

**AMENDED
CITY COUNCIL AGENDA
MARCH 21, 2016, 7:00 PM
PUBLIC SAFETY BUILDING TRAINING ROOM (401 EAST THIRD STREET)**

Mission Statement

The City of Newberg serves its citizens, promotes safety, and maintains a healthy community.

Vision Statement

Newberg will cultivate a healthy, safe environment where citizens can work, play and grow in a friendly, dynamic and diverse community valuing partnerships and opportunity.

I. CALL MEETING TO ORDER

II. ROLL CALL

III. PLEDGE OF ALLEGIANCE

IV. PRESENTATIONS

1. Pat Haight
2. Cultural District Report Pages 1-26

V. CITY MANAGER'S REPORT

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. Minutes from February 16 Pages 27-31
2. Resolution 2016-3267, A Resolution authorizing the City Manager Pro Tem to appoint recommended candidate to a position in the Library Pages 32-34

VIII. PUBLIC HEARING - LEGISLATIVE

1. Ordinance 2016-2798, An Ordinance amending the Newberg Development Code regarding Recreational Marijuana producers and processors; and declaring an emergency Pages 35-87

Agenda continued on next page

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.

IX. NEW BUSINESS

1. Resolution 2016-3262, A Resolution designating the two days of the Relay for Life for Newberg event as Festival Days in order to permit the installation of flags in the City Right-of-Way Pages 88-90
2. Consider whether to continue or not continue discussions with Sportsman Airpark for the City to be a sponsor for the Federal Aviation Administration Airport Development Rights Pilot Program Pages 91-185
3. Council Priorities Timelines Pages 186-195

X. COUNCIL BUSINESS

1. Information on Community Development Block grant application Pages 196-198
2. Information on January Financial statements Pages 199-207
3. Information on Council Calendar Pages 208-209

XI. ADJOURNMENT

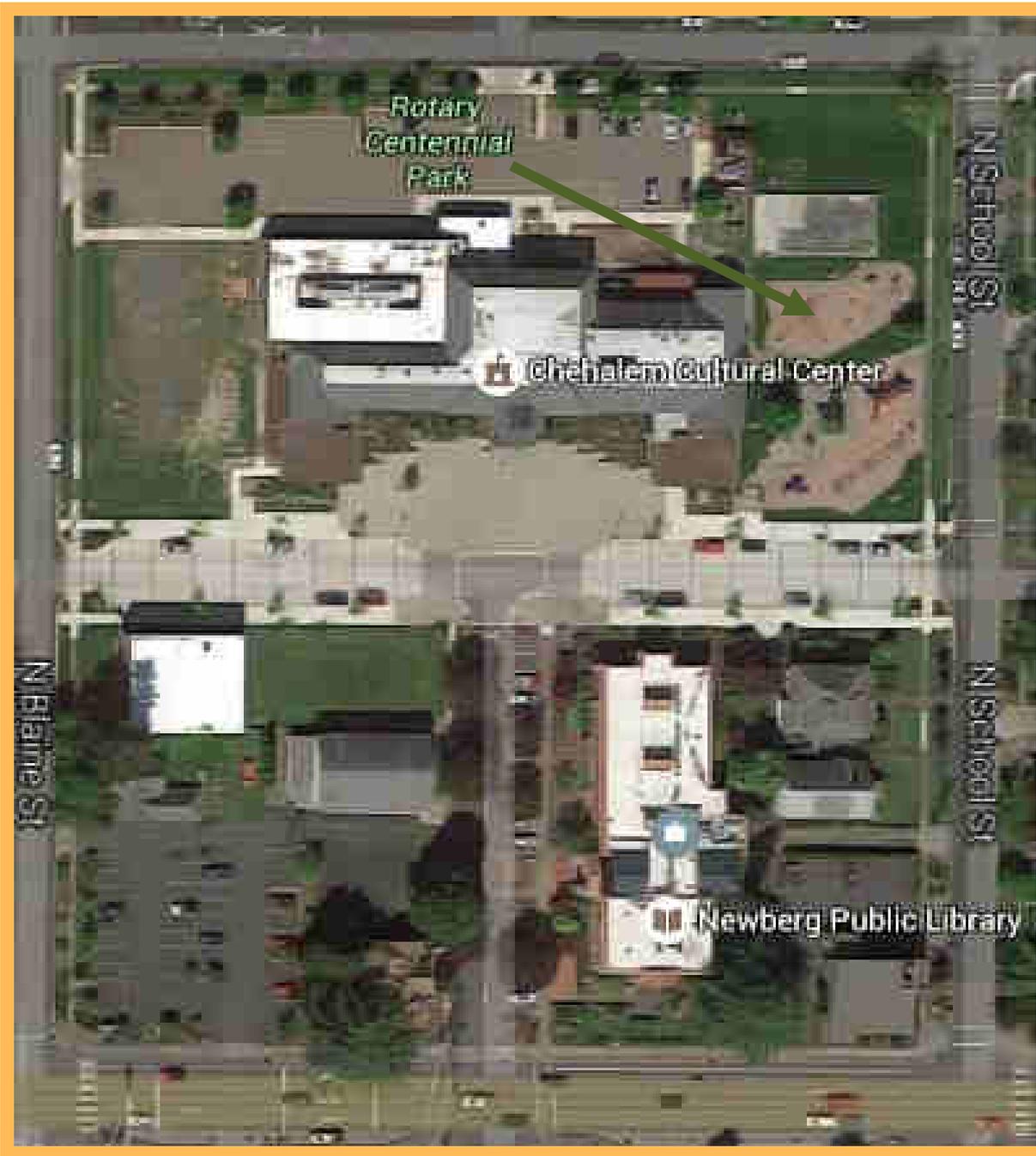
ACCOMMODATION OF PHYSICAL IMPAIRMENTS: In order to accommodate persons with physical impairments, please notify the City Recorder's Office of any special physical or language accommodations you may need as far in advance of the meeting as possible and no later than two business days prior to the meeting. To request these arrangements, please contact the City Recorder at (503) 537-1283. For TTY services please dial 711.

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. Speakers who wish the Council to consider written material are encouraged to submit written information in writing by 12:00 p.m. (noon) the day of the meeting.

Newberg Cultural District Annual Report February/March, 2016



Newberg Cultural District



An Intergovernmental Agreement (IGA) between the City of Newberg and the Chehalem Park & Recreation District was signed in 2013 establishing the Newberg Cultural District and delegating to the NCD Executive Board the management of the District

The Newberg Cultural District Executive Board 2016

City of Newberg Representative: Tony Rourke
(Appointed in 2015)

Neighborhood Representative: Robert Soppe
(Re-elected by neighbors in October, 2015)

Chehalem Park & Recreation: Don Clements

Chehalem Cultural Center: Rob Dailey

Newberg Public Library : Leah Griffith, chair

*Usually meets on the 1st Tuesday of each month,
6:30 pm, at the Chehalem Cultural Center*
(In July & August meets on alternate days due to Tunes on Tuesday)

The NCD Board is charged with managing
the public outside areas of the
Newberg Cultural District

It does not regulate indoor uses of the
Newberg Public Library or the
Chehalem Cultural Center, however
activities within those establishments may
impact District activities

The NCD Board:

- Develops rules of operation
- Reserves events (delegates the process to the CCC)
- Approves design elements, including street furniture, signage and other elements that define the district
- Coordinates with the City and CPRD for maintenance and construction activities

What did the NCD Board do in 2015?

- Reserved space for a variety of events

Tunes on Tuesday

Farmer's Market

Camellia Festival

Lavender Festival

Public Works Day

High school reunion

Library Events

Christmas Tree Lighting



Tunes on Tuesday



Camellia Festival



Public Works Day



Library Summer Reading Programs



Christmas Tree Lighting



What did the NCD Board do in 2015?

- Held Monthly Meetings: Public and Noticed

January	February -- Annual Meeting
March	April
May	June
July	August
September	October
November	December*

* No Meeting Held



What did the NCD Board do in 2015?

- **Parking Signs for Tunes on Tuesday**



- 8 residents requested signs
- Positive Responses
- No other parking complaints

What did the NCD Board do in 2015?

- The Parking Management Plan is always under refinement with Tony Rourke and Robert Soppe working on it for the 2016 season

What did the NCD Board do in 2015?

- Working on estimates for wayfinding and other signage
- This would include permanent signage on College and Hancock to direct people to parking, especially the parking behind the Cultural Center that tourists don't realize exists

Wayfinding Plan



PLAN

16'-0"

14'-0"

12'-0"

10'-0"

8'-0"

6'-0"

4'-0"

2'-0"

Perforated pattern
representing
art, community,
education & heritage



ELEVATION



Type A
District Marker
Internally Illuminated
Quantity 1
Howard & Hancock St



Temporary Banner
To promote events



Type B
Festival Street Marker
Internally Illuminated
Quantity 2
Blain & School at Sheridan St



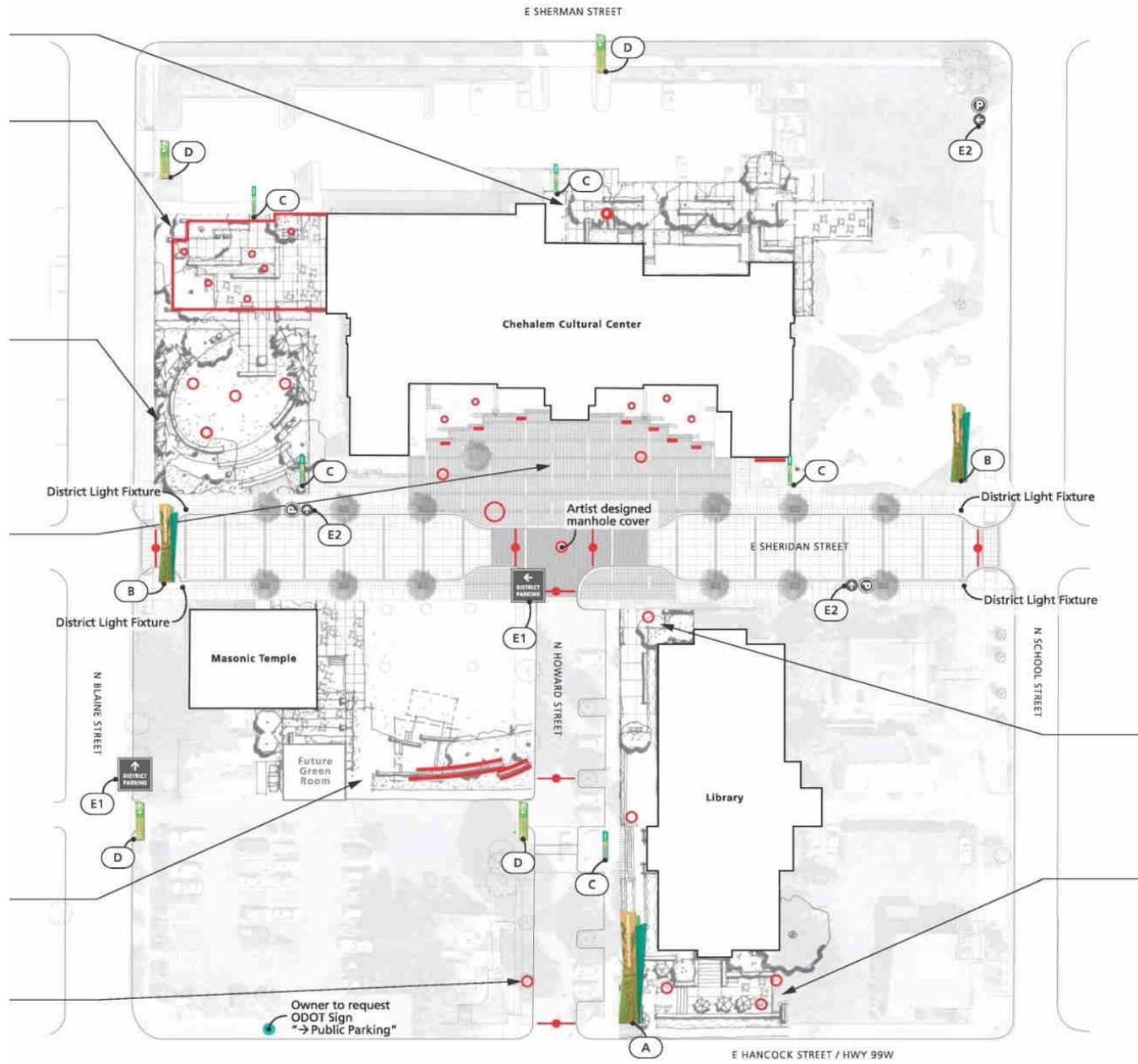
Type C
Pedestrian Directional



Type D
Parking ID



Type E1, E2
Vehicular Directional



What did the NCD Board do in 2015?

- Worked with the City with the new Festival Street Designation for closing Sheridan and Howard
- This eliminated going house to house and simply notified residents and businesses of closures that they are already expecting, being in the Cultural District

What did the NCD Board do in 2015?

- Established the Chehalem Cultural Center as the entity for managing all District space reservations
- Established a Fee Schedule for using space in the District



What did the NCD Board do in 2015?

The NCD Board communicated with the community

- www.newbergculturaldistrict.org
- Monthly e-newsletter announcing board meetings and notifying interested parties about events in the District
- Newsletter may be subscribed to from the web site

What is planned for 2016?

- Looking at options for funding for permanent signage to direct visitors to the area
 - Truffle Festival
 - Lavender Festival
 - Camellia Festival and Run

What is planned for 2016?

- Work with any public arts groups to bring art to the district
- Work with the Chehalem Cultural Center and CPRD on the Ballroom Patio

What is planned for 2016?

- Revise the Parking Plan to implement changes to make it more practical and usable
- Continue to develop the web site as a location for district information

A special place for
people to enjoy
cultural and arts
experiences

Enhancing Newberg as a destination for tourists

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: March 21, 2016

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

SUBJECT: Minutes

**Contact Person (Preparer) for this
Motion: Sue Ryan, City Recorder
Dept.: Administration
File No.:**

RECOMMENDATION:

Approve City Council minutes from February 16, 2016.

**NEWBERG CITY COUNCIL MINUTES
REGULAR SESSION
FEBRUARY 16, 2016, 7:00 PM
PUBLIC SAFETY BUILDING (401 E. THIRD STREET)**

The work session was held at 6:00 p.m. preceding the meeting. Present were Mayor Bob Andrews, Councilors Lesley Woodruff, Stephen McKinney, Scott Essin, Denise Bacon, Mike Corey and Tony Rourke. Also present were City Manager Pro Tem Stephen Rhodes, City Attorney Truman Stone, City Recorder Sue Ryan, Finance Director Matt Zook, Community Development Director Doug Rux, City Engineer Kaaren Hofmann, and Interim Human Resources Director Nancy McDonald.

REVIEW OF COUNCIL AGENDA: There were no changes to the agenda.

COUNCIL ITEMS: Mayor Andrews, Councilor Woodruff, Councilor Rourke, and Councilor Essin had items to share.

PRESENTATION ON STATEMENT OF ECONOMIC INTEREST: City Recorder Ryan said the Council had to do an annual Statement of Economic Interest with the Oregon Government Ethics Commission and explained they were now being filed electronically. They were to be done between March 15 and April 15. She then discussed the process, showed a training video, and reviewed the Frequently Asked Questions.

COUNCIL BUSINESS: Councilor Woodruff announced a community band concert for children on March 13 and that Oregon Battle of the Books needed volunteers for the regional competition on February 27. Councilor Essin said he had resigned his position with Chehalem Parks and Recreation District. Councilor Rourke had accepted a new job in Texas. His last Council meeting would be March 7. Staff would be starting the appointment process.

Mayor Andrews asked about the renaming of the city utility bill. City Manager Pro Tem Rhodes said it was being redesigned. There was discussion on the property condemnation on Villa Road for the sidewalk. Mayor Andrews said the Council was being asked to support economic revitalization of the Willamette Falls Locks.

CALL MEETING TO ORDER

The Mayor called the meeting to order at 7:00 p.m.

ROLL CALL

Members Present: Mayor Bob Andrews Scott Essin Stephen McKinney
Lesley Woodruff Denise Bacon Mike Corey
Tony Rourke

Staff Present: Stephen Rhodes, City Manager Pro Tem Sue Ryan, City Recorder
Truman Stone, City Attorney Paul Chiu, Senior Engineer
Doug Rux, Community Development Director Matt Zook, Finance Director
Nancy McDonald, Interim Human Resources Director
Kaaren Hofmann, City Engineer

PLEDGE OF ALLEGIANCE: The Pledge of Allegiance was performed.

CITY MANAGER PRO TEM'S REPORT: CMPT Rhodes said letters regarding the Newberg Dundee Bypass Interchange had been sent to State Representative Davis a letter of agreement would be sent soon. The Planning Commission had initiated a process to update land development standards. He and the Mayor presented at City Club on upcoming City projects.

PUBLIC COMMENTS: Stan Halle, Ladd Hill Neighborhood Association, spoke about the Newberg Dundee Bypass Phase 1 and Wilsonville Road intersection. He thanked the Planning Commission for their help and Representative Davis, Mayor Andrews, CMPT Rhodes, and CDD Rux who showed leadership in having all the organizations work together. They were now looking at Option 4, connecting Wilsonville Road south of Wynooski on Highway 219.

CONSENT CALENDAR:

MOTION: Rourke/Bacon moved to approve minutes for January 19 and February 1, 2016; Resolution 2016-3258, A Resolution authorizing the City Manager Pro Tem to appoint recommended candidates to positions in multiple departments: Tyler Joel Milton and Dennis Louis Hohstadt, Jr. to lateral police officer positions. Motion carried (7 Yes/ 0 No).

PUBLIC HEARING - LEGISLATIVE:

Ordinance 2016-2795:

Mayor Andrews opened the hearing and called for any abstentions or conflicts of interest on the part of the Council or objections to the Council's jurisdiction on this matter. There were none.

Senior Engineer Chiu gave the staff report. The ordinance affirmed the final assessment for the College Street Local Improvement District. He entered into the record a letter from Willow Place Assisted Living Facilities. In July 2013, the LID was created to recoup a portion of the costs for the improvement of College Street from Illinois to Aldercrest. The assessments for all 73 properties were listed in Table 1. The total assessment was \$194,197. The LID would recoup 84.1% of the cost. Staff invited all of the LID property owners to a neighborhood meeting to provide comments on the assessments and six owners attended and asked questions, but did not have concerns regarding the final assessment.

Willow Creek Living Facility's concerns regarded the new sidewalk, which they said was not usable by their residents and the cost created a significant burden for the business. The living facility said the sidewalk curbing posed a risk to their handicapped and older residents. SE Chiu said the sidewalk followed ODOT standards. The concern about the cost would be a decision for the Council. The project offered a partnership with the City and LID participants by leveraging major financial resources from ODOT to complete a critical segment of the sidewalks and bike lanes that was heavily used in the City's transportation system.

There was discussion on the concerns of the Willow Creek Facility regarding the sidewalk. Mayor Andrews clarified none of the assessments were more than what was estimated. SE Chiu said that was correct.

Proponents:

Paul Bock, resident on College Street, said they enjoyed the sidewalk and the safety it brought to the street. The neighborhood supported the project. The proposal before them represented a compromise between the City and the neighborhood in giving the neighborhood a 30-year loan with 1.5% interest and he hoped it stayed the same.

Opponents:

Michael DeShane, representative for Willow Place Assisted Living Facility, said there was a liability issue for the business's residents because of the curb height and the water retention area. The business felt it was a significant danger. He said while it might meet ODOT requirements, the elderly and disabled living in the building could not use the sidewalk. He objected to the cost because they served a lot of Medicaid patients and the cost was a significant burden.

There was a discussion on the sidewalk curb and safety measures. Mayor Andrews closed public testimony and asked for staff's recommendation. SE Chiu recommended adoption of the ordinance.

MOTION: Bacon/Rourke moved to waive the second reading for Ordinance 2016-2795. Motion carried (6 Yes/1 No [McKinney]).

Deliberations: Councilor McKinney thought staff should be directed to bring back options for fixing the trip hazard. Councilor Corey explained the current ordinance was about the assessments and not about railings. Councilor Rourke did not share the same concern regarding the safety hazard of the curbs and agreed it was a separate issue. Mayor Andrews suggested bringing back the issue during the Council Business part of the agenda.

MOTION: Bacon/Rourke moved to approve Ordinance 2016-2795, An Ordinance to affirm the final assessments for the College Street Local Improvement District that was created by Ordinance No. 2013-2769 to recoup a portion of the costs for the west side frontage improvements of N. College Street from Illinois Street to Aldercrest Drive. Motion carried (5 Yes/2 No [Essin/McKinney]).

Ordinance 2016-2797:

Mayor Andrews opened the hearing and called for any abstentions or conflicts of interest on the part of the Council or objections to the Council's jurisdiction on this matter. There were none.

CA Stone presented the staff report. PGE had expressed concern regarding amendments to the Municipal Code in 2008 to include a licensing model for utilities using the City's right-of-way. PGE thought a franchise necessary to address specific concerns unique to PGE. Council had directed staff to negotiate a franchise agreement and the agreement was before Council that night. The agreement did not supersede the Municipal Code as the Code stated there might be instances where modifications would be necessary.

MOTION: Bacon/Essin moved to waive the second reading for Ordinance 2016-2797. Motion carried (7 Yes/0 No).

Councilor McKinney asked about financial impact. CA Stone said PGE wanted some clarifying language on the definitions of gross revenue and how it was calculated. By changing the definition of gross revenue, staff could not say with certainty what the financial impact would be.

Councilor Rourke asked what was different in the franchise agreement than what was required in the Code. CE Stone said the Code required before any work was done in the City's right-of-way that a construction bond be posted. Staff thought when dealing with entities like PGE that did not need to be required. The agreement gave PGE a higher level of certainty in dealing with the City rather than the general terms under the Code.

Wendy Veliz, PGE, said the City did allow franchise agreements if it was to the benefit of its constituents, and she believed there was a need for an agreement. She highlighted who was allowed to work on construction projects which aided in safety, \$500 penalty per day for delay in relocation projects, and use of PGE facilities and attaching to poles free of charge for municipal purposes. The payment for use of the City's right-of-way would be an annual payment instead of quarterly. Barbara Halle, PGE, said the definition of gross revenues was standard in all PGE's franchise agreements and came from the PUC regulations. PGE was required to put any amount more than 3.5% of gross revenues on customer bills. It would not change the percentage being paid to the City.

Councilor McKinney asked if this agreement was similar to those PGE had with other cities. Ms. Veliz said yes, and the agreement clarified how PGE was to work in the right-of-way. Councilor Essin asked about the one day noticing requirement. Ms. Veliz clarified that section was a notice for the agreement or any changes to the agreement, not for construction projects.

Mayor Andrews closed the public testimony and asked for closing comments from staff. CA Stone recommended the Council approve the ordinance.

MOTION: Bacon/Rourke moved to approve Ordinance 2016-2797, An Ordinance granting Portland General Electric Company, an Oregon Corporation, a franchise agreement intended to clarify, enhance, expand, waive or vary the provisions of NMC 12.05 to be read by title only. Motion carried (7 Yes/0 No).

NEW BUSINESS: Audit Report: Brad Bingenheimer of Boldt, Carlisle and Smith, presented on the City's audit. He said the City received an unmodified report, where in their opinion the City's financial statements presented fairly in all material respects, financial position, and results of operations of the City for the year ending June 2015. A new accounting standard for pension plans per GASB 68 was now required, which meant the City had to report its share of Public Employees Retirement System accounts (PERS) and the position of the City's retirement plan through Principal at the end of the year. The City ended up with a net pension asset for PERS. This would likely be a liability next year due to recent legislation and there was a net pension liability for the City's plan.

Mr. Bingenheimer said the City ended the year with total assets including deferred outflows of \$210 million and total liabilities and deferred inflows of \$68 million. This left them in a net position of \$144 million, which was an increase of \$9.6 million. Governmental funds showed overall improvement in fund balance of \$1.1 million and proprietary funds showed a positive improvement of \$7.3 million. Trends showed an overall improving financial position of the City.

He pointed out a few things in relation to the budget: two areas where items were overspent and issues with internal controls. Regarding the internal controls, the bank reconciliations as performed by the Finance Department did not fully

reconcile all items between the accounting records and bank statements. He suggested there be more segregation of duties for better internal controls. The total federal expenditures for the year were \$6.5 million.

Councilor Essin asked about the net liability for the pension plans. Mr. Bingenheimer explained the totals in the audit. It meant that today the City's retirees had earned the right to those payments and the City had not yet set aside sufficient funds to fund them. FD Zook discussed the action plan to address audit findings. Staff now performed reconciliations as required. He was working on the separation of duties and internal controls for the Court finances.

The City had to report to the Secretary of State and implement the timeframes of the planned changes. Staff had been working under an old model and was moving forward with improvements. He would give a progress update to the Council on a quarterly basis.

Councilor McKinney thought the action plan showed progress and asked if there were still some violations that needed to be attended to. FD Zook said all of the key areas had been addressed. Mr. Bingenheimer did not anticipate these items would be included in the next audit.

MOTION: Rourke/Corey moved to accept the auditor's report and the annual financial statements, and adopt the plan of action to address deficiencies identified in the audit report for June 30, 2015. Motion carried (7 Yes/0 No).

COUNCIL BUSINESS: Councilor Essin asked about the financial report for December in the packet regarding the reserves balance. FD Zook explained the \$24 million in contingencies was a combination of all the funds including water and sewer where the reserves were large. The reserves were appropriate for future projects and debt service payments. There were also unspendable funds and emergency contingency funds. Overall the reserves were in an okay position, but fund by fund there were different scenarios. The upcoming budget process would reassess the City's reserves.

MOTION: Andrews/Bacon moved to send a letter supporting the Willamette Falls Locks economic revitalization. Motion carried (7 Yes/0 No).

Mayor Andrews asked if the Council wanted to take action on the suggestion for sidewalk railings for Willow Place Assisted Living Facility. Councilor McKinney did not sense support for the railings. They had spent a lot of money on the sidewalks, and the facility forbade residents to use them because they were unsafe. He thought some mitigation was needed. Councilor Bacon said they could not afford to fix every problem, but was willing to have staff look into it. Councilor Corey agreed with Councilor Bacon as there were many trip hazards throughout the City. They had complied with all of the requirements and he did not think anything else needed to be done. Willow Place could come up with a plan and pay for improvements. Councilor Woodruff thought this was not the City's responsibility.

CA Stone said College Street was owned by ODOT and the state came up with the design. The City had an agreement to maintain the sidewalk. They would have to get approval from ODOT for any improvements and had to have evidence that there was a safety problem.

CMPT Rhodes said staff would look into the options and bring them back to Council.

Mayor Andrews asked for a way to have the School District keep the City better informed on events and achievements of the students. CA Stone advised signing up for the School District newsletters that would be emailed to the Mayor.

ADJOURNMENT: The meeting was adjourned at 8:45 p.m.

ADOPTED by the Newberg City Council this 21st day of March, 2016.

Sue Ryan, City Recorder

ATTESTED by the Mayor this ____ day of March, 2016.

Bob Andrews, Mayor

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: March 21, 2016

Order ___	Ordinance ___	Resolution <u>XX</u>	Motion ___	Information ___
No.	No.	No. 2016-3267		

SUBJECT: Resolution authorizing the City Manager Pro Tem to appoint the recommended candidate to the position as listed below.

**Contact Person (Preparer) for this Motion: Nancy McDonald, Interim Human Resources Director
Dept.: Administration
File No.:**

RECOMMENDATION:

Adopt **Resolution No. 2016-3259** Authorizing the City Manager Pro Tem to appoint the recommended candidate to the position as listed below.

EXECUTIVE SUMMARY:

The City Charter, Chapter VIII, Section 34(h) provides the manager pro tem “has the authority and duties of manager, except that a Manager Pro Tem may appoint or remove employees only with council approval”.

The City Manager Pro Tem Steve Rhodes and Interim Human Resources Director McDonald have reviewed the recommendations for hire submitted by the position’s supervisor and recommend the hiring of said candidate to the council for their approval pursuant to the city charter as stated above.

The City of Newberg has successfully recruited for the vacant position listed below. The recommended candidate has been vetted through the appropriate hiring procedure for the department as indicated.

Library

Line Item: 01 3120 432000

Library Assistant I

Non-exempt, non-represented substitute (varying hours) position

- Current budget includes funding for this substitute position.
- 16 applicants; 4 interviewed by Leah Griffith & Korie Buerkle.

Recommended candidate: Joleen Jin - two years as a library assistant in the Newberg School District (Edwards and MountainView Schools) and four years’ experience at public libraries in Napa, CA and Rochester, MN.

-

FISCAL IMPACT:

Funding for this position is in the adopted FY 2015-2016 Budget under the appropriate salary and benefit line item as indicated above.

STRATEGIC ASSESSMENT:

This departments is working at less than full-staff capacity; quickly refilling this vacancy is the fiscally responsible solution.



RESOLUTION No. 2016-3267

A RESOLUTION AUTHORIZING THE CITY MANAGER PRO TEM TO APPOINT RECOMMENDED CANDIDATE TO A POSITION IN THE LIBRARY

RECITALS:

1. Reason for Vacancy: This is a substitute position vacated by existing employees who have had their working hours increased based on the recent council approval to increase Library operating hours.
2. Recommendations: Interim Human Resources Director McDonald recommends the appointment of the candidate listed as soon as possible.
3. Funding: Position funding is within the FY 2015-2016 Budget and is indicated by the applicable departmental personnel services line items.
4. Manager Pro Tem Appointment: Steve Rhodes was appointed manager pro tem on September 8, 2015, by the city council. He has reviewed the recommendations for hire submitted by the supervisor of the position and recommends the hiring of said candidate to the vacant position. The City Charter, Chapter VIII, Section 34(h) provides the manager pro tem “has the authority and duties of manager, except that a manager pro tem may appoint or remove employees only with council approval”.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

The city council approves the appointment by the city manager pro tem of the selected candidate:

Joleen Jin – Library Assistant I, Library

- **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: March 22, 2016.

ADOPTED by the City Council of the City of Newberg, Oregon, this 21st day of March, 2016.

Sue Ryan, City Recorder

ATTESTED by Mayor this _____ day of March, 2016.

Bob Andrews, Mayor

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: March 21, 2016

Order ___	Ordinance <u>XX</u>	Resolution ___	Motion ___	Information ___
No.	No. 2016-2798	No.		

SUBJECT: An ordinance amending the Newberg Development Code regarding recreational marijuana producers and processors; and declaring an emergency

**Contact Person (Preparer) for this Motion: Doug Rux, Director
Dept.: Community Development
File No.: DCA-15-003**

HEARING TYPE: **LEGISLATIVE** **QUASI-JUDICIAL** **NOT APPLICABLE**

RECOMMENDATION:

Adopt Ordinance No. 2016-2798 amending the Newberg Development Code for recreational marijuana producers and processors.

EXECUTIVE SUMMARY:

A. SUMMARY: The proposed Development Code amendments do the following:

- Prohibits Recreational Marijuana Producer as an indoor or outdoor use in R-1, R-2, R-3, R-4, R-P, AR, R-1/PD, R-1/0.1, R-1/.04, R-1/6.6, R-1/SP, R-2/PD, R-2/SP, SD/LDR, SD/MMR, R-3/PD, RP/SP, RP/LU, C-1, C-2, C-3, C-4, C-1/SP, C-2/LU, C-2/PD, C-2/SP, C-3/LU, SD/V, SD/NC, SD/H, CC, M-4-C, CF, CF/RF, RF, I, IO, FHO, AI, AIO, H, SC, BI.
- Adds Recreational Marijuana Producer as an indoor permitted use in in M-1, M-2, M-3, M-4-I, M-1/SP, SD/E and II.
- Adds Recreational Marijuana Producer as a conditional outdoor use in in M-1, M-2, M-3, M-4-I, M-1/SP, SD/E and II.
- Adds Recreational Marijuana Processor as a permitted indoor use in M-1, M-2, M-3, M-4-I and SD/E.
- Prohibits Recreational Marijuana Processor in all residential, commercial, community facility, institutional, airport industrial and miscellaneous districts and subdistricts.
- Add definitions for Recreational Marijuana Producer and Processor.

B. BACKGROUND: The Oregon voters passed Measure 91 on recreational marijuana in November 2014. The Oregon Legislature enacted four bills during the 2015 legislative session related to the Oregon Medical Marijuana Act and Measure 91. House Bill (HB) 3400 was the omnibus bill covering recreational marijuana and modifications to the medical marijuana program. HB 2014 was enacted addressing taxes on the sale of recreational marijuana, SB 460 related to limited retail sales of marijuana from medical marijuana dispensaries and SB 844 enacted a task force on researching the medical and public health properties of cannabis. In addition to the enacting of the four bills the

Oregon Liquor Control Commission adopted temporary Oregon Administrative Rules (OAR's) on October 22, 2015 that were subsequently modified on November 20, 2015 for recreational marijuana under Chapter 845, Division 25

On September 8, 2015 the Newberg City Council was provided background information on medical and recreational marijuana at its Work Session. At the City Council Business Session on September 8th they established the Marijuana Subcommittee (Subcommittee) comprised of Councilors Rourke, Bacon and McKinney along with non-voting member Mayor Andrews. The City Council also directed staff to bring back an ordinance with a ban of the sale of recreational marijuana from Medical Marijuana Dispensaries.

On September 21, 2015 the Newberg City Council passed Ordinance No. 2015-2787 declaring a ban on the early sale of recreational marijuana by marijuana dispensaries and declaring an emergency.

The Subcommittee met on November 19, 2015 to review the similarities and differences between the medical marijuana and recreational marijuana programs. The Subcommittee met on December 9, 2015 and discussed initiating a Request for Council Action (RCA) to initiate the Development Code amendment process for place, time and manner regulations for recreational marijuana producers and processors. The Subcommittee was also provided a timeline of dates and activities that would need to occur to prepare place, time and manner land use regulations for recreational marijuana producers and processors. The Subcommittee subsequently passed a motion 3-0 directing staff to create a Request for Council Action (RCA) to initiate the Development Code Amendment for recreational marijuana producer and processor regulations to bring forward for Council consideration on January 4, 2016.

The City Council adopted Resolution No. 2015-3248 on January 4, 2016 initiating the Development Code amendment process (Attachment 1).

The Subcommittee met again on January 12, 2016 and developed recommendations on recreational marijuana producers and processors.

C. PROCESS: A development code amendment is a Type IV application and follows the procedures in Newberg Development Code 15.100.060. Important dates related to this application are as follows:

1. 1/4/16: The Newberg City Council initiated the Development Code amendment.
2. 2/25/16: After proper notice, the Planning Commission held a legislative hearing to consider the item, took public comment, and approved Resolution 2016-313.
3. 3/21/16: After proper notice, the City Council held a legislative hearing to consider the item.

D. PUBLIC COMMENTS: As of the writing of this report, the city has received no comments on the application. If the city receives additional written comments by the comment deadline, Planning staff will forward them to the City Council.

E. ANALYSIS:

Place, Time and Manner: Recreational Marijuana Producers and Processors have certain limitations per HB 3400 and OAR 845-025. HB 3400 states (bracketed and italicized text is deleted and bold text is new).

HB 3400, Section 33 allows local governments to regulate the location of marijuana producer and processor sites. Specifically the law reads:

(Land Use)

SECTION 33. Section 59, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 59. *[(1) Cities and counties may adopt reasonable time, place and manner regulations of the nuisance aspects of establishments that sell marijuana to consumers if the city or county makes specific findings that the establishment would cause adverse effects to occur.]*

[(2) The authority granted to cities and counties by this section is in addition to, and not in lieu of, the authority granted to a city or county under its charter and the statutes and Constitution of this state.]

(1) For purposes of this section, “reasonable regulations” includes:

(g) Reasonable limitations on where a premises for which a license may be issued under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015, may be located.

Oregon Laws 2015, Chapter 1 as related to Production license and Processor license states:

SECTION 19. Production license. (1) The production of marijuana is subject to regulation by the Oregon Liquor Control Commission. (2) A marijuana producer must have a production license issued by the commission for the premises at which the marijuana is produced.

SECTION 20. Processor license. (1) The processing of marijuana items is subject to regulation by the Oregon Liquor Control Commission. (2) A marijuana processor must have a processor license issued by the commission for the premises at which marijuana items are processed.

Oregon Administrative Rule, Division 25 provides the following definitions:

**GENERAL REQUIREMENTS APPLICABLE TO
ALL MARIJUANA LICENSES**

**845-025-1015
Definitions**

(38) "Premises" or "licensed premises" includes the following areas of a location licensed under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015:

- (a) All public and private enclosed areas at the location that are used in the business operated at the location, including offices, kitchens, rest rooms and storerooms;
- (b) All areas outside a building that the Commission has specifically licensed for the production, processing, wholesale sale or retail sale of marijuana items; and
- (c) For a location that the Commission has specifically licensed for the production of marijuana outside a building, the entire lot or parcel, as defined in ORS 92.010, that the licensee owns, leases or has a right to occupy.
- (d) "Premises" or "licensed premises" does not include a primary residence.
- (39) "Primary Residence" means real property inhabited for the majority of a calendar year by an owner, renter or tenant, including manufactured homes and vehicles used as domiciles.

Oregon Administrative Rule, Division 25 provides the following on when the Oregon Liquor Control Commission would deny a license application:

OAR 845-025-1115

Denial of Application (1) The Commission must deny an initial or renewal application if:

- (a) An applicant is under the age of 21 or, until January 1, 2020, has not been a resident or Oregon for at least two years. If the Commission determines that an applicant is a non-resident the Commission will hold that application under review until 30 days after the 2016 Oregon Legislature adjourns.
- (b) The applicant's land use compatibility statement shows that the proposed land use is prohibited in the applicable zone.
- (c) The proposed licensed premises is located:
 - (A) On federal property.
 - (B) At the same physical location or address as a:
 - (i) Medical marijuana grow site registered under ORS 475.304, unless the grow site is also licensed under section 116, chapter 614, Oregon laws 2015;
 - (ii) Medical marijuana processing site registered under section 85, chapter 614, Oregon Laws 2015; or
 - (iii) Medical marijuana dispensary registered under ORS 475.314.
 - (C) At the same physical location or address as a liquor licensee licensed under ORS chapter 471 or as a retail liquor agent appointed by the Commission.
- (d) The proposed licensed premises of a producer applicant is:
 - (A) On public land; or
 - (B) On the same tax lot or parcel as another producer licensee under common ownership.
- (e) The proposed licensed premises of a processor who has applied for an endorsement to process extracts is located in an area that is zoned exclusively for residential use.

Oregon Administrative Rule, Division 25 states the following on restrictions:

OAR 845-025-1230

Licensed Premises Restrictions and Requirements (1) A licensed premises may not be located:

- (a) On federal property; or
- (b) At the same physical location or address as a:
 - (A) Medical marijuana grow site registered under ORS 475.304, unless the grow site is also licensed under section 116, chapter 614, Oregon Laws 2015;

- (B) Medical marijuana processing site registered under section 85, chapter 614, Oregon Laws 2015; or
 - (C) Medical marijuana dispensary registered under ORS 475.314.
 - (D) Liquor licensee licensed under ORS Chapter 471 or as a retail liquor agent appointed by the Commission.
- (2) The licensed premises of a producer applicant may not be on:
- (a) Public land; or
 - (b) The same tax lot or parcel as another producer licensee under common ownership.
- (4) The licensed premises of a processor who has an endorsement to process extracts may not be located in an area that is zoned exclusively for residential use.
- (5) The licensed premises of a processor, wholesaler, laboratory and retailer must be enclosed on all sides by permanent walls and doors.
- (11) The general public is not permitted in limited access areas on a licensed premises, except for the licensed premises of a retailer and as provided by section (14) of this rule. In addition to licensee representatives, the following individuals are permitted to be present in limited access areas on a licensed premises, subject to the requirements in section (12) of this rule:
- (a) Laboratory personnel, if the laboratory is licensed by the Commission;
 - (b) A contractor, vendor or service provider authorized by a licensee representative to be on the licensed premises;
 - (c) Another licensee or that licensee's representative;
 - (d) Up to seven invited guests per week subject to requirements of section (12) of this rule; or
 - (e) Tour groups as permitted under section (14) of this rule.
- (12) Prior to entering a licensed premises all visitors permitted by section (11) of this rule must be documented and issued a visitor identification badge from a licensee representative that must remain visible while on the licensed premises. A visitor badge is not required for government officials. All visitors described in subsection (11) of this rule must be accompanied by a licensee representative at all times.

Oregon Administrative Rule, Division 25 states the following on recreational marijuana producers:

RECREATIONAL MARIJUANA PRODUCERS

OAR 845-025-2000

Definitions As used in OAR 845-025-2000 to 845-025-2080:

- (1) "Canopy" means the surface area utilized to produce mature marijuana plants calculated in square feet and measured using the outside boundaries of any area that includes mature marijuana plants including all of the space within the boundaries.
- (2) "Indoor production" means producing marijuana in any manner:
 - (a) Utilizing artificial lighting on mature marijuana plants; or
 - (b) Other than "outdoor production" as that is defined in this rule.
- (3) "Outdoor production" means producing marijuana:
 - (a) In an expanse of open or cleared ground; or
 - (b) In a greenhouse, hoop house or similar non-rigid structure that does not utilize any artificial lighting on mature marijuana plants, including but not limited to electrical lighting sources.

HB 3400, Section 14 limits where processing extracts can occur. The law reads:

(License Holders)

SECTION 14. Section 20, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 20. (1) The processing of marijuana items is subject to regulation by the Oregon Liquor Control Commission.

(2) A marijuana processor must have a processor license issued by the commission for the premises at which marijuana items are processed. **To hold a processor license under this section, a marijuana processor:**

(a) **Must apply for a license in the manner described in section 28, chapter 1, Oregon Laws 2015;**

(b) **Must, until January 1, 2020, provide proof that an applicant listed on an application submitted under section 28, chapter 1, Oregon Laws 2015, has been a resident of this state for two or more years, and must provide proof that the applicant is 21 years of age or older;**

(c) If the marijuana processor processes marijuana extracts, may not be located in an area zoned exclusively for residential use; and

(d) **Must meet the requirements of any rule adopted by the commission under subsection (3) of this section.**

(3) **The commission shall adopt rules that:**

(a) **Require a marijuana processor to annually renew a license issued under this section;**

(b) **Establish application, licensure and renewal of licensure fees for marijuana processors;**

(c) **Require marijuana processed by a marijuana processor to be tested in accordance with section 92 of this 2015 Act; and**

(d) **Require a marijuana processor to meet any public health and safety standards and industry best practices established by the commission by rule related to:**

(A) **Cannabinoid edibles;**

(B) **Cannabinoid concentrates;**

(C) **Cannabinoid extracts; and**

(D) **Any other type of cannabinoid product identified by the commission by rule.**

(4) **Fees adopted under subsection (3)(b) of this section:**

(a) **May not exceed the cost of administering sections 3 to 70, chapter 1, Oregon Laws 2015, with respect to marijuana processors; and**

(b) **Shall be deposited in the Marijuana Control and Regulation Fund established under section 32 of this 2015 Act.**

HB 3400, Section 34 identifies marijuana as a crop for purposes of farm use, farm, farming practice and as farm product as noted below. This section also requires a land use compatibility statement prior to issuance of any license.

(Land Use)

SECTION 34. (1) **Notwithstanding any other provision of law, marijuana is:**

(a) A crop for the purposes of “farm use” as defined in ORS 215.203;

(b) A crop for purposes of a “farm” and “farming practice,” both as defined in ORS

30.930;

(c) A product of farm use as described in ORS 308A.062; and

(d) The product of an agricultural activity for purposes of ORS 568.909.

(2) Notwithstanding ORS chapters 195, 196, 197 and 215, the following are not permitted uses on land designated for exclusive farm use:

(a) A new dwelling used in conjunction with a marijuana crop;

(b) A farm stand, as described in ORS 215.213 (1)(r) or 215.283 (1)(o), used in conjunction with a marijuana crop; and

(c) A commercial activity, as described in ORS 215.213 (2)(c) or 215.283 (2)(a), carried on in conjunction with a marijuana crop.

(3) A county may allow the production of marijuana as a farm use on land zoned for farm or forest use in the same manner as the production of marijuana is allowed in exclusive farm use zones under this section and ORS 215.213 and 215.283.

(4)(a) Prior to the issuance of a license under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015, the Oregon Liquor Control Commission shall request a land use compatibility statement from the city or county that authorizes the land use. The land use compatibility statement must demonstrate that the requested license is for a land use that is allowable as a permitted or conditional use within the given zoning designation where the land is located. The commission may not issue a license if the land use compatibility statement shows that the proposed land use is prohibited in the applicable zone.

(b) A city or county that receives a request for a land use compatibility statement under

this subsection must act on that request within 21 days of:

(A) Receipt of the request, if the land use is allowable as an outright permitted use; or

(B) Final local permit approval, if the land use is allowable as a conditional use.

(c) A city or county action concerning a land use compatibility statement under this subsection is not a land use decision for purposes of ORS chapter 195, 196, 197 or 215.

HB 3400 allows opt-in for medical marijuana grow sites to also produce recreational marijuana. The law reads:

MEDICAL MARIJUANA GROW SITE OPT-IN OPERATIVE JANUARY 1, 2016

SECTION 116. (1) A person responsible for a marijuana grow site under ORS 475.304 may apply for a license under section 19, chapter 1, Oregon Laws 2015, to produce marijuana at the address of the marijuana grow site, provided that all individuals registered with the Oregon Health Authority to produce marijuana at the address are listed on the application submitted to the Oregon Liquor Control Commission under section 28, chapter 1, Oregon Laws 2015.

(2) Notwithstanding any other provision of sections 3 to 70, chapter 1, Oregon Laws 2015, the commission may issue a license under section 19, chapter 1, Oregon Laws 2015, to a person responsible for a marijuana grow site under ORS 475.304 if the

person responsible for the marijuana grow site:

(a) Meets any criminal background check requirements established by the commission by rule;

(b) Agrees to be subject to the provisions of sections 3 to 70, chapter 1, Oregon Laws 2015, including section 59, chapter 1, Oregon Laws 2015, and section 34 of this 2015 Act, and rules adopted under sections 3 to 70, chapter 1, Oregon Laws 2015, that apply to marijuana producers; and

(c) Submits proof, in a form and manner prescribed by the commission, of having obtained the permission to apply for licensure under section 19, chapter 1, Oregon Laws 2015, of each individual who holds a registry identification card issued under ORS 475.309 for whom the person produces marijuana at the address of the marijuana grow site.

(3) The commission by rule or order may waive the application of any rule adopted under sections 3 to 70, chapter 1, Oregon Laws 2015, to a person responsible for a marijuana grow site that holds a license under section 19, chapter 1, Oregon Laws 2015.

(4) A person responsible for a marijuana grow site that holds a license under section 19, chapter 1, Oregon Laws 2015:

(a) May not possess more than the amount or number of marijuana plants permitted pursuant to ORS 475.300 to 475.346;

(b) Must allow each marijuana plant to be tracked using the system developed and maintained under section 23 of this 2015 Act;

(c) May sell immature marijuana plants and usable marijuana in excess of amounts produced for individuals who hold a registry identification card issued under ORS 475.309 to a person who holds a license under section 20, 21 or 22, chapter 1, Oregon Laws 2015, in accordance with rules adopted by the commission; and

(d) May transfer marijuana and usable marijuana to other registrants under ORS 475.300 to 475.346 in accordance with rules adopted by the authority.

(5) In a form and manner prescribed by the commission, a person responsible for a marijuana grow site that holds a license under section 19, chapter 1, Oregon Laws 2015, may surrender the person's license. If the person surrenders the person's license, the person is no longer subject to the provisions of this section.

(6) Notwithstanding ORS 475.331, the authority may provide information to the commission as is necessary for the commission to determine whether a person responsible for a marijuana grow site that holds a license under section 19, chapter 1, Oregon Laws 2015, is in compliance with this section.

(7) This section does not prohibit or otherwise restrict the duties, functions and powers of a person responsible for a marijuana grow site as set forth in ORS 475.300 to 475.346, except that the person is not subject to any requirement related to the reporting or tracking of mature marijuana plants and usable marijuana.

The Newberg Municipal Code states the following regarding horticulture and light manufacturing:

15.05.030 Definitions.

For the purpose of this title, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

“**Horticulture**” means the cultivation of a garden, orchard, or nursery, or the cultivation of flowers, fruits, vegetables, or ornamental plants for commercial purposes. It excludes farm stands or other on-site retail sale of the products.

“**Light manufacturing category**” means a category of uses under Chapter 15.303 NMC that involves manufacturing, processing, fabrication, packaging, or assembly of goods. These types of firms are involved in the secondary processing and assembly of materials and components into finished products, generally for the wholesale market, for transfer to other plants, or to order for firms or consumers. The external impact from these uses is generally less than heavy manufacturing. Outdoor storage and processing of goods and materials is less than 10 percent of the site. Transportation needs are often met by truck. Goods are generally not displayed or sold on site, but if so, they are a subordinate part of sales. Relatively few customers come to the manufacturing site (typically fewer than five per day per 1,000 square feet of floor area).

Use Categories

15.303.100 Agricultural uses.

The following agricultural uses defined in NMC 15.050.030

- A. Horticulture
- B. Livestock and poultry farming.
- C. Home gardening.
- D. Home livestock and poultry raising. [Ord. 2673 § 1 (Exh. A § 5), 9-16-13.]

15.303.506 Light manufacturing category.

- A. Characteristics. Light Manufacturing involve manufacturing, processing, fabrication, packaging, or assembly of goods. These types of firms are involved in the secondary processing and assembly of materials and components into finished products, generally for the wholesale market, for transfer to other plants, or to order for firms or consumers. The external impact from these uses is generally less than heavy manufacturing. Outdoor storage and processing of goods and materials is less than 10 percent of the site. Transportation needs are often met by truck. Goods are generally not displayed or sold on site, but if so, they are a subordinate part of sales. Relatively few customers come to the manufacturing site (typically fewer than five per day per 1,000 square feet of floor area).
- B. Accessory Uses. Retail sales of goods produced on site, provided the floor area devoted to retail sales is small (less than 10 percent of the floor area, up to 2,000 square feet).
- C. Examples. Instrument and machinery manufacturers, food processors, furniture manufacturers, wineries, wholesale bakeries.
- D. Exclusions. Heavy Manufacturing is a separate category. [Ord. 2763 § 1 (Exh. A § 5), 9-16-13.]

	USES	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-1	M-2	M-3	M-4-I	M-4-C	CF	I	AR	AI	Notes and Special Use Standards
100	AGRICULTURAL USES																			
Def.	Horticulture	P	P	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)											
	INDUSTRIAL USES																			
	Light Manufacturing										P	P	P	P					P(33)	

Key:

- P: Permitted use
- S: Special use – Use requires a special use permit
- C: Conditional use – Requires a conditional use permit
- X: Prohibited use
- (#): See notes for limitations

Notes.

- (1) Limited to sites with preexisting agricultural uses, including at time of annexation.
- (33) Must be aviation-related. See Chapter 15.332 NMC.

TIME

HB 3400, Section 33 allows local government to regulate the manner and access of marijuana producers and processors sites. Specifically the law reads:

SECTION 33. Section 59, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 59. *[(1) Cities and counties may adopt reasonable time, place and manner regulations of the nuisance aspects of establishments that sell marijuana to consumers if the city or county makes specific findings that the establishment would cause adverse effects to occur.]*

[(2) The authority granted to cities and counties by this section is in addition to, and not in lieu of, the authority granted to a city or county under its charter and the statutes and Constitution of this state.]

(1) For purposes of this section, “reasonable regulations” includes:

(a) Reasonable conditions on the manner in which a marijuana producer licensed under section 19, chapter 1, Oregon Laws 2015, may produce marijuana;

(b) Reasonable conditions on the manner in which a marijuana processor licensed under section 20, chapter 1, Oregon Laws 2015, may process marijuana;

(f) Reasonable requirements related to the public’s access to a premises for which a license has been issued under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015; and

(2) Notwithstanding ORS 633.738, the governing body of a city or county may adopt ordinances that impose reasonable regulations on the operation of businesses located at premises for which a license has been issued under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015, if the premises are located in the area subject to

the jurisdiction of the city or county, except that the governing body of a city or county may not adopt an ordinance that prohibits a premises for which a license has been issued under section 22, chapter 1, Oregon Laws 2015, from being located within a distance that is greater than 1,000 feet of another premises for which a license has been issued under section 22, chapter 1, Oregon Laws 2015.

(3) Regulations adopted under this section must be consistent with city and county comprehensive plans and zoning ordinances and applicable provisions of public health and safety laws.

HB 3400, Section 33 allows local government to regulate the hours of marijuana grow sites and processing sites. There are no additional provisions in Oregon Revised Statutes (ORS) or OAR's regarding hours of operation for grow sites or processors. The Planning Commission may want to consider the hours required for growing marijuana which is likely on a 24-hour bases. For processors, the operation could be considered similar to an industrial operation, the Development Code does not limit hours.

MANNER

HB 3400, Section 33 allows local government to regulate the manner of marijuana producers and processors sites. Specifically the law reads:

SECTION 33. Section 59, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 59. *[(1) Cities and counties may adopt reasonable time, place and manner regulations of the nuisance aspects of establishments that sell marijuana to consumers if the city or county makes specific findings that the establishment would cause adverse effects to occur.]*

[(2) The authority granted to cities and counties by this section is in addition to, and not in lieu of, the authority granted to a city or county under its charter and the statutes and Constitution of this state.]

(1) For purposes of this section, "reasonable regulations" includes:

(a) Reasonable conditions on the manner in which a marijuana producer licensed under section 19, chapter 1, Oregon Laws 2015, may produce marijuana;

(b) Reasonable conditions on the manner in which a marijuana processor licensed under section 20, chapter 1, Oregon Laws 2015, may process marijuana;

(f) Reasonable requirements related to the public's access to a premises for which a license has been issued under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015; and

(2) Notwithstanding ORS 633.738, the governing body of a city or county may adopt ordinances that impose reasonable regulations on the operation of businesses located at premises for which a license has been issued under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015, if the premises are located in the area subject to the jurisdiction of the city or county, except that the governing body of a city or county may not adopt an ordinance that prohibits a premises for which a license has been issued under section 22, chapter 1, Oregon Laws 2015, from being located within a distance that is greater than 1,000 feet of another premises for which a license has been issued under section 22, chapter 1, Oregon Laws 2015.

(3) Regulations adopted under this section must be consistent with city and county

comprehensive plans and zoning ordinances and applicable provisions of public health and safety laws.

HB 3400, Section 13 authorizes OLCC to limit mature grow canopies. The law reads:

(License Holders)

SECTION 13. (1) Subject to subsection (2) of this section, the Oregon Liquor Control Commission shall adopt rules restricting the size of mature marijuana plant grow canopies at premises for which a license has been issued under section 19, chapter 1, Oregon Laws 2015. In adopting rules under this subsection, the commission shall:

(a) Limit the size of mature marijuana plant grow canopies, for premises where marijuana is grown outdoors and for premises where marijuana is grown indoors, in a manner calculated to result in premises that produce the same amount of harvested marijuana leaves and harvested marijuana flowers regardless of whether the marijuana is grown outdoors or indoors.

(b) Adopt a tiered system under which the permitted size of a marijuana producer's mature marijuana plant grow canopy increases at the time of licensure renewal under section 19, chapter 1, Oregon Laws 2015, except that the permitted size of a marijuana producer's mature marijuana plant grow canopy may not increase following any year during which the commission disciplined the marijuana producer for violating a provision of sections 3 to 70, chapter 1, Oregon Laws 2015, or a rule adopted under a provision of sections 3 to 70, chapter 1, Oregon Laws 2015.

(c) Take into consideration the market demand for marijuana items in this state, the number of persons applying for a license under section 19, chapter 1, Oregon Laws 2015, and to whom a license has been issued under section 19, chapter 1, Oregon Laws 2015, and whether the availability of marijuana items in this state is commensurate with the market demand.

(2) This section does not apply to a premises for which a license has been issued under section 19, chapter 1, Oregon Laws 2015, if the premises is used only to propagate immature marijuana plants.

**GENERAL REQUIREMENTS APPLICABLE TO ALL
MARIJUANA LICENSEES**

OAR 845-025-1030 Application Process

(g) For producers:

(A) The proposed canopy size and tier as described in OAR 845-025-2040 and a designation of the canopy area within the license premises.

(B) A report describing the applicant's electrical and water usage, on a form prescribed by the Commission. The report must describe the estimated water usage taking into account all portions of the premises and expected requirements of the operation.

(C) A description of the growing operation including growing media, a description of equipment to be used in the production, and whether production will be indoor, outdoor or both.

(D) A water right permit or certificate number; a statement that water is supplied from a public or private water provider, along with the name and contact information of the water provider; or proof from the Oregon Water Resources Department that the water to be used for production is from a source that does not require a water right.

(h) **For processors:**

(A) On a form prescribed by the Commission, the proposed endorsements as described in OAR 845-025-3210.

(B) A description of the type of products to be processed, a description of equipment to be used, including any solvents, gases, chemicals or other compounds used to create extracts or concentrates.

Oregon Administrative Rule, Division 25 establishes fees for recreational marijuana producers and processors.

OAR 845-025-1060

Fees (1) At the time of initial license or certificate application an applicant must pay a \$250 nonrefundable application fee.

(2) If the Commission approves an application and grants an annual license, the following fees must be paid, prorated for an initial license that is issued for six months or less:

(a) **Producers:**

(A) Tier I \$3,750

(B) Tier II \$5,750

(b) **Processors:** \$4,750

Oregon Administrative Rule, Division 25 provides for civil penalties for failure to comply with local ordinances.

OAR 845-025-1295

Local Ordinances The Commission may impose a civil penalty, suspend or cancel any licensee for failure to comply with an ordinance adopted by a city or county pursuant to section 34, chapter 614, Oregon Laws 2015 if the city or county:

(1) Has provided the licensee with due process substantially similar to the due process provided to a licensee under the Administrative Procedures Act, ORS 183.413 to 183.470; and

(2) Provides the Commission with a final order that is substantially similar to the requirements for a final order under ORS 183.470 that establishes that the licensee has violated the local ordinance.

Oregon Administrative Rule, Division 25 establishes security requirements for recreational marijuana producers.

SECURITY

OAR 845-025-1470

Producer Security Requirements (1) In addition to the security requirements in OAR 845-025-1400 to 845-025-1460, a producer must effectively prevent public access and obscure from public view all areas of marijuana production. A producer may satisfy this requirement by:

- (a) Submitting a security plan as described in OAR 845-025-1400;
 - (b) Fully enclosing indoor production on all sides so that no aspect of the production area is visible from the exterior satisfies; or
 - (c) Erecting a solid wall or fence on all exposed sides of an outdoor production area that is at least eight (8) feet high.
- (2) If a producer chooses to dispose of usable marijuana by any method of composting, as described in OAR 845-025-7750, the producer must prevent public access to the composting area and obscure the area from public view.

Oregon Administrative Rule, Division 25 establishes safety inspections and requirements to contact local governments on water and sanitary sewer to ensure compliance.

HEATH AND SAFETY

OAR 845-025-1600

State and Local Safety Inspections

- (1) All marijuana licensees may be subject to inspection of licensed premises by state or local government officials to determine compliance with state or local health and safety laws.
- (2) A licensee must contact any utility provider to ensure that the licensee complies with any local ordinance or utility requirements such as water use, discharge into the sewer system, or electrical use.

Oregon Administrative Rule, Division 25 establishes that producers may have indoor and outdoor operations.

RECREATIONAL MARIJUANA PRODUCERS

OAR 845-025-2020

Producer Privileges

- (1) A producer may only plant, cultivate, grow, harvest and dry marijuana in the manner approved by the Commission and consistent with chapter 1, Oregon Laws 2015, chapter 614, Oregon Laws 2015 and these rules.
- (2) A producer may engage in indoor or outdoor production of marijuana, or a combination of the two.
- (3) A producer may sell or deliver:
 - (a) Usable marijuana to the licensed premises of a marijuana processor, wholesaler, retailer, laboratory, or research certificate holder;
 - (b) Dried mature marijuana plants that have been entirely removed from any growing medium to the licensed premises of a marijuana processor or research certificate holder;or
 - (c) Immature marijuana plants and seeds to the licensed premises of a marijuana producer, wholesaler, retailer or research certificate holder.
- (4) A producer may not sell a mature marijuana plant other than as provided in section (3)(b) of this rule.
- (5) A producer may provide a sample of usable marijuana to a marijuana wholesaler, retailer or processor licensee for the purpose of the licensee determining whether to purchase the product. The sample product may not be consumed on a licensed premises. Any sample provided to another licensee must be recorded in CTS.

Oregon Administrative Rule, Division 25 limits where a producer may operate, not in a primary residence.

OAR 845-025-2030

Licensed Premises of Producer

(1) The licensed premises of a producer authorized to cultivate marijuana indoors includes all public and private enclosed areas used in the business operated at the location and any areas outside of a building that the Commission has licensed.

(2) The licensed premises of a producer authorized to cultivate marijuana outdoors includes the entire lot or parcel, as defined in ORS 92.010, that the licensee owns, leases or has the right to occupy.

(3) A producer may not engage in any privileges of the license within a primary residence.

(4) The licensed premises of a producer may not be located at the same physical location or address as a marijuana grow site registered under ORS 475.304 unless the producer is also a person responsible for a marijuana grow site and has been issued a license by the Commission in accordance with section 116, chapter 614, Oregon Laws 2014, and OAR 845-025-1100.

Oregon Administrative Rule, Division 25 limits the size of canopy cover for mature marijuana plants.

OAR 845-025-2040

Production Size Limitations (1) Cultivation Batches and Cultivate Batch Sizes.

(a) A producer must establish cultivation batches and assign each cultivation batch a unique identification number. (b) A cultivation batch may not have more than 100 immature plants.

(c) A producer may have an unlimited number of cultivation batches at any one time.

(2) Canopy Size Limits.

(a) Indoor Production.

(A) Tier I: Up to 5,000 square feet.

(B) Tier II: 5,001 to 10,000 square feet.

(b) Outdoor production.

(A) Tier I: Up to 20,000 square feet.

(B) Tier II: 20,001 to 40,000 square feet.

(c) Mixed production. If a producer intends to have a mixture of indoor and outdoor production the Commission will determine the producer's tiers and canopy sizes by applying the ratio in section (4) of this rule.

(d) For purposes of this section, square footage of canopy space is measured starting from the outermost point of the furthest mature flowering plant in a designated growing space and continuing around the outside of all mature flowering plants located within the designated growing space.

(e) A producer may designate multiple grow canopy areas at a licensed premises but those spaces must be separated by a physical boundary such as an interior wall or by at least 10 feet of open space.

(f) If a local government adopts an ordinance that would permit a producer to have a higher canopy size limit than is permitted under this rule, the local government may petition the Commission for an increase in canopy size limits for that jurisdiction. If the

Commission grants such a petition, the Commission may amend this rule in addition to considering changes to the license fee schedule.

(g) On an annual basis, the Commission will evaluate market demand for marijuana items, the number of person applying for producer licenses or licensed as producers and whether the availability of marijuana items in this state is commensurate with the market demand. Following this evaluation the Commission may amend this rule as needed.

(3) Canopy Size Limit – Designation and Increases.

(a) A producer must clearly identify designated canopy areas and proposed canopy size in the initial license application. A producer may change a designated canopy area within a production type at any time with prior written notice to Commission, but a producer may only change canopy tiers at the time of renewal in accordance with subsection (b) of this section.

(b) A producer may submit a request to change canopy tiers at the time the producer submits an application for renewal of the license. The Commission will grant a request to increase the canopy tier for the producer's next licensure term if:

(A) The producer's renewal application is otherwise complete;

(B) There are no bases to deny or reject the producer's renewal application;

(C) The producer has not already reached the applicable maximum canopy size set forth in section (2) of this rule; and

(D) During the preceding year of licensure, the producer has not been found to be in violation, and does not have any pending allegations of violations of chapter 1, Oregon Laws 2015, chapter 614, Oregon Laws 2015, or these rules.

(c) The Commission shall give a producer an opportunity to be heard if a request is rejected under this section.

(4) Mixed cultivation methods.

(a) A producer may produce marijuana indoors and outdoors at the same time on the same licensed premises. The Commission must be notified of a producer's plan to engage in the indoor and outdoor production of marijuana at the time of initial licensure or at renewal, and not at any other time. A producer who utilizes mixed production may only change designated canopy areas from one production type to another at the time the producer submits a renewal application.

(b) The Commission must approve the canopy size applicable to each method.

(c) The Commission will use a 4:1 ratio, for outdoor and indoor respectively, to allocate canopy size limits under this section, not to exceed the sum canopy size limits set forth in section (2) of this rule. For example, if a Tier II producer in the first year of licensure has 5,000 square feet of indoor canopy space, then the producer may have up to 20,000 square feet of outdoor canopy space at the same time.

(5) Violations. An intentional violation of this rule is a Category I violation and may result in license revocation. All other violations are Category III violations.

HB 3400, Section 14 established requirements to hold a processor license. The law states:

SECTION 14. Section 20, chapter 1, Oregon Laws 2015, is amended to read:

Sec. 20. (1) The processing of marijuana items is subject to regulation by the Oregon Liquor Control Commission.

(2) A marijuana processor must have a processor license issued by the commission for the premises at which marijuana items are processed. **To hold a processor license under**

this section, a marijuana processor:

- (a) Must apply for a license in the manner described in section 28, chapter 1, Oregon Laws 2015;
 - (b) Must, until January 1, 2020, provide proof that an applicant listed on an application submitted under section 28, chapter 1, Oregon Laws 2015, has been a resident of this state for two or more years, and must provide proof that the applicant is 21 years of age or older;
 - (c) If the marijuana processor processes marijuana extracts, may not be located in an area zoned exclusively for residential use; and
 - (d) Must meet the requirements of any rule adopted by the commission under subsection (3) of this section.
- (3) The commission shall adopt rules that:
- (a) Require a marijuana processor to annually renew a license issued under this section;
 - (b) Establish application, licensure and renewal of licensure fees for marijuana processors;
 - (c) Require marijuana processed by a marijuana processor to be tested in accordance with section 92 of this 2015 Act; and
 - (d) Require a marijuana processor to meet any public health and safety standards and industry best practices established by the commission by rule related to:
 - (A) Cannabinoid edibles;
 - (B) Cannabinoid concentrates;
 - (C) Cannabinoid extracts; and
 - (D) Any other type of cannabinoid product identified by the commission by rule.
- (4) Fees adopted under subsection (3)(b) of this section:
- (a) May not exceed the cost of administering sections 3 to 70, chapter 1, Oregon Laws 2015, with respect to marijuana processors; and
 - (b) Shall be deposited in the Marijuana Control and Regulation Fund established under section 32 of this 2015 Act.

HB 3400, Section 72 established producer reporting requirements on quantities sold. The law states:

(Form and Style Amendments)

SECTION 72. Section 35, chapter 1, Oregon Laws 2015, is amended to read:
Sec. 35. On or before the 20th day of each month, every marijuana producer shall file with the Oregon Liquor Control Commission a statement of the quantities of marijuana flowers, marijuana leaves[,] and immature marijuana plants sold by the marijuana producer during the preceding calendar month.

HB 3400, Section 91 established requirements for testing and includes a definition of “Processing” and “Producing”. The law states:

**TESTING
OPERATIVE JANUARY 1, 2016**

SECTION 91. As used in sections 91 to 99 of this 2015 Act:

- (1) “Cannabinoid” means any of the chemical compounds that are the active constituents of marijuana.**
- (2) “Cannabinoid concentrate or extract” means a substance obtained by separating cannabinoids from marijuana by a mechanical, chemical or other process.**
- (3) “Cannabinoid edible” means food or potable liquid into which a cannabinoid concentrate or extract or the dried leaves or flowers of marijuana have been incorporated.**
- (4)(a) “Cannabinoid product” means a cannabinoid edible or any other product intended for human consumption or use, including a product intended to be applied to a person’s skin or hair, that contains cannabinoids or the dried leaves or flowers of marijuana.**
 - (b) “Cannabinoid product” does not include:**
 - (A) Usable marijuana by itself;**
 - (B) A cannabinoid concentrate or extract by itself; or**
 - (C) Industrial hemp, as defined in ORS 571.300.**
- (5)(a) “Marijuana” means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae.**
 - (b) “Marijuana” does not include industrial hemp, as defined in ORS 571.300.**
- (6) “Marijuana item” means marijuana, usable marijuana, a cannabinoid product or a cannabinoid concentrate or extract.**
- (7) “Processing” means the compounding or conversion of marijuana into cannabinoid products or cannabinoid concentrates or extracts.**
- (8) “Producing” means:**
 - (a) Planting, cultivating, growing, trimming or harvesting marijuana; or**
 - (b) Drying marijuana leaves and flowers.**
- (9)(a) “Usable marijuana” means the dried leaves and flowers of marijuana.**
 - (b) “Usable marijuana” does not include:**
 - (A) The seeds, stalks and roots of marijuana; or**
 - (B) Waste material that is a by-product of producing or processing marijuana.**

HB 3400, Section 23 established a tracking system for production and processing. The law states:

(Seed to Sale Tracking System)

- SECTION 23. (1) The Oregon Liquor Control Commission shall develop and maintain a system for tracking the transfer of marijuana items between licensed premises.**
- (2) The purposes of the system developed and maintained under this section include, but are not limited to:**
 - (a) Preventing the diversion of marijuana items to criminal enterprises, gangs, cartels and other states;**
 - (b) Preventing persons from substituting or tampering with marijuana items;**

(c) Ensuring an accurate accounting of the production, processing and sale of marijuana items;

(d) Ensuring that taxes are collected for the purpose of being distributed as described in section 44, chapter 1, Oregon Laws 2015;

(e) Ensuring that laboratory testing results are accurately reported; and

(f) Ensuring compliance with the provisions of sections 3 to 70, chapter 1, Oregon Laws 2015, rules adopted under the provisions of sections 3 to 70, chapter 1, Oregon Laws 2015, and any other law of this state that charges the commission with a duty, function or power related to marijuana.

(3) The system developed and maintained under this section must be capable of tracking, at a minimum:

(a) The propagation of immature marijuana plants and the production of marijuana by a marijuana producer;

(b) The processing of marijuana by a marijuana processor;

(c) The receiving, storing and delivering of marijuana items by a marijuana wholesaler;

(d) The sale of marijuana items by a marijuana retailer to a consumer;

(e) The purchase and sale of marijuana items between licensees, as permitted by sections 3 to 70, chapter 1, Oregon Laws 2015;

(f) The transfer of marijuana items between licensed premises;

(g) The collection of taxes imposed upon the retail sale of marijuana items under section 70 of this 2015 Act; and

(h) Any other information that the commission determines is reasonably necessary to accomplish the duties, functions and powers of the commission under sections 3 to 70, chapter 1, Oregon Laws 2015.

Oregon Administrative Rule, Division 25 requires endorsements for recreational marijuana processors.

RETAIL MARIJUANA PROCESSORS

OAR 845-025-3200

Definitions For purposes of OAR 845-025-3200 to 845-025-3290:

(1) "Cannabinoid topical" means a cannabinoid product intended to be applied to skin or hair.

(2) "Food" means a raw, cooked, or processed edible substance, or ingredient used or intended for use or for sale in whole or in part for human consumption, or chewing gum.

OAR 845-025-3210

Endorsements

(1) A marijuana processor may only process and sell cannabinoid products, concentrates or extracts if the processor has received an endorsement from the Commission for that type of processing activity. Endorsements types are:

(a) Cannabinoid edible processor;

(b) Cannabinoid topical processor;

(c) Cannabinoid concentrate processor; and

(d) Cannabinoid extract processor.

- (2) An applicant must request an endorsement upon submission of an initial application but may also request an endorsement at any time following licensure.
- (3) In order to apply for an endorsement an applicant or processor licensee must submit a form prescribed by the Commission that includes a description of the type of products to be processed, a description of equipment to be used, and any solvents, gases, chemicals or other compounds proposed to be used to create extracts or concentrates.
- (4) Only one application and license fee is required regardless of how many endorsements an applicant or licensee requests or at what time the request is made.
- (5) An individual processor licensee may hold multiple endorsements.
- (6) For the purposes of endorsements any cannabinoid product that is intended to be consumed orally is considered a cannabinoid edible.
- (7) If a processor is no longer going to process the product for which the processor is endorsed the processor must notify the Commission in writing and provide the date on which the processing of that product will cease.
- (8) The Commission may deny a processor's request for an endorsement if the processor cannot or does not meet the requirements in OAR 845-025-3200 to 845-025-3290 for the endorsement that is requested. If the Commission denies approval the processor has a right to a hearing under the procedures of ORS chapter 183.

Oregon Administrative Rule, Division 25 establishes requirements for equipment and surfaces for processors.

OAR 845-025-3220
General Processor Requirements

- (1) A processor must:
 - (a) Use equipment, counters and surfaces for processing that are food-grade and do not react adversely with any solvent being used.
 - (b) Have counters and surface areas that are constructed in a manner that reduce the potential for development of microbials, molds and fungi and that can be easily cleaned.
 - (c) Maintain the licensed premises in a manner that is free from conditions which may result in contamination and that is suitable to facilitate safe and sanitary operations for product preparation purposes.
 - (d) Store all marijuana items not in use in a locked area, including products that require refrigeration in accordance with OAR 845-025-1410.
 - (e) Assign every process lot a unique identification number and enter this information into CTS.
- (2) A processor may provide a sample of a cannabinoid product, concentrate or extract to a marijuana wholesaler or retailer for the purpose of the wholesaler or retailer licensee determining whether to purchase the product but the product may not be consumed on a licensed premises. Any sample provided to another licensee must be recorded in CTS.
- (3) A processor may not process or sell a marijuana item:
 - (a) That by its shape and design is likely to appeal to minors, including but not limited to:
 - (A) Products that are modeled after non-cannabis products primarily consumed by and marketed to children; or
 - (B) Products in the shape of an animal, vehicle, person or character.
 - (b) That is made by applying cannabinoid concentrates or extracts to commercially available candy or snack food items.

Oregon Administrative Rule, Division 25 establishes limitations on where processors can locate in regards to restaurant operations.

OAR 845-025-3250

Cannabinoid Edible Processor Requirements

(1) A cannabinoid edible processor may only process in a food establishment licensed by the Oregon Department of Agriculture (ODA) and must comply with the applicable provisions of OAR 603, Division 21, Division 22, Division 24, Division 25, with the exception of OAR 603- 025-0020(17) and Division 28.

(2) A cannabinoid edible processor may not:

(a) Engage in processing in a location that is operating as a restaurant, seasonal temporary restaurant, intermittent temporary restaurant, limited service restaurant, single-event temporary restaurant, commissary, mobile unit, bed or breakfast, or warehouse licensed under ORS 624;

(b) Share a food establishment with a person not licensed and endorsed by the Commission as a cannabinoid edible processor;

(c) Process food intended for commercial sale that does not contain cannabinoids, at the licensed premises; or

(d) Use a cannabinoid concentrate or extract to process food unless that concentrate or extract was made by a processor licensed by the ODA under ORS 616.706.

(3) A cannabinoid edible processor may share a food establishment with another cannabinoid edible processor if:

(a) The schedule, with specific hours and days that each processor will use the food establishment, is prominently posted at the entrance to the food service establishment and has been approved by the Commission:

(A) The schedule must be submitted to the Commission in writing and will be approved if it demonstrates that use of a shared food establishment by multiple cannabinoid edible processors does not create an increased compliance risk.

(B) A processor licensee may only change the schedule with prior written approval from the Commission.

(b) Each licensee designates a separate area to secure, in accordance with OAR 845-025-1410, any marijuana, cannabinoid products, concentrates or extracts that a licensee stores at the food establishment. If a cannabinoid edible processor does not store marijuana, cannabinoid products, concentrates or extracts at the food establishment those items must be stored on a licensed premises.

(4) A food establishment used by a cannabinoid edible processor is considered a licensed premises and must meet the security and other licensed premises requirements in these rules.

(5) A cannabinoid edible processor is strictly liable for any violation found at a shared food establishment during that processor's scheduled time or within that processor's designated area in the food establishment.

Oregon Administrative Rule, Division 25 establishes rules for concentrate and extract processors.

OAR 845-025-3260

Cannabinoid Concentrate and Extract Processor Requirements

(1) Cannabinoid Concentrates or Extracts. A processor with a cannabinoid concentrate or extract endorsement:

(a) May not use Class I solvents as those are classified in the Federal Drug Administration Guidance, Table I, published in the Federal Register on December 24, 1997 (62 FR 67377).

(b) Must:

(A) Only use a hydrocarbon-based solvent that is at least 99 percent purity.

(B) Only use a non-hydrocarbon-based solvent that is food-grade.

(C) Work in an environment with proper ventilation, controlling all sources of ignition where a flammable atmosphere is or may be present.

(D) Use only potable water and ice made from potable water in processing.

(E) If making a concentrate or extract that will be used in a cannabinoid edible, be endorsed as a cannabinoid edible processor and comply with OAR 845-025-3250.

(2) Cannabinoid Extracts. A processor with an endorsement to make cannabinoid extracts:

(a) May not use pressurized canned butane.

(b) Must:

(A) Process in a:

(i) Fully enclosed room clearly designated on the current diagram of the licensed premises.

(ii) Spark proof room equipped with evacuation fans and lower explosive limit (LEL) detectors.

(B) Use a commercially manufactured professional grade closed loop extraction system designed to recover the solvents and built to codes of recognized and generally accepted good engineering practices, such as:

(i) The American Society of Mechanical Engineers (ASME);

(ii) American National Standards Institute (ANSI);

(iii) Underwriters Laboratories (UL); or

(iv) The American Society for Testing and Materials (ASTM).

(C) If using CO₂ in processing, use a professional grade closed loop CO₂ gas extraction system where every vessel is rated to a minimum of nine hundred pounds per square inch.

(D) Have equipment and facilities used in processing approved for use by the local fire code official;

(E) Meet any required fire, safety, and building code requirements specified in:

(i) Applicable Oregon laws;

(ii) National Fire Protection Association (NFPA) standards;

(iii) International Building Code (IBC);

(iv) International Fire Code (IFC); and

(F) Have an emergency eye-wash station in any room in which cannabinoid extract is being processed; and

(G) Have all applicable material safety data sheets readily available to personnel working for the processor.

(3) Cannabinoid Concentrates. A processor with an endorsement to make cannabinoid concentrates:

(a) May not:

(A) Use denatured alcohol.

(B) If using carbon dioxide, apply high heat or pressure.

(b) Must only use or store dry ice in a well-ventilated room to prevent against the accumulation of dangerous levels of CO₂. (c) May use:

(A) A mechanical extraction process;

- (B) A chemical extraction process using a nonhydrocarbon-based or other solvent, such as water, vegetable glycerin, vegetable oils, animal fats, isopropyl alcohol or ethanol; or
- (C) A chemical extraction process using the hydrocarbon-based solvent carbon dioxide, provided that the process does not involve the use heat over 180 degrees or pressure.

Oregon Administrative Rule, Division 25 limits where topical processor may operate in regards to restaurants.

OAR 845-025-3280

Cannabinoid Topical Processor

A processor with a cannabinoid topical endorsement may not engage in processing in a location that is operating as a restaurant, seasonal temporary restaurant, intermittent temporary restaurant, limited service restaurant or single-event temporary restaurant licensed under ORS 624.

Oregon Administrative Rule, Division 25 establishes rules for waste from production and processing operations.

WASTE MANAGEMENT

OAR 845-025-7750

Waste Management

- (1) A licensee must:
 - (a) Store, manage and dispose of solid and liquid wastes generated during marijuana production and processing in accordance with applicable state and local laws and regulations which may include but are not limited to:
 - (A) Solid waste requirements in ORS 459 and OAR 340 Divisions 93 to 96;
 - (B) Hazardous waste requirements in ORS 466 and OAR 340, Divisions 100 to 106; and
 - (C) Wastewater requirements in ORS 468B and OAR 340, Divisions 41 to 42, 44 to 45, 53, 55 and 73.
 - (b) Store marijuana waste in a secured waste receptacle in the possession of and under the control of the licensee.
- (2) A licensee may give or sell marijuana waste to a producer, processor or wholesale licensee or research certificate holder. Any such transaction must be entered into CTS pursuant to OAR 845- 025-7500.
- (3) In addition to information required to be entered into CTS pursuant to OAR 845-025-7500, a licensee must maintain accurate and comprehensive records regarding waste material that accounts for, reconciles, and evidences all waste activity related to the disposal of marijuana.

HB 3400, Section 89 allows local government to regulate the manner and access hours of marijuana grow sites and processing sites. There are no additional provisions in ORS or OAR's regarding manner of operation for grow sites or processors. The City Council may want to consider if a grow site can occur outdoors or indoors. If outdoors what type of visual screening or security requirements should be established? There may be other manners of operation the City Council identifies for discussion and consideration.

Staff therefore proposes the following code amendments for Recreational Marijuana Producers and Processors:

- Prohibit Recreational Marijuana Producer as an indoor or outdoor use in R-1, R-2, R-3, R-4, R-P, AR, R-1/PD, R-1/0.1, R-1/.04, R-1/6.6, R-1/SP, R-2/PD, R-2/SP, SD/LDR, SD/MMR, R-3/PD, RP/SP, RP/LU, C-1, C-2, C-3, C-4, C-1/SP, C-2/LU, C-2/PD, C-2/SP, C-3/LU, SD/V, SD/NC, SD/H, CC, M-4-C, CF, CF/RF, RF, I, IO, FHO, AI, AIO, H, SC, BI.
- Add Recreational Marijuana Producer as an indoor permitted use in in M-1, M-2, M-3, M-4-I, M-1/SP, SD/E and II.
- Add Recreational Marijuana Producer as a conditional outdoor use in in M-1, M-2, M-3, M-4-I, M-1/SP, SD/E and II.
- Add Recreational Marijuana Processor as a permitted indoor use in M-1, M-2, M-3, M-4-I and SD/E.
- Prohibits Recreational Marijuana Processor in all residential, commercial, community facility, institutional, airport industrial and miscellaneous districts and subdistricts.
- Add definitions for Recreational Marijuana Producer and Processor.

F. MARIJUANA SUBCOMMITTEE RECOMMENDATION: The Subcommittee developed the following recommendations.

Marijuana Processors:

1. Allow Recreational Marijuana Processor in industrial zoning categories as a permitted use indoors (M-1, M-2, M-3, M-4 and SD/E).
2. Prohibit Recreational Marijuana Processor in AI and AIO and all residential, commercial community facility, institutional and miscellaneous districts and subdistricts.
3. Add a definition for Recreational Marijuana Processor.

Marijuana Producers:

1. Allow Recreational Marijuana Producer as a conditional use indoors in certain residential districts or subdistricts (R-1, R-2, R-1/PD, R-1/0.1, R-1/.04, R-1/6.6, R-1/SP, R-2/PD, R-2/SP and SD/LDR).
2. Prohibit Recreational Marijuana Producer in commercial districts and subdistricts.
3. Prohibit Recreational Marijuana Producer in the Community Facility district and subdistrict.
4. Prohibit Recreational Marijuana Producer in the Institutional district and subdistrict.
5. Allow Recreational Marijuana Producer in industrial zones as a permitted use indoors in M-1, M-2, M-3, M-4, SD/E, M-1/SP and II.
6. Allow Recreational Marijuana Producer in industrial zones as a conditional use outdoors in M-1, M-2, M-3, M-4, M-1/SP, SD/E and II.

7. Prohibit Recreational Marijuana Producer in AI and AIO.
8. Prohibit Recreational Marijuana Producer in H, SC and BI.
9. Add a definition for Recreational Marijuana Producer.

G. PLANNING COMMISSION RECOMMENDATION

The Newberg Planning Commission held a public hearing on February 25, 2016, heard public testimony, and approved Resolution 2015-313, which recommends that the City Council:

- Prohibit Recreational Marijuana Producer as an indoor or outdoor use in R-1, R-2, R-3, R-4, R-P, AR, R-1/PD, R-1/0.1, R-1/.04, R-1/6.6, R-1/SP, R-2/PD, R-2/SP, SD/LDR, SD/MMR, R-3/PD, RP/SP, RP/LU, C-1, C-2, C-3, C-4, C-1/SP, C-2/LU, C-2/PD, C-2/SP, C-3/LU, SD/V, SD/NC, SD/H, CC, M-4-C, CF, CF/RF, RF, I, IO, FHO, AI, AIO, H, SC, BI.
- Add Recreational Marijuana Producer as an indoor permitted use in in M-1, M-2, M-3, M-4-I, M-1/SP, SD/E and II.
- Add Recreational Marijuana Producer as a conditional outdoor use in in M-1, M-2, M-3, M-4-I, M-1/SP, SD/E and II.
- Add Recreational Marijuana Processor as a permitted indoor use in M-1, M-2, M-3, M-4-I and SD/E.
- Prohibits Recreational Marijuana Processor in all residential, commercial, community facility, institutional, airport industrial and miscellaneous districts and subdistricts.
- Add definitions for Recreational Marijuana Producer and Processor.

FISCAL IMPACT: The fiscal impact of allowing recreational marijuana producers and processors is unknown at this time.

STRATEGIC ASSESSMENT (RELATE TO COUNCIL GOALS):

Recreational Marijuana Producers and Processors are a legal activity under state law, and the city wishes to allow businesses the opportunity to operate in the city. Zoning restrictions on the uses are appropriate to address potential adverse impacts on adjacent uses.

ATTACHMENTS:

Ordinance 2016-2798 with

Exhibit "A": Proposed Development Code Text Amendment

Exhibit "B": Findings

1. Resolution No. 2015-3248
2. Planning Commission Resolution 2016-313



ORDINANCE No. 2016-2798

**AN ORDINANCE AMENDING THE NEWBERG DEVELOPMENT CODE
REGARDING RECREATIONAL MARIJUANA PRODUCERS AND
PROCESSORS; AND DECLARING AN EMERGENCY**

RECITALS:

1. Measure 91 was approved by Oregon voters in November 2014 and House Bill 3400 was enacted by the Oregon Legislature in 2015 related to recreational marijuana.
2. The Oregon Liquor Control Commission adopted temporary Oregon Administrative Rules (OAR's) on October 22, 2015 that were subsequently modified on November 20, 2015 for recreational marijuana under Chapter 845, Division 25.
3. The Newberg City Council established the Marijuana Subcommittee on September 8, 2015 to review and provide recommendations on local place, time and manner regulations for recreational marijuana.
4. The Newberg City Council initiated a potential amendment to Newberg's Development Code regarding recreational marijuana producers and processors on January 4, 2016, under City Council Resolution 2015-3248.
5. The Marijuana Subcommittee met on January 12, 2016 and developed recommendations to the Planning Commission on recreational marijuana producers and processors.
6. After proper notice, the Newberg Planning Commission held a hearing on February 25, 2016 to consider the amendment for recreational marijuana producers and processors. The Commission considered testimony, deliberated, and found that adding regulations for recreational marijuana producers and processors would be in the best interests of the city. The Planning Commission approved Resolution 2016-313, which recommends that the City Council adopt the proposed amendments to the Newberg Development Code.
7. After proper notice, the Newberg City Council held a hearing on March 21, 2016 to consider the proposed amendment. The Council considered testimony and deliberated.

THE CITY OF NEWBERG ORDAINS AS FOLLOWS:

1. The Council finds that adding regulations for recreational marijuana producers and processors would be in the best interests of the city. The Council adopts the amendments to the Newberg Development Code as shown in Exhibit "A". Exhibit "A" is hereby adopted and by this reference incorporated.

2. The findings shown in Exhibit "B" are hereby adopted. Exhibit "B" is by this reference incorporated.
3. This ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this ordinance shall be in full force and effect immediately upon passage by the council and signature of the mayor.

➤ **EFFECTIVE DATE** of this ordinance is March 22, 2016.

ADOPTED by the City Council of the City of Newberg, Oregon, this 21st day of March, 2016, by the following votes: **AYE:** **NAY:** **ABSENT:** **ABSTAIN:**

Sue Ryan, City Recorder

ATTEST by the Mayor this _____ day of _____, 2016.

Bob Andrews, Mayor

**Exhibit “A” to Ordinance 2016-2798
Development Code Amendments –File DCA-15-003
Recreational Marijuana Producers
and Processors**

Section 1. The Newberg Development Code 15.05.030 shall be amended to read as follows:

**Note: Existing text is shown in regular font.
Added text is shown in double-underline
Deleted text is shown in ~~strikethrough~~.**

15.05.030 Definitions

“Marijuana processor” means a person who processes marijuana items in this state.

“Marijuana producer” means a person who produces marijuana in this state.

Section 2. Newberg Development Code, Zoning Use Table, Section 15.305.020 shall be amended to read as follows:

See Exhibit A, Attachment 1

Section 3. Newberg Development Code, Zoning Use Table, Section 15.305.030 shall be amended to read as follows:

See Exhibit A, Attachment 2

Section 4. Newberg Development Code, Stream Corridor Overlay Subdistrict, Section 15.342.110 is amended to read as follows:

15.342.110 Prohibited uses and activities.

The following activities or **uses** are prohibited within this subdistrict:

A. Except as provided in NMC 15.342.040(R), the planting or propagation of any plant identified

as a nuisance plant as determined by a qualified botanist or indicated as a nuisance plant on the Newberg plant list.

B. The removal of native trees that are greater than six inches in diameter at breast height, except as is otherwise permitted within this chapter.

C. Any **use** dealing with hazardous substances or materials, including but not limited to gas service stations.

D. Public pathways, except those in conjunction with public lands, public **parks** or public **easements** that have been acquired by other than eminent domain. [Ord. [2451](#), 12-2-96. Code 2001 § 151.475.]

E. Recreational Marijuana Producer and Recreational Marijuana Processor.

Section 5. Newberg Development Code, Civic Corridor Overlay Subdistrict, Section 15.350.030 is amended to read as follows:

15.350.030 Permitted buildings and uses.

All **uses** permitted in the underlying primary district are permitted within the CC subdistrict except as follows:

A. In addition to the **buildings** and **uses** permitted conditionally in NMC [15.305.020](#), the **planning commission** may grant a **conditional use permit** for any of the following **buildings** and **uses** in accordance with a Type III procedure:

1. Facilities which exist for the purpose of providing for the temporary care and/or lodging of adult indigent **persons**.

2. **Hospitals**.

B. The following **uses** are prohibited within the CC subdistrict:

1. **Automobile sales**, new and used.

2. Car washes, coin-operated or mechanical.

3. Garages, repair.

4. Service stations. [Amended during 11/13 supplement; Ord. [2561](#), 4-1-02. Code 2001 § 151.526.3.]

5. Recreational Marijuana Producer and Recreational Marijuana Processor.

Section 6. Newberg Development Code, Bypass Interchange Overlay, Section 15.356.050 is amended to read as follows:

15.356.050 Prohibited uses.

A. Several commercial types of **uses** are permitted outright or with conditional **use** approval in Newberg's industrial districts (M-1, M-2, and M-3). The area within the Newberg UGB near the Oregon 219 Interchange is generally planned for industrial **use**. To protect the interchange area from commercial development, the following **uses** are prohibited within the M-1, M-2, and M-3 districts within the boundaries of the bypass interchange overlay:

1. **Automobile sales**, new and used.
2. Billboards.
3. Car washes.
4. Convenience grocery stores.
5. **Restaurants** larger than 2,000 square feet or with drive-up service windows.
6. Service stations.
7. Drive-in theaters.
8. Auction sales.
9. Bakeries, retail.
10. **Building** material sales.
11. Driving ranges.
12. Feed and seed stores.
13. Miniature **golf courses**.
14. Skating rinks.
15. Recreational Marijuana Producer and Recreational Marijuana Processor.

B. The industrial commercial subdistrict of the M-4 district shall not be applied within the boundaries of the BI overlay. [Ord. [2734](#) § 1 (Exh. B), 3-7-11; Ord. [2708](#) § 2, 12-1-08; Ord. [2602](#), 9-20-04. Code 2001 § 151.531.4.]

Section 7. Newberg Development Code, Interim Industrial Overlay, Section 15.358.030 is amended to read as follows:

15.358.030 Permitted uses.

All **uses** of land and water that are permitted in the underlying zoning district(s) are also permitted in the interim industrial overlay, with the exception of those **uses** listed in NMC [15.358.050](#). In addition, the following are permitted:

- A. Contractor's equipment or storage.
- B. Construction material storage. [Ord. [2720](#) § 1(5), 11-2-09. Code 2001 § 151.532.2.]
- C. Recreational Marijuana Producer (indoor).

Section 8. Newberg Development Code, Interim Industrial Overlay, Section 15.358.040 is amended to read as follows:

15.358.040 Conditional uses.

- A. **Use** of land and water that are listed as conditional **uses** in the underlying zoning district(s) may also be allowed in the interim industrial overlay, with the exception of **uses** included in the list of prohibited **uses** in NMC [15.358.050](#).
- B. Proposed conditional **uses** in the interim industrial overlay are subject to the standard conditional **use** criteria and procedures of this **code**. [Ord. [2720](#) § 1(5), 11-2-09. Code 2001 § 151.532.3.]
- C. Recreational Marijuana Producer (outdoor).

Section 9. Newberg Development Code, Interim Industrial Overlay, Section 15.358.050 is amended to read as follows:

15.358.050 Prohibited uses.

The following **uses** are prohibited in the interim industrial overlay:

- A. **Cemeteries.**
- B. Garbage dumps, sanitary landfills.
- C. **Parks.**
- D. Permanent **buildings.**
- E. **Wrecking yards** for motor vehicles, **building** materials, and other similar items. [Ord. [2720](#) § 1(5), 11-2-09. Code 2001 § 151.532.4.]
- F. Recreational Marijuana Processor.

**Exhibit “B” to Ordinance 2016-2798
Findings –File DCA-15-003
Recreational Marijuana Producers
and Processors**

**Findings –File DCA-15-003
Recreational Marijuana Producers and Processors**

I. Statewide Planning Goals - relevant goals

Goal 1, Citizen Involvement, requires the provision of opportunities for citizens to be involved in all phases of the planning process.

Finding: The City Council initiated the potential development code amendment at a public meeting on January 4, 2016. The Marijuana Subcommittee meet on January 12, 2016 at a public meeting to review potential place, time and manner regulations for Recreational Marijuana Producers and Processors. The Planning Commission, after proper notice, held a public hearing on February 25, 2016. The City Council considered the recommendation of the Planning Commission at a public hearing on March 21, 2016, and decided whether or not to adopt the development code amendment. The development code amendment process provides opportunity for public comments throughout the planning process.

Goal 2, Land Use Planning, requires the development of a process and policy framework that acts as a basis for all land use decisions.

Finding: The Recreational Marijuana Producer and Processor proposal is supportive of this goal because it was developed following city procedures for legislative action.

II. Newberg Comprehensive Plan - relevant policies

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

Finding: The City Council initiated the potential development code amendment at a public meeting on January 4, 2016. The Marijuana Subcommittee meet on January 12, 2016 at a public meeting to review potential place, time and manner regulations for Recreational Producers and Processors. The Planning Commission, after proper notice, held a public hearing on February 25, 2016. The City Council considered the recommendation of the Planning Commission at a future public hearing on March 21, 2016, and decided whether or not to adopt the development code amendment. The development code amendment process provides opportunity for public comments throughout the planning process.

B. LAND USE PLANNING GOAL: To maintain an on-going land use planning program to implement statewide and local goals. The program shall be consistent with natural and cultural resources and needs.

Finding: The Recreational Marijuana Producers and Processors proposal is supportive of this goal

because it was developed following city procedures for legislative action.

H. THE ECONOMY GOAL: To develop a diverse and stable economic base.

1. General Policies

c. The City will encourage the creation of a diversified employment base, the strengthening of trade centers and the attraction of both capital and labor intensive enterprises.

g. The City shall encourage business and industry to locate within the Newberg City limits.

Finding: The city encourages new businesses to develop within the city. A Recreational Producer or Processor operation is a legal operation under State law. Allowing Recreational Marijuana Producer as a conditional use indoors in certain residential districts and subdistricts; as a permitted use indoors in industrial districts or subdistricts or as a conditional use for outdoor operations; prohibiting Recreational Marijuana Producer in commercial, community facility, institutional and airport districts and subdistricts; and allowing Recreational Marijuana Processor as a permitted use in M-1, M-2, M-3, M-4, and SD/E is consistent with this Comprehensive Plan goal.

III. Conclusion: The proposed development code amendments meet the applicable requirements of the Statewide Planning Goals, and the Newberg Comprehensive Plan, and should be approved.

- (16) Allowed in areas designated in industrial area plans.
- (17) Limited to facilities owned or operated by a public agency.
- (18) Parking garages are a conditional **use**, and must have first floor **street** frontage of 40 feet or less for ingress or egress. First floor development must be commercial.
- (19) A **conditional use permit** is required if the facility is less than 2,000 feet from the nearest **telecommunication facility**.
- (20) Businesses in the C-1 zone that have hours of operation between 10:00 p.m. and 7:00 a.m. require a conditional use permit.
- (21) Drive-up service windows accessory to an existing business on the site with walk-in customer service, such as a drive-up bank window, are allowed only with a **conditional use permit**. Otherwise, drive-up service windows, except those in service on April 1, 2002, are prohibited. Changes in **use** will not be allowed.
- (22) Retail sales of goods on site not allowed.
- (23) Limited to secondhand stores.
- (24) Store size is limited to 2,000 square feet gross floor area.
- (25) Store size is limited to 5,000 square feet gross floor area.
- (26) **Use** must demonstrate that it is compatible with **airport** operations.
- (27) Limited to service stations.
- (28) Limited to card lock fueling only. Retail services are limited to self-vending services.
- (29) Permitted provided the **structure** is designed for easy conversion to industrial **use**, including not having fixed seating.
- (30) Limited to 10,000 square feet maximum floor area.
- (31) Allowed indoors only.
- (32) Allowed indoors only. Outdoor **use** requires a **conditional use permit**.
- (33) Must be aviation-related. See Chapter 15.332 NMC.
- (34) Limited to expansion or change of existing heavy manufacturing uses.
- (35) Shall not be located at the same address as a state-registered marijuana grow site, or within 1,000 feet of the real property comprising a public park, a public elementary or secondary school for which attendance is compulsory under ORS 339.020 or a private or parochial elementary or secondary school, teaching children as described in ORS 339.030
- (1)(a). Distance is measured in a straight line in a radius extending for 1,000 feet or less in any direction from the closest point anywhere on the boundary line of the real property comprising an existing public park, public elementary or secondary school or a private or parochial elementary or secondary school to the closest point of the premises of a dispensary. The premises consist of the dispensary building, or the portion of the building used for a dispensary. Shall not be located within 1,000 feet of another medical marijuana dispensary. Operating hours are limited to the hours between 9:00 a.m. and 8:00 p.m.
- (36) Allows up to 12 mature plants; indoor operations only.
- (37) Indoor use only.

1 Code reviser's note: Section 25 of Ordinance 2763 provides:

SECTION 25: Grace period for previously permitted or conditional uses. Where an **applicant** demonstrates that a particular **use** was a permitted or conditional **use** on a specific property immediately prior to adoption of this ordinance, but that the **use** is no longer either a permitted or conditional **use** on that property due to this ordinance, the **applicant** may establish the **use** as either a permitted or conditional **use**, as provided in the prior **code**, provided the **use** is legally commenced prior to January 1, 2018.

Exhibit A, Attachment 2

15.305.030 Zoning use table - Use Subdistricts.

600	MISCELLANEOUS USES	R-1/PD	<u>R-1/0.1</u>	<u>R-1/0.4</u>	R-1/6.6	R-1/SP	R-2/PD	R-2/SP	SD/LDR	SD/MMR	R-3/PD	RP/SP	RP/LU	AO	ARO	C-1/SP	C-2/LU	C-2/PD	C-2/SP	C-3/LU	SD/V	SD/NC	SD/H	CC	CF/RF	RF	IO	M-1/SP	SD/E	FHO	II	AIO	H	SC	BI	
	Medical Marijuana Processor																											P	P							
	Medical Marijuana Grow Site	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	
	<u>Recreational Marijuana Processor</u>	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	P	P	X	X	X	X	X	X
	<u>Recreational Marijuana Producer (Indoor)</u>	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	P	P	X	P	X	X	X	X	
	<u>Recreational Marijuana Producer (Outdoor)</u>	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	C	C	X	C	X	X	X	X	

Key:

P: Permitted use

S: Special use – Use requires a special use permit

C: Conditional use – Requires a conditional use permit

X: Prohibited use

(#): See notes for limitations

**RESOLUTION No. 2016-3248**

A RESOLUTION INITIATING AN AMENDMENT TO THE NEWBERG MUNICIPAL CODE, TITLE 15 DEVELOPMENT CODE FOR TIME, PLACE AND MANNER REGULATIONS FOR RECREATIONAL MARIJUANA PRODUCERS AND PROCESSORS

RECITALS:

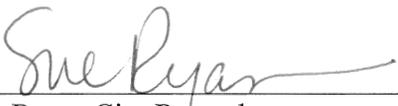
1. The Oregon Legislature enacted four bills during the 2015 legislative session related to the Oregon Medical Marijuana Act and Measure 91. House Bill (HB) 3400 was the omnibus bill covering recreational marijuana and modifications to the medical marijuana program.
2. On September 8, 2015 the Newberg City Council was provided background information on medical and recreational marijuana at its Work Session. At its Business Session on September 8th the City Council established the Marijuana Subcommittee (Subcommittee) comprised of Councilors Rourke, Bacon and McKinney along with non-voting member Mayor Andrews.
3. The Subcommittee held its second meeting on December 9, 2015. A proposed timeline was included in their packet of material to address recreational marijuana time, place and manner. At the meeting staff raised a new timeline issue based on new information from the Oregon Liquor Control Commission (OLCC) on their timeline of implementing the recreational marijuana program. Specifically, OLCC has indicated they will start issuing licenses for Producers and Processors in the 2nd Quarter of 2016.
4. The Subcommittee subsequently passed a motion 3-0 directing staff to create an RCA to initiate the Development Code amendment process for recreational marijuana producers and processors to bring forward for Council consideration on January 4, 2016.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. The City Council initiates an amendment to the Newberg Municipal Code, Title 15 Development Code for Time, Place and Manner Regulations for Recreational Marijuana Producers and Processors. This starts the public process to study the proposed amendments.
2. By initiating this amendment, the council does not commit to taking any specific action on the proposal. It only wishes to give the amendment full consideration in a public hearing.

///

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: January 5, 2016
ADOPTED by the City Council of the City of Newberg, Oregon, this 4th day of January, 2016.



Sue Ryan, City Recorder

ATTEST by the Mayor this 7th day of January, 2016.



Bob Andrews, Mayor



PLANNING COMMISSION RESOLUTION 2016-313

**A RESOLUTION RECOMMENDING THAT THE CITY COUNCIL AMEND THE
NEWBERG DEVELOPMENT CODE REGARDING RECREATIONAL MARIJUANA
PRODUCERS AND PROCESSORS**

RECITALS

1. In November 2014 voters in Oregon approved Ballot Measure 91 related to recreational marijuana.
2. House Bill (HB) 3400 was passed in the 2015 Oregon Legislative session related to recreational marijuana.
3. The Newberg City Council initiated a potential amendment to Newberg's Development Code regarding recreational marijuana producers and processors on January 4, 2016 by Resolution No. 2015-3248.
4. After proper notice, the Newberg Planning Commission held a hearing on February 25, 2016 to consider the amendment. The Commission considered testimony and deliberated.

The Newberg Planning Commission resolves as follows:

1. The Commission finds that adding regulations for recreational marijuana producers and processors, and adding definitions for recreational marijuana producers and processors, would be in the best interests of the city and recommends that the City Council adopt the amendments to the Newberg Development Code as shown in Exhibit "A". Exhibit "A" is hereby adopted and by this reference incorporated.
2. The findings shown in Exhibit "B" are hereby adopted. Exhibit "B" is by this reference incorporated.

Adopted by the Newberg Planning Commission this 25th day of February, 2016.



Planning Commission Chair

ATTEST:



Planning Commission Secretary

List of Exhibits:

- Exhibit "A": Development Code Text Amendments
- Exhibit "B": Findings

**Exhibit "A" to Planning Commission Resolution 2016-313
Development Code Amendments –File DCA-15-003
Recreational Marijuana Producers and Processors**

Section 1. The Newberg Development Code 15.05.030 shall be amended to read as follows:

**Note: Existing text is shown in regular font.
Added text is shown in double-underline
Deleted text is shown in ~~strikethrough~~.**

15.05.030 Definitions

For the purpose of this title, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

"Marijuana processor" means a person who processes marijuana items in this state.

"Marijuana producer" means a person who produces marijuana in this state.

Section 2. Newberg Development Code, Zoning Use Table, Section 15.305.020 shall be amended to read as follows:

See Exhibit A, Attachment 1

Section 3. Newberg Development Code, Zoning Use Table, Section 15.305.030 shall be amended to read as follows:

See Exhibit A, Attachment 2

Section 4. Newberg Development Code, Stream Corridor Overlay Subdistrict, Section 15.342.110 is amended to read as follows:

15.342.110 Prohibited uses and activities.

The following activities or uses are prohibited within this subdistrict:

A. Except as provided in NMC 15.342.040(R), the planting or propagation of any plant

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identified as a nuisance plant as determined by a qualified botanist or indicated as a nuisance plant on the Newberg plant list.

B. The removal of native trees that are greater than six inches in diameter at breast height, except as is otherwise permitted within this chapter.

C. Any use dealing with hazardous substances or materials, including but not limited to gas service stations.

D. Public pathways, except those in conjunction with public lands, public parks or public easements that have been acquired by other than eminent domain. [Ord. 2451, 12-2-96. Code 2001 § 151.475.]

E. Recreational Marijuana Producer and Recreational Marijuana Processor.

Section 5. Newberg Development Code, Civic Corridor Overlay Subdistrict, Section 15.350.030 is amended to read as follows:

15.350.030 Permitted buildings and uses.

All uses permitted in the underlying primary district are permitted within the CC subdistrict except as follows:

A. In addition to the buildings and uses permitted conditionally in NMC 15.305.020, the planning commission may grant a conditional use permit for any of the following buildings and uses in accordance with a Type III procedure:

1. Facilities which exist for the purpose of providing for the temporary care and/or lodging of adult indigent persons.
2. Hospitals.

B. The following uses are prohibited within the CC subdistrict:

1. Automobile sales, new and used.
2. Car washes, coin-operated or mechanical.
3. Garages, repair.
4. Service stations. [Amended during 11/13 supplement; Ord. 2561, 4-1-02. Code 2001 § 151.526.3.]
5. Recreational Marijuana Producer and Recreational Marijuana Processor.

Section 6. Newberg Development Code, Bypass Interchange Overlay, Section 15.356.050 is amended to read as follows:

15.356.050 Prohibited uses.

A. Several commercial types of uses are permitted outright or with conditional use approval in Newberg's industrial districts (M-1, M-2, and M-3). The area within the Newberg UGB near the Oregon 219 Interchange is generally planned for industrial use. To protect the interchange area from commercial development, the following uses are prohibited within the M-1, M-2, and M-3 districts within the boundaries of the bypass interchange overlay:

1. **Automobile sales**, new and used.
2. Billboards.
3. Car washes.
4. Convenience grocery stores.
5. **Restaurants** larger than 2,000 square feet or with drive-up service windows.
6. Service stations.
7. Drive-in theaters.
8. Auction sales.
9. Bakeries, retail.
10. **Building material sales**.
11. Driving ranges.
12. Feed and seed stores.
13. Miniature **golf courses**.
14. Skating rinks.
15. Recreational Marijuana Producer and Recreational Marijuana Processor.

B. The industrial commercial subdistrict of the M-4 district shall not be applied within the boundaries of the BI overlay. [Ord. 2734 § 1 (Exh. B), 3-7-11; Ord. 2708 § 2, 12-1-08; Ord. 2602, 9-20-04. Code 2001 § 151.531.4.]

Section 7. Newberg Development Code, Interim Industrial Overlay, Section 15.358.030 is amended to read as follows:

15.358.030 Permitted uses.

All uses of land and water that are permitted in the underlying zoning district(s) are also permitted in the interim industrial overlay, with the exception of those uses listed in NMC 15.358.050. In addition, the following are permitted:

- A. Contractor's equipment or storage.
- B. Construction material storage. [Ord. 2720 § 1(5), 11-2-09. Code 2001 § 151.532.2.]
- C. Recreational Marijuana Producer (indoor).

Section 8. Newberg Development Code, Interim Industrial Overlay, Section 15.358.040 is amended to read as follows:

15.358.040 Conditional uses.

A. Use of land and water that are listed as conditional uses in the underlying zoning district(s) may also be allowed in the interim industrial overlay, with the exception of uses included in the list of prohibited uses in NMC 15.358.050.

B. Proposed conditional uses in the interim industrial overlay are subject to the standard conditional use criteria and procedures of this code. [Ord. 2720 § 1(5), 11-2-09. Code 2001 § 151.532.3.]

C. Recreational Marijuana Producer (outdoor).

Section 9. Newberg Development Code, Interim Industrial Overlay, Section 15.358.050 is amended to read as follows:

15.358.050 Prohibited uses.

The following uses are prohibited in the interim industrial overlay:

- A. Cemeteries.
- B. Garbage dumps, sanitary landfills.
- C. Parks.

D. Permanent **buildings**.

E. **Wrecking yards** for motor vehicles, **building materials**, and other similar items.

[Ord. 2720 § 1(5), 11-2-09. Code 2001 § 151.532.4.]

F. Recreational Marijuana Processor.

- (16) Allowed in areas designated in industrial area plans.
 - (17) Limited to facilities owned or operated by a public agency.
 - (18) Parking garages are a conditional use, and must have first floor street frontage of 40 feet or less for ingress or egress. First floor development must be commercial.
 - (19) A conditional use permit is required if the facility is less than 2,000 feet from the nearest telecommunication facility.
 - (20) Businesses in the C-1 zone that have hours of operation between 10:00 p.m. and 7:00 a.m. require a conditional use permit.
 - (21) Drive-up service windows accessory to an existing business on the site with walk-in customer service, such as a drive-up bank window, are allowed only with a conditional use permit. Otherwise, drive-up service windows, except those in service on April 1, 2002, are prohibited. Changes in use will not be allowed.
 - (22) Retail sales of goods on site not allowed.
 - (23) Limited to secondhand stores.
 - (24) Store size is limited to 2,000 square feet gross floor area.
 - (25) Store size is limited to 5,000 square feet gross floor area.
 - (26) Use must demonstrate that it is compatible with airport operations.
 - (27) Limited to service stations.
 - (28) Limited to card lock fueling only. Retail services are limited to self-vending services.
 - (29) Permitted provided the structure is designed for easy conversion to industrial use, including not having fixed seating.
 - (30) Limited to 10,000 square feet maximum floor area.
 - (31) Allowed indoors only.
 - (32) Allowed indoors only. Outdoor use requires a conditional use permit.
 - (33) Must be aviation-related. See Chapter 15.332 NMC.
 - (34) Limited to expansion or change of existing heavy manufacturing uses.
 - (35) Shall not be located at the same address as a state-registered marijuana grow site, or within 1,000 feet of the real property comprising a public park, a public elementary or secondary school for which attendance is compulsory under ORS 339.020 or a private or parochial elementary or secondary school, teaching children as described in ORS 339.030
- (1)(a). Distance is measured in a straight line in a radius extending for 1,000 feet or less in any direction from the closest point anywhere on the boundary line of the real property comprising an existing public park, public elementary or secondary school or a private or parochial elementary or secondary school to the closest point of the premises of a dispensary. The premises consist of the dispensary building, or the portion of the building used for a dispensary. Shall not be located within 1,000 feet of another medical marijuana dispensary. Operating hours are limited to the hours between 9:00 a.m. and 8:00 p.m.
- (36) Allows up to 12 mature plants; indoor operations only.
- (37) Indoor use only.

1. Code reviser's note: Section 25 of Ordinance 2763 provides:

SECTION 25: Grace period for previously permitted or conditional uses. Where an applicant demonstrates that a particular use was a permitted or conditional use on a specific property immediately prior to adoption of this ordinance, but that the use is no longer either a permitted or conditional use on that property due to this ordinance, the applicant may establish the use as either a permitted or conditional use, as provided in the prior code, provided the use is legally commenced prior to January 1, 2018.

Exhibit "B" to Planning Commission Resolution 2016-313

Findings –File DCA-15-003 Recreational Marijuana Producers and Processors

I. Statewide Planning Goals - relevant goals

Goal 1, Citizen Involvement, requires the provision of opportunities for citizens to be involved in all phases of the planning process.

Finding: The City Council initiated the potential development code amendment at a public meeting on January 4, 2016. The Marijuana Subcommittee meet on January 12, 2016 at a public meeting to review potential place, time and manner regulations for Recreational Marijuana Producers and Processors. The Planning Commission, after proper notice, held a public hearing on February 25, 2016. The City Council will consider the recommendation of the Planning Commission at a future public hearing date, and decide whether or not to adopt the development code amendment. The development code amendment process provides opportunity for public comments throughout the planning process.

Goal 2, Land Use Planning, requires the development of a process and policy framework that acts as a basis for all land use decisions.

Finding: The Recreational Marijuana Producer and Processor proposal is supportive of this goal because it was developed following city procedures for legislative action.

II. Newberg Comprehensive Plan - relevant policies

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

Finding: The City Council initiated the potential development code amendment at a public meeting on January 4, 2016. The Marijuana Subcommittee meet on January 12, 2016 at a public meeting to review potential place, time and manner regulations for Recreational Producers and Processors. The Planning Commission, after proper notice, held a public hearing on February 25, 2016. The City Council will consider the recommendation of the Planning Commission at a future public hearing date, and decide whether or not to adopt the development code amendment. The development code amendment process provides opportunity for public comments throughout the planning process.

B. LAND USE PLANNING GOAL: To maintain an on-going land use planning program to implement statewide and local goals. The program shall be consistent with natural and cultural resources and needs.

Finding: The Recreational Marijuana Producers and Processors proposal is supportive of this goal because it was developed following city procedures for legislative action.

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H. THE ECONOMY GOAL: To develop a diverse and stable economic base.

1. General Policies

- c. The City will encourage the creation of a diversified employment base, the strengthening of trade centers and the attraction of both capital and labor intensive enterprises.
- g. The City shall encourage business and industry to locate within the Newberg City limits.

Finding: The city encourages new businesses to develop within the city. A Recreational Producer or Processor operation is a legal operation under State law. Allowing Recreational Marijuana Producer as a conditional use indoors in certain residential districts and subdistricts; as a permitted use indoors in industrial districts or subdistricts or as a conditional use for outdoor operations; prohibiting Recreational Marijuana Producer in commercial, community facility, institutional and airport districts and subdistricts; and allowing Recreational Marijuana Processor as a permitted use in M-1, M-2, M-3, M-4, and SD/E is consistent with this Comprehensive Plan goal.

III. Conclusion: The proposed development code amendments meet the applicable requirements of the Statewide Planning Goals, and the Newberg Comprehensive Plan, and should be approved.

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: March 21, 2016

Order ___ No.	Ordinance ___ No.	Resolution <u>XX</u> No. 2016-3262	Motion ___	Information ___
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SUBJECT: A resolution designating the two days of the Relay for Life of Newberg event as festival days in order to permit the installation of flags in the city right-of-way.

**Contact Person (Preparer) for this Motion: Steve Olson, Senior Planner
Dept.: Community Development
File No.: G-16-003**

HEARING TYPE: ADMINISTRATIVE

RECOMMENDATION:

Consider adopting Resolution No. 2016-3262, which would designate the two days of the annual Relay for Life event as festival days, in order to allow the placement of flags advertising the event. The event is typically scheduled on a weekend near the end of June; this year the event will be on June 25-26.

EXECUTIVE SUMMARY: The Relay for Life of Newberg Event Leadership Team has requested that the City Council designate the two days of the annual Relay for Life event as festival days, in order to allow the Team to install flags on these days to advertise the event. The flags could be placed downtown, in the same manner that U.S. flags are installed in the sidewalk during national holidays.

15.435.100 Temporary signs for events.

D. Flags. An unlimited number of flags are permitted on Memorial Day, Presidents' Day, Independence Day, Veterans' Day, Labor Day, Flag Day, Peace Officers Day, the Friday of the Camellia Festival, the Friday of the Old Fashioned Festival, or on any festival day designated by the Newberg city council. [Ord. 2782 § 1 (Exh. A), 9-8-15; Ord. 2731 § 3, 10-18-10; Ord. 2499, 11-2-98. Code 2001 § 151.599.]

The event does not have a fixed date. It is typically scheduled on a weekend near the end of June; this year the event will be on June 25-26, 2016. The event organizers plan to carefully schedule the event so as to not overlap any of the other City festivals.

FISCAL IMPACT: No significant fiscal impact to the City is expected.

STRATEGIC ASSESSMENT (RELATE TO COUNCIL GOALS): The City wants to foster and maintain Newberg's small town feel. Events like Relay for Life support cancer patients, survivors and families in the community, and help strengthen Newberg's sense of community. The event has been held in Newberg for 15 years, so it has become an annual tradition.

Attachments:

Resolution 2016-3262

1. Letter from Relay for Life of Newberg Event Leadership Team



RESOLUTION No. 2016-3262

A RESOLUTION DESIGNATING THE TWO DAYS OF THE RELAY FOR LIFE OF NEWBERG EVENT AS FESTIVAL DAYS IN ORDER TO PERMIT THE INSTALLATION OF FLAGS IN THE CITY RIGHT-OF-WAY

RECITALS:

1. The Relay for Life of Newberg Event Leadership Team has requested that the Newberg City Council designate the two days of the annual Relay for Life of Newberg event as festival days, in order to allow the installation of event flags in the city right-of-way downtown. The event is typically held near the end of June.
2. The City Council supports the Relay for Life of Newberg event and wants it to be successful, in order to support the community and the work of the American Cancer Society.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. The City Council therefore designates the two days of the Relay for Life of Newberg event as festival days, in order to allow the placement of event flags in the city right-of-way downtown.

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: March 22, 2016.

ADOPTED by the City Council of the City of Newberg, Oregon, this 21st day of March, 2016.

Sue Ryan, City Recorder

ATTEST by the Mayor this 24th day of March, 2016.

Bob Andrews, Mayor

Attachment 1: Request letter



February 4, 2016

Doug Rux
Community Development Director
Newberg City Hall
414 E. First Street
Newberg, OR 97132

Dear Doug Rux and the City of Newberg,

Thank you for meeting with Event Leadership for the Relay For Life of Newberg on Tuesday. We are writing this letter to request that the Relay For Life of Newberg to be deemed a Newberg City Festival by the City of Newberg's City Council.

We believe it is important for Relay For Life of Newberg to be deemed a City Festival in order to help us better inform, educate, and invite the greater Newberg community to our Relay For Life event. We strongly feel that by becoming a Newberg City Festival, sends a powerful message to the community of Newberg that the City of Newberg supports the work of the Relay For Life of Newberg and the American Cancer Society. The City of Newberg supporting this valuable event is the next step in supporting cancer patients, survivors and families in the community of Newberg. This is an important event that we strongly feel the City of Newberg should be supporting at this level.

The Relay For Life of Newberg has taken place for the past 15 years. The volunteers have consistently been diligent in choosing the event dates carefully, so not to overlap any of the other City Festivals and will continue to do so every year. Our dates for the year 2016 will be June 25 and 26. The leadership team and volunteers for the Relay For Life of Newberg know that our event enhances the community and would like the support of the City of Newberg and City Council in insuring that legacy.

Thank you,
Relay For Life of Newberg Event Leadership Team

RelayForLife.org | 1.800.227.2345 Relay For Life of Newberg Area - www.relayforlife.org/NewbergOR

©2015 American Cancer Society, Inc. No. 008836

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: March 21, 2016

Order ___	Ordinance ___	Resolution ___	Motion <u>XX</u>	Information ___
No.	No.	No.		

SUBJECT: Sportsman Airpark - Federal Aviation Administration Airport Development Rights Pilot Program

**Contact Person (Preparer) for this Motion: Doug Rux, Director
Dept.: Community Development
File No.: GR-16-003**

RECOMMENDATION:

Council provide direction to staff on whether to continue or not continue discussions with Sportsman Airpark for the City to be a sponsor for the Federal Aviation Administration Airport Development Rights Pilot Program.

EXECUTIVE SUMMARY:

Sportsman Airpark has been in discussions with the City of Newberg since March 2005 about the possibility of participating in in a Federal Aviation Administration (FAA) program called the “Pilot Program for purchase of airport development rights.” In 2003 a pilot program was established for the purchase of airport development rights 49 USC § 47138 (Attachment 1). This allowed the Secretary of Transportation to establish a pilot program to support the purchase, by a State or political subdivision of a State, of development rights associated with, or directly effecting the use of, privately owned public airports located in that State. The purpose of the program was to ensure airport property would continue to be available for use as a public airport in perpetuity and is subject to a State or political subdivision acquiring an easement or covenant to ensure the airport remain a public use airport. The maximum grant amount was established at ninety percent (90%) of the costs to acquire the development rights. A maximum of ten airports could participate in the pilot program.

The FAA’s Airport Improvement Plan Handbook, Section 8. Airport Development Rights Pilot Program further details the aspects of this program (Attachment 2). Table 6-20 outlines the program. In summary it includes:

- Participants - 10 airports under the pilot program.
- Airport & Owner - Airport must be privately owned, file notice with FAA that the airport is privately owned and Airport owner may not have any existing grant obligation.
- Grant Sponsor - The sponsor must be a state or political subdivision of a state.
- Grant Purpose - The airport must continue to be available for use as a public airport and the airport must remain a public use airport in perpetuity.
- Participation - The sponsor must express interest in a letter to the FAA and the airport owner can cosign the letter or indicate in the letter the airport has agreed.
- Selection - FAA regional office sends a recommendation to APP-500 for selection.
- Application - Sponsor files a grant application with FAA (application, property inventory map, airport letter describing ownership and operation for 10 years, Airports District Office (ADO) determines if costs of grant are less than outright purchase, sponsor signed certification for legal counsel).

- FAA site inspection.
- Coordination – discusses with airport owner and sponsor the obligations of the grant.
- Acquisition – Compliance with FAA policies and procedures.
- Fund Types/Share - Various types, match maximum 90%.
- Grant Description – market values of development rights, planning costs, complete airfield.
- Instrument – Details on what needs to be included in the recorded instrument.
- Release of Purchase Rights – Political subdivision may not transfer or dispose of development rights.

Sportsman Airpark Land Use Master Plan

The City Council passed Ordinance No. 2006-2647 in June 2006 adopting the Sportsman Airpark Master Plan (Attachment 3, Appendix 1). Page 11 of the plan addresses the ownership of the airport. Within the analysis the FAA Purchase of Development Rights was identified as a possible program and identified the program to be pursued first. The program was tied to extension of the runway.

In 2007 the City provided a letter to the FAA inquiring about the purchase of development rights program from the City Manager. This letter is included in Attachment 3 as Page 8 in the Sportsman Airpark material.

Sportsman Airpark Request

Sportsman Airpark has provided the City material outlining the benefits of the airport to the community (Attachment 3). Page 3 of their material identifies the area that would be included in a purchase of development rights through the FAA program. It generally covers the runway, taxiways, existing developed hanger space and undeveloped hanger space between the runway and OR 219. The intended purpose of the FAA funds would be to extend the runway length to more than 3,000 along with adding additional taxiways and lighting.

Material has also been submitted about ongoing maintenance at the airport. This includes mowing, removal of pest and rodents, runway and taxiway markings, lighting maintenance, monitoring of the runaway and taxiways to keep them clear of obstructions (cars, trucks, pedestrian, animals), and finally maintenance of the asphalt runway and taxiway surfaces. No detailed costs for these activities has been provided at this time.

Sportsman Airpark has identified possible funding sources for maintenance obligations such as Oregon Department of Aviation's Pavement Maintenance Program funded through State aviation fuel taxes, and establishing a Maintenance Operating Account whereby hangers and aircraft parked outside would pay a monthly fee. The fees collected would go towards the maintenance activities outlined above. A Business Plan Summary additionally has been provided.

Attachment 3 includes material about the economic impact of Sportsman Airpark on the local economy. The Oregon Department of Aviation in 2014 prepared an analysis based on an evaluation year of 2012 on all of the airports in Oregon. Sportsman Airpark was identified to have provided a \$23 million impact (\$13 million from on-airport activities and \$10 million in spin-off impacts). This ranked 20th statewide. There are also future economic impacts noted including Unmanned Aerial Vehicle (UAV's), charter services that serve patrons of Oregon's wine country and Allison Inn & Spa, St. Paul Rodeo, relocation of aircraft from other airports and emergency preparedness, as examples.

Finally, the Sportsman Airpark material identifies the City of Santa Paula and the Santa Paula Airport Association as an example of the FAA Purchase of Development Rights program (Attachment 3, Appendix 3). Based on conversations with Sportsman Airpark and the FAA this is the only airport in the United States that has utilized the pilot program.

Impacts on City as a Sponsor

The FAA program requires that a sponsor for the program be a State or political subdivision of the State (Oregon Department of Aviation, Yamhill County or City of Newberg). If the City were to be a sponsor City Council needs to consider if the FAA Purchase of Development Rights request is successful and the airport owner/operator withdrew in some fashion from operating the airport, the City would be obligated to operate/maintain certain aspects the airport in perpetuity. At a minimum it would need to include mowing, removal of pest and rodents, runway and taxiway markings, lighting maintenance, monitoring of the runaway and taxiways to keep them clear of obstructions (cars, trucks, pedestrian, animals), and finally maintenance of the asphalt runway and taxiway surfaces. The actual costs for these activities is unknown at this time. Sportsman Airpark has indicated in their material that there would be no risk to the City.

There are also costs associated with preparing an application, providing the appropriate analysis to support the application, preparing an appraisal report, identifying and securing matching funds of 10% to the FAA grant and document recording. It has not been determined who would fund these costs at this time.

Another issue to be resolved is if the City has the authority to purchase develop rights outside of the corporate limits. A second issue is should the airport property be annexed to the City by Sportsman Airpark if it they want to the city to assume a liability by pursuit of sponsorship for the FAA Purchase of Development Rights program.

Finally, the FAA program indicates in the Airport Improvement Plan Handbook, Section 8. Airport Development Rights Pilot Program, Table 6-20 r. Release of Purchase Rights and Covenant “Per 49 USC § 47138(d) that state or political subdivision may not transfer or dispose of the development rights unless the FAA determines that it is in the best interest of the federal government.” This is another consideration for the City Council in determining they want to be a sponsor for the program.

FISCAL IMPACT:

The details of the fiscal impact if the City were to take on maintenance responsibilities are not known at this time.

STRATEGIC ASSESSMENT (RELATE TO COUNCIL GOALS):

Council Goal #4 states “Foster and encourage economic development in the community.” The Sportsman Airpark based on a 2014 Oregon Department of Aviation report provided in 2012 a \$23 million economic impact from both direct and spin-off activities. Actions to maintain and enhance the economic impact of the airport are important to the economy of the local community.

- Attachments:
1. 49 USC § 47138 Pilot Program for Purchase of Airport Development Rights
 2. FAA's Airport Improvement Plan Handbook, Section 8. Airport Development Rights Pilot Program
 3. Sportsman Airpark Material

Attachment 1

49 U.S.C.

United States Code, 2008 Edition
Title 49 - TRANSPORTATION
SUBTITLE VII - AVIATION PROGRAMS
PART B - AIRPORT DEVELOPMENT AND NOISE
CHAPTER 471 - AIRPORT DEVELOPMENT
SUBCHAPTER I - AIRPORT IMPROVEMENT
Sec. 47138 - Pilot program for purchase of airport development rights
From the U.S. Government Printing Office, www.gpo.gov

§47138. Pilot program for purchase of airport development rights

(a) IN GENERAL.—The Secretary of Transportation shall establish a pilot program to support the purchase, by a State or political subdivision of a State, of development rights associated with, or directly affecting the use of, privately owned public use airports located in that State. Under the program, the Secretary may make a grant to a State or political subdivision of a State from funds apportioned under section 47114 for the purchase of such rights.

(b) GRANT REQUIREMENTS.—

(1) IN GENERAL.—The Secretary may not make a grant under subsection (a) unless the grant is made—

(A) to enable the State or political subdivision to purchase development rights in order to ensure that the airport property will continue to be available for use as a public airport; and

(B) subject to a requirement that the State or political subdivision acquire an easement or other appropriate covenant requiring that the airport shall remain a public use airport in perpetuity.

(2) MATCHING REQUIREMENT.—The amount of a grant under the program may not exceed 90 percent of the costs of acquiring the development rights.

(c) GRANT STANDARDS.—The Secretary shall prescribe standards for grants under subsection (a), including—

(1) grant application and approval procedures; and

(2) requirements for the content of the instrument recording the purchase of the development rights.

(d) RELEASE OF PURCHASED RIGHTS AND COVENANT.—Any development rights purchased under the program shall remain the property of the State or political subdivision unless the Secretary approves the transfer or disposal of the development rights after making a determination that the transfer or disposal of that right is in the public interest.

(e) LIMITATION.—The Secretary may not make a grant under the pilot program for the purchase of development rights at more than 10 airports.

(Added Pub. L. 108–176, title I, §152(a), Dec. 12, 2003, 117 Stat. 2506.)

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as an Effective Date of 2003 Amendment note under section 106 of this title.

9/30/2014

6-66. Purpose.

The goal of the program to increase the energy efficiency of airport power sources.

6-67. Available Guidance.

As of the publication date of this Handbook, APP-400 was developing guidance for the program to increase the energy efficiency of airport power sources. Until this new guidance is published, ADOs and regional offices must contact APP-400 for guidance.

6-68. Application and Grant Process.

As of the publication date of this Handbook, APP-400 was developing guidance for the program to increase the energy efficiency of airport power sources. Until this new guidance is published, ADOs and regional offices must contact APP-400 for application information and APP-500 for grant information.

6-69. Funding and Federal Share.

Because 49 USC § 47117(e)(1)(A) limits the funding of the noise and environmental set-aside to specific projects, projects to increase the energy efficiency of airport power sources are *not* eligible for noise and environmental set aside funding. In addition, the airport's regular federal share applies.

6-70. Project Funding Requirements.

Appendix S includes the funding requirements for environmental planning/mitigation projects, including airport energy assessments and projects to increase the energy efficiency of airport power sources.

Section 8. Airport Development Rights Pilot Program.**6-71. Legislative History.**

In fiscal year 2004, Section 152 of Vision 100 – Century of Aviation Reauthorization Act created a pilot program for the purchase of development rights for up to 10 privately-owned public-use airports. The rules for this pilot program are provided for in 49 USC § 47138. This pilot program allows the FAA to issue a grant to a state (or a political subdivision of the state) for the purchase of airport development rights to ensure the airport property will continue to be available for use as a public use airport in perpetuity (in this case, *public use airport* means that the airport is open to the public). Through this pilot program, the FAA will evaluate the merits of purchasing airport development rights instead of the purchase of fee simple interests for the airports.

6-72. Rules of the Pilot Program.

The rules and requirements of the pilot program are outlined in Table 6-20.

9/30/2014

Table 6-20 Rules for the Airport Development Rights Pilot Program

The requirements for...	Include...
a. The Number of Participants	(1) Per 49 USC § 47138(e), the FAA is only allowed to issue grants to purchase airport development rights at 10 airports under this pilot program.
b. The Airport and Airport Owner	<p>(1) Per 49 USC § 47138(a), the airport must be a privately-owned public-use airport.</p> <p>(2) Per FAA policy, the airport owner must have filed a notice with the ADO in accordance with 14 CFR part 157, Notice of Construction, Alteration, Activation, and Deactivation of Airports, indicating that the airport status is privately-owned, public-use.</p> <p>(3) 49 USC § 47138 does not require the airport to meet the privately-owned public-use airport requirements in 49 USC § 47102(22)(B) or to be in the National Plan of Integrated Airports (NPIAS).</p> <p>(4) Per FAA policy, the airport owner must not have any existing grant obligations requiring the airport to remain open.</p>
c. The Grant Sponsor	(1) Per 49 USC § 47138(a), the sponsor must be a state or a political subdivision of a state (such as a city, municipality, or state agency) in the same state as the airport.
d. The Grant Purpose	<p>(1) Per 49 USC § 47138(b)(1)(A), the airport property must continue to be available for use as a public airport (in this case, public airport means that the airport is open to the public).</p> <p>(2) Per 49 USC § 47138(b)(1)(B), the airport must remain a public use airport in perpetuity.</p>
e. Requesting Participation	<p>(1) Per FAA policy, the FAA may contact potentially interested owners and/or sponsors at any time and informally invite them to express interest in the pilot program.</p> <p>(2) Per FAA policy, the sponsor must express interest in a letter to the FAA. If the airport owner does not cosign the letter, then the sponsor must indicate that the airport owner has agreed in the sponsor's letter.</p>
f. The Selection	(1) Per FAA policy, the regional office will send a joint ADO/regional office recommendation to APP-500. APP-500 is the selecting office. Once an airport has been selected, the ADO will inform the sponsor of the selection and request a grant application.

Table 6-20 Rules for the Airport Development Rights Pilot Program

The requirements for...	Include...
g. The Grant Application	<p>(1) 49 USC § 47138(c) requires that the FAA set the requirements for the grant application and approval procedures.</p> <p>(2) Per FAA policy, the sponsor must use the standard grant application as discussed in Paragraph 5-19.</p> <p>(3) Per FAA policy, grant application must include a property inventory map (Exhibit A) that is approved by both the sponsor and the airport owner and clearly shows the land and development subject to the agreement.</p> <p>(4) Per FAA policy, the airport owner must provide a letter to the FAA describing its concept for ownership and operation of the airport over the next ten years.</p> <p>(5) Per FAA policy, if the airport owner does not operate the airport, the airport owner must provide a copy of the associated lease or agreement.</p> <p>(6) Per FAA policy, the ADO must determine whether the costs of the proposed grant are less than buying the airport outright. The issuance of the grant documents a positive determination by the ADO.</p> <p>(7) Per FAA policy, the sponsor must provide a signed certification from their attorney as outlined in Table 6-21.</p> <p>(8) The FAA has the option of not issuing a grant for the purchase of airport development rights if the FAA determines that it is not in the best interest of the federal government or that the requirements will not be met.</p>
h. Option for FAA Site Visit	<p>(1) Per FAA policy, airport owner must agree to allow a site inspection by the FAA and sponsor prior to the grant being issued.</p>
i. FAA Coordination	<p>(2) Per FAA policy, the ADO must discuss the terms and conditions of the pilot program with the airport owner as well as the sponsor to ensure both parties understand their obligations.</p>
j. Acquisition	<p>(1) Per FAA policy, the FAA, sponsor, and airport owner must follow the same policies and procedures for airport acquisition in fee simple as contained in Appendix Q. This includes meeting the requirements of the current version of FAA Order 5100.37, Land Acquisition and Relocation Assistance for Airport Projects, and in the current version of Advisory Circular 150/5100-17, Land Acquisition and Relocation Assistance for Airport Improvement Program Assisted Projects.</p>
k. AIP Fund Types	<p>(1) 49 USC § 47138(a) allows of all types of apportionment and entitlement funds available to the sponsor that are listed under 49 USC § 47114 to be used on this type of grant.</p>
l. AIP Federal Share	<p>(1) Per 49 USC § 47138(b)(2), the federal share is limited to 90% of the costs to acquire the development rights.</p>

Table 6-20 Rules for the Airport Development Rights Pilot Program

The requirements for...	Include...
<p>m. AIP Grant Description and Amount</p>	<p>(1) Per FAA policy, the FAA can only compensate the airport owner for the market value of the development rights sold based on an acceptable before and after appraisal. Under this appraisal method, the market value of the development rights conveyed is appraised at the difference between the market value of the property for continued airport use and the current market value of the property for some other development.</p> <p>(2) Per FAA policy, planning costs to prepare the Exhibit A and/or associated documentation are allowable project formulation costs under the grant (not as a separate grant).</p> <p>(3) Per FAA policy, the property interests must be for a complete airfield or those combined parcels that collectively allow the airport to serve as a public-use airport. The property interests cannot be for only select areas of the airport (such as only the runway protection zones).</p>
<p>n. Grant Template</p>	<p>(1) The ADO must consult with APP-500 on how the standard grant template must be modified for a grant of this type.</p>
<p>o. Instrument Recording the Purchase of Airport Development Rights</p>	<p>(1) Per FAA policy, the instrument recording the purchase of airport development rights must include all of the terms and conditions listed in Table 6-22. The instrument recording the purchase of development rights is the document evidencing the purchase of the airport development rights by the sponsor, and the easement or covenant given by the airport owner that the airport must remain a public-use airport in perpetuity.</p>
<p>p. Grant Assurances</p>	<p>(1) Per FAA policy, the standard grant assurances (Sponsor, Planning Agency, or Non-Sponsors Undertaking Noise Compatibility Program Projects) must not be included in the grant. Instead, the requirements in Table 6-22 must be contained in the instrument recording the purchase of airport development rights, as discussed above.</p>
<p>q. Final Payment</p>	<p>(1) Per FAA policy, ADO must not allow the payment for the full amount of the grant until the instrument recording the purchase of development rights and easement has been recorded in the local registry of deeds and land transfers in compliance with local law.</p>
<p>r. Release of Purchase Rights and Covenant</p>	<p>(1) Per 49 USC § 47138(d), the state or political subdivision may not transfer or dispose of the development rights unless the FAA determines that it is in the best interest of the federal government.</p>
<p>s. Advisory Circular for Airport Safety Self-Inspection</p>	<p>(1) Per FAA policy, the ADO has the option to provide the airport owner/operator with the current version of Advisory Circular 150/5200-18, Airport Safety Self Inspection.</p>

Table 6-21 Required Sponsor’s Attorney Certification Language

<p>The following certification language must be completed and signed by the sponsor’s attorney...</p>
<p>CERTIFICATE OF SPONSOR’S ATTORNEY</p>
<p>I, _____, acting as Attorney for the Sponsor do hereby certify that in my opinion the Sponsor is empowered to file the Application for Federal Assistance for the purchase of development rights in accordance with Title 49, United States Code, section 47138, under the laws of the State of _____ and has the authority from its governing body. Further, the actions taken by said sponsor and sponsor’s representative has been duly authorized and that the execution thereof is in all respects due and proper and in accordance with the laws of the said State.</p>
<p>Dated at _____ (location) this _____ day of _____, _____.</p>
<p>By: _____ (Signature of Sponsor’s Attorney)</p>

Table 6-22 Requirements for the Instrument Recording the Purchase of Airport Development Rights

<p>Per FAA policy, the instrument recording the purchase of airport development rights must include the following terms and conditions...</p>
<p>a. Exhibit A (Property Inventory Map). Parcels of land obligated under the development rights agreement must be described on the Exhibit A. The Exhibit A must be approved by both the sponsor and the airport owner.</p>
<p>b. Notice to Airmen. The airport owner must promptly notify pilots of any condition affecting aeronautical use of the airport property.</p>
<p>c. Acquisition of Development Rights. The acquisition of development rights by the sponsor is for the right to develop and use the property depicted on the Exhibit A for a purpose other than as an airport open to the public or enhancing convenience of aviation activities. The purpose of the acquisition of development rights is to ensure that the airport will continue to be available as a public use airport (in this case, <i>public use airport</i> means that the airport is open to the public).</p>
<p>d. Hazardous Substance. The FAA and state (or political subdivision of the state) do not assume any right to control the means by which the airport owner complies with restrictions on airport property; and do not assume any liability for discharge of a hazardous substance.</p>
<p>e. Public-Use Airport in Perpetuity. The airport owner, for good and valuable consideration, must grant the sponsor an easement or covenant that the airport must remain open to the public for use as an airport in perpetuity. Such easement or covenant must be in effect in perpetuity unless modified or released with the approval of the FAA.</p>
<p>f. Modification or Release of Purchased Rights and Covenant. The sponsor must not modify, transfer, or disposal of the airport development rights unless the FAA has made a written determination that the action is in the best interest of the federal government.</p>

Table 6-22 Requirements for the Instrument Recording the Purchase of Airport Development Rights

<p>Per FAA policy, the instrument recording the purchase of airport development rights must include the following terms and conditions...</p>
<p>g. Recordation. The sponsor must record the instrument evidencing the purchase of development rights and the granting of the easement or covenant that the airport must remain open to the public for use as an airport in perpetuity, in the local registry of deeds and land transfers in compliance with local law.</p>
<p>h. Sponsor's Obligation for Airport Operation. The sponsor may be obligated to operate and maintain the airport if it is closed during other than periods of temporary climatic conditions that interfere with safe operation and maintenance. The airport owner and sponsor agree that in the event the airport owner discontinues safe airport operation and maintenance, the sponsor, in consultation with the FAA, may be required to assume that obligation.</p>
<p>i. Airport Owner's Obligation for Airport Operation in Perpetuity. The airport owner or its successor is obligated to own the airport and operate it as an airport except for periods of temporary climatic conditions that interfere with safe operation and maintenance. In the event the airport owner discontinues safe airport operation and maintenance, the airport owner must notify the FAA within 24 hours.</p>
<p>j. Enforcement of Development Rights by the FAA. The instrument recording the purchase of development rights must grant the FAA third party beneficiary rights to enforce the easement or covenant that the airport must remain a public-use airport in perpetuity and the sponsor's obligation for airport operation.</p>

Section 9. Redevelopment of Airport Properties Pilot Program.

6-73. Legislative History.

In fiscal year 2012, Section 822 of the FAA Modernization and Reform Act of 2012 (Public Law 112-95) created a pilot program to fund activities related to the redevelopment of airport properties purchased for airport noise compatibility. Note that the pilot program language was not incorporated into 49 USC Chapter 471, therefore the text of the pilot program can only be found in Section 822 of the FAA Modernization and Reform Act of 2012 (Public Law 112-95).

6-74. Purpose.

The purpose of this pilot program is to expedite redevelopment of airport property purchased for noise mitigation by the airport with AIP or Passenger Facility Charge (PFC) funds.

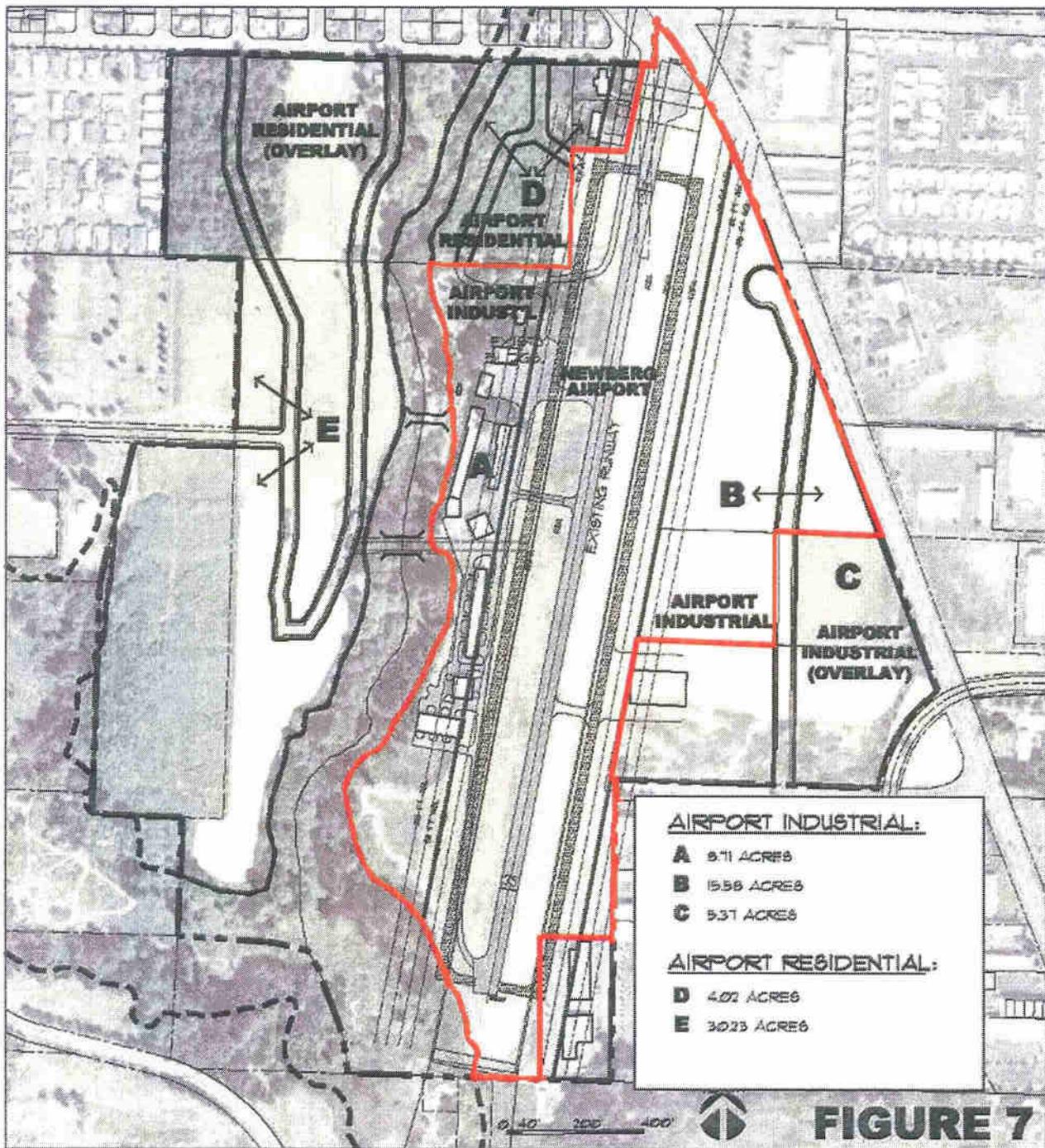
6-75. Availability of Guidance.

Due to the short duration of the program (which will sunset on September 30, 2015) and the limited number of airports that may participate (a maximum of four), the detailed guidance for this pilot program will be issued in a separate program guidance letter (PGL). This guidance will



Sportsman Airpark

Meeting Transportation Needs for
Newberg & Chehalem Valley's Future



KEY: PROPOSED AIRPORT DISTRICT AREA
 STREAM CORRIDOR
 DEVELOPABLE AREA

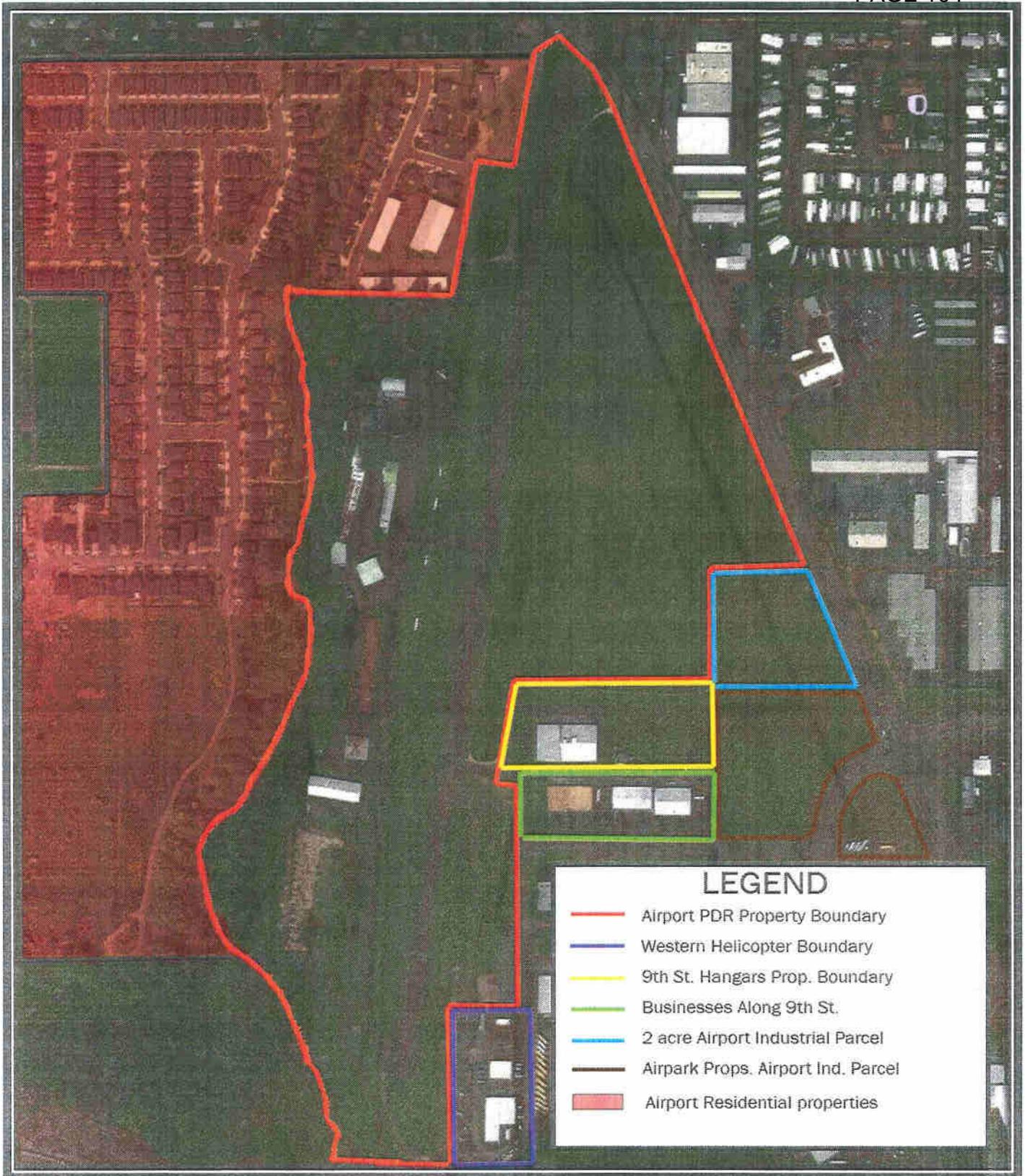
DEVELOPABLE LAND AREA



DATE: 3/20/08
SCALE: 1" = 400'-0"

SPORTSMAN AIRPARK
CITY OF NEWBERG -- OREGON

ARON FAEGRE & ASSOCIATES
520 S.W. YAM-ILL, PORTLAND, OR 97204
503-222-2848



Sportsman Airpark Minimum Operating Requirements

The FAA states that an airport must have a runway that is maintained in a safe and usable condition. For Sportsman Airpark, a safe and usable condition will be defined below.

1. The runway and taxiway system pavement must be maintained. This includes but is not limited to: no holes, large cracks, vegetation or large foreign objects such as rocks, tree branches, etc.
2. Maintain the airport obstacle free zone. This zone is described in (link to appropriate regulation). This means not allowing trees inside this zone to grow above a certain height. Also any new construction inside this zone is limited in height depending on its location.
3. The grass around the runway and taxiway system needs to be kept mowed and maintained to facilitate safe aircraft operations. This is necessary to prevent risk of fire and to prevent obstructing pilot vision while maneuvering on the ground.
4. The grounds around the runway and taxiway system need to be kept free of pests such as gophers and moles, which have the potential to damage the asphalt and underlying gravel of the runway and taxiways.
5. Runway and taxiway markings need to be maintained. This includes but is not limited to making sure they are repainted before they become so faded that they cannot be seen from the air, and updating the markings as required by any possible new FAA regulations.
6. Runway lighting needs to be maintained. This includes but is not limited to replacing burned out bulbs, fixing damaged wiring, replacing damaged or missing lights, etc.
7. The runway and taxiway system must be kept secure from unauthorized personnel and vehicles. This includes but is not limited to: cars, trucks, pedestrians, animals, etc. (or anything which would present a danger of collision to a landing or departing aircraft).

FUNDING

Maintaining a runway to handle aircraft of the size that can land at Sportsman Airpark (less than 12,500lbs) is like maintaining a low use street with very light weight traffic. (The current pavement was laid down in 1965 and has never been overlaid.) The Oregon Dept. of Aviation has a Pavement Condition Index (PCI) monitoring program and a Pavement Maintenance Program (PMP) funded by State aviation fuel taxes. The PMP will fund at a 90% rate ongoing maintenance such as crack sealing, patching, and minor repairs.

Sportsman Airpark also has a plan to fund maintenance expenses by establishing a basic Airport Maintenance Operating Account and initially fund it at \$50,000. Additionally, each hangar unit and each aircraft parked outside that has access to the runway would pay into the account a monthly fee.

This Airport Maintenance Operating Account would then be used to maintain the runway and taxiway system and mowing/landscaping inside the airport Object Free Zone. As the airport expands into the future, this account would grow significantly. Any money accumulated in this account in excess of \$250,000 could be used for other airport related purposes.

The city would have the right to audit the account.

This Airport Maintenance Operating Account along with the Pavement Maintenance Program funds from the Oregon Dept. of Aviation will provide the funds necessary to maintain Sportsman Airpark's runway and taxiway system into the future.

The Purchase of Development Rights (PDR) Opportunity

Sam & Claire Whitney opened Sportsman Airpark in 1946 and gave it its name. Its first patrons were post-WWII pilots who enjoyed flying.

For almost 70 years Newberg's airport has provided a public use *General Aviation Gateway* between our region and the nation's air transportation system.

- *General Aviation* includes flight transportation as diverse as overnight package delivery and a weekend visit back home; as different as emergency medical evacuation and inspection trips to remote construction sites; as complementary as aerial application to keep crops healthy and airborne law enforcement to keep the peace.
- *General Aviation* is a \$20 billion/year industry that generates up to an additional \$150 billion/year for the U.S. economy.

Aviation technology is advancing in ways that Sportsman's can leverage.

- Major manufacturers, such as Piper, Cessna, Pilatus, Cirrus, and Eclipse are expanding production of jet-powered and turbo-prop aircraft:
 - At 20% of the cost of a business jet, turbo-props can carry more passengers, cost less to operate, and are able to land safely at airports with runways shorter than ours.
 - Next generation private jets built out of composite materials are a growing segment in the industry and have the same runway needs as we offer today.
- The proliferation of UAV's offers an opportunity for local business expansion into avionics, mechanical services, manufacturing, and flight training.

The Oregon Department of Aviation has determined that Sportsman Airpark's annual financial contribution to the state was \$23 million in 2012*.

- \$13M came from on-airport activities and off-airport visitor spending.
- \$10M came from spin-off impacts: the dollars that come into the community due to the airport create successive waves of additional economic benefits (such as an airport employee spending his salary for housing, food, etc.).

Regional transportation is the key description of the airport's services. Examples include:

- Personal and charter flights to area destinations and events such as The Allison Inn & Spa, Hazelden, local wine tourism, local restaurants, fishing trips outside the area, the St. Paul rodeo – even Newberg's world-famous skate park.
- Travelers from both in and out of state.
- Other services include:
 - Vista Balloon operations
 - Western Helicopter Services
 - Sky Designs engineering services
 - Pilot training
 - Fuel sales, aircraft maintenance and hangar rentals
 - Scenic flights
 - Aircraft sales

One of the main goals for making use of the PDR funds will be extending the runway length to more than 3,000 feet, as well as adding additional taxiways and lighting. Essentially perfecting the airport's features will make it ideal for the growing market of the next generation of aircraft and regional travelers, generating revenue for our local economy.

There are many benefits that will come from enhancing the airport's runway, taxiways and lighting.

- Relocation of privately-owned aircraft and aviation businesses from the over-extended, more expensive facilities in Aurora (an annual cost savings of 20-50% to aircraft and business owners).
- Increased employment at the airport.
- Increased aircraft rentals for regional transportation.
- Continued growth in personal and charter flights as tourism, recreation and cultural amenities and events expand in the valley.
 - Access to events such as the Camellia Festival, Truffle Festival, Oktoberfest and the Old Fashioned Festival as they grow into regional events.
 - A venue for fly-ins, drive-ins and future festivals and events.
 - The wine industry offers promotional and partnership opportunities like never before.
- Enhanced pilot training operations as Unmanned Aerial Systems (UAS/UAV's) become more ubiquitous.
- In a mega-quake emergency, our airport would become a key transportation access point for first responders, supplies, etc.

Recognizing the need for regional airports, the Federal Aviation Administration's Purchase of Development Rights (PDR) program provides funds to make improvements such as new taxiways, runways, and lighting.

- Our airport will make improvements using these funds – including extending the runway length to more than 3,000 feet - which will make it perfect for the growing market of the next generation of aircraft.
- It protects the airport from future non-airport development, guaranteeing an important transportation access site for Newberg and the Valley.

In order to receive the PDR funds, either the City or County must agree to maintain the airport runway in perpetuity in the case of airport owner default. Legally, it is not certain that the FAA would require the City or County to do anything in the case of default. This is decided on a case by case basis.

What are the risks to the City of Newberg or Yamhill County if the owner decides to leave the airport without selling it to another owner?

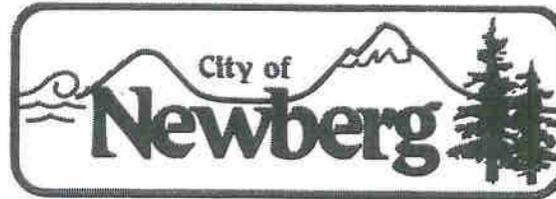
- Essentially, there is no risk:
 - Worst case, the City or County can shut down airport operations and might be legally responsible for maintaining only the airport runway.
 - Maintenance costs would be minimal. The last time the runway was re-surfaced was 40 years ago, far less often than city or county roads or streets, and it's only 3000 feet long.

Sportsman Airpark + the PDR = a viable airport and transportation asset which will continue to bring millions of dollars to the local and regional economy, add its unique character to our cultural amenities and inspire current and future pilots.

*According to the 2014 Oregon Airport Economic Impact Update of the Oregon Department of Aviation's 2007 Aviation System Plan, Sportsman Airpark's annual financial impact to the state is \$23 million. Of the 100 public use airports in Oregon, Sportsman ranks 20th in economic impact.

JAN - 6 7 007

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



City Manager
(503) 538-1207
(503) 537-5013 FAX

Planning and Building Department

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

January 5, 2007

Mr. Bill Watson
Manager
FAA Northwest Mountain Region
Seattle Airports District Office
1601 Lind Ave. SW, Suite 250
Renton, WA 98057-3356

Dear Bill:

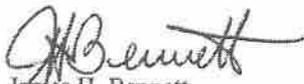
The City of Newberg, Oregon, is interested in purchasing the property development rights, as authorized in section 47138 to title 49 United States Code and outlined in the FAA's PGL 04-5, in Sportsman Airpark (2S6), located in Newberg, Oregon. Sportsman Airpark is a privately owned public use airport that was established in 1946. It is also part of the NPIAS.

As you may remember, we met with you and other FAA staff in November of 2005. In attendance were Barton Brierley, City Planner; David Beam, City Economic Development Coordinator; Jerry Dale, Sportsman Airpark Owner; and Aron Faegre, Airport Planner, contracted by the city to write a land use plan for the area surrounding the airport. Discussed at the meeting was the possibility of future airport funding, city airport ownership and the development rights program. Since that meeting the land use plan was approved by the city council in June of 2006. This plan will ensure a high degree of compatibility for the area immediately surrounding the airport. The City also has in place an Airport Overlay Sub-district (adopted some 17 years ago) to protect the Part 77 surfaces.

The citizens of Newberg have been and continue to be very supportive of the Airport and believe it to be a valuable asset to the community. The biggest obstacle to the survival of the airport is economic. The value of land for development around the airport has increased substantially over time and continues to do so. This development rights purchase program would relieve those economic pressures and ensure the survival of the airport into the future.

We look forward to working with you on this project.

Sincerely,


James H. Bennett
City Manager

PC: Jerry Dale, Sportsman Airpark
File GR-07-001

K:\Wp\Planning\Misc\Wp5files\FILES.GR\GR-07-001\interestletter.FAA.010507.doc

Santa Paula Airport Development Rights Summary

Rowena Mason, the manager of the airport at Santa Paula, California, sent us a history of their experience with the FAA's Development Rights program some 10 years ago, and here are the highlights:

- They were required by the City of Santa Paula to sign an agreement to set up a jointly run committee made up of City and Airport people that would meet annually to discuss airport activities and provide them with annual financial reports. These meetings are designed to keep everyone up to date and to assure the City that funds are being used appropriately.
- The City has no say in Airport activities, other than comments of an advisory nature.
- They were required to sign grant assurances for the FAA that require them to maintain the airport and to keep it open to the public in perpetuity. The grant assurances also require that the property is used only for airport related activities (which includes the hangars and buildings).
- They went through a comprehensive appraisal process which was carried out and reviewed by the FAA.

Rowena's final comment: "It is a great feeling to know that our airport will be here long after I am gone."

Excerpt from Sportsman Airpark Land Use Master Plan 2007

Similarly, the Airport Residential District was generally developed using the City of Newberg R-2 District as a starting point, and then using the City of Independence Residential Airpark Overlay and the Oregon Department of Aviation Model Public Use Airport Zone as major models for airport- related language.

For both Districts, suggestions received during public meetings and during meetings with adjacent land owners were incorporated into the final language as presented, so that the final development code represents language specifically tailored to the actual setting of Sportsman Airpark.

The “overlay” sub-districts provide support to the continued operation and vitality of Sportsman Airpark by addressing potential land use conflicts that could occur between the airport and adjacent development. They also address how properties in the area could be converted from their existing use designations to their prospective future Airport District, as the Airport District designations must be requested by the property owner.

The Airport Residential District includes a provision for density transfer. Due to the complexity and intermixing of roads, taxiways, and constructing hangars in an airport residential district, properties within the district may transfer allowed dwelling unit density to other property within the district and reduce minimum lot sizes such that the overall dwelling density complies with that of a conventionally developed R-2 zoned property.

In all airport districts there is a requirement for some form of airport-dependent or airport-related use. In the case of Airport Residential, there must either be an aircraft tie-down or hangar located on the house site, or a hangar must be provided as part of the permanent rights of the house site. For Airport Industrial, the business must need to be located at the airport. At a minimum the business must require use of an aircraft as an important tool or platform for their work.

1. Airport Ownership

The basic airport infrastructure – the runway, parallel taxiways, and required safety zones – are currently in private ownership. Access to the airport runway by adjacent properties will require an agreement with the airport owner. The agreement will address such issues as maintenance costs of the airport runway, safety issues for use of the runway, and noise abatement issues for maintaining compatibility with the larger community.

To promote long term stability it is recommended, and the private owner has offered, that the basic airport infrastructure should be put into some form of public ownership or protection. Two options for this are potentially available:

- Ownership by the City of Newberg through purchase by FAA grant, or
- Continued private ownership, but with purchased “development rights” by FAA grant to City of Newberg to guarantee its use as an airport forever.

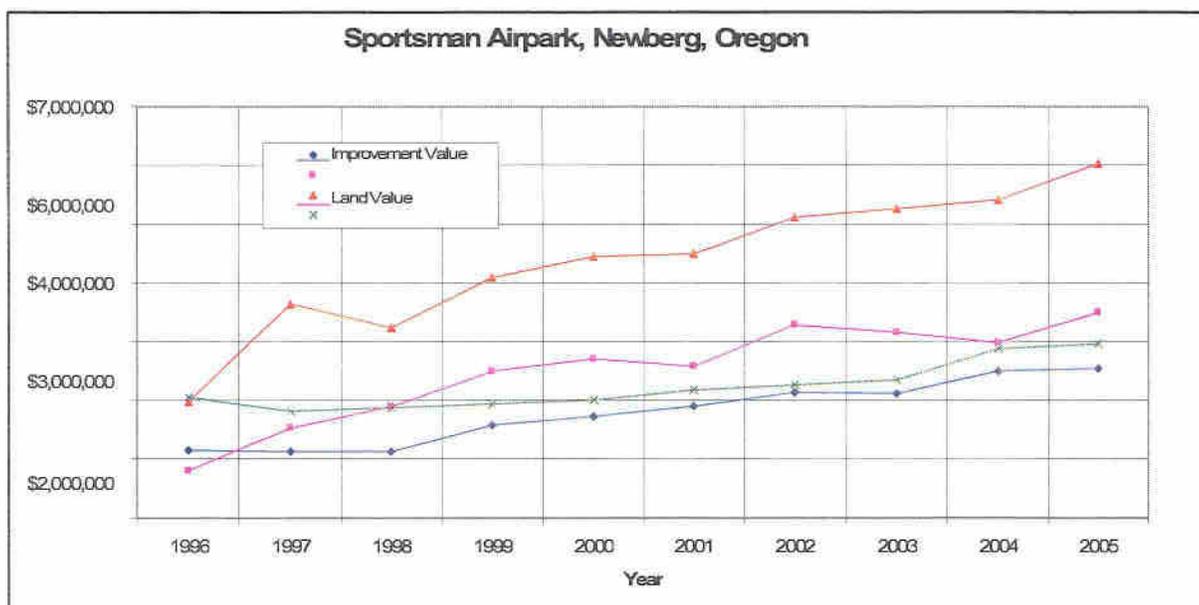
At present, it is recommended (and the airport owner concurs) that the purchase of “development rights” should be pursued first. The FAA’s “development rights” program has not yet processed any projects, in large part because of the complexity of the rules. However, it is believed that with the assistance of the Oregon Congressional delegation, the rules may be adjusted to get FAA airport funds⁵ designated for this project. The FAA staff has stated that they have no problem with this project going to the Oregon Congressional delegation to attempt to gain assistance on gain funding.

Once “development rights” are secured, it is recommended that the extension of the runway several hundred feet to the south be seriously examined. The City of Newberg owns land at the south end of the airport which might be used in part for this purpose, if its elevation could be raised. The future planned Newberg-Dundee Bypass Road is in this same general area, so that may create an opportunity for creation of a retaining wall which would help the airport meet its needs for raising ground elevation adjacent to the south end of the airport.

If the runway can be lengthened several hundred feet through this process, then the FAA’s need for a minimum runway length would be solved, and the airport’s basic infrastructure of runway, parallel taxiways, and safety areas could be purchased by the City of Newberg. The advantage of public ownership is that then FAA funds would be available on an on-going basis for airport improvements and maintenance, as currently occurs for other similar airports such as at McMinnville, Aurora, Hillsboro, Troutdale, and Mulino.

2. Tax and Job Values of Airport District Properties

The existing property and improvements value of the properties within the Airport District over the past 10 years are shown below. It indicates a steady approximate 10% per year increase that may simply relate to recent average increases in real estate values in Oregon during the same time period. The graph contains no single year jump in improvements value, because there has been no significant new construction during recent years (note a new hangar on Tax Lot 302 will add significant value to the District in the next tax year).



⁵ It should be noted that FAA airport funds are created through aviation fuel and ticket taxes and are specifically designated for airport projects. Potential FAA funds for purchase of development rights or land at Sportsman Airpark would not come from normal IRS tax funds or other government programs, and thus would not take away from any other federal funds for which the City of Newberg is eligible.

Sportsman Airpark Business Plan Summary

Business Strategy/Tactic	Year	Est'd Rev Inc YOY-%	Est'd Regional Direct*	Est'd Regional Indirect*	Total Regional Impact*
CURRENT OPERATIONS	2014	3%	\$13.00M	\$10.00M	\$23.00M
1. Flight training	2015	3%	\$13.39M	\$10.30M	\$23.69M
2. Aircraft maintenance – on-demand & annual					
3. Parts sales	2016	3%	\$13.79M	\$10.61M	\$24.40M
4. Fuel sales					
5. Hangar rentals/Aircraft parking fees					
6. Aircraft Sales					
7. Vista Balloon operations					
8. Life Flight operations – east end of Newberg					
9. Western Helicopters					
Airport Runway maintenance fees Plan	2016				
OPERATIONS AFTER PDR & RUNWAY IMPROVEMENTS	2017	5%	\$14.48M	\$11.14M	\$25.62M
1. Establish a regional, multi-airport association that provides a system of transportation services and coordinates ground transport and other services with a focus on wine country visitors					
a. Provides regional resiliency in the case of emergencies and disasters					
b. State of OR Regional Solutions to facilitate					
2. Develop and promote the Wine Country Air Concierge service, targeting the specific segment of aircraft owners and charter owners that fit within the service profile and are most likely to be destination visitors:					
a. Partner with destination venues and events such					

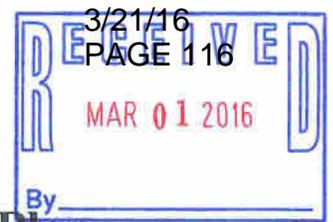
Business Strategy/Tactic	Year	Est'd Rev Inc YOY-%	Est'd Regional Direct*	Est'd Regional Indirect*	Total Regional Impact*
<p>as The Allison Inn & Spa and the Truffle Festival, wineries, restaurants such as the Painted Lady, lodging including B&Bs, wine country tour operators, etc.</p> <p>b. Select contact information for target segment aircraft owners for direct & email marketing from readily available FAA directories.</p> <p>c. Promote via social media, PR and state and county media channels.</p> <p>d. Apply for grants from Oregon Travel, Yamhill County, etc. to accelerate the program.</p>					
3. Expand airport services to accommodate increased visitor traffic from Wine Country program	2018	5%	\$15.21M	\$11.70M	\$26.90M
4. Attract an avionics shop to Sportsman Airpark to take advantage of the FAA 2020 mandate that most aircraft be equipped with ADS-B "Next Gen" avionics.					
5. Expand facilities to handle increased hangar rental and services overflow from Aurora.					
6. Promote the facility for events (e.g. Vintage Festival) building on the Wine Country Concierge momentum					
7. Increase number of vintage aircraft in residence (Sportsman is more desirable than Twin Oaks)					
8. Expand Aircraft refurbishing Operations through Planewright Services, a subsidiary business operation.					
PHASE 3 EXPANSION	2019	6%	\$16.12M	\$12.40M	\$28.52M
1. Expand all existing operations and lines of business.					
2. Work with the State of OR to develop or attract a regional UAS (drone) facility on the airport grounds (including manufacturing, testing, training, etc.).					
a. Leverage the Newberg Innovation Accelerator and GFU Engineering.					
3. Attract Industrial businesses to operate on available developable land adjacent to the airpark property.	2020	6%	\$17.08M	\$13.14M	\$30.23M

Appendixes

Appendix 1: City of Newberg's Sportsman Airpark Land Use Master Plan 2007

Appendix 2: 2014 Oregon Economic Impact update

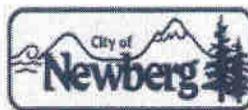
Appendix 3: Santa Paula PDR documentation



Sportsman Airpark Land Use Master Plan

Adopted June 5, 2006

Ordinance No. 2006-2647



City of Newberg
P.O. Box 970
Newberg, Oregon 97132

(503) 537-1240

The preparation of this plan was funded in part with a grant from the Oregon State Lottery through the Mid-Willamette Valley Community Development Partnership for the purpose of promoting economic and community development.

Sportsman Airpark Land Use Master Plan

Table of Contents

1. Purpose and Objectives	1
2. Public Planning Process	1
3. Development Plans	2
4. Infrastructure Funding	10
5. Airport District Development Codes	10
6. Airport Ownership	11
7. Tax and Job Values of Airport District Properties	12
8. Airport Industrial Area Economic Incentives	15
9. Airport Infrastructure and Operations Funding Considerations	16
APPENDIX A – Airport Industrial (AI) District and Airport Industrial Overlay (AIO) Sub-District Development Code Amendments	
APPENDIX B – Airport Residential (AR) District and Airport Residential Overlay (ARO) Sub-District Development Code Amendments	
APPENDIX C – General Development Code Language Amendments	
APPENDIX D – Yamhill County Existing GIS Property Data	
APPENDIX E – FAA Correspondence and Airport Ownership Issues	
APPENDIX F – Sample Airport Zoning Ordinances from other Oregon Airports	
APPENDIX G – Public Meetings	
APPENDIX H – Report Authorship	

Sportsman Airpark Land Use Master Plan

1. Purpose and Objectives

The Sportsman Airpark Land Use Master Plan (Master Plan) creates an overall land use plan for an approximately 117 acre area in and around Sportsman Airpark, which is adjacent to the City of Newberg and within its urban growth boundary. The area includes twelve properties that all could have some type of access to the airport runway such that aircraft could be based at each property. The Master Plan provides for new, separate Airport District designations for either Industrial or Residential uses. Generally, Airport Industrial uses are located directly around the runway and to the east of the runway. Airport Residential uses are designated at the northwest quadrant of the airport, and on the properties to the west of the airport.

The new Airport Districts will allow and encourage the development of commercial, industrial, and residential uses that thrive with the availability of an adjacent runway. However, it is important to reassure the community that the airport will remain the small community airport that it is. There are no plans to significantly extend the runway.¹ The permitted uses at the airport would not change the character of the airport, due to the limited length of the runway. The new Airport Districts are voluntary. To gain an Airport District, a property owner must be within the Airport District Boundary and request the new designation.

There are many small businesses that desire to set up shop at an airport, however most airports do not allow businesses to own their own property or buildings. Within the Sportsman Airpark Master Plan area businesses will be allowed to own their property and buildings, and it is believed that this asset will help to bring new businesses to Newberg. Since airport-related businesses provide services that relate to the high technology of aircraft systems, the jobs generated are typically clean, and pay well. Of equal importance to jobs, the new buildings and site development for these properties will result in an increased tax base for the community to support schools, fire and police services.

2. Public Planning Process

The Master Plan was developed over a 14 month period that included meetings with adjacent property owners, two public meetings, and discussions with the FAA and Oregon Department of Aviation. Copies of meeting minutes and other publicly distributed documents are provided in Appendix F to this report.

¹ In Appendix D it is noted that the FAA Seattle Airports District Office has recommended that the runway be extended several hundred feet as a safety measure for the aircraft that already exist at the airport, to bring the airport to the FAA's normal standards for small airports. However, this would not change the basic type of aircraft able to use the airport or the airport's general character.

3. Development Plans

Detailed development options for the adjoining properties have been considered, and the Master Plan proposes a pattern of use districts, and a system of roads, bridges, taxiways, and utilities that can be implemented to provide the infrastructure needed to carry out the Master Plan. Specific development layouts are provided on the following pages for:

- District Plan (Figure 1),
- Sub-District Plan (Figure 2),
- Road Plan (Figure 3),
- Bridge Plan (Figure 4),
- Taxiway Plan (Figure 5),
- Utilities Plan (Figure 6), and
- Developable Area Plan (Figure 7).

The District Plan and Sub-District Plan place industrial uses on the west side and residential uses on the east side of the airport. This reinforces the pre-existing use patterns already in place (see Yamhill County zoning map in Appendix C).

The Road Plan proposes new roads for vehicular access to all properties. The City of Newberg Development Code generally does not allow the creation of private streets, or gated residential areas. However, to allow for the necessary security of airport operations areas, private streets and gates are permitted in the Airport Districts, subject to Fire Marshal approval of the design so that emergency fire access is assured. Generally, the taxiways must be designed to also function as routes for emergency vehicles such as fire trucks.

The Bridge Plan provides a potential location for an aircraft taxiway bridge between the residential properties to the west and the airport to the east. Similarly, it provides a potential location for a smaller pedestrian/“golf cart” access bridge between the properties to promote aircraft ownership by adjacent properties.

The Taxiway Plan proposes locations for new taxiways. First, the location of future parallel taxiways beside the runway are shown, with a center-to-center separation from the runway of 150 feet to meet FAA Advisory Circular (AC) 150/5300-13, Airport Design. Developable land area for buildings begins not less than 44.5 feet from the centerline of the taxiway, in order to protect the taxiway object free area² needed for taxiing aircraft. Additional taxiways are shown leading from these parallel taxiways into the developable areas, their precise locations to be determined based on actual development plans for buildings in each area. These lateral taxiways will be privately owned as part of the development.

² Standards for the various required runway and taxiway safety areas, object free areas, object free zones, runway protection zones, and other specific airport design criteria are found in FAA Advisory Circular (AC) 150/5300-13, Airport Design, most recent edition.

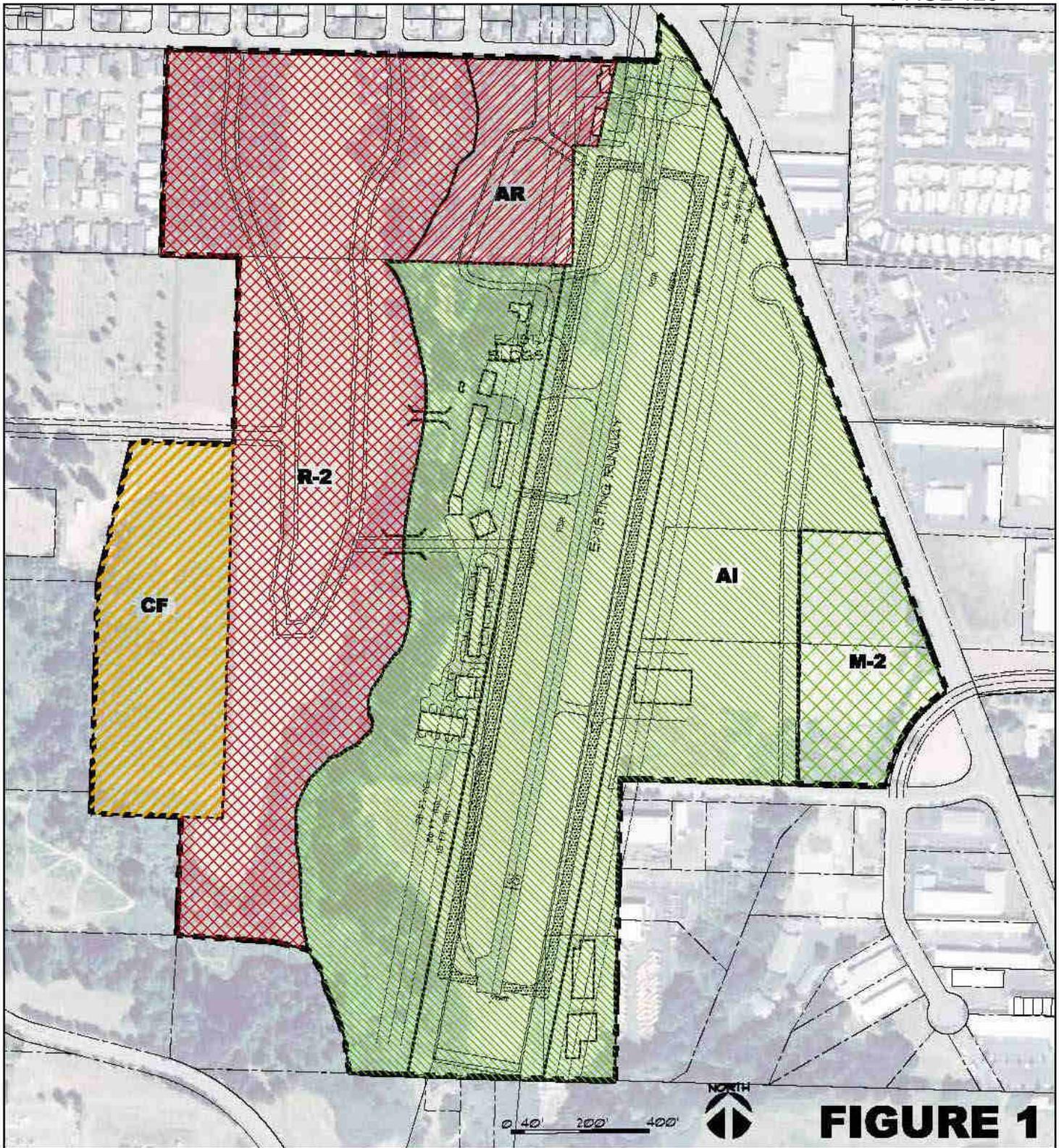


FIGURE 1

KEY:

--- PROPOSED AIRPORT DISTRICT AREA

 R-2 - MEDIUM DENSITY RESIDENTIAL
 AR - AIRPORT RESIDENTIAL

 CF - COMMUNITY FACILITY

 AI - AIRPORT INDUSTRIAL

 M-2 - LIGHT INDUSTRIAL

DISTRICT PLAN



DATE: 3/20/06
SCALE: 1" = 400'-0"

SPORTSMAN AIRPARK
CITY OF NEWBERG — OREGON

ARON FAEGRE & ASSOCIATES
520 S.W. YAMHILL, PORTLAND, OR 97204
503-222-2546

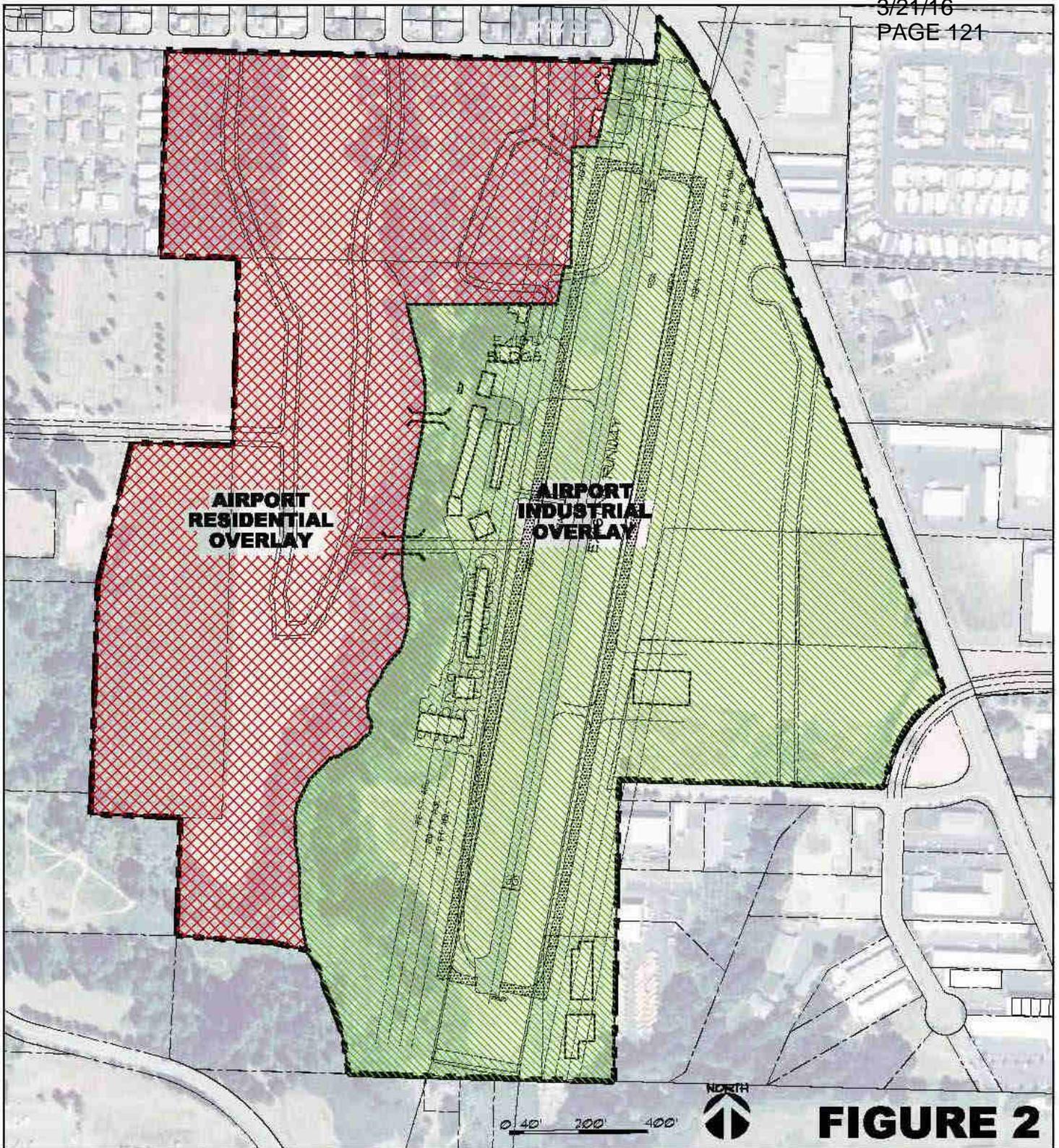


FIGURE 2

KEY:

-  AIO - AIRPORT INDUSTRIAL OVERLAY
-  ARO - AIRPORT RESIDENTIAL OVERLAY
-  PROPOSED AIRPORT DISTRICT AREA

SUB-DISTRICT PLAN



DATE: 3/20/06
SCALE: 1" = 400'-0"

SPORTSMAN AIRPARK
CITY OF NEWBERG — OREGON

ARON FAEGRE & ASSOCIATES
520 S.W. YAMHILL, PORTLAND, OR 97204
503-222-2548

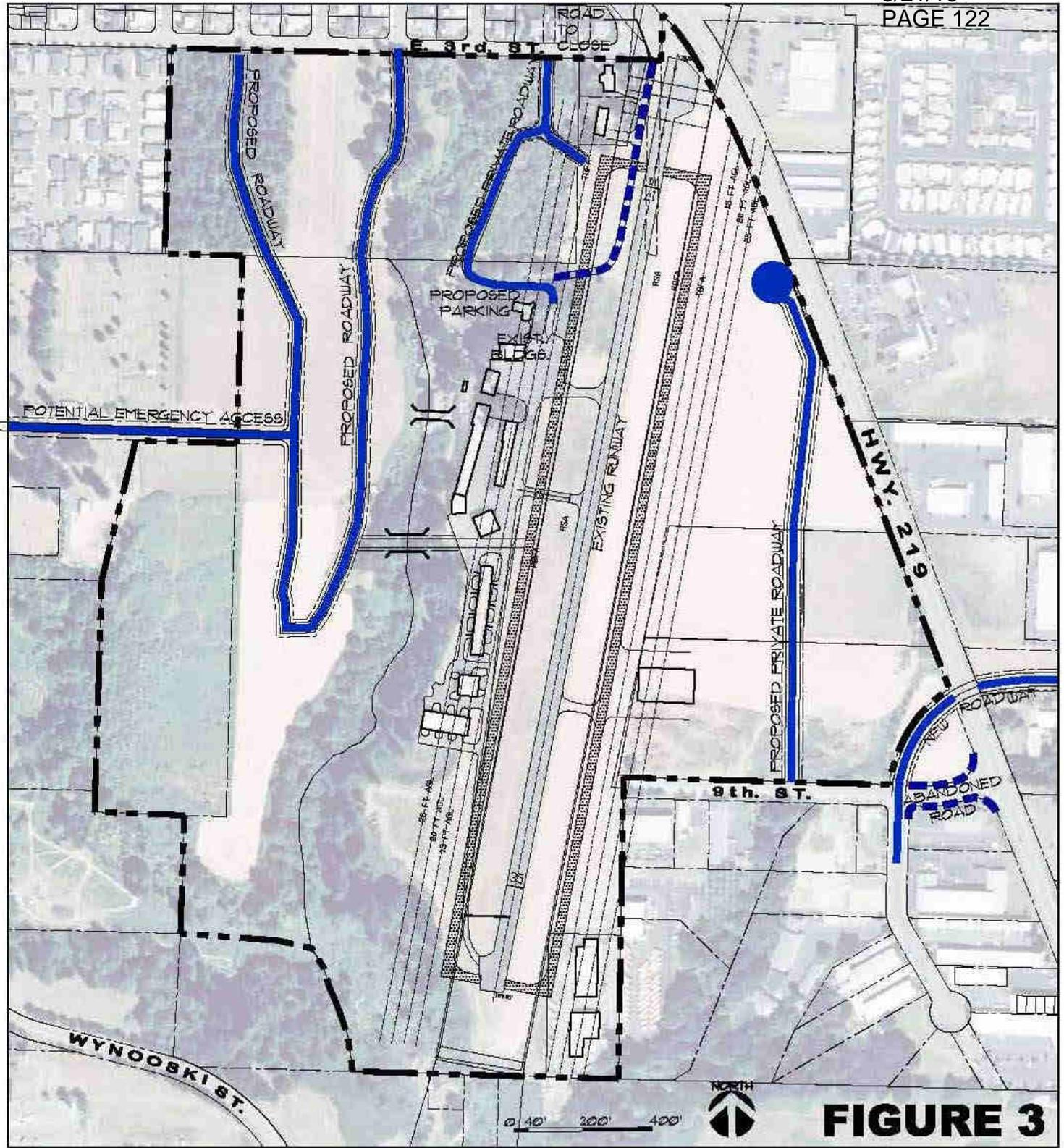


FIGURE 3

KEY:
 - - - - - PROPOSED AIRPORT DISTRICT AREA
 ————— PROPOSED ROAD
 - - - - - ABANDONED ROAD

ROAD PLAN



DATE: 3/20/06
SCALE: 1" = 400'-0"

SPORTSMAN AIRPARK
CITY OF NEWBERG — OREGON

ARON FAEGRE & ASSOCIATES
520 S.W. YAMHILL, PORTLAND, OR 97204
503-222-2546

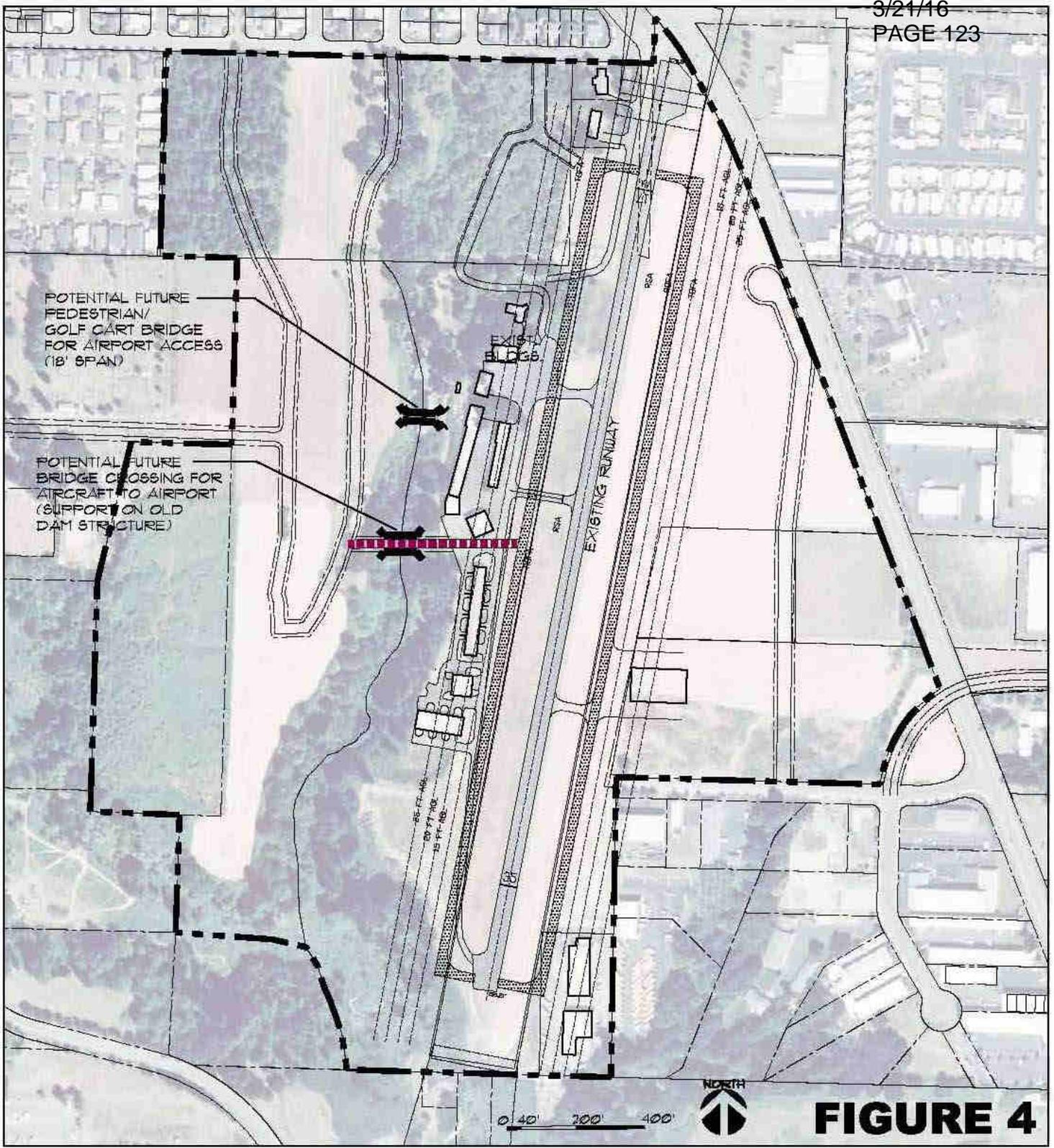


FIGURE 4
BRIDGE PLAN

KEY:

- PROPOSED AIRPORT DISTRICT AREA
- PROPOSED BRIDGE
- PROPOSED PRIVATE TAXIWAY



DATE: 3/20/06
SCALE: 1" = 400'-0"

SPORTSMAN AIRPARK
CITY OF NEWBERG — OREGON

AIRON FAEGRE & ASSOCIATES
520 S.W. YAMHILL, PORTLAND, OR 97204
503-222-2548

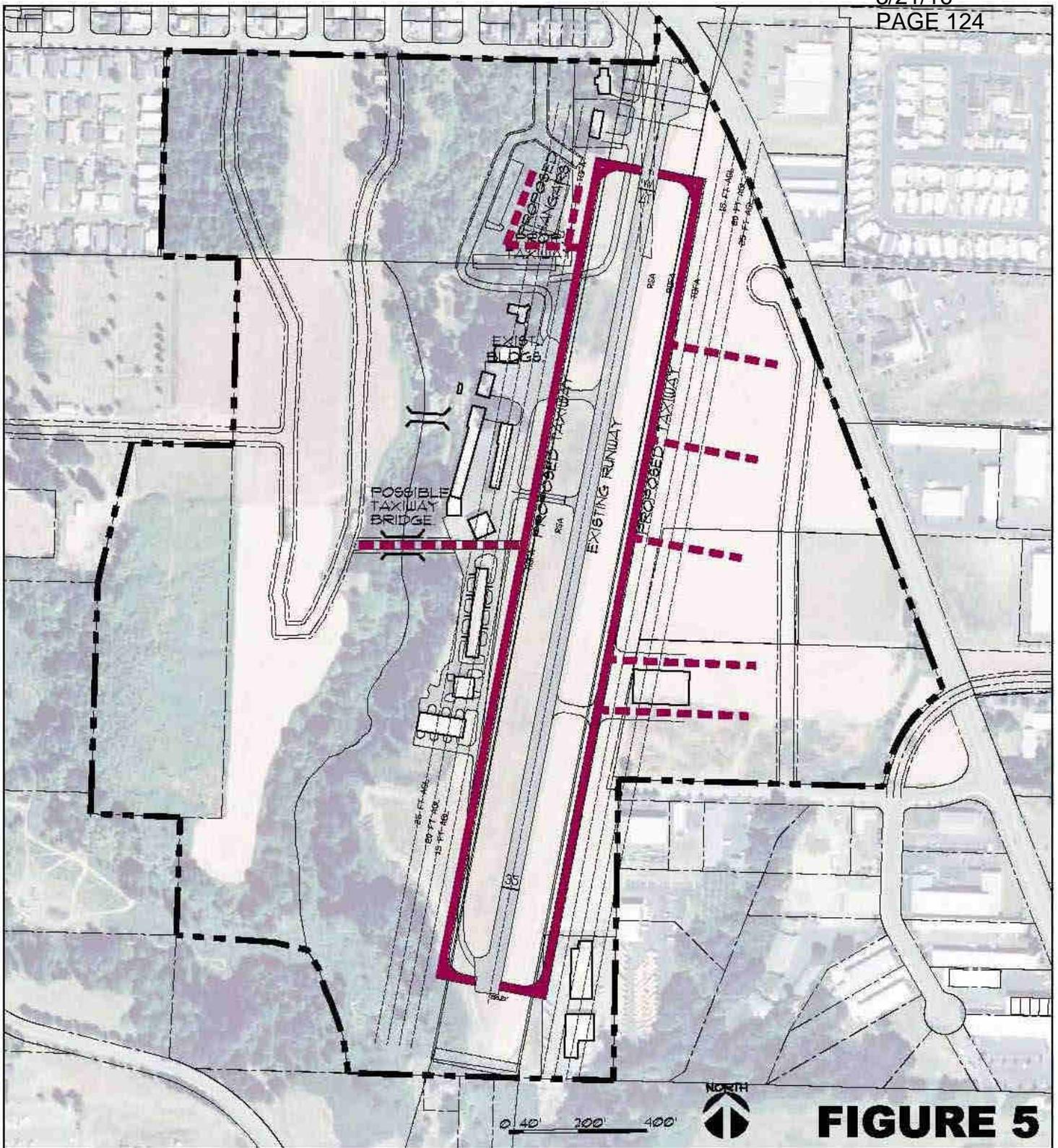


FIGURE 5
TAXIWAY PLAN

KEY:
 - - - - - PROPOSED AIRPORT DISTRICT AREA
 ————— PROPOSED PUBLIC TAXIWAYS
 - - - - - PROPOSED PRIVATE TAXIWAYS



DATE: 3/20/06
SCALE: 1" = 400'-0"

SPORTSMAN AIRPARK
CITY OF NEWBERG — OREGON

AIRON FAEGRE & ASSOCIATES
520 S.W. YAMHILL, PORTLAND, OR 97204
503-222-2548

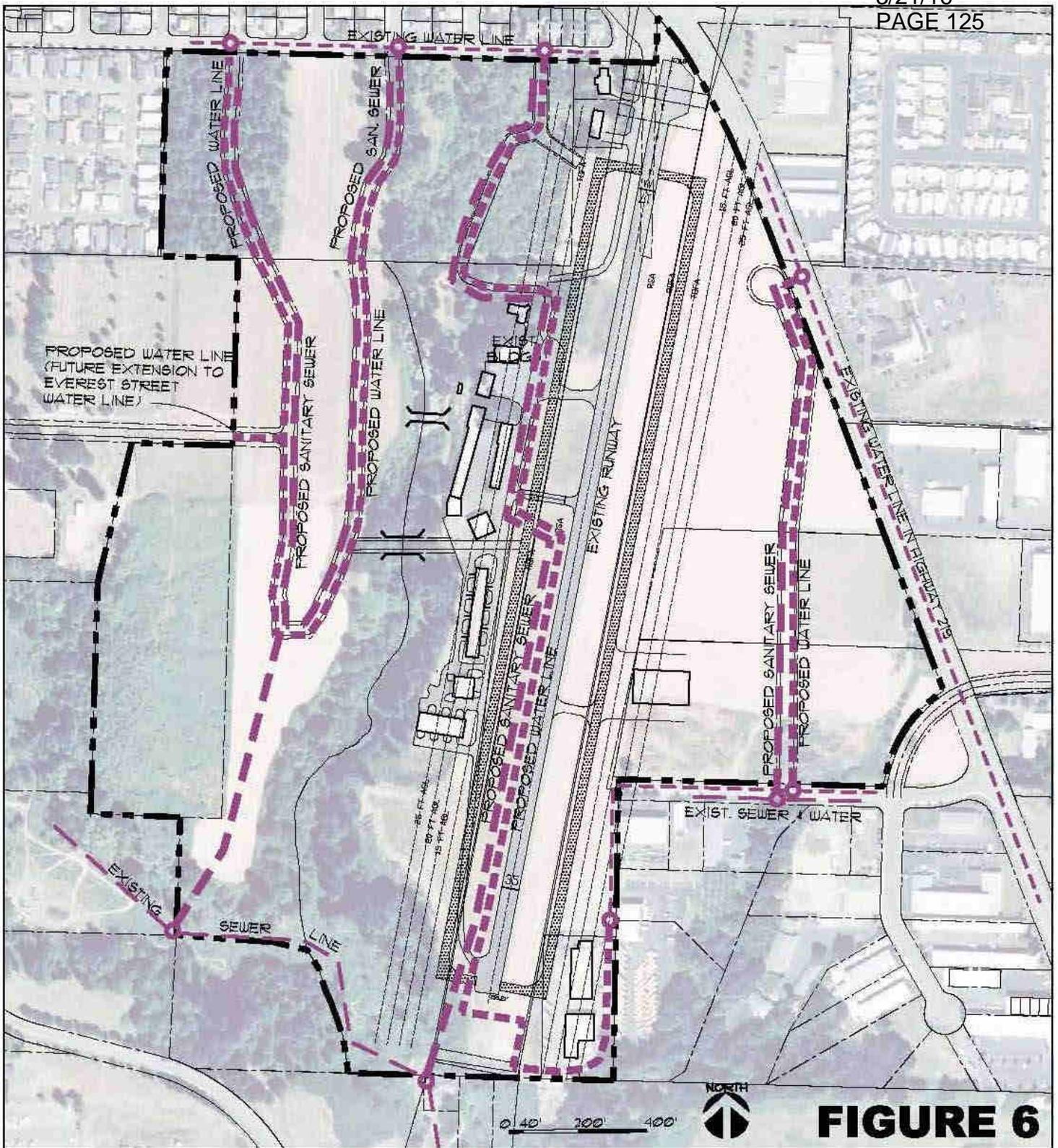


FIGURE 6

KEY:

- PROPOSED AIRPORT DISTRICT AREA
- WATER LINE (EXISTING)
- SANITARY SEWER (EXISTING)
- TIE TO EXISTING

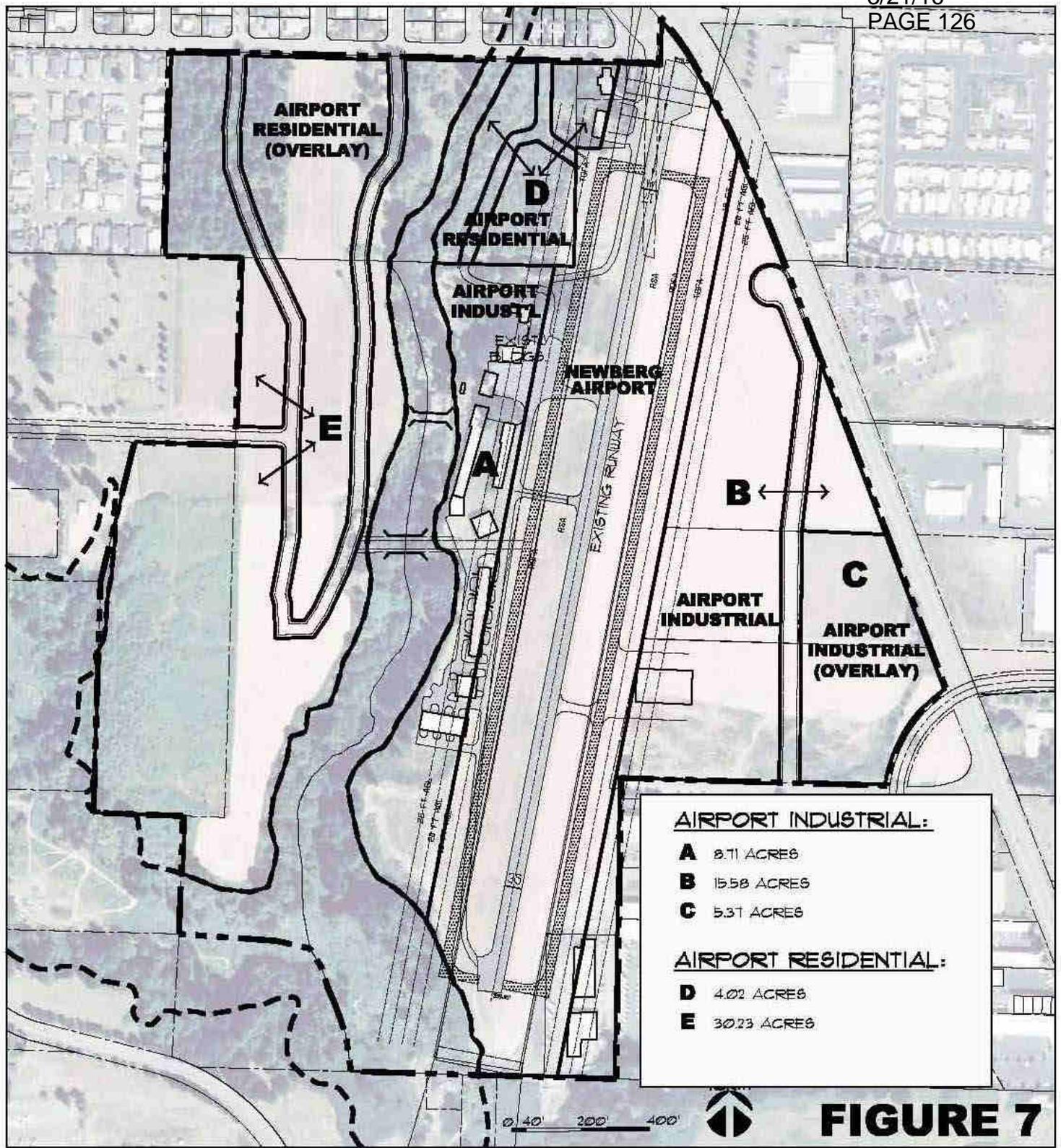
UTILITIES PLAN



DATE: 3/20/06
SCALE: 1" = 400'-0"

SPORTSMAN AIRPARK
CITY OF NEWBERG — OREGON

ARON FAEGRE & ASSOCIATES
520 S.W. YAMHILL, PORTLAND, OR 97204
503-222-2548



DATE: 3/20/06
SCALE: 1" = 400'-0"

SPORTSMAN AIRPARK
CITY OF NEWBERG -- OREGON

ARON FAEQRE & ASSOCIATES
520 S.W. YAMHILL, PORTLAND, OR 97204
503-222-2548

The Utilities Plan proposes gravity sewer lines running from north to south, to utilize the general 17 foot grade change that exists at the airport site from north to south. Water lines connect to existing lines on E 3rd Street, 9th Street, and Highway 219 to create a looped system. A water line will be extended from the looped water line in the residential area to the western boundary of the residential area for a future connection to an existing water line that dead-ends on Everest Street.

The Developable Area Plan shows the developable areas on the site. When an area is developed for aviation uses, there are two options for the layout of the circulation system.

- Roads (private or public) and taxiways are completely separated; or
- Private roads and taxiways use common pathways.

In a large development area, where there is a lot of aviation activity, it is generally advantageous to separate the roads and taxiways. Independence State Airport provides a good example of that circulation system³. Where the development area is small, the roads and taxiways may be designed as a common system. As specific areas are developed, their size and the expected aviation activity they will contain must be used to determine the actual layout of the circulation system and whether it can be common between aircraft and vehicles.

4. Infrastructure Funding

At present it is assumed that the infrastructure of roads, bridges, taxiways, and utilities will be developed at the direct expense of the respective property owners. It is noted that in Section 9 below the possibility of using tax increment financing for infrastructure is discussed as a possibility to stimulate development.

5. Airport District Development Codes

The Master Plan provides specific Development Code language for each Airport District, including:

- Airport Industrial,
- Airport Industrial Overlay,
- Airport Residential, and
- Airport Residential Overlay.

The specific language for each of these is provided in Appendices A and B. In creating the language for these Districts, the texts from twenty-two other airport zoning ordinances from around the State of Oregon were studied⁴.

The Airport Industrial District was generally developed using the City of Newberg M-2 Light Industrial District as a starting point, and then using the Columbia County Airport Industrial AI District and the Oregon Department of Aviation Model Public Use Airport Zone as major models for specific airport-related language.

³ See the pictures of Independence State Airport shown in Appendix F.

⁴ See "Sample Airport Zoning Ordinances from other Oregon Airports," Project Memorandum by Aron Faegre & Associates, May 16, 2005.

Similarly, the Airport Residential District was generally developed using the City of Newberg R-2 District as a starting point, and then using the City of Independence Residential Airpark Overlay and the Oregon Department of Aviation Model Public Use Airport Zone as major models for airport-related language.

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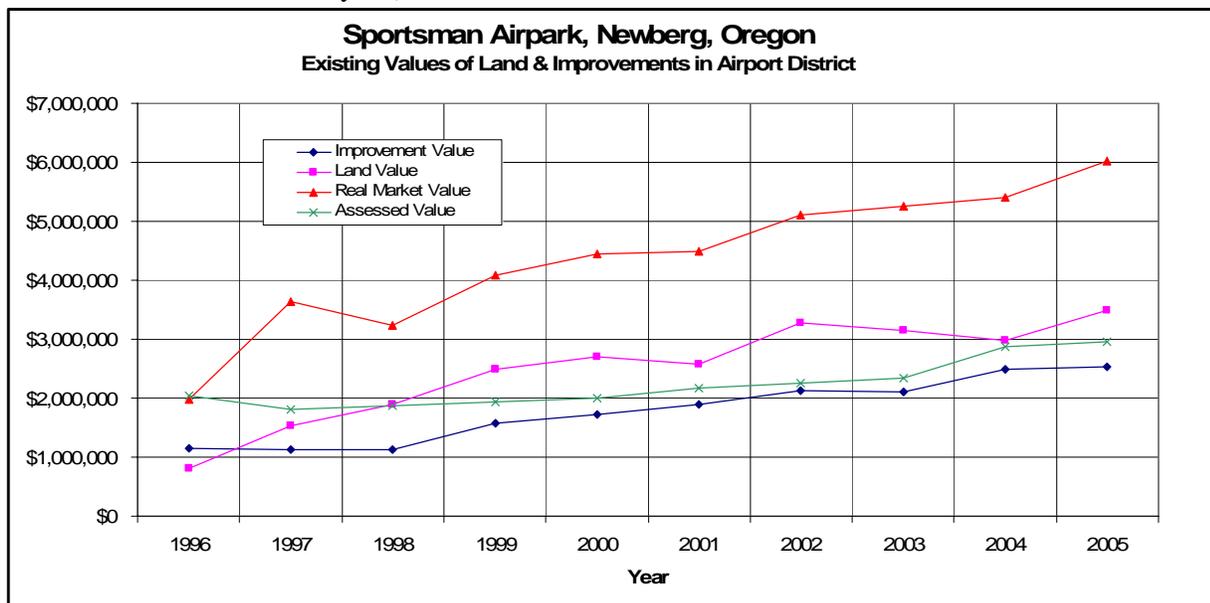
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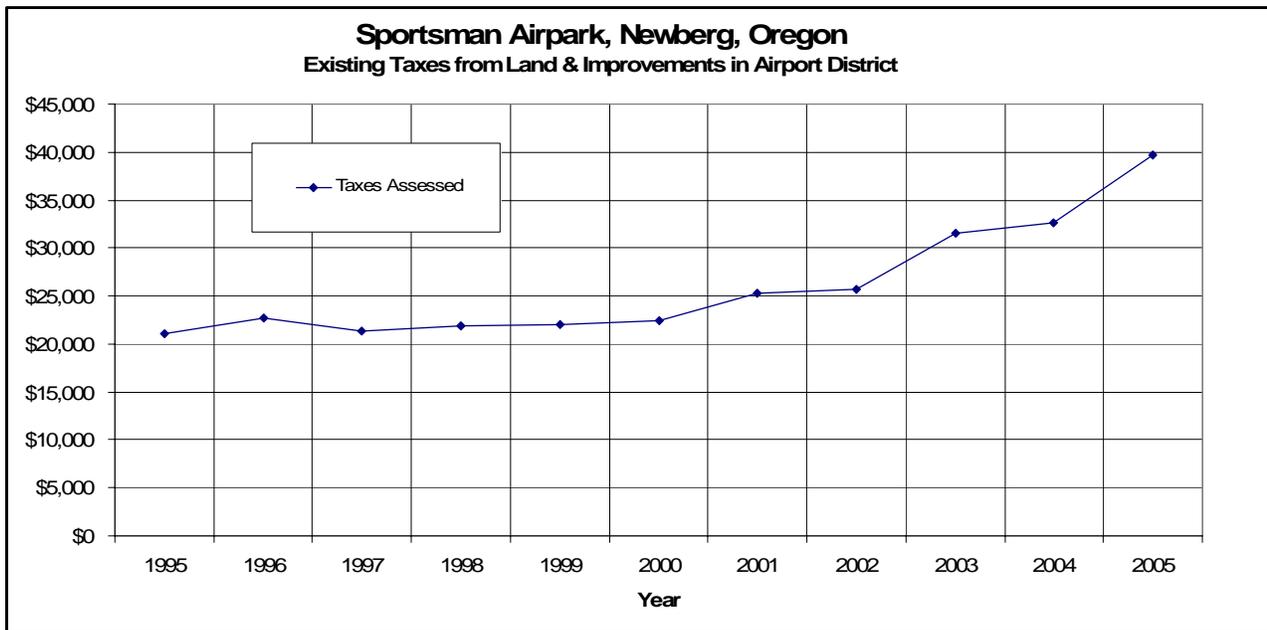
7. Tax and Job Values of Airport District Properties

The existing property and improvements value of the properties within the Airport District over the past 10 years are shown below. It indicates a steady approximate 10% per year increase that may simply relate to recent average increases in real estate values in Oregon during the same time period. The graph contains no single year jump in improvements value, because there has been no significant new construction during recent years (note a new hangar on Tax Lot 302 will add significant value to the District in the next tax year).



⁵ It should be noted that FAA airport funds are created through aviation fuel and ticket taxes and are specifically designated for airport projects. Potential FAA funds for purchase of development rights or land at Sportsman Airpark would not come from normal IRS tax funds or other government programs, and thus would not take away from any other federal funds for which the City of Newberg is eligible.

Taxes assessed on the properties within the Airport District over the past 10 years are shown in the following graph. The rapid increases between the year 2000 and present are believed to be primarily due to the removal of lands from farm deferral, which increased their taxable value. Whatever the reason, taxes contributed to the community during that five year period has doubled.

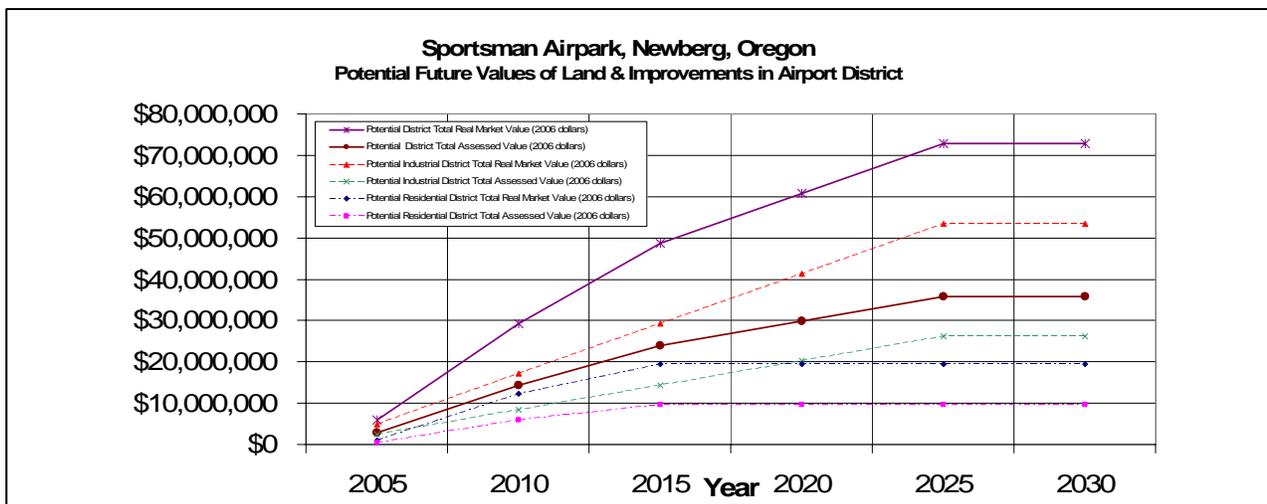


These values are based on existing development at the airport which is limited to some hangar development on the west side of the runway in Parcel 300, development of Parcel 1900, and one house on each of Parcels 1300, 1400, 1500 and 1600. Industrial uses currently only exist on parcels 300 and 1900. Existing employment in the Airport District is estimated at 16 FTE jobs in Parcel 300 and 12 FTE jobs in Parcel 1900. It is estimated that of the 29 acres of developable Airport Industrial land, approximately 17% is currently developed.

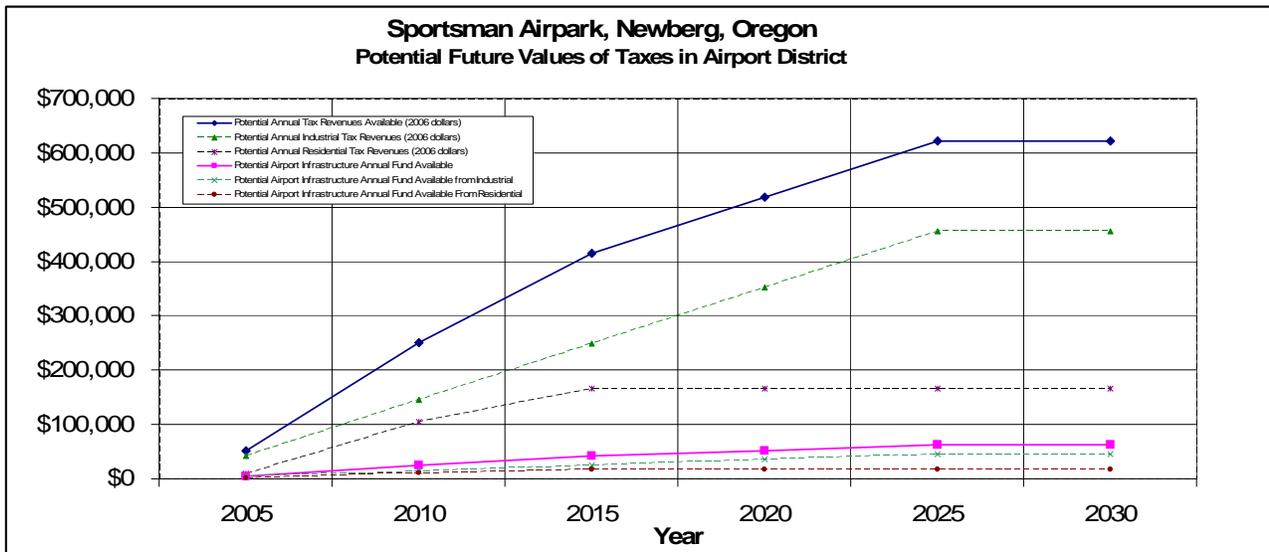
It is reasonable to assume that the Airport Industrial lands can be developed at approximately 50% lot coverage, and building costs are in the range of \$50 to \$100 per square foot. This would indicate an average improvement value of \$1.5 million per acre, at current dollar values. Once the entire industrial developable area is completed, this will represent a potential total improvement value for the developable industrial lands of perhaps more than \$50 million in current dollar value.

From a public tax base standard, industrial users also require machinery, equipment, and site development (including taxiways and private roads) which add to the tax base for the community. These added values would be dependent on the type of business that develop in the District and are not included in the graphs below.

The value of improvements in the Airport Residential District is assumed to be similar to what it would be for any R-2 Residential District. One could argue that the improvement and land values may be higher due to the special availability of the airport. However, the density of houses may be less due to the need to allow for room for hangars and/or taxiways. Usually, residential development is considered to be an incompatible neighbor to an airport. However Airport Residential is a supportive neighbor to an airport, since the residents are aircraft users and find aircraft noise not only acceptable, but entertaining to some extent. For sake of conservative projections it has been assumed that only 33% of the 35 residential developable acres will be created as Airport Residential. Given the current great demand for housing in the Newberg area, it has been assumed that the residential portions of the Airport District will be fully developed within 10 years, rather than the 20 year period assumed for the industrial portions of the Airport District. For those areas developed, a lot coverage of 33% is assumed and a construction value of \$125 (2006 dollars) per square foot is assumed. This would result in an improvements value of approximately \$200,000 (2006 dollars) for a 5000 square foot Airport Residential lot.



The following table shows the projected tax value of the Airport District development, based on the above assumptions, over the 20 year period of development. The table includes estimates of tax increment funds that could be set aside to assist with the Airport District development, should the City opt to establish a 10% set aside to promote development within the District. This concept is discussed in Section 9 below concerning Airport Infrastructure and Operations funding.



A study of Aurora Airport potential development opportunities⁶ determined that airport properties could be developed at densities ranging from a high of 52 persons per acre for an aircraft manufacturing facility such as Van’s Aircraft, to a low of 5 persons per acre for small hangars that are used at least in part for business uses. Aurora Airport has a developable land area of approximately 85 acres, which is approximately 60% developed. The total current tax base of the airport is assessed at approximately \$34 million and as such the airport contributes approximately \$360,000 in taxes to the community each year. The airport is believed to currently contain approximately 750 jobs. This would represent an average of 15 jobs per developed acre on average.

Based on this kind of rough information, one could predict that at build-out of the Airport Industrial lands, the total improvement values will be in the range of \$50 million. Using an estimate of 15 persons per developable acre, this also represents a total of 440 jobs within the Airport Industrial District. Assuming a linear development of the properties over a 20 year period, this would represent a development of 110 jobs each 5 years, and an increase in improvement values by \$12 million (in 2006 dollars) each 5 years. Obviously the actual numbers will depend on whether the businesses attracted are more like a Van’s Aircraft (in which case the numbers may be bigger) or small hangars only partially used for business (in which case the numbers may be smaller).

8. Airport Industrial Area Economic Incentives

To promote development in the Airport Industrial District, the City of Newberg could consider the development of an “enterprise zone”, a “free trade zone”, a federal or state recognized “employment zone”, or other similar economic development incentive programs.

⁶ Aurora Airport: Potential for On-airport Development, by Aron Faegre, February 14, 2003.

9. Airport Infrastructure and Operations Funding Considerations

To promote the development of the Airport District, the City of Newberg can establish the Airport District as a tax increment financing district. In this way, a portion of taxes from new development in the Airport District can be used to install infrastructure such as water, sewer, roads, and taxiways that will in turn invigorate further development in the District. This funding can also create an on-going operations and maintenance fund for the airport. Should the City of Newberg take ownership of the basic runway and taxiways of the airport, this fund can also provide the 5 to 10% match required for federal airport improvement funds. The graph on page 14 shows that at a 10% set-aside the airport fund is predicted to start providing approximately \$5,000 per year at the start, but rise to \$25,000 per year after 5 years, rise to \$40,000 per year after 10 years, and rise to \$60,000 per year by 20 years.

It is estimated that should the City of Newberg take ownership of the basic runway and taxiways of the airport, City staff time of five hours per week on average would be required for administrative and management activities. The adjacent airport district properties would take on the labor of mowing, cleanup, changing of light bulbs, and other miscellaneous work. An annual budget of \$12,500 is proposed for direct maintenance cost items such as light bulbs, wind socks, and other materials, and an annual budge of \$12,500 is proposed as the 5% required match for FAA grants which might average \$250,000 per year.

APPENDIX A

AIRPORT INDUSTRIAL (AI) DISTRICT &
AIRPORT INDUSTRIAL OVERLAY (AIO) SUB-DISTRICT

June 5, 2006

CITY OF NEWBERG DEVELOPMENT CODE LANGUAGE

[**“Bold”** text indicates added language, ~~“strike through”~~ text indicates deleted language, and “normal” text indicates existing language to remain.]

Part 13.1 AIRPORT INDUSTRIAL (AI) DISTRICT

151.498 DESCRIPTION AND PURPOSE.

The purpose of the City of Newberg Airport Industrial (AI) District is to encourage and support the continued operation and vitality of Sportsman Airpark by allowing airport-related industrial uses, and as such to promote economic development for the City of Newberg and Yamhill County. The Airport Industrial (AI) District is intended to recognize those areas devoted to or most suitable for the immediate operational facilities necessary for commercial and noncommercial aviation. It is also intended to provide areas for those activities directly supporting or dependent upon aircraft or air transportation when such activities, in order to function, require or benefit from a location within or immediately adjacent to primary flight operations and passengers or cargo service facilities. It is further intended to provide appropriate locations for airport related light industrial uses that are compatible with and benefit from air transportation.

151.498.1 PERMITTED BUILDINGS AND USES

(A) In the Airport Industrial District, the following buildings and uses are permitted as hereinafter specifically provided.

(B) The buildings and uses are subject to the general provisions and exceptions set forth in this code:

(1) Customary and usual aviation-related activities, including but not limited to takeoffs and landings; aircraft hangars and tie-downs; construction and maintenance of airport facilities; fixed based operator facilities; and other activities incidental to the normal operation of an airport, including operation of fixed wing aircraft, helicopters, hot air balloons, and gyrocopters.

(2) Emergency medical flight services, including activities, aircraft, accessory structures, and other facilities necessary to support emergency transportation for medical purposes.

Emergency medical flight services do not include hospitals, medical offices, medical labs, medical equipment sales, and other similar uses.

- (3) Law enforcement and firefighting activities, including aircraft and ground-based activities, facilities and accessory structures necessary to support federal, state or local law enforcement or land management agencies engaged in law enforcement or firefighting activities. Law enforcement and firefighting activities include transport of personnel, aerial observation, and transport of equipment, water, fire retardant and supplies.**
- (4) Search and rescue operations, including aircraft and ground based activities that promote the orderly and efficient conduct of search or rescue related activities.**
- (5) Flight instruction, including activities, facilities, and accessory structures located at airport sites that provide education and training directly related to aeronautical activities. Flight instruction includes ground training and aeronautic skills training, including schools for flight attendants, ticket agents or similar personnel.**
- (6) Aircraft service, maintenance and training, including activities, facilities and accessory structures provided to teach aircraft service and maintenance skills and to maintain, service, refuel or repair aircraft or aircraft components.**
- (7) Aircraft rental, including activities, facilities and accessory structures that support the provision of aircraft for rent or lease to the public.**
- (8) Aircraft sales and the sale of aeronautic equipment and supplies, including activities, facilities and accessory structures for the storage, display, demonstration and sales of aircraft and aeronautic equipment and supplies to the public.**
- (9) Aerial mapping and surveying.**
- (10) Air cargo warehousing and distribution facilities.**
- (11) Aircraft and aircraft component manufacturing or assembly.**
- (12) Aviation and space technology development and research.**
- (13) Aircraft or air transportation businesses.**
- (14) A business that owns an aircraft, keeps it at their industrial site, and relies on the aircraft as an important tool or platform for their work.**
- (15) A business activity that relies on regular use of a general aviation aircraft by the business or its clients.**
- (16) Auto rental agencies.**
- (17) Day care and recreational facilities exclusively for employers and employees of businesses located within this district.**

- (18) Greenways, including but not limited to bicycle and pedestrian paths.**
- (19) Public and semi-public buildings, structures and uses that provide necessary services to an airport, such as fire stations, pump stations and water storage.**
- (20) Schools relating to airport operation.**
- (21) Snack shop for airport clientele with a total floor area no larger than 800 square feet.**
- (22) One residence of area not more than 40% the area of the hangar floor, up to a maximum of 1500 square feet, for an airport caretaker or security officer on each separate parcel.**
- (23) Manufacturing, assembling, testing, repairing, packaging and distribution of precision testing optics; precision testing equipment; and components, devices, equipment, instruments and systems of an electronic or electromagnetic nature, such as coils, tubes, semi-conductors and similar components; communications, navigation, transmission and reception equipment, control equipment and systems; data processing equipment and systems; electronic parts and components; metering instruments; telecommunications equipment; and scientific instruments; upon demonstration that the use is dependent upon or benefits from air transportation.**
 - (a) An industrial use is dependent upon air transportation if it requires a location at or adjacent to an airport to be economically viable. Economic viability is measured by determining whether the use or activity would suffer an economic disadvantage if not located at or adjacent to an airport. Considerations include the percentage of business done with air cargo; the industry's dependence on air transportation by staff, management, sales, personnel, vendors, or clientele; the industry's site size requirements; and the industry's interest in locating in a non-metropolitan area of the state.**
 - (b) Industrial uses shall be considered dependent upon air transportation where:**
 - (i) More than 10 percent of the products produced would be shipped through air cargo; or**
 - (ii) More than 30 percent of gross sales would be with customers located out of state; or**
 - (iii) The business owns an aircraft, keeps it at their industrial site, and relies on the aircraft as an important tool or platform for their work; or**
 - (iv) Sales or service of the product requires a rapid response that can best be achieved through air transport; or**
 - (v) The use would suffer an economic disadvantage if not located at or adjacent to an airport.**

(24) Private streets that function as taxiways are allowed within the AI District and may include gates for safety purposes with designs approved by the Fire Marshall, at the limit of the taxiways.

151.498.2 BUILDINGS AND USES PERMITTED CONDITIONALLY

In addition to the buildings and uses permitted conditionally, listed in 151.211, the Planning Commission may grant a conditional use permit for any of the following buildings and uses in accordance with a Type III procedure:

(A) Motels, hotels, and gift shops, upon demonstration that they are compatible with airport operations.

(B) Cafeterias and restaurants, upon demonstration that they are compatible with airport operations.

(C) Aeronautic recreational and sporting activities, including activities, facilities and accessory structures at airports that support recreational usage of aircraft and sporting activities that require the use of aircraft or other devices used and intended for use in flight. Aeronautic recreation and sporting activities authorized under this paragraph include, but are not limited to, fly-ins; glider flights; ultralight aircraft flights; displays of aircraft; and aeronautic flight skills contests.

Part 13.2 AIRPORT INDUSTRIAL OVERLAY (AIO) SUB-DISTRICT

151.498.3 PURPOSE

The Airport Industrial Overlay (AIO) Sub-District is intended to support the continued operation and vitality of Sportsman Airpark by addressing potential land use conflicts with adjacent development. It also addresses how properties in the area could be converted to Airport Industrial District.

151.498.4 NOTICES AND RESTRICTIONS REQUIRED FOR DEVELOPMENT WITHIN THE AIRPORT INDUSTRIAL OVERLAY (AIO) SUB-DISTRICT

(A) Avigation Easement. When a subdivision plan or partition is required for any property within the AIO Sub-District, the property owner shall dedicate an avigation easement to the City over and across that property. The easement shall hold the City, public and airfield, harmless from any damages caused by noise, fumes, dust, fuel, fuel particles, or other effects that may be caused by the operation of aircraft taking off, landing, or operating on or near the airfield, not including the physical impact of aircraft or parts thereof.

(B) Notification of Buyers. No person shall sell, nor offer for sale, any property within the AIO Sub-District unless the prospective buyer has been notified of the fact that the property is within the AIO Sub-District. When property ownership is transferred, the property deed shall be amended to note that the property is within the Airport Industrial Overlay Sub-district.

(C) **Agree to Noise Abatement.** No person shall sell, nor offer for sale, any property within the AIO Sub-District unless the prospective buyer agrees to follow Aircraft Owners and Pilots Association (AOPA) standard noise abatement procedures, or the most recent noise abatement procedures established at the airport.

(D) **CC&Rs:** The applicant for a subdivision or design review in the AIO Sub-District in the shall provide a copy of the CC&Rs in conformance to the requirements listed above.

151.498.5 CONVERSION OF PROPERTY TO THE AIRPORT INDUSTRIAL DISTRICT

Property within the Airport Industrial Overlay Sub-district may be converted to the Airport Industrial District at the request of the applicant concurrent with and through the approval of a subdivision with the Airport Industrial Overlay Sub-district. Property may also be converted to the Airport Industrial District through the zone change process 151.122

151.498.6 CONFORMANCE WITH THE AIRPORT OVERLAY (AO) SUB-DISTRICT

All uses, activities, facilities and structures allowed in the Airport Industrial District and Airport Residential District shall comply with the requirements of the Airport Overlay (AO) Sub-District. In the event of a conflict between the requirements of these Districts and those of the Airport Overlay (AO) Sub-District, the requirements of the overlay sub-district shall control.

151.536 BUILDING HEIGHT LIMITATION.

(B) Commercial and industrial:

(2) In the AI, C-2, C-3, M-1, M-2, and M-3 Districts there is no building height limitation, except when said districts abut upon a residential district, the maximum permitted building height shall not exceed the maximum building height permitted in the abutting residential district for a distance of 50 feet from the abutting boundary.

151.550 GENERAL YARD REGULATIONS

Add:

(F) In the Airport Industrial District clear areas, safety areas, object free areas, taxiways, parking aprons, and runways may be counted as required yards for a building, even if located upon an adjacent parcel.

151.551 FRONT YARD SETBACK

(C) *Industrial.* All lots or development sites in the M-1, M-2 or M-3 Districts shall have a front yard of 20 feet. **Lots or development sites in the AI District shall have a front yard of 10 feet.**

151.552 INTERIOR YARD SETBACK

(C) *Industrial*. All lots or development sites in the **AI**, M-1, M-2 and M-3 Districts shall have no interior yards where said lots or development sites abut property lines of commercially or industrially zoned property. When interior lot lines of said districts are common with property zoned residentially, interior yards of not less than ten feet shall be required opposite the residential districts.

151.565 LOT AREA; LOT AREAS PER DWELLING UNIT.

(A)(2) In the **AI**, R-2, R-3, RP, C-1, C-2, and C-3 Districts, each lot or development site shall have a minimum of 5,000 square feet or as may be established by a sub-district.

151.567 LOT DIMENSIONS AND FRONTAGE.

(D) Frontage.

(1) No lot or development site shall have less than the following lot frontage standards:

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

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

151.580 REQUIRED MINIMUM STANDARDS (LANDSCAPING)

(B) *Required landscaped area*. The following landscape requirements are established for all developments except single family dwellings.

(1) A minimum of 15% of the lot area shall be landscaped; provided however, that computation of this minimum may include areas landscaped under subdivision (3) below. Development in the C-3 (Central Business District) Zoning District is exempt from the 15% landscape area requirement of this section. Additional landscaping requirements in the C-4 District are described in § 151.527.4(K) of this code. **In the Airport Industrial (AI) District only a 5% landscaping standard is required with the goal of “softening” the buildings and making the development “green” with plants where possible. The existence of the runway, taxiway, and approach open areas already provide generally for the 15% requirement. Developments in the Airport Industrial (AI) District with a public street frontage shall have said minimum landscaping between the front property line and the front of the building.**

151.612 **PARKING SPACES REQUIRED.**

[Add to Table under Industrial Types:]

Use: **Aircraft Storage Hangars up to 3,600 sq. ft. each enclosed hangar area**

Parking Space Required: **none (parking occurs in hangar)**

Use: **Aircraft Storage Hangars over 3,600 sq. ft. each enclosed hangar area**

Parking Space Required: **1 for every 700 sq. ft. of hanger area over 3,600 sq. ft.**

Use: **Aircraft Hangars intended for repair and maintenance operations**

Parking Space Required: **1 for each 5,000 sq. ft. of hangar, plus 1 for each 500 sq. ft. of shop area, plus 1 for each 400 sq. ft. of office area.**

151.617 **OFF-STREET LOADING.**

(A) Buildings to be built or substantially altered which receive and distribute materials and merchandise by trucks shall provide and maintain off-street loading berths in sufficient number and size to adequately handle the needs of the particular use.

(4) Where a facility includes an aircraft hangar, the off-street loading requirement is not required since loading may occur through the hangar doors.

APPENDIX B

AIRPORT RESIDENTIAL (AR) DISTRICT &
AIRPORT RESIDENTIAL OVERLAY (ARO) SUB-DISTRICT

June 5, 2006

CITY OF NEWBERG DEVELOPMENT CODE LANGUAGE

[**“Bold”** text indicates added language, ~~“strike through”~~ text indicates deleted language, and “normal” text indicates existing language to remain.]

Part 13.3 AIRPORT RESIDENTIAL (AR) DISTRICT

151.449.1 DESCRIPTION AND PURPOSE.

The purpose of the City of Newberg Airport Residential (AR) District is to encourage and support the continued operation and vitality of Sportsman Airpark and to take advantage of the transportation options it provides by allowing airport-related residential uses. Maximum overall density shall be 8.8 units per gross acre.

151.449.2 PERