court personnel are supervised on a day-to-day basis and reviewed by the finance director.
- **Budget:** The finance director is responsible for preparing and auditing the budget for the municipal court.

DIVISION: Municipal Court

DATE: January 2010

GENERAL PURPOSE:

Performs judicial activities and oversees the judicial functions of the court, ensuring conformance with legal and departmental requirements. Works under general employment, provisions set forth by the city council. Generally, there will be an employment contract. The city council is empowered to appoint and remove the municipal judge at its discretion.

The municipal court judge is an appointive officer of the city as provided for in Section 36 of the Charter. This excerpt follows:

Section 36 Municipal Court and Judge.

- (a) A majority of the council may appoint and remove a municipal judge. A municipal judge will hold court in the city at such place as the council directs. The court will be known as the Municipal Court.
- (b) All proceedings of this court will conform to state laws governing justices of the peace and justice courts.
- (c) All areas within the city and areas outside the city as permitted by state law are within the territorial jurisdiction of the court.
- (d) The municipal court has jurisdiction over every offense created by city ordinance. The court may enforce forfeitures and other penalties created by such ordinances. The court also has jurisdiction under state law unless limited by city ordinance.
- (e) The municipal judge may:
 - (1) Render judgments and impose sanctions on persons and property;
 - (2) Order the arrest of anyone accused of an offense against the city;
 - (3) Commit to jail or admit to bail anyone accused of a city offense;
 - (4) Issue and compel obedience to subpoenas;
 - (5) Compel witnesses to appear and testify and jurors to serve for trials before the court;
 - (6) Penalize contempt of court;
 - (7) Issue processes necessary to enforce judgments and orders of the court;
 - (8) Issue search warrants; and
 - (9) Perform other judicial and quasi-judicial functions assigned by ordinance.
- (f) The council may appoint and may remove municipal judges pro tem.
- (g) The council may transfer some or all of the functions of the municipal court to an appropriate state court.

SUPERVISION RECEIVED:

The judge functions pursuant to direction of the city council. The mayor is the official contact person. The judge operates independently as to judicial decisions, responsibilities and functions.

SUPERVISION EXERCISED:

The judge shall exercise supervision over the court personnel concerning their in-court and municipal court responsibilities. The day-to-day job supervision and evaluation of the court personnel shall be the responsibility of the finance director. The judge will consult and cooperate with the finance director concerning all aspects of the operation of the court and court personnel. The hiring and termination of court personnel shall be done following city personnel procedures for employees who are responsible to the city manager. The day-to-day supervision, the responsibility for budgeting, and evaluation of court personnel may be reassigned or reorganized by the city manager.

REQUIRED KNOWLEDGE AND SKILLS

- Expert knowledge of law and general legal principles and practices, including alternative sentencing practices.
- Knowledge of local ordinances and codes.
- High-level knowledge of state and constitutional laws specifically relating to traffic regulations, violations and misdemeanors.
- Ability to analyze and appraise case facts, rules of evidence and jurisdiction.
- Ability to maintain judicial impartiality and judicial temperament in cases.
- Ability to maintain a non-discriminatory attitude and behavior regarding, but not limited to, race/ethnicity, religion, sex, age, disability and sexual orientation.
- Ability to communicate clearly and concisely, orally and in writing.
- Ability to work effectively with elected officials, employees, public agencies and the general public.
- Ability to manage court environment to ensure individuals are heard and respected; to maintain an appearance of independence; and to maintain a professional court appearance.
- Ability to manage and initiate court programs in cooperation with the city attorney and court staff to secure compliance with court orders, fines, assessments, and sentences.

EDUCATION / LICENCE REQUIREMENTS

Juris Doctor law degree and a minimum of five (5) years experience in the area of municipal law, trial experience or as an administrative hearings officer, arbitrator or judge; or any equivalent combination of experience and training that demonstrates the knowledge, skill and abilities described above. Member in good standing with the Oregon State Bar. Possession of a valid Driver License and have proper insurance if required to drive for work-related activities.

TYPICAL EXAMPLES OF WORK:

The municipal court judge may perform a combination of some or all of the following duties which are a representative sample of the level of work appropriate to this position. However, these examples do not

include all the specific tasks that an employee may be expected to perform.

1. Presides over trials and renders judgments for misdemeanor crimes, traffic violations, violations of City Codes and any other cases within the jurisdiction of the municipal court.
2. Presides over pretrial conferences, arraignments, motion hearings, traffic hearings, jury and non-jury trials and various other court matters as required for the city.
3. Finds defendants "guilty" or "not guilty," "responsible" or "not responsible," or "in violation" or "not in violation" in non-jury trial proceedings based upon evidence and imposes sentencing as required.
4. Authorizes issuance of failure to appear, failure to comply and contempt warrants.
5. Arraigns persons in custody, sets security amounts, reviews fines, and issues warnings.
6. Evaluates cases with defendants and their attorneys.
7. Provides information to attorneys and citizens regarding warrants, appeals and hearing dates and locations.
8. Administers programs in conjunction with the city attorney, police and court staff.
9. Works with the court administrator to establish and administer the organization, policies and priorities for the court.
10. Develops and recommends to the mayor and city council the annual and long-range plans and goals for the court.
11. Reports to the mayor and city council semiannually on the operations of the court, goals, and accomplishments.
12. Writes opinions; stays current with municipal law and changes; performs related duties as required.
13. Provides for the orderly conduct of proceedings before the court or before its officers.
14. Administers oaths in an action, suit or proceeding pending before the court and in all other cases where it may be necessary in the exercise of the court's powers or the performance of duties.
15. Issues process for the arrest of any person accused of an offense against the city, commits any such person to jail or admits such person to bail pending trial, issues subpoenas, compels witnesses to appear and testify in any case before the court, compels obedience to such subpoenas, issues any process necessary to carry into effect the judgments of the court and punishes for contempt of court.
16. Cooperates with the city manager through the finance director, concerning day-to-day operations of the court and supervision of the court staff.
17. Cooperates with the city attorney concerning the legal functioning of the court while maintaining independence as to judicial decisions and responsibilities.
18. Presides at arraignment and trial of persons charged with violating municipal codes; deliberates on and decides cases tried before the court without a jury; conducts legal research on cases before the court; prepares and gives instructions to the jury on applicable law in jury trials; rules on motions, probation and contempt matters.
19. Establishes policies regarding security, fines, and the entry and docketing of judgments and other matters touching the conduct of proceedings in the court; identifies cases which may be processed by the clerk of the court for individuals who do not desire a formal court appearance; issues warrants as required.
20. Follow standards as outlined in the Employee Manual (Personnel Rules & Regulations).
21. Produces an acceptable quantity and quality of work that is completed within established timelines.
22. Develops safe work habits and follows all required safety policies, procedures and techniques in order to contribute to safety of self, co-workers and the general public.
23. Keeps current on local, current events, as well as court enhancements, technologies, and

alternative sentencing programs of comparable municipal courts and brings and applies innovations to the Newberg Municipal Court.

WORK CONDITIONS:

1. Deals with distraught or difficult individuals.
2. Ability to attend monthly staff meetings and/or activities outside of normal working hours.
3. Ability and willingness to travel as needed and perform judicial services for jury trials, jail arraignments, and handle time-sensitive matters outside of normal court hours.
4. Available for the issuance of warrants during non-court hours.

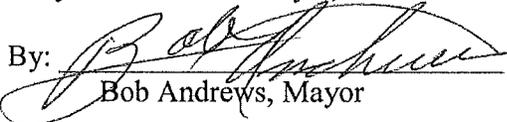
TOOLS AND EQUIPMENT USED:

Personal computer, including word processing, database, and spreadsheet management, motor vehicle; ten-key calculator; phone; copy, scanner, and fax machine.

PHYSICAL DEMANDS:

While performing the duties of this job, the employee is frequently required to talk or hear; sit; use hands to handle, feel or operate objects, tools, or controls; and reach with hands and arms; stand or walk for considerable distances or time. Must occasionally lift and/or move up to 25 pounds. Specific vision abilities include close vision, distance vision, peripheral vision, depth perception, and the ability to adjust focus.

Approval by Motion on January 4, 2010

By: 
Bob Andrews, Mayor

Signature Attest that Motion was duly passed accepting position description

Effective Date: February 1, 2010

COUNCIL EVALUATION OF MUNICIPAL JUDGE

RATING STANDARDS

By Authority of Resolution No. 99-2192

Exhibit "B"

to Resolution No. 2010-2923

(total of 3 pages)

The Council adopted a rating system of one (1) to five (5):

- One. (1) is *unsatisfactory***
- Two. (2) is *needs improvement***
- Three. (3) is *satisfactory***
- Four. (4) is *excellent***
- Five. (5) is *exceeds expectations***

Directions: Write a number on the line in front of each item using the rating scale to represent your assessment of performance for the required knowledge and skills, and the typical examples of work in the job description. The numerical rating is an attempt to quantify opinions and judgments about specific areas of responsibility. While subjective, it suggests a useful emphasis or relative degree of acceptability.

1. **Case Management, Impartiality and Judicial Conduct.** Ability to analyze and appraise case facts, rules of evidence and jurisdiction. Ability to maintain judicial impartiality and judicial temperament in cases. Ability to manage court environment to ensure individuals are heard and respected; to maintain an appearance of independence; and to maintain a professional court appearance. Ability to maintain a non-discriminatory attitude and behavior regarding, but not limited to race/ethnicity, religion, gender, age, disability, and sexual orientation.

- _____ Evaluates cases with defendants and their attorneys.
- _____ Provides information to attorneys and citizens regarding warrants, appeals and hearing dates and locations.
- _____ Establishes policies regarding security, fines, and the entry and docketing of judgments and other matters touching the conduct of proceedings in the court; identifies cases which may be processed by the clerk of the court for individuals who do not desire a formal court appearance; issues warrants as required.
- _____ Produces an acceptable quantity and quality of work that is completed within established timelines.
- _____ Behaviors on and off the bench reflect well upon the City.
- _____ Behavior reflects positively on the judge's character, competence, temperament, and fitness to serve.
- _____ Conduct and rulings reflect unbiased actions regarding race/ethnicity, religion, gender, age, disability, and sexual orientation.

Directions: Using the overall rating scale, circle the number to evaluate this overall area of responsibility.

1	2	3	4	5	N/O
Unsatisfactory Performance*	Needs Improvement*	Satisfactory Performance	Excellent Performance	Exceeds Expectations	Not Observed

Directions: Use the space below to record specific comments for ratings of 1) *unsatisfactory* or 2) *needs improvement*.

*Comments: _____

2. **Knowledge of Law, Legal Practices and Court Management.** Expert knowledge of law and general legal principles and practices, including alternative sentencing practices. Knowledge of local ordinances and codes. High-level knowledge of state and constitutional laws specifically relating to traffic regulations, violations, and misdemeanors.

- _____ Presides over trials and renders judgments for misdemeanor crimes, traffic violations, violations of City Codes and any other cases within the jurisdiction of the municipal court.
- _____ Presides over pretrial conferences, arraignments, motion hearings, traffic hearings, jury and non-jury trials and various other court matters as required for the city.
- _____ Presides at arraignment and trial of persons charged with violating municipal codes; deliberates on and decides cases tried before the court without a jury; conducts legal research on cases before the court; prepares and gives instructions to the jury on applicable law in jury trials; rules on motions, probation and contempt matters.
- _____ Keeps current on local, current events, as well as court enhancements, technologies, and alternative sentencing programs of comparable municipal courts and brings and applies innovations to the Newberg Municipal Court.
- _____ Administers oaths in an action, suit or proceeding pending before the court and in all other cases where it may be necessary in the exercise of the court’s powers or the performance of duties.
- _____ Authorizes issuance of failure to appear, failure to comply and contempt warrants.
- _____ Arraigns persons in custody, sets security amounts, reviews fines, and issues warnings.
- _____ Issues process for the arrest of any person accused of an offense against the city, commits any such person to jail or admits such person to bail pending trial, issues subpoenas, compels witnesses to appear and testify in any case before the court, compels obedience to such subpoenas, issues any process necessary to carry into effect the judgments of the court and punishes for contempt of court.
- _____ Finds defendants “guilty” or “not guilty,” “responsible” or “not responsible,” or “in violation” or “not in violation” in non-jury trial proceedings based upon evidence and imposes sentencing as required.
- _____ Writes opinions; stays current with municipal law changes; performs required duties.
- _____ Provides for the orderly conduct of proceedings before the court or before its officers.
- _____ Develops safe work habits and follows all safety policies, procedures, and techniques in order to contribute to safety of self, co-workers and the general public.

Overall Rating for this Area of Responsibility:

1	2	3	4	5	N/O
Unsatisfactory Performance*	Needs Improvement*	Satisfactory Performance	Excellent Performance	Exceeds Expectations	Not Observed

* Comments: _____

3. **Inter-departmental Relations.** Ability to work effectively with elected officials, employees, public agencies and the general public.

- _____ Cooperates with the city manager through the finance director, concerning day-to-day operations of the court and supervision of the court staff.
- _____ Cooperates with the city attorney concerning the legal functioning of the court while maintaining independence as to judicial decisions and responsibilities.
- _____ Administers programs in conjunction with the city attorney, police and court staff.
- _____ Follows standards as outlined in the Employee Manual (Personnel Rules & Regulations).

Overall Rating for this Area of Responsibility:

1	2	3	4	5	N/O
Unsatisfactory Performance*	Needs Improvement*	Satisfactory Performance	Excellent Performance	Exceeds Expectations	Not Observed

*Comments: _____

4. **Fiscal Planning & Goals.** Ability to manage and initiate court programs in cooperation with the city attorney and court staff to secure compliance with court orders, fines, assessments, and sentences. Ability to communicate clearly and concisely, orally and in writing.

- _____ Develops and recommends to the mayor and city council the annual and long-range plans and goals for the court.
- _____ Reports to the mayor and city council semiannually on the operations of the court, goals, and accomplishments.
- _____ Works with the court administrator to establish and administer the organization, policies and priorities for the court.

Overall Rating for this Area of Responsibility:

1	2	3	4	5	N/O
Unsatisfactory Performance*	Needs Improvement*	Satisfactory Performance	Excellent Performance	Exceeds Expectations	Not Observed

*Comments: _____

Overall Evaluation:

1	2	3	4	5	N/O
Unsatisfactory Performance*	Needs Improvement*	Satisfactory Performance	Excellent Performance	Exceeds Expectations	Not Observed

Comments: _____

Signature _____

Date _____

**SELF EVALUATION BY MUNICIPAL JUDGE
RATING STANDARDS
By Authority of Resolution No. 99-2192**

Exhibit "C"
to Resolution No. 2010-2923
(total of 3 pages)

The Council adopted a rating system of one (1) to five (5):

- One. (1) is *unsatisfactory***
- Two. (2) is *needs improvement***
- Three. (3) is *satisfactory***
- Four. (4) is *excellent***
- Five. (5) is *exceeds expectations***

Directions: Write a number on the line in front of each item using the rating scale to represent your assessment of performance for the required knowledge and skills, and the typical examples of work in the job description. The numerical rating is an attempt to quantify opinions and judgments about specific areas of responsibility. While subjective, it suggests a useful emphasis or relative degree of acceptability.

1. **Case Management, Impartiality and Judicial Conduct.** Ability to analyze and appraise case facts, rules of evidence and jurisdiction. Ability to maintain judicial impartiality and judicial temperament in cases. Ability to manage court environment to ensure individuals are heard and respected; to maintain an appearance of independence; and to maintain a professional court appearance. Ability to maintain a non-discriminatory attitude and behavior regarding, but not limited to race/ethnicity, religion, gender, age, disability, and sexual orientation.

- _____ Evaluates cases with defendants and their attorneys.
- _____ Provides information to attorneys and citizens regarding warrants, appeals and hearing dates and locations.
- _____ Establishes policies regarding security, fines, and the entry and docketing of judgments and other matters touching the conduct of proceedings in the court; identifies cases which may be processed by the clerk of the court for individuals who do not desire a formal court appearance; issues warrants as required.
- _____ Produces an acceptable quantity and quality of work that is completed within established timelines.
- _____ Behaviors on and off the bench reflect well upon the City.
- _____ Behavior reflects positively on the judge's character, competence, temperament, and fitness to serve.
- _____ Conduct and rulings reflect unbiased actions regarding race/ethnicity, religion, gender, age, disability, and sexual orientation.

Directions: Using the overall rating scale, circle the number to evaluate this overall area of responsibility.

1	2	3	4	5	N/O
Unsatisfactory Performance*	Needs Improvement*	Satisfactory Performance	Excellent Performance	Exceeds Expectations	Not Observed

Directions: Use the space below to record specific comments for ratings of 1) *unsatisfactory* or 2) *needs improvement*.

*Comments: _____

2. **Knowledge of Law, Legal Practices and Court Management.** Expert knowledge of law and general legal principles and practices, including alternative sentencing practices. Knowledge of local ordinances and codes. High-level knowledge of state and constitutional laws specifically relating to traffic regulations, violations, and misdemeanors.

- _____ Presides over trials and renders judgments for misdemeanor crimes, traffic violations, violations of City Codes and any other cases within the jurisdiction of the municipal court.
- _____ Presides over pretrial conferences, arraignments, motion hearings, traffic hearings, jury and non-jury trials and various other court matters as required for the city.
- _____ Presides at arraignment and trial of persons charged with violating municipal codes; deliberates on and decides cases tried before the court without a jury; conducts legal research on cases before the court; prepares and gives instructions to the jury on applicable law in jury trials; rules on motions, probation and contempt matters.
- _____ Keeps current on local, current events, as well as court enhancements, technologies, and alternative sentencing programs of comparable municipal courts and brings and applies innovations to the Newberg Municipal Court.
- _____ Administers oaths in an action, suit or proceeding pending before the court and in all other cases where it may be necessary in the exercise of the court’s powers or the performance of duties.
- _____ Authorizes issuance of failure to appear, failure to comply and contempt warrants.
- _____ Arraigns persons in custody, sets security amounts, reviews fines, and issues warnings.
- _____ Issues process for the arrest of any person accused of an offense against the city, commits any such person to jail or admits such person to bail pending trial, issues subpoenas, compels witnesses to appear and testify in any case before the court, compels obedience to such subpoenas, issues any process necessary to carry into effect the judgments of the court and punishes for contempt of court.
- _____ Finds defendants “guilty” or “not guilty,” “responsible” or “not responsible,” or “in violation” or “not in violation” in non-jury trial proceedings based upon evidence and imposes sentencing as required.
- _____ Writes opinions; stays current with municipal law changes; performs required duties.
- _____ Provides for the orderly conduct of proceedings before the court or before its officers.
- _____ Develops safe work habits and follows all safety policies, procedures, and techniques in order to contribute to safety of self, co-workers and the general public.

Overall Rating for this Area of Responsibility:

1	2	3	4	5	N/O
Unsatisfactory Performance*	Needs Improvement*	Satisfactory Performance	Excellent Performance	Exceeds Expectations	Not Observed

* Comments: _____

3. **Inter-departmental Relations.** Ability to work effectively with elected officials, employees, public agencies and the general public.

- _____ Cooperates with the city manager through the finance director, concerning day-to-day operations of the court and supervision of the court staff.
- _____ Cooperates with the city attorney concerning the legal functioning of the court while maintaining independence as to judicial decisions and responsibilities.
- _____ Administers programs in conjunction with the city attorney, police and court staff.
- _____ Follows standards as outlined in the Employee Manual (Personnel Rules & Regulations).

Overall Rating for this Area of Responsibility:

1	2	3	4	5	N/O
Unsatisfactory Performance*	Needs Improvement*	Satisfactory Performance	Excellent Performance	Exceeds Expectations	Not Observed

*Comments: _____

4. **Fiscal Planning & Goals.** Ability to manage and initiate court programs in cooperation with the city attorney and court staff to secure compliance with court orders, fines, assessments, and sentences. Ability to communicate clearly and concisely, orally and in writing.

- _____ Develops and recommends to the mayor and city council the annual and long-range plans and goals for the court.
- _____ Reports to the mayor and city council semiannually on the operations of the court, goals, and accomplishments.
- _____ Works with the court administrator to establish and administer the organization, policies and priorities for the court.

Overall Rating for this Area of Responsibility:

1	2	3	4	5	N/O
Unsatisfactory Performance*	Needs Improvement*	Satisfactory Performance	Excellent Performance	Exceeds Expectations	Not Observed

*Comments : _____

Goals for next evaluation period: _____

Signature _____ Date _____

**STAFF INPUT CONCERNING MUNICIPAL JUDGE'S
PERIODIC PERFORMANCE EVALUATION
February – November, 2010**

Exhibit "D"
to Resolution No. 2010-2923
(total of 2 pages)

STANDARD RATING SYSTEM

The Council adopted a rating system of one (1) to five (5):.

- One. (1) is *unsatisfactory*
- Two. (2) is *needs improvement*
- Three. (3) is *satisfactory*
- Four. (4) is *excellent*
- Five. (5) is *exceeds expectations*

Directions: Review the Municipal Judge's work performance for the entire period (February – November, 2010). Try to refrain from basing judgment only on recent events or isolated incidents. Disregard your general impression of the Municipal Judge and concentrate on one item at a time.

Evaluate the Municipal Judge on the basis of standards you expect to be met for the job to which assigned; considering the length of time in the job. Check the number that most accurately reflects the level of performance for the item appraised using the rating scale described above. If you did not have an opportunity to observe an item during this evaluation period, please indicate so in the "N/O" column. The numerical rating is an attempt to quantify opinions and judgments about specific areas of responsibility. While subjective, the ratings suggest a useful emphasis or relative degree of acceptability.

I. PERFORMANCE EVALUATION AND ACHIEVEMENTS.

A. Public Relations

- 1. Projects a positive public image. 1____ 2____ 3____ 4____ 5____ N/O_____
- 2. Is courteous to the public at all times. 1____ 2____ 3____ 4____ 5____ N/O_____
- 3. Maintains effective relations with media. 1____ 2____ 3____ 4____ 5____ N/O_____

Comments: _____

B. Effective Leadership of Staff

- 1. Delegates appropriate responsibilities. 1____ 2____ 3____ 4____ 5____ N/O_____
- 2. Ensures fiscal responsibility. 1____ 2____ 3____ 4____ 5____ N/O_____
- 3. Develops safe work habits self/others. 1____ 2____ 3____ 4____ 5____ N/O_____

Comments: _____

**STAFF INPUT CONCERNING MUNICIPAL JUDGE'S
PERIODIC PERFORMANCE EVALUATION
February – November, 2010**

C. Communication (Staff and public)

- 1. Oral communication is clear & concise 1____ 2____ 3____ 4____ 5____ N/O____
- 2. Written communications are clear & concise. 1____ 2____ 3____ 4____ 5____ N/O____
- 3. Ensures individuals are heard & respected 1____ 2____ 3____ 4____ 5____ N/O____

Comments: _____

D. Personal Traits

- 1. Acts with Initiative. 1____ 2____ 3____ 4____ 5____ N/O____
- 2. Acts with appropriate Judgment. 1____ 2____ 3____ 4____ 5____ N/O____
- 3. Acts with Fairness & Impartiality. 1____ 2____ 3____ 4____ 5____ N/O____
- 4. Acts Creatively. 1____ 2____ 3____ 4____ 5____ N/O____

Comments: _____

II. SUMMARY RATING

Overall Performance Rating – Considering the results obtained against established performance standards as overall job performance, the following rating is provided. Check the overall rating for the Municipal Judge in the rating scale below. Use the space below to record specific comments for ratings of 1) *unsatisfactory* or 2) *needs improvement*.

1	2	3	4	5	N/O
Unsatisfactory Performance*	Needs Improvement*	Satisfactory Performance	Excellent Performance	Exceeds Expectations	Not Observed

Comments: _____

Signature: _____ Date: _____

RESOLUTION NO. 99-2166

RESOLUTION ESTABLISHING A PROCESS FOR EVALUATING THE PERFORMANCE OF THE MUNICIPAL JUDGES; ESTABLISHING STANDARDS, CRITERIA AND POLICY DIRECTIVES BY WHICH TO EVALUATE THE JUDGES' PERFORMANCE; AND PROVIDING FOR AN OPPORTUNITY FOR PUBLIC COMMENT.

RECITALS:

1. In October of 1997, the City passed Resolution no. 97-2067 approving the appointment of John T. Mercer as Municipal Judge and Stephen C. Palmer as Acting Municipal Judge Pro Tem for an eighteen (18) month period.
2. The first term of the Municipal Judges ends on April 1, 1999.
3. The City desires to evaluate the performance of the Municipal Judges and consider whether or not to renew their term of appointment.
4. ORS 192.660(1)(i) provides that evaluations of the performance of a public officer may be performed in Executive Session pursuant to Standards, Criteria, and Policy Directives adopted by the City Council in meetings open to the public in which there is an opportunity for public comment.
5. The City Council held a public hearing to obtain input concerning the Standards, Criteria, and Policy Directives to evaluate the Municipal Judges as well as the process by which the Municipal Judges shall be evaluated. The evaluation shall be communicated to the Municipal Judges in Executive Session.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NEWBERG AS FOLLOWS:

1. The City Council establishes the following as the **STANDARDS** by which to evaluate the Municipal Judges:
 - a. The Municipal Judges shall perform their duties in such a manner that it meets all legal requirements established by Federal, State, and Municipal Ordinances concerning the adjudication and processing of cases before the Municipal Court.
 - b. The Municipal Judges shall adjudicate cases before the Municipal Court in a regular and efficient manner in conformity with established court practices and rules.
 - c. The Municipal Judges shall assist in the development of information concerning case resources and implement all programs required by law.

2. The City establishes the following **CRITERIA** by which to evaluate the Municipal Judges:
 - a. All cases before the Municipal Court are adjudicated in a regular and efficient manner to provide proper judicial resolution.
 - b. The Municipal Judges exercises judicial authority to control case hearings and settings with goals for adjudication within a designated reasonable time.
 - c. The Municipal Court practices and rules are regularly disseminated and known by attorneys practicing before the Municipal Court.
3. The City adopts the following **POLICY DIRECTIVES** concerning the Municipal Judges and Municipal Court:
 - a. The Municipal Judges are independent Municipal Officers who exercise their judicial authority free from any political or non-legal considerations.
 - b. The Municipal Court shall strive as reasonably as possible to be a full-service court having jurisdiction over all crimes, traffic infractions, and ordinance violations which are allowed under the applicable law.
 - c. Citizens having cases before the Court shall have their cases adjudicated in a fair and legal manner.
 - d. Victims of crimes or violations shall have their rights and needs considered in adjudication of the case before the Municipal Court.
4. The City Council establishes the following **PROCESS for EVALUATION** of the Municipal Judges' performances:
 - a. The City Council shall consider the **Standards, Criteria, and Policy Directives** for the Municipal Court and Municipal Judges at a public meeting at which time public comment shall be received.
 - b. The City Council shall receive comments from the Mayor, City Council Members, and other persons as the City Council shall, from time to time, request concerning the operations of the Municipal Court and the Municipal Judges' performances.
 - c. The comments shall be presented and discussed with the Municipal Judges in Executive Session with the Mayor, City Council Members, and any other persons that the Council may specifically request to attend the Executive Session.
 - d. The final evaluation shall be presented to the Municipal Judges for any written comments by the Municipal Judges.

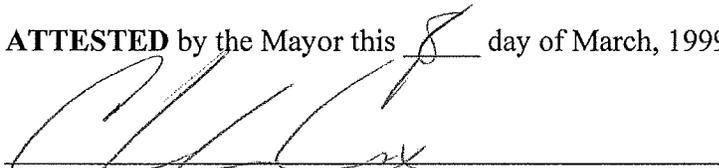
- e. The evaluations shall placed in the Municipal Judges' personnel files.
- f. The evaluations may be done annually at a time decided by the City Council. The **Standards, Criteria, and Policy Directives** may be reviewed annually.

ADOPTED by the City Council of the City of Newberg this 1st day of March, 1999.



Duane R. Cole, City Manager

ATTESTED by the Mayor this 8 day of March, 1999.



Charles Cox, Mayor

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: December 6, 2010

Order ____ Ordinance ____ Resolution XX Motion ____ Information ____
No. No. No. 2010-2924

SUBJECT: A request to initiate amendments to the Newberg Comprehensive Plan and Development Code to reflect the Tier 2 bypass alignment.

Contact Person (Preparer) for this
Resolution: **Luke Pelz, AICP; Assistant Planner**

Dept.: **Planning Division**

File No.: **CPTA-10-001**
(if applicable)

RECOMMENDATION:

Adopt **Resolution No. 2010-2924** initiating certain amendments to the Newberg Comprehensive Plan and Development Code to reflect the Tier 2 bypass alignment.

EXECUTIVE SUMMARY:

The Oregon Department of Transportation (ODOT) conducted a public hearing on the Tier 2 Draft Environmental Impact Statement (DEIS) for the Newberg Dundee Bypass on June 29, 2010, followed by selection of the Locally Preferred Alternative (LPA). ODOT will be submitting an application to Yamhill County this month for land use actions necessary to support the LPA, including some modifications to goal exceptions approved in 2004. ODOT requests that the Newberg City Council initiate legislative amendments in order to reflect the Tier 2 bypass alignment and to support the Yamhill County land use actions. The amendments will include:

1. Minor modifications to the Comprehensive Plan policies adopted for the Bypass in 2004 and last amended in 2008.
2. Minor modifications to the Bypass Interchange Overlay.
3. Smaller interchange overlay boundaries for the OR-219 and East Newberg interchanges.
4. Transportation System Plan amendments to approve changes to local access and circulation within the Newberg UGB included in the LPA.

FISCAL IMPACT:

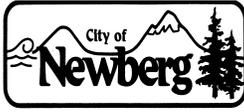
ODOT will pay the application fee of \$2,035, and that fee is estimated to cover the costs.

STRATEGIC ASSESSMENT:

The amendments would support ODOT's planning process for the Newberg Dundee Bypass.

Attachments:

1. Resolution No. 2010-2924
2. Tier 2 bypass alignment map
3. Letter of request from ODOT



RESOLUTION No. 2010-2924

A RESOLUTION INITIATING AMENDMENTS TO THE NEWBERG COMPREHENSIVE PLAN AND DEVELOPMENT CODE TO REFLECT THE TIER 2 BYPASS ALIGNMENT OF THE NEWBERG-DUNDEE BYPASS CORRIDOR

RECITALS:

1. The Oregon Department of Transportation (ODOT) conducted a public hearing on the Tier 2 Draft Environmental Impact Statement (DEIS) for the Newberg Dundee Bypass on June 29, 2010, followed by selection of the Locally Preferred Alternative (LPA).
2. ODOT has submitted an application to Yamhill County for land use actions necessary to support the LPA, including some modifications to goal exceptions approved in 2004.
3. Amendments to the Newberg Comprehensive Plan and Development Code are necessary to reflect the Tier 2 bypass alignment and support the Yamhill County land use actions.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. A Type IV legislative action is hereby initiated to consider certain amendments to the Newberg Comprehensive Plan and Development Code to reflect the Tier 2 bypass alignment.
2. The City Council does not commit to take any particular action by initiating this legislative action.

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: December 7, 2010.

ADOPTED by the City Council of the City of Newberg, Oregon, this 6th day of December, 2010.

Norma I. Alley, City Recorder

ATTEST by the Mayor this 9th day of December, 2010.

Bob Andrews, Mayor

LEGISLATIVE HISTORY

By and through _____ Committee at _____ / _____ /200x meeting. Or, X None.
(committee name) (date) (check if applicable)

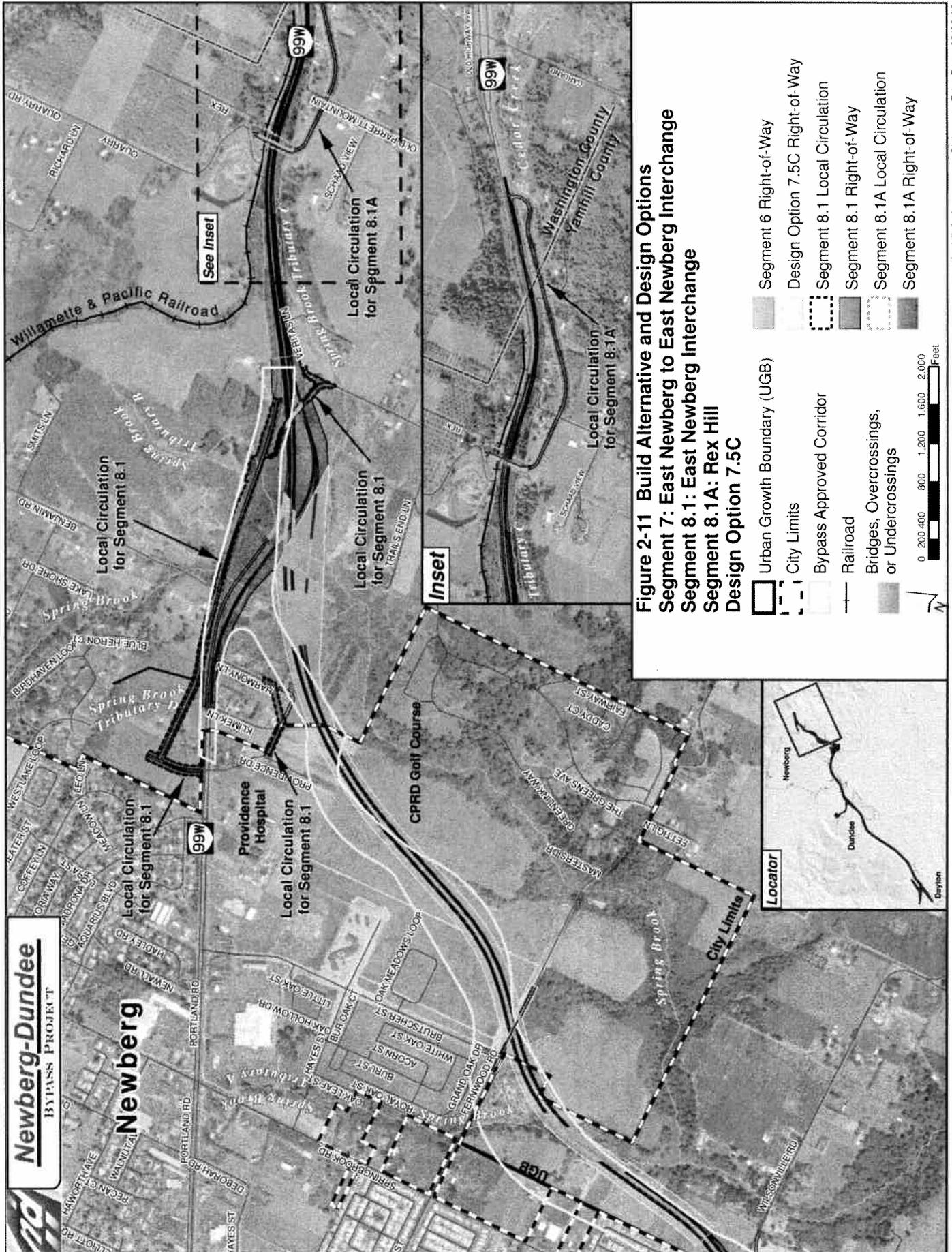


Figure 2-11 Build Alternative and Design Options
Segment 7: East Newberg to East Newberg Interchange
Segment 8.1: East Newberg Interchange
Segment 8.1A: Rex Hill
Design Option 7.5C

Map ID: DEIS_Base_8x11_Ch2.mxd Print Date: 08/28/08

See Note for Design Option Descriptions



Oregon

Theodore R. Kuflongoski, Governor

Department of Transportation

Area 3

885 Airport Road SE, Bldg. P

Salem, OR 97301-4788

503-986-2900

FAX 503-986-2881

November 9, 2010

Newberg City Council
P.O. Box 970
Newberg, OR 97132

FILE CODE:

Re: Request for initiation of Legislative Amendments
Newberg Dundee Bypass

Dear Mayor Andrews and City Council:

As you are aware, ODOT conducted a public hearing on the Tier 2 Draft Environmental Impact Statement (DEIS) for the Newberg Dundee Bypass on June 29, 2010, followed by selection of the Locally Preferred Alternative (LPA). ODOT will be submitting an application to Yamhill County this month for land use actions necessary to support the LPA, including some modifications to goal exceptions approved in 2004. Similar to the coordinated process followed in 2004, ODOT is also working with the cities of Newberg, Dundee and Dayton to update bypass policies and ordinances to reflect the Tier 2 bypass alignment and support the Yamhill County land use actions.

The package of legislative amendments in Newberg includes the following components:

- Minor modifications to the Comprehensive Plan policies adopted for the Bypass in 2004 and last amended in 2008;
- Minor modifications to the Bypass Interchange Overlay;
- Smaller interchange overlay boundaries for the OR-219 and East Newberg interchanges; and
- TSP amendments to approve changes to local access and circulation within the Newberg UGB included in the LPA.

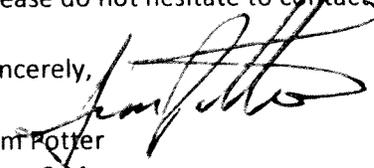
Under Section 151.122(B) of the Newberg Zoning Ordinance, Type IV legislative amendments to the Comprehensive Plan or Zoning Ordinance may only be initiated by resolution of the Planning Commission or City Council.

In anticipation of our upcoming submittal of the consolidated application in early December, we request that the Newberg City Council initiate the legislative amendment on behalf of ODOT. ODOT understands that the City Council does not commit to take any particular action by initiating the legislative amendments.

Members of our project team are available to respond to questions of the City and to support staff with the public notice to DLCD and property owners, and other tasks as needed and appropriate. We met with planning staff on November 5, 2010 to review the draft package of proposed amendments.

Please do not hesitate to contact me if you have any questions or need additional information.

Sincerely,


Tim Potter
Area 3 Manager
ODOT – Region 2

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: December 6, 2010

Order ___ Ordinance ___ Resolution ___ Motion XX Information ___
No. No. No.

SUBJECT: Approve the November 1, 2010, City Council Meeting minutes.

Contact Person (Preparer) for this Motion: Norma Alley, City Recorder

Dept.: Administration

File No.:
(if applicable)

RECOMMENDATION:

Approve the November 1, 2010, City Council minutes for preservation and permanent retention in the City's official records.

EXECUTIVE SUMMARY:

On November 1, 2010, the City of Newberg City Council held a public meeting and minutes were recorded in text.

FISCAL IMPACT:

None.

STRATEGIC ASSESSMENT:

None.

**CITY OF NEWBERG CITY COUNCIL MINUTES
NOVEMBER 1, 2010
7:00 P.M. MEETING
PUBLIC SAFETY BUILDING TRAINING ROOM
401 EAST THIRD STREET**

Work Session was held prior to the meeting. Staff presented an update on affordable housing. No decisions were made.

I. CALL MEETING TO ORDER

Mayor Bob Andrews called the meeting to order at 7:00 PM.

II. ROLL CALL

Members

Present:	Mayor Bob Andrews	Denise Bacon	Ryan Howard
	Stephen McKinney	Bart Rierson	Marc Shelton
	Wade Witherspoon		

Staff

Present:	Daniel Danicic, City Manager	Terrence Mahr, City Attorney
	Barton Brierley, Planning and Building Director	Janelle Nordyke, Finance Director
	David Beam, Economic Development Coordinator	Norma Alley, City Recorder
		Jennifer Nelson, Recording Secretary

Others

Present: Pat Haight, Hank Grum, Russ Thomas, Michael Gunn, Leonard Johnson, Rob Felton, Steve Clay, and Corey Zielsdorf

III. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was performed.

IV. CITY MANAGER'S REPORT

Mr. Daniel Danicic, City Manager, reported he is expecting to receive a draft of the work done on the vision statement from Nancy Boyer this week. He announced the jersey received from the George Fox University girls basketball championship has been framed and is hanging up at the City Hall.

V. PUBLIC COMMENTS

Ms. Pat Haight spoke of attending various meetings around town to see what people are investing there time into around Newberg as well as traveling to other surrounding cities to see what they are doing. She stated her desires to see the City start taking care of the town's needs, like broken sidewalks and paving streets, before they do other neat ideas. She encouraged the City to focus on bringing jobs to Newberg and helping fix what is broken or run down around town. Although she agreed having a vision is good, she felt the focus should be more on creating a strong foundation, which cannot be done when people are struggling to survive. She encouraged council to take a different direction for a little while to give the people who are having a hard time support.

Mr. Hank Grum said he would like to attract businesses to town and have the present businesses stay here. He learned from walking around and talking to business owners there are a lot of problems with the sign ordinance

and gave a few examples of downtown businesses struggling to meet the code requirements; he did not feel the ordinance was very welcoming to businesses coming to Newberg and that it makes the City look capricious, he asked that it be looked at again.

Mr. Russ Thomas, Chairman of the Old Fashioned Festival Committee, thanked the council and the City for their support to keep this family friendly festival going every summer. He spoke of the staff time and monetary contributions helping to make the festival happen.

VI. CONSENT CALENDAR

1. Consider a motion approving **Resolution No. 2010-2921** approving the expenditure of \$7,500.00 to support the Newberg Downtown Coalition.
2. Consider a motion approving **City Council Minutes** for October 4, 2010.

MOTION: Shelton/Rierson approving the Consent Calendar including **Resolution No. 2010-2921** approving the expenditure of \$7,500.00 to support the Newberg Downtown Coalition and the **City Council Minutes** for October 4, 2010. (7 Yes/0 No) Motion carried.

VII. PUBLIC HEARING

1. Consider a motion adopting **Resolution No. 2010-2922** approving Supplemental Budget #1 for the 2010-2011 Fiscal Budget.

TIME – 7:10 PM

Mayor Andrews opened the public hearing and called for any conflicts of interest or abstentions; none appeared.

Ms. Janelle Nordyke, Finance Director, presented the staff report and pointed out an amendment needed to be made to the supplemental budget to not include the additional \$7,500.00 to the Newberg Downtown Coalition (NDC) since this expenditure was already approved by Resolution No. 2010-2921; including this in the supplemental budget would essentially allocate those funds twice, so it needs to be removed. The increase of \$7,500.00, the third item at the top of Exhibit “A” under Fund 1 for Community Support, would be deleted (see official meeting packet for full report).

Mayor Andrews opened the public testimony.

Ms. Haight raised concerns for the costs of the utility assistance program, asking why it was costing over \$50,000.00 in administrative support services to give away \$15,000.00. Staff explained the Council adopted more than just \$15,000.00 for utility assistance; the total was actually \$43,000.00 with 50% taken from the water fund and 50% taken from the waste water fund. The program was originally in the utility billing department, which is the administrative support services fund. The money in the budget is for the utility billing assistance program, not for staff time. Ms. Haight replied she only recalled hearing that \$15,000.00 was being given to Love, INC. Mr. Danicic replied he will email Ms. Haight a copy of the details of this fund as follow up.

Mayor Andrews closed the public testimony.

Staff recommended adopting the supplemental budget with the amendment to delete the third entry of \$7,500.00 to Community Support, increasing the contingency by the same amount, and adjusting the number totals to reflect this correctly.

Mayor Andrews closed the public hearing.

MOTION: Witherspoon/McKinney adopting **Resolution No. 2010-2922** approving Supplemental Budget #1 for the 2010-2011 Fiscal Budget deleting the third entry of \$7,500.00 to Community Support, increasing the contingency by the same amount, and adjusting the number totals to reflect this correctly. (7 Yes/0 No) Motion carried.

2. Consider a motion adopting **Order No. 2010-0029** designating the Johnson Furniture site as a local historic landmark.

TIME – 7:30 PM

Mayor Andrews opened the public hearing and called for any biases, ex parte contact, or objections to jurisdiction.

Councilor McKinney stated he had discussions with the Johnson's and staff concerning the sign.

Mayor Andrews stated he has been a customer of Johnson's Flooring in the past, but his decision will be based on the record.

Councilor Denise Bacon stated people had called her about issues with the sign at Johnson's and she spoke to staff, but she does not remember the details of those conversations.

Councilor Bart Rierson stated he has been a customer of Johnson's in the past and brought it up for Council Business once for an example of the signage code being inappropriate, but his decision will be based on what is proposed.

Mr. Barton Brierley, Planning and Building Director, presented the staff report including a PowerPoint as a visual aid (see official meeting record for full report).

Councilor Ryan Howard asked what the proposed change would entail for this building to be included in the historic inventory zone. Staff replied any property on historic inventory would need to have any exterior alterations reviewed to ensure it does not change the historical character and any signs on the building can remain, which is what prompted this request. Councilor Howard wondered if this included any transfers of ownership or attempts to demolish for repurposing of the land. Staff replied change of ownership or use does not affect this, but there is a process to demolish the building.

Mayor Andrews opened the public testimony.

Mr. Michael Gunn, representing Johnson's Flooring, stated this request was driven by the sign on the awning being required to change according to the sign ordinance. He admitted the Johnsons did not apply for the continuation of the nonconforming sign and cited several contributing factors; ultimately removing the sign and replacing it would cost approximately \$40,000.00, which is a burden the business cannot afford. He mentioned there were over one hundred and thirty letters that support keeping the sign the way it is and by approving this request to have the building included on the historic inventory, removing the sign can be avoided. He spoke of many business owners who were not supportive of the sign ordinance and those that were did not feel it would be as restrictive as it ended up being.

Councilor Witherspoon asked if the Council were to somehow override the sign ordinance and allow the sign to remain as it is - would they continue this process for historic designation.

Mr. Leonard Johnson, Johnson's Flooring, stated this was all about keeping the sign and they would probably not pursue the historic designation if the sign were allowed to remain as it is.

Councilor Howard asked staff what restrictions were placed on other signs that received nonconforming conditions. Staff replied it was on an individual basis, some had no conditions, and others had to do some landscaping adjustments.

Councilor McKinney asked if the Johnsons would bear any financial burden to change from C3 to C3H. Mr. Gunn replied there is no fee for applying.

Councilor Shelton asked staff if any revisions made to the property were Type 1 decisions. Staff replied about 60% of revisions on Type 1, so they are staff overview only; the other 40% would require review by the Planning Commission.

Mayor Andrews closed the public testimony. Staff recommended approval and stated the building really is an asset to City and to the Downtown; it contributes to the character and is worth preserving.

Mr. Terrence Mahr, City Attorney, spoke of the applicant's right to submit further written testimony or to waive their rights. Mr. Gunn stated they would waive their rights to submit further written testimony so deliberations could proceed. Mayor Andrews closed the public hearing.

MOTION: Shelton/Rierson adopting **Order No. 2010-0029** designating the Johnson Furniture site as a local historic landmark, read by title only.

Councilor Rierson stated the building has historic significance and the sign adds character to the Downtown; he felt it would be a travesty to remove the sign to comply with the ordinance. He did not feel it was the intent of the sign ordinance to make things less attractive and felt this was a good compromise and gave the City the assurance this building will continue to have the same character while keeping the sign.

Councilor Witherspoon agreed with the historic designation one hundred percent if there was no other way to keep the sign as it is. Staff replied the only other option is to amend the sign ordinance or to designate the sign as a cultural landmark.

Councilor McKinney said although the Council has the power to make an exception, he did not feel that would alleviate upcoming problems for downtown vendors and those already calling for amendments to the electronic sign code. He felt designating this as historic was a way to address the Johnson's situation without addressing their neighbors.

Councilor Shelton asked staff to cite other locations allowed to keep their signs because of being historic. Staff mentioned the Cameo Theater as an example and noted the 99W Drive-In sign was designated as a cultural landmark; several signs downtown are designated nonconforming that are allowed to remain.

Mayor Andrews stated he supports the ordinance as presented for historical designation and thanked Johnson Furniture for their willingness to move in this direction; he felt it was a public statement to provide protection of the historic buildings they own.

VOTE: To adopt Order No. 2010-0029. (7 yes/0 No) Motion carried.

Mayor Andrews recessed at 8:08 PM and reconvened at 8:12 PM.

VIII. NEW BUSINESS

Consider a motion dissolving the Newberg Downtown Revitalization Committee.

TIME – 8:12 PM

Mr. Danicic presented the staff report and handed out an email received by Mr. John Bridges (see official meeting packet for full report).

Councilor Shelton asked if the Newberg Downtown Coalition (NDC), the Newberg Downtown Association (NDA), and the Newberg Downtown Revitalization Committee (NDRC) were all related to the Chehalem Valley Chamber of Commerce. Staff replied the NDA and NDRC are separate from the Chamber. The NDC began as a result of Chamber investigation of a new Urban Renewal Program, but there is no official connection between them at this time.

Councilor Rierson asked Mr. Felton if he was associated with the groups other than being the Chair of the NDRC.

Mr. Rob Felton stated he is the president of the NDC, Chair of the NDRC, and was a board member of the NDA. He also stated he was okay with the dissolution of the NDRC.

Mayor Andrews asked if he would support putting the NDRC at rest or making it inactive for the time being rather than dissolving it. Mr. Felton he would be okay with that as well, but he felt it was possible to use other methods to administer these types of funds.

Councilor Witherspoon was concerned with the opposition raised and wondered why there was so much resistance. He asked how all three entities feel about each other and if every member is in the NDA or in the NDC as well. Mr. Felton replied about three fifths of NDRC are doing both; Mr. Bridges, as the President of the Chamber asked to start the NDC and was part of the process as well; if the NDRC dissolved, he and others would move efforts over to the NDC.

Councilor Shelton asked if there were any other projects the NDC solely owns other than the involvement in the Main Street Program. Mr. Felton mentioned Downtown Clean-up Days and coordinating events for the Camellia Festival and Project for Public Spaces. NDC also put together other events such as the Farmer's Market and the Downtown Halloween although they were funded from elsewhere.

Councilor Shelton asked the City Attorney about how the charter directs dissolving an ad hoc committee vs. a citizen advisory committee.

Mr. Mahr replied the charter addresses committees established by resolution where as ad hoc committees are just established by Mayor. It was asked if the NDRC was established by resolution as a citizen's advisory committee. Mr. Beam replied the NDRC was established in February of 2003, which was prior to the new charter, so the Mayor did not just appoint those members as he would according to the new charter. Mr. Mahr felt since it was not established by a resolution the Council could move forward with the proposal as it is.

Councilor McKinney asked about funds designated to NDRC and/or NDC at the moment. Staff replied there were none designated to NDC other than the occasional money into specific projects; the NDRC has administrative costs for staff help from Mr. Beam and a minute recorder, the members are volunteers.

MOTION: Shelton/Bacon to dissolve the Newberg Downtown Revitalization Committee.

Mr. Steve Clay, Vice Chair of NDRC, felt this would simplify and stream line the process. He is not a business owner downtown, but just a citizen who likes to go downtown and felt whatever can be done to make better is what he wants. He is not currently a member of the NDC, but if he needs to join to continue helping clean up and preserve the historic Downtown Newberg he will.

Mr. Corey Zielsdorf, NDRC, stated he has been a member for three to four years and spoke of why it started. He spoke of the opportunities of the Main Street Program and the NDC to bring funding Downtown. He appreciates the enthusiasm and spoke of being realistic about volunteer efforts.

Councilor Rierson said he is a former member of the NDRC and spoke of some reservations about dissolving for history purposes; but, he felt the Main Street Program attracts better funding and supports the motion.

Councilor Witherspoon was in favor of the motion, but he wanted to make sure the last minute email they received from Mr. Bridges did not represent the opinion of others. He felt the opposition did not extend to more than the one person in this matter.

Discussion followed to ensure the City Attorney was comfortable with dissolving the committee created by a resolution. Mr. Mahr felt comfortable there is a clear record and that there is authority to do this with a motion only.

Councilor Rierson concluded by thanking the members of the NDRC for work they have done and ensured them just because they were dissolving it for purposes of eliminating redundancy, it does not mean the work is not appreciated.

VOTE: To dissolve the NDRC as of December 31, 2010. (7 Yes/0 No) Motion carried.

IX. COUNCIL BUSINESS

None.

X. ADJOURNMENT

The meeting adjourned at 8:43 PM.

ADOPTED by the Newberg City Council this 6th day of December, 2010.

Norma I. Alley, City Recorder

ATTEST by the Mayor this 9th day of December, 2010.

Bob Andrews, Mayor

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REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: December 6, 2010

Order XX Ordinance ___ Resolution ___ Motion ___ Information ___
No. 2010-0030 No. No.

SUBJECT:
Comprehensive Plan Map Amendment from LDR to HDR and Zoning amendment from R-1 to R-3 for property located at 1103 N Meridian St.

Contact Person (Preparer) for this Order: Jessica Nunley, AICP

Dept.: Planning & Building

File No.: CPA-10-001/ZMA-10-001
(if applicable)

HEARING TYPE: LEGISLATIVE QUASI-JUDICIAL

RECOMMENDATION:

The Planning Commission recommended that the Council adopt Order No. 2010-0030, which would amend the Comprehensive Plan map designation from Low Density Residential (LDR) to High Density Residential (HDR) and amend the Zoning designation from R-1 (Low Density Residential) to R-3 (High Density Residential) for a property located at 1103 N Meridian Street, Tax Lot 3218DA-2100.

EXECUTIVE SUMMARY:

The Housing Authority of Yamhill County is the owner of property located at 1103 N Meridian Street. The property is approximately 3.39 acres in size and currently has a historic two-story house, shed, garage, and mature trees on the site. The property was added to the Newberg Historic Resource Inventory in 1985. The property is adjacent to another historic house to the north, and single family housing to the west and south. A senior condominium housing development is directly across the street to the east, and an apartment complex is to the north of the condominium development on the east side of Meridian Street.

The Housing Authority's proposal is to amend the Comprehensive Plan designation of the site from LDR (Low Density Residential) to HDR (High Density Residential) and amend the Zoning designation of the site from R-1 (Low Density Residential) to R-3 (High Density Residential). The R-3 zoning typically allows higher density housing, calculated by a rate of 1500 square feet of lot area per permitted unit. The zoning also permits things such as dormitories, campus living organizations, group care homes, parks, churches and schools. The applicant's future plans for the property include developing some type of multi-family housing structures around the existing historic structure. The applicant has indicated that they will preserve as many of the existing mature trees as possible, and that they plan to retain, improve, and reuse the existing historic structure as part of their overall site.

The Planning Commission held hearings on October 14, 2010 and November 10, 2010 to consider the proposal. After reviewing the evidence and hearing substantial public testimony, the Planning Commission adopted Resolution 2010-285 recommending that the City Council approve the requested Comprehensive Plan map and Zoning map amendment. The proposal meets the applicable Development Code criteria and Comprehensive Plan goals and policies, as summarized by the following points:

- There is a demonstrated need for HDR land in the Comprehensive Plan.
- There is adequate infrastructure to serve the site – sewer, water, stormwater, and transportation.
- The site meets the site suitability criteria for HDR land – one acre or greater in size, less than 10% slope, 1:1 or lower improvement to land value ratio, lack of wetlands or streams, access to a minor

collector street (direct access to Meridian Street), adequate public utilities serving the site, and near downtown commercial areas and other public services.

- The proposal will likely result in preservation of the historic structure.
- The site has close proximity to many public services.

FISCAL IMPACT:

No direct fiscal impact. The applicant must pay for any costs associated with future development, such as utility connections and facilities.

STRATEGIC ASSESSMENT:

Staff finds that the application meets the applicable Development Code criteria and Comprehensive Plan goals and policies as summarized below.

Need for HDR & Multi-Family Housing

There is a demonstrated need for additional buildable High Density Residential (HDR) land. According to the City’s comprehensive plan adopted in 2005, and recent buildable lands information, there is a need for at least 24 additional buildable acres of HDR land for the next 15 years, and even more for the next 20 years.

Plan Designation	Buildable Acres Needed 2005-2025	Buildable Acres Needed 2010-2025 (Adjusted from 2005 data)	Buildable Acres in UGB (2010 BLI)	Surplus (Deficit) for 2010-2025
LDR	612	436	585	149
MDR	173	166	132	(34)
HDR	89	69	45	(24)
Total	874	671	762	91

Source: Newberg Planning and Building Department

This proposal could help meet that need.

Adequate Infrastructure to Serve the Site

The proposed site has existing sewer, water, and transportation facilities available with adequate capacity to serve the maximum density of the proposed zone change. There is an existing 8-inch sewer line with a manhole right at the northern property edge in Evergreen Drive. The application contains a report on sanitary sewer calculations done by Sisul Engineering, calculating the capacity of the existing sewer line with existing & potential maximum R-1 density (15 units) and existing & potential maximum R-3 density (96 units). When infiltration rates are added in, the existing + maximum R-1 density would use approximately 51% of the pipe capacity and the existing + maximum R-3 density would use approximately 70% of the pipe capacity. Therefore, the pipe capacity is adequate to accommodate the proposed zone change. There are existing water lines in Evergreen Drive and Meridian Street with adequate capacity to support the proposed zone change. Any development of the site would require the public water line to be looped through from Evergreen Drive to Meridian Street to ensure adequate flow, a standard practice on most large development sites.

The proposed multi-family development site is located adjacent to Meridian Street and would take direct access from the street. Meridian Street is developed to the minor collector standard with 34 feet curb to curb pavement width, two 10-foot travel lanes divided by striping, and 7 foot parking lanes on both sides of the street. According to the applicant's traffic impact study, Meridian St is functioning at a level of service A in front of the site, and is projected to continue to function at a level of service A even with the addition of trips generated from the proposed development. The sight distance from the proposed site's frontage is adequate for cars entering and exiting the site. In the past three years only one crash occurred in the stretch of Meridian from Fulton to Sierra Vista St, and that was caused by a driver running through a stop sign from Sierra Vista onto Meridian Street, so no significant traffic safety concerns are noted for the area. Any future development on the site would likely require a bicycle and pedestrian connection through the site from Meridian Street to Evergreen Drive, which would lead to Sierra Vista Drive and College Street. In addition, Meridian Street is served by a regular Chehalem Transit Bus Route.

Site is Suitable for HDR Development

This site meets the site suitability criteria for High Density Residential housing as specified in the Ad Hoc Committee on Newberg's Future Report to City Council (2005):

- Site size of one acre or greater;
- 10% or less slope;
- 1:1 or lower improvement to land value ratio considered redevelopable;
- Lack of wetlands and streams;
- Access to a minor collector street;
- Adequate public utilities already serve the site; and
- Located within 1/4 mile of Jaquith Park and George Fox University, and within 1/2 mile of the downtown commercial area.

The proposed site is also suitable for HDR development because it meets the Comprehensive Plan policies of high density housing location, dispersal of high density housing, design of high density housing, and compatibility with surrounding development. The proposed site is adjacent to a minor collector road which will provide adequate access for higher density housing. The site is directly across the street from properties zoned R-3 – a senior condominium housing development is directly across the street and an apartment complex is directly north of that. The site is also adjacent to property zoned R-2 (Medium Density Residential) to the south. As shown on the map in Attachment 4, high density housing is currently dispersed throughout the City; this would continue that trend. Future development on the site will be compatible with the existing historic structure due to the City's design review criteria for historic properties. In addition, any development will have to meet the additional design review criteria for multi-unit housing.

Preservation of the Historic Structure

The applicant has indicated that they intend to preserve the existing historic house and re-use it in some capacity for their project, possibly for on-site offices. According to the previous property owner, the existing house is decaying and is in need of much repair in order to be habitable or to be used for offices. Redevelopment of the site in such a way that will not require subdivision will encourage renovation, preservation, and reuse of the existing historic house as part of the overall project site. In addition, Newberg has Development Code standards that protect inventoried historic structures; any proposed demolition of structures or building of new structures on a historic site requires a Type III review before the Planning Commission.

Availability of Public Services

The proposed site is within walking distance of many commercial and public services: 1/8 mile to Jaquith Park to the west; 1/4 mile to Friendsview Manor and George Fox University to the south and east; 1/2 mile to the downtown commercial area and just over 1/2 mile to the Newberg Library to the south; and less than a mile to Nap's Thriftway at the southwest end of the commercial area. This meets the Comprehensive Plan policies of high density housing being located near public services and public open spaces. It also means that residents of the proposed high density housing may walk, bike, or take public transit to commercial areas, jobs, parks, and schools.

ATTACHMENTS:

Order 2010-0030 with:

- Exhibit A: Findings
- Exhibit B: Location Map
- Exhibit C: Legal Description

1. Planning Commission Resolution 2010-285 with:

- Exhibit A: Findings
- Exhibit B: Location Map
- Exhibit C: Legal Description
- Exhibit D: Comprehensive Plan Map
- Exhibit E: Zoning Map

2. 11/10/10 Planning Commission Meeting Minutes

3. 10/14/10 Planning Commission Meeting Minutes

4. Planning Commission Staff Report (to the 10/14/10 meeting)

5. Application

6. Comprehensive Plan Map

7. Zoning Map

8. Public Comment & Media (through 10/14/10)

9. Public Comment & Media (after 10/14/10)

10. Map of Newberg Apartments

11. Johnson-Gardner Newberg Housing and Residential Land Needs Report (2004)

12. Comprehensive Plan Housing Element

13. Affordable Housing Action Plan

14. Ad Hoc Committee on Newberg's Future, Report to City Council (2005), pages 30-32

15. Historic Resource Inventory, Listing #73

16. 2006-2008 American Community Survey, Population and Housing Narrative Profile

17. 2000 Census, General Housing Characteristics

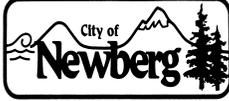
18. 2000 Census, Profile of Selected Housing Characteristics

19. *Myths and Facts About Affordable & High Density Housing*, California Planning Roundtable, California Department of Housing & Community Development (2002)

20. *Myths and Stereotypes About Affordable Housing*, Business and Professional People for the Public Interest (2004)

21. *Why Affordable Housing Does Not Lower Property Values*, Habitat for Humanity (1996)

22. Newberg Development Code & Comprehensive Plan (by reference)



ORDER No. 2010-0030

AN ORDER AMENDING THE COMPREHENSIVE PLAN MAP DESIGNATION FROM LOW DENSITY RESIDENTIAL (LDR) TO HIGH DENSITY RESIDENTIAL (HDR) AND AMENDING THE ZONING DESIGNATION FROM R-1 (LOW DENSITY RESIDENTIAL) TO R-3 (HIGH DENSITY RESIDENTIAL) FOR A PROPERTY LOCATED AT 1103 N. MERIDIAN STREET, TAX LOT 3218DA-2100

RECITALS:

1. On August 19, 2010, the Housing Authority of Yamhill County submitted an application requesting a Comprehensive Plan map amendment from LDR (Low Density Residential) to HDR (High Density Residential) and a Zoning map amendment from R-1 (Low Density Residential) to R-3 (High Density Residential) for a 3.39 acre property located at 1103 N. Meridian Street, Yamhill County tax lot 3218DA-2100.
2. There is a demonstrated need for HDR land to meet the need for multi-family dwelling units in the Newberg Comprehensive Plan. This site is suitable for HDR based on topography, access, adequate infrastructure, site size, and proximity to parks, schools, and shopping areas.
3. There is adequate infrastructure to serve the site. City water and sanitary sewer lines with adequate capacity to serve future development are located nearby. The adjacent minor collector road, Meridian Street, is functioning at a level of service A and is projected to continue to function at a level of service A even with the addition of trips generated from future development. Meridian Street is also served by a regular Chehalem Transit bus route.
4. Redevelopment of the site as a whole will encourage preservation, renovation, and reuse of the existing historic house as part of the overall project site.
5. The proposal meets the applicable Development Code criteria and Comprehensive Plan goals and policies for approval.
6. The Planning Commission held hearings to consider the proposal on October 14, 2010, and November 10, 2010. At their November 10, 2010, meeting, the Planning Commission adopted Resolution 2010-285 recommending that City Council approve the requested Comprehensive Plan and Zoning map amendment.
7. The City Council held a hearing on December 6, 2010, to consider the proposal. After reviewing the evidence and hearing public testimony, the City Council finds that the application meets the applicable Development Code criteria and Comprehensive Plan goals and policies for approval.

THE CITY OF NEWBERG ORDERS AS FOLLOWS:

1. The Comprehensive Plan designation is changed from Low Density Residential (LDR) to High Density Residential (HDR), and the Zoning designation is changed from R-1 (Low Density Residential) to R-3 (High Density Residential) for the property located at 1103 N Meridian St, Tax Lot 3218DA-2100, as shown in Exhibit “B” and described in Exhibit “C”, which both are hereby adopted and by this reference incorporated.
2. The findings shown in Exhibit “A” are hereby adopted and by this reference incorporated.
3. The Newberg Comprehensive Plan land need and supply tables shall be amended to reflect the change.

➤ **EFFECTIVE DATE** of this order is the day after the adoption date, which is: December 7, 2010.

ADOPTED by the City Council of the City of Newberg, Oregon, this 6th day of December, 2010.

Norma I. Alley, City Recorder

ATTEST by the Mayor this 9th day of December, 2010.

Bob Andrews, Mayor

QUASI-JUDICIAL HISTORY

By and through the Newberg Planning Commission at their 10/14/10 and 11/10/10 meetings.

ATTACHED:

Exhibit “A”: Findings

Exhibit “B”: Location Map

Exhibit “C”: Legal Description

Exhibit A: Findings to Order 2010-0030

1103 N Meridian Comprehensive Plan Map Amendment & Zoning Amendment, File: CPA-10-001/ZMA-10-001

This section discusses the applicable Newberg Development Code requirements and Newberg Comprehensive Plan goals and policies. Several of the similar criteria are grouped together for ease of analysis and findings. Many of the Comprehensive Plan goals and policies are largely aspirational and meant to guide the City’s decision makers, rather than being approval criteria.

Section I: Comprehensive Plan Housing Land Needs and Buildable Land Supply History

Newberg’s Comprehensive Plan has consistently shown a significant need for additional HDR (High Density Residential) land. Recent plan updates and appeals of those updates have made it difficult to track what the current approved need is. However, in every case, the need is far more than can be met solely by this proposed amendment. Following is a history of recent decisions related to land need and supply.

2005 Comprehensive Plan Land Need and Supply Amendments

In 2005, the City Council adopted amendments to the Comprehensive Plan, including updated residential land need and supply numbers for LDR (Low Density Residential), MDR (Medium Density Residential) and HDR (High Density Residential) land designations. The updates were based on data from the Housing and Residential Land Needs Report compiled by Johnson-Gardner in 2004. The amendments were adopted and acknowledged through the post-acknowledgment plan amendment process in 2005. The 2005 Comprehensive Plan has residential land data for the 20-year period from 2005-2025, and the future planning period out to 2040. That data shows that the City had a demonstrated need for 89 buildable acres of HDR (High Density Residential) through 2025, and an additional 83 acres of HDR land through 2040:

Plan Designation	Buildable Acres Needed 2005-2025	Buildable Acres in UGB (2004)	Surplus (Deficit) for 2005-2025	Buildable Acres Needed 2026-2040
LDR	612	359	(253)	735
MDR	173	142	(31)	191
HDR	89	13	(76)	83
Total	874	514	(380)	1009

Source: Newberg Ordinance 2005-2626

Plan Amendments Since 2005

In the time since the Comprehensive Plan was updated in 2005, the City has added HDR acreage to the UGB. The HDR acreage was increased through UGB amendments, Comprehensive Plan amendments, and Zoning amendments, and reduced by development of HDR lands. The 2010 buildable land inventory, compiled by the Newberg Planning and Building Department, shows that the City now has 45 buildable acres of HDR in the UGB. This number was reached by adding the amount of land designated as HDR and subtracting HDR land that was developed over the past five years.

Plan Designation	Buildable Land
Low Density Residential	585 ac.
Medium Density Residential	132 ac.
High Density Residential	45 ac.
Commercial	120 ac.
Industrial	56 ac.
Park	41 ac.
Institutional	92 ac.
TOTAL	1,071 ac.

Source: Newberg Planning and Building Department (2010)

February 2010 Plan Amendments

The 2010 buildable land inventory was included and adopted with the Economic Opportunity Analysis (EOA) in February 2010 (Ordinance 2010-2723). That decision was challenged and appealed to the Land Use Board of Appeals (LUBA). LUBA affirmed the buildable land inventory data portion of the report and remanded the EOA to the City for further work and clarifications in other areas. LUBA's decision is currently being appealed to the State Court of Appeals. However, Newberg may rely upon the plan amendments adopted along with the EOA for this land use decision based on ORS 197.625(3)¹ based on the following:

- (1) The amendments were adopted in compliance with ORS 197.610 and 197.615.

¹ORS 197.625(3)(a) Prior to its acknowledgment, the adoption of a new comprehensive plan provision or land use regulation or an amendment to a comprehensive plan or land use regulation is effective at the time specified by local government charter or ordinance and is applicable to land use decisions, expedited land divisions and limited land use decisions if the amendment was adopted in substantial compliance with ORS 197.610 and 197.615 unless a stay is granted under ORS 197.845.

(b) Any approval of a land use decision, expedited land division or limited land use decision subject to an unacknowledged amendment to a comprehensive plan or land use regulation shall include findings of compliance with those land use goals applicable to the amendment.

(c) The issuance of a permit under an effective but unacknowledged comprehensive plan or land use regulation shall not be relied upon to justify retention of improvements so permitted if the comprehensive plan provision or land use regulation does not gain acknowledgment.

(d) The provisions of this subsection apply to applications for land use decisions, expedited land divisions and limited land use decisions submitted after February 17, 1993, and to comprehensive plan and land use regulation amendments adopted:

- (A) After June 1, 1991, pursuant to periodic review requirements under ORS 197.628, 197.633 and 197.636;
- (B) After June 1, 1991, to meet the requirements of ORS 197.646; and
- (C) After November 4, 1993.

(2) The proposal is a land use decision.

(3) The proposal complies with the applicable statewide planning goals, including Goal 10 (Housing), as detailed in Section IV of these findings.

(4) The February 2010 plan amendments are predicated upon previous comprehensive plan changes that were acknowledged as complying with the statewide planning goals. The inventory used the same methodology as outlined in the 2005 amendments. The changes to the inventory (From 13 acres HDR to 45 acres HDR) are due (a) additions due to adding HDR land into the UGB, (b) additions due to redesignation of property already within the UGB as HDR, and (c) subtractions due to development of HDR designated land since 2005.

April 2010 Housing Element Amendments

The Council adopted updates to the Housing Element of the Comprehensive Plan in April 2010 (Ordinance 2010-2724). The Housing Element contains the following information: updated population and demographic information, existing housing characteristics, recent trends in housing construction, future housing needs, land needs for housing, other aspects of housing to be addressed, and actions needed for housing. The Housing Element contains updated residential buildable land need and supply data that matches what was adopted by Council in February 2010 with the EOA. The decision to adopt the Housing Element was appealed to LUBA. LUBA issued a remand order on November 8, 2010 for the Housing Element. Two potentially relevant matters of the remand order include: (1) The City was directed to provide further explanation of the housing needs calculations, and (2) The City was directed to provide further justification for designating “lots or portions of lots that, because of . . . topography, irregular placements of buildings, or limited accessibility could not be readily developed if urban services were available.”

The application for the proposed Comprehensive Plan map and Zoning map amendment was filed prior to the remand order being issued. Because the April 2010 Housing Element amendments were remanded, this land use decision does not rely upon those amendments. However, this decision can be based on the needs shown in the 2005 Comprehensive Plan amendments and the current buildable land inventory as reflected in the 2010 buildable lands inventory, as adopted in February 2010. The need for HDR land is substantial in all scenarios.

On the first remand issue of need, for this decision Newberg relies on the adopted and acknowledged land needs as established in Ordinance 2005-2626 and not on the April 2010 amendments. On the second issue of inventory, Newberg staff examined whether any HDR land was designated non-buildable because of the challenged criteria: “lots or portions of lots that, because of . . . topography, irregular placements of buildings, or limited accessibility could not be readily developed if urban services were available.” Staff found that no HDR land was designated non-buildable based on this criteria, so the remand has no effect on inventory.

2010-2025 Unmet Need Based on 2005 Adopted and Acknowledged Comprehensive Plan

Ordinance 2005-2626 established a need for 89 buildable acres of HDR land for the period 2005-2025.

According to the Johnson-Gardner Housing and Residential Land Need Report (2004) 22% of those 89 acres would be needed 2010 or before (568 of 2,554 units = 22%)². This which would equal approximately 20 acres (89 acres x 22% = 20 acres). Therefore, the needed acres, based on the 2005 data, would be 69 buildable HDR

² Johnson-Gardner, *Newberg Housing and Residential Land Needs Report*, 2004, page 31.

acres (89 acres – 20 acres = 69 acres). If we subtract the current amount of buildable HDR acreage shown in the adopted 2010 buildable land inventory (45 buildable acres) we have a total deficit of 24 buildable HDR acres (69 acres – 45 acres = 24 buildable acres). Additional need through 2030 could be shown based on the 2005 Comprehensive Plan, however that is unnecessary for this application, because the proposed change of about 3.39 acres would fill only a small percentage of the total need through 2025, much less 2030.

Section II. Newberg Development Code § 151.122: Procedures for Comprehensive Plan Map and Zoning Map Amendments.

(A) Type III Plan and zoning map amendments – one parcel or small group of parcels.

(3) Amendment Criteria. The applicant must demonstrate compliance with the following criteria:

(a) The proposed change is consistent with and promotes the goals and policies of the Newberg Comprehensive Plan and this code;

Finding: Section IV of these findings addresses the Comprehensive Plan goals and policies. It can be found that this proposal is consistent with and promotes numerous applicable goals and policies, as summarized below.

Need for HDR & Multi-Family Housing

Section I of these findings demonstrated a need for 69 buildable acres of HDR land for the 2010-2025 period, as shown in the table below.

Plan Designation	Buildable Acres Needed 2005-2025	Buildable Acres Needed 2010-2025 (Adjusted from 2005 data)	Buildable Acres in UGB (2010 BLI)	Surplus (Deficit) for 2010-2025
LDR	612	436	585	149
MDR	173	166	132	(34)
HDR	89	69	45	(24)
Total	874	671	762	91

Source: Newberg Planning and Building Department

The proposed amendment would add 3.39 acres (about 3.14 buildable acres) of HDR land to the buildable land inventory. This would meet about 13% of the need through 2025, and a smaller percent of the 20-year need through 2030.

As part of the Affordable Housing Action Plan, the Affordable Housing Ad Hoc Committee surveyed land within the UGB and identified 17 acres that the City should consider initiating a zone change to HDR. Other properties may also be suitable for HDR, and rezoning could be initiated by the property owner

through this Type III process³. Even if the identified 17 acres were rezoned to HDR, the City would still have a need for additional buildable HDR land. This proposal could help meet that need.

Adequate Infrastructure to Serve the Site

The proposed site has existing sewer, water, and transportation facilities available with adequate capacity to serve the maximum density of the proposed zone change. There is an existing 8-inch sewer line with a manhole right at the northern property edge in Evergreen Drive. The application contains a report on sanitary sewer calculations done by Sisul Engineering, calculating the capacity of the existing sewer line with existing & potential maximum R-1 density (15 units) and existing & potential maximum R-3 density (96 units). When infiltration rates are added in, the existing + maximum R-1 density would use approximately 51% of the pipe capacity and the existing + maximum R-3 density would use approximately 70% of the pipe capacity. Therefore, the pipe capacity is adequate to accommodate the proposed zone change. There are existing water lines in Evergreen Drive and Meridian Street with adequate capacity to support the proposed zone change. Any development of the site would require the public water line to be looped through from Evergreen Drive to Meridian Street to ensure adequate flow, a standard practice on most large development sites.

The proposed multi-family development site is located adjacent to Meridian Street and would take direct access from the street. Meridian Street is developed to the minor collector standard with 34 feet curb to curb pavement width, two 10-foot travel lanes divided by striping, and 7 foot parking lanes on both sides of the street. According to the applicant's traffic impact study, Meridian St is functioning at a level of service A in front of the site, and is projected to continue to function at a level of service A even with the addition of trips generated from the proposed development. The sight distance from the proposed site's frontage is adequate for cars entering and exiting the site. In the past three years only one crash occurred in the stretch of Meridian from Fulton to Sierra Vista St, and that was caused by a driver running through a stop sign from Sierra Vista onto Meridian Street, so no significant traffic safety concerns are noted for the area. Any future development on the site would likely require a bicycle and pedestrian connection through the site from Meridian Street to Evergreen Drive, which would lead to Sierra Vista Drive and College Street. In addition, Meridian Street is served by a regular Chehalem Transit Bus Route.

Site is Suitable for HDR Development

This site meets the site suitability criteria for High Density Residential housing as specified in the Ad Hoc Committee on Newberg's Future Report to City Council (2005):

- Site size of one acre or greater;
- 10% or less slope;
- 1:1 or lower improvement to land value ratio considered redevelopable;
- Lack of wetlands and streams;

³ The committee did consider the subject property, and recommended that, due to the historic home, a request for a zone change should be initiated by the property owner and not the city.

- Access to a minor collector street;
- Adequate public utilities already serve the site; and
- Located within 1/4 mile of Jaquith Park and George Fox University, and within 1/2 mile of the downtown commercial area.

The proposed site is also suitable for HDR development because it meets the Comprehensive Plan policies of high density housing location, dispersal of high density housing, design of high density housing, and compatibility with surrounding development. The proposed site is adjacent to a minor collector road which will provide adequate access for higher density housing. The site is directly across the street from properties zoned R-3 – a senior condominium housing development is directly across the street and an apartment complex is directly north of that. The site is also adjacent to property zoned R-2 (Medium Density Residential) to the south. As shown on the map in Attachment 4, high density housing is currently dispersed throughout the City; this would continue that trend. Future development on the site will be compatible with the existing historic structure due to the City’s design review criteria for historic properties. In addition, any development will have to meet the additional design review criteria for multi-unit housing.

Preservation of the Historic Structure

The applicant has indicated that they intend to preserve the existing historic house and re-use it in some capacity for their project, possibly for on-site offices. According to the previous property owner, the existing house is decaying and is in need of much repair in order to be habitable or to be used for offices. Redevelopment of the site in such a way that will not require subdivision will encourage renovation, preservation, and reuse of the existing historic house as part of the overall project site. In addition, Newberg has Development Code standards that protect inventoried historic structures; any proposed demolition of structures or building of new structures on a historic site requires a Type III review before the Planning Commission.

Availability of Public Services

The proposed site is within walking distance of many commercial and public services: 1/8 mile to Jaquith Park to the west; 1/4 mile to Friendsview Manor and George Fox University to the south and east; 1/2 mile to the downtown commercial area and just over 1/2 mile to the Newberg Library to the south; and less than a mile to Nap’s Thriftway at the southwest end of the commercial area. This meets the Comprehensive Plan policies of high density housing being located near public services and public open spaces. It also means that residents of the proposed high density housing may walk, bike, or take public transit to commercial areas, jobs, parks, and schools.

(b) Public facilities and services are or can be reasonably made available to support the uses allowed by the proposed change.

Finding: Public facilities and services are available to support the proposed uses. There is an existing 8-inch sanitary sewer line to the property, with a manhole connection at the northern edge of the property at the end of Evergreen Drive. The applicant’s sanitary sewer calculations report indicates, and City staff concurs, that there is adequate capacity in the system to support the zone change at the maximum permitted density for the proposed zone. There are existing water lines in Evergreen Drive

and Meridian Street with adequate capacity to support the proposed zone change. Any development of the site would require the public water line to be looped through from Evergreen Drive to Meridian Street to ensure adequate flow, a standard practice on most large development sites. The site is accessed by Meridian Street, a fully improved minor collector street with a 34 foot curb-to-curb pavement width, two 10-foot travel lanes, 7-foot parking lanes on both sides, and 5-foot sidewalks, the standard width for minor collector streets. Meridian Street is currently functioning at a level of service A in front of the site, and is projected to continue to function at a level of service A even with the addition of trips generated from the proposed development. Therefore, all public facilities and services have adequate capacity to serve the proposed change.

(c) Compliance with the State Transportation Planning Rule (OAR 660-012-0060) for proposals that significantly affect transportation facilities.

Finding: The State Transportation Planning Rule is meant to determine whether proposals “significantly affect” existing or planned transportation facilities, and if they do affect them, to ensure that they are properly mitigated. The Rule says that:

“a plan or land use regulation amendment significantly affects a transportation facility if it would: (a) Change the functional classification of an existing or planned transportation facility; (b) Change standards implementing a functional classification system; or (c) As measured at the end of the planning period identified in the adopted transportation system plan: (A) Allow land uses or levels of development that would result in types of levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility; (B) Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP or comprehensive plan; or (C) Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.”

The proposed plan amendment site is located adjacent to Meridian Street, which is classified as a Minor Collector in the City’s Transportation System Plan. Meridian Street is built to the standards of a Minor Collector: 34 feet of pavement width, two 10 foot travel lanes, 7 foot parking lanes on both sides, and 5 foot sidewalks on both sides. The proposal would not change the functional classification of Meridian Street, or of any other existing or planned transportation facilities. The proposal would also not change any of the standards implementing the City’s functional classification system.

One of the main purposes of the traffic impact study included with the applicant’s application package is to determine whether the project meets subsection (c) of the Transportation Planning Rule. The traffic study analyzes the trip generation and distribution, safety analysis, and operational analysis of the proposed project to determine the impact the proposal will have on the transportation system. The trip generation is based on the maximum possible density allowed by the proposed zone; in this case that would be 96 possible dwelling units. That number is compared with the trips that would be generated by the possible maximum density allowed by the current zone, 15 units. The traffic study indicates that the proposed zone change could result in a net increase of 38 trips during the morning peak hour, with

31 exiting the site and 7 entering the site. In the evening peak hour, the maximum density could result in a net increase of 46 trips, with 30 entering and 16 exiting the site. The actual trips generated by the site may be fewer due to the unlikelihood of the site being built out at the maximum density – with the preservation of the existing house and preservation of many trees, site build-out will more likely be around 70 – 80 possible units. Most of the trips to and from the site are projected to be on Meridian Street south of the project site (going south toward Highway 99W and north back to the site).

Sight distance from the site frontage was examined and determined to be adequate, meaning that access to the proposed site could be taken from any point along its Meridian Street frontage. In the past three years, there was one reported crash at N College Street & Sierra Vista Drive and one crash at N Meridian Street & Sierra Vista Drive. Based on this small number of crashes, no significant traffic safety concerns are noted in the area.

Current trips along Meridian Street in front of the site were counted to be about 263 trips per hour in the evening peak hour, or about 1 car every 13 seconds on average. Development of the site is projected to increase this to around 307 trips per hour in the evening peak hour, or about 1 car every 12 seconds. This is approximately 7% of the capacity of Meridian Street.

The traffic study also looked at capacity analysis for the area and surrounding intersections for the expected project build-out in 2010 and to 2025. Capacity analysis looks at the volume-to-capacity (v/c) ratio for intersections; in other words, how much traffic an intersection can handle before it's at peak capacity, which would be a ratio of 1.0. The intersection is then given a letter grade ranging from A (best) to F (worst) for its level of service based on the v/c ratio for the intersection. The traffic study analysis shows that all of the surrounding intersections are operating at an acceptable level of service under all analysis scenarios. The evening peak hour level of service at N College St & Sierra Vista Dr drops to an E using the 2025 scenario and the level of service at N Meridian St & Fulton St drops to a D using the 2025 scenario, all other intersections continue to operate at a level C or above through all scenarios. The traffic study explains that the proposed development will likely have a minimal effect on intersection functions, and that the level of service for those intersections would be similar with or without the additional trips generated by the proposal.

According to the traffic study, the future trips generated from the proposed zone change will not “significantly affect” the transportation system – all study area intersections are projected to operate acceptably through the year 2025 planning horizon. Therefore, the proposal meets the State Transportation Planning Rule.

Section III. Historic Review Criteria & Applicable Historic Comprehensive Plan Goals and Policies

§ 151.492 Alteration, New Construction, Demolitions. (B) New Construction Type III Review Criteria.

Review Required. If an application is made to build a new building on a landmark site, the Planning Commission shall review the request through the Type III procedure to assure the plans are compatible with any existing Landmark structures on the site. No new structure or major public improvement shall be constructed without review pursuant to the following criteria.

Review Criteria. Designs shall be compatible with any existing Landmark structures on the site in terms of size, scale, material and character. Contemporary designs shall not be discouraged when they do not destroy significant historical, architectural, or cultural material. Review criteria shall include consideration of the guidelines listed in subdivision (A)(3)⁴.

Comprehensive Plan Section G. Open Space, Scenic, Natural, Historic and Recreational Resources. 3. Historic Resources Policies.

Policy a: The continued preservation of Newberg's designated historic sites and structures shall be encouraged.

Policy d: The City will encourage the re-use of historic structures such as the establishment of bed and breakfast operations, specialty shops, restaurants and professional offices.

Finding: This proposal affects a property that is on Newberg's Historic Resources Inventory. At this time, the proposal is only for a Comprehensive Plan map amendment and Zoning map amendment, not for a development proposal to modify the site. All future development on this site will require a Type III Design Review before the Planning Commission to ensure that the plans are compatible with the existing historic structures. At the time of that future review, the application must show that the new structures would be compatible with the existing historic structures in terms of size, scale, material and character.

The applicant has indicated that they intend to preserve the existing historic house and re-use it in some capacity for their project, possibly for on-site offices. According to the previous property owner, the existing house is decaying and is in need of much repair in order to be habitable or to be used for offices. Redevelopment of the site in such a way that will not require subdivision will encourage renovation, preservation, and reuse of the existing historic house as part of the overall project site. In addition, Newberg has Development Code standards that protect inventoried historic structures; any proposed demolition of structures or building of new structures on a historic site requires a Type III review before the Planning Commission.

⁴ The specifics of § 151.492(A)(3) are not listed here as they are not applicable to this current application. However, in general, the review criteria include design elements to be included and made compatible with the existing historic structure including the following: average setback; architectural elements; building orientation; vehicle parking/storage; fences.

Therefore, the application is consistent with and promotes the City's historic preservation criteria and policies.

Section IV. Applicable Statewide Planning Goals and Newberg Comprehensive Plan Goals & Policies

A. Citizen Involvement Goal

Goal: To maintain a Citizen Involvement Program that offers citizens the opportunity for involvement in all phases of the planning process.

Finding: Part of the citizen involvement program includes opportunities for citizen involvement in planning. In this case, citizens have an opportunity to comment on this proposal, both in writing and by testifying at either the Planning Commission or City Council hearings. In addition, the applicant for this proposal held two neighborhood meetings for the purpose of discussing the project with neighbors before the official public process started.

E. Air, Water, and Land Resource Quality Policies

Policy 1: Development shall not exceed the carrying capacity of the air, water or land resource base.

Finding: The proposed project site is within the Newberg city limits and is already served with City water, sanitary sewer facilities, and streets with adequate capacity to serve the maximum permitted density of the proposed zone. The project proposal indicates a desire and willingness to preserve many of the large attractive trees on the site; tree preservation will help increase the carrying capacity of the site's air and land resource base.

Statewide Planning Goal 10: To provide for the housing needs of citizens of the state.

Buildable lands for residential use shall be inventoried and plans shall encourage the availability of adequate numbers of needed housing units at price ranges and rent levels which are commensurate with the financial capabilities of Oregon households and allow for flexibility of housing location, type and density.

NCP I. Housing Goals and Policies

Goal: To provide for a diversity in the type, density and location of housing within the City to ensure there is an adequate supply of affordable housing units to meet the needs of City residents of various income levels.

2. Location Policies. a: Medium and high density areas should be located for immediate access to collector streets or minor arterials and should not cause traffic to move through low density areas. High density areas should be easily accessible to arterial streets. They should also be located near commercial services and public open spaces.

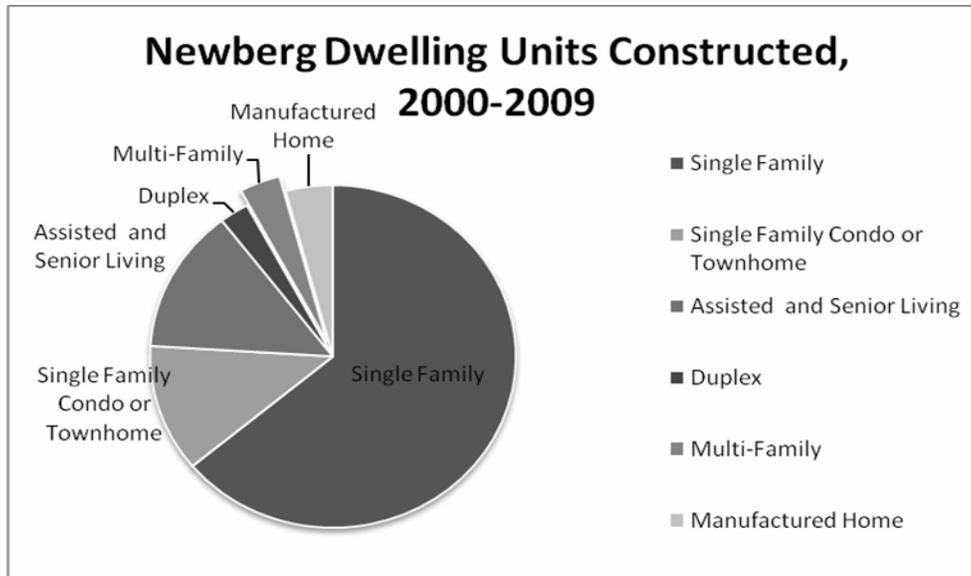
3. Mix Policies. b: Low and moderate income housing should not be concentrated within particular areas of the City.

3.i: The City shall encourage subsidized housing for low income people.

3.j: The City shall encourage innovation in housing types and design as a means of offering a greater variety of housing and reducing housing costs.

3.k: The City shall encourage an adequate supply of rental housing dispersed throughout the city to meet the needs of renters.

Finding: According to data from the Newberg Planning and Building Department, recent residential development has been mostly single family. This is due to a variety of factors, including the lack of available higher density residential land. The graph below illustrates that construction of single-family units has far outpaced construction of multi-family units in Newberg since 2000.



Source: Newberg Planning and Building Department

The City also has a shortage of low income housing, as evidenced by our ongoing Affordable Housing project that recently culminated in the Affordable Housing Action Plan. Although the owner of the property makes no difference when reviewing a project proposal (as all proposals must meet the code criteria), the City has an obligation, reflected here in the comprehensive plan policies, to ensure that there is adequate housing of all density types and for every income level. The proposed zone change would help the City remedy its deficit of available multi-family housing.

As shown on the map in Attachment 4, rental apartments are dispersed throughout the city in many different residential neighborhoods, including on both the north and south sides of Highway 99W and in the east and west areas of town. The proposed project site is located across the street from a senior condominium complex, and near another apartment complex north of the senior condominiums. There are few other rental apartments located near the proposed site. It is difficult to determine how many single-family housing units are being used for rental units; however, the 2000 Census found that 30.7% of all occupied housing units in Newberg were rented. The 2006-2008 American Community Survey found that 34% of all occupied housing units in Newberg were rented. This increase is undoubtedly due in part to the recession, but also speaks to the demand for rental units in Newberg. A scan of the Newberg Graphic classified ads on October 5, 2010 revealed 16 units or houses for rent, ranging in price from \$425 for a bedroom in a house, \$569 - \$750 for a one-bedroom unit, \$635 - \$1195 for a two-bedroom, \$795 - \$1245 for a three-bedroom, and \$1250 - \$1500 for a four-bedroom. Of those 16, three appear to be apartments for rent, two are townhouses for rent, eight appear to be houses for rent, two are manufactured homes, and one is a room for rent in an existing household. According to the American Community Survey, 42% of renters in Newberg are paying 30% or more of their income for housing (a common threshold for unaffordability). Therefore, the City's stock of rental housing is not adequately meeting the needs of renters. According to the American Community Survey, from 2006-2008 Newberg had a vacancy rate of 6%. Since most of the dwelling units in Newberg are single-family structures (66%), we may assume that a certain number of those vacant properties are not affordable to

many residents. The City also had recent discussions with several property managers who said they were currently seeing apartment vacancy rates around 3%. This proposal may help the City remedy that deficit of affordable rental housing.

The proposed site is located adjacent to a minor collector and would not cause traffic to move through low density areas on local residential streets. In addition, the proposed site is within walking and biking distance of many commercial and public services: 1/8 mile to Jaquith Park to the west; 1/4 mile to Friendsview Manor and George Fox University to the south and east; 1/2 mile to the downtown commercial area and just over 1/2 mile to the Library to the south; and less than a mile to Nap's Thriftway at the southwest end of the commercial area. The project site also has close proximity to several arterial streets including College St to the west, Mountainview Dr to the north, and Highway 99W to the south.

Any future development on the site will require a design review process where the applicant will need to meet not only the basic design review criteria, but also the additional multi-family design review criteria and the historic review criteria. The City would have future opportunities to influence the design of the development and encourage innovation of housing types and design. The proposed zone change would provide an opportunity for a housing type that is currently less available in Newberg.

J. Urban Design Goals and Policies

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

1. General Policies. b: Design review should be provided for all new developments more intensive than duplex residential use.

1.1.e: Developments should respect the natural ground cover of their sites to the extent possible and plans should be made to preserve existing mature, non-hazardous trees in healthy condition.

1.1.l: The City shall encourage compatible architectural design of new structures in the community.

1.1.n: The City shall encourage innovative design and ensure that developments consider site characteristics and the impact on surrounding areas.

1.1.r: Developments of medium or high density shall be of a quality and design which will effectively offset the greater density.

Goal 2: To develop and maintain the physical context needed to support the livability and unique character of Newberg.

Policy c: Neighborhoods should be designed to promote safety and interaction with neighbors, with items such as walking paths and neighborhood parks.

Finding: Any future development on this property will require design review approval. Because this proposal is on an inventoried historic site, any new structures must be compatible with the existing historic house. The Newberg Development Code also has supplementary design review standards that multi-family developments must meet, including compatibility with adjacent sites. The site characteristics for future development would be looked at closely to encourage the best design of the

property and to properly mitigate any impacts on surrounding uses. In addition, because this is an inventoried historic property, any historic review will go before the Planning Commission for a decision.

The project application includes an arborist's report that surveyed all of the site's trees and determined which were healthy and should be preserved and which should be removed. The applicant has indicated that they will make an effort to preserve many of the trees on the site by including them in the site plan and designing the site around them.

Newberg has standards in the Development Code for pedestrian connectivity, such as not having excessive block lengths and requiring walkways where possible to break up long blocks. In this case, if the property were to be developed at its current zone with single-family residential houses, public access from Evergreen Drive through to Meridian Street would likely be required for adequate site access. The applicant has proposed a future multi-unit development that would take access only from Meridian St. Due to the long block length between Sierra Vista Dr and Fulton St, a public pathway through the future multi-unit complex would likely be required so that area residents may more easily reach Jaquith Park and College Street.

K. Transportation Goals and Policies

Goal 3: Promote reliance on multiple modes of transportation and reduce reliance on the automobile.

Policy b.2: The City shall encourage higher density development in residential areas near transit corridors, commercial areas and employment centers, including the downtown.

Goal 5: Maximize pedestrian, bicycle and other non-motorized travel throughout the City.

Policy 5.c: All new and improved commercial, office, institutional, and multi-family development shall be conveniently and directly accessible from the public right-of-way by bicycle and on foot.

Goal 9: Create effective circulation and access for the local transportation system.

Policy c: Develop a system of roads that provide for efficient movement of traffic, considering the general design guidelines below: 5) Minor Collectors. A minor collector provides access to abutting properties and serves the local access needs of neighborhoods by channeling traffic to the major collector and arterial street system. A minor collector is not intended to serve through traffic.

- *56 to 65 feet of right-of-way with 10 foot public utility easements.*
- *34 to 42 feet curb to curb*
- *Parking on both sides of the street, replaced by bike lanes where needed.*
- *A minimum four and one-half (4 ½) foot planter strip and five-foot sidewalk on both sides of the street.*

Finding: The applicant has included the Chehalem Transit Bus Routes map in their application packet. The map clearly shows that the bus route includes Meridian Street. Therefore, the proposed site meets the goal of promoting reliance on alternative modes of transportation and the policy of locating higher density development near transit corridors. In addition, the proposed site is within easy walking and biking distance to the downtown commercial core as well as to Friendsview Manor and George Fox University, two of Newberg's largest employers.

The proposed multi-family development site is located adjacent to Meridian Street and would take direct access from the street. Any future development on the site would likely require a bicycle and pedestrian connection through the site from Meridian Street to Evergreen Drive, which would lead to Sierra Vista Drive and College Street. Meridian Street is classified as a minor collector, and is developed to the minor collector standard with 34 feet curb to curb pavement width, two 10-foot travel lanes divided by striping, and 7 foot parking lanes on both sides of the street. According to the applicant's traffic impact study, Meridian St is functioning appropriately: the sight distance from the proposed site's frontage is adequate; in the past three years only one crash occurred in the stretch of Meridian from Fulton to Sierra Vista St (caused by a driver running through a stop sign from Sierra Vista onto Meridian Street); and the level of service rating is adequate for all nearby intersections through 2025.

According to staff GIS calculations, the distance between Sierra Vista Dr and the railroad tracks on Meridian Street is approximately 925 ft on the west side and 900 ft on the east side. After removing area for existing driveways (~154 ft on the west side and ~135 ft on the east side), the totals were ~771 ft on the west side and ~765 ft on the east side. Using these numbers, the amount of current on-street parking spaces available on Meridian Street is approximately 38 spaces per side (771 & 765 divided by 20 ft parking space length). A staff survey of that same area at different times of day on five different days found that the average use of the parking spaces was 7 used spaces on the west side and 6 used spaces on the east side, or about 17% of the available spaces. Any development on the proposed project site would require off-street parking on their lot to serve the dwelling units. However, Meridian Street still has capacity to accommodate further on-street parking if additional parking is d for area residents.

L. Public Facilities and Services Goals and Policies

Goal: To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban development.

1. All Facilities & Services Policies. f: Maximum efficiency for existing urban facilities and services will be encouraged though infill of vacant City land.

2. Sewers and Water Policies. c: Developments with urban densities should be encouraged to locate within the area which can be serviced by Newberg's present sanitary sewer system.

Finding: It is appropriate to use land within the city limits to its highest and best use in order to preserve the efficiency of public facilities to serve urban development. The proposed site has existing sewer and water facilities available, with adequate capacity to serve the maximum density of the proposed zone change. It is more efficient to use an existing site such as this as opposed to extending new public utilities to an undeveloped vacant parcel without such services.

There is an existing 8-inch sewer line with a manhole right at the northern property edge in Evergreen Drive. The application contains a report on sanitary sewer calculations done by Sisul Engineering, calculating the capacity of the existing sewer line with existing & potential maximum R-1 density (15 units) and existing & potential maximum R-3 density (96 units). The report found that the peak sewer line flow rates for existing + maximum R-1 density would use approximately 45% of the pipe capacity

and that existing + maximum R-3 density would use approximately 63% of the pipe capacity. When infiltration rates are added in, the existing + maximum R-1 density would use approximately 51% of the pipe capacity and the existing + maximum R-3 density would use approximately 70% of the pipe capacity. Therefore, the pipe capacity is adequate to accommodate the proposed zone change.

M. Energy Goals and Policies

Goal: To conserve energy through efficient land use patterns and energy-related policies and ordinances.

1. Planning Policies. a: The City will encourage energy-efficient development patterns. Such patterns shall include the mixture of compatible land uses and a compactness of urban development.

Finding: Use of the proposed site for higher density housing would meet this goal and policy by encouraging compactness of urban development in an area that is served by transit and within walking and biking distance to the downtown commercial core, Friendsview Manor, and George Fox University. In addition, the land uses are inherently compatible with the high density housing directly across Meridian Street and medium density housing on the south side of the project site.

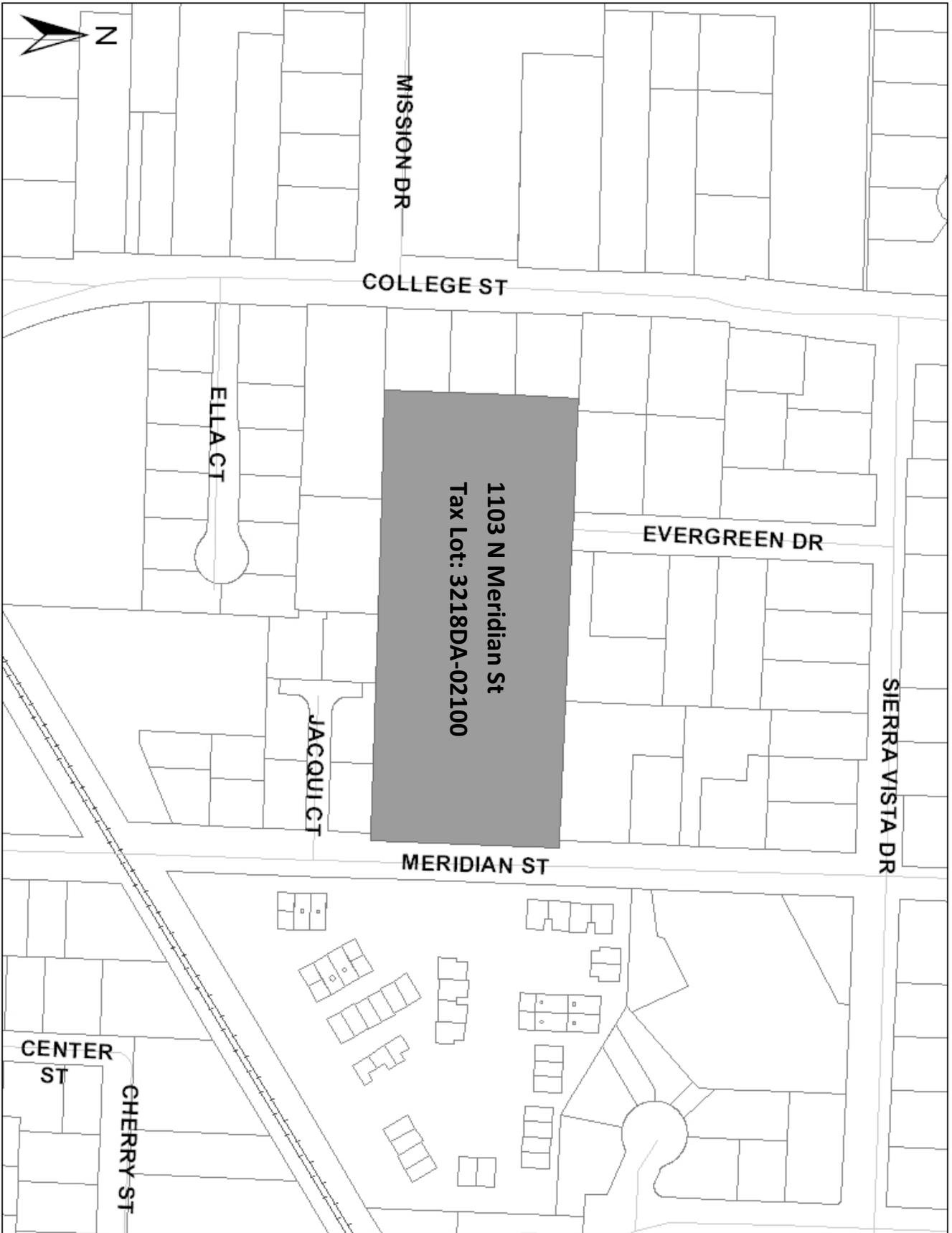


Exhibit B: Location Map

Exhibit C: Legal Description

EXHIBIT "A"

File No.: **1032-1564264**

Policy No.: **1564264**

Real property in the City of Newberg, County of Yamhill, State of Oregon, described as follows:

A part of the D. D. Deskins Donation Land Claim No. 54 in Township 3 South, Range 2 West, of the Willamette Meridian in Yamhill County, Oregon, bounded and described as follows, to-wit:

BEGINNING at a point on the Section line between Sections 17 and 18 in said Township and Range, said point being 723 feet South of the Quarter Post between said Sections and being also 396 feet South of the intersection of the North boundary line of said Donation Land Claim with said Section line; thence South along said Section line 245 feet; thence South 89°11' West 609 feet to the Southeast corner of tract conveyed to Dale D. Voss, et ux. by deed recorded February 24, 1954 in Book 172, Page 417, Deed Records; thence North 00°11' East 254.6 feet to the South line of land conveyed to George W. Constable by deed recorded August 2, 1949 in Book 153, Page 771, Deed Records, and thence East 608.4 feet to the place of beginning.

APN: R3218DA-2100

The Attachments for **Order No. 2010-0030** were too large to include in this document. They are available as a separate download on the City of Newberg Agenda/Meeting page for the December 6, 2010, City Council meeting at <http://www.newbergoregon.gov/citycouncil/event/city-council-business-meeting-26> or by [clicking here](#).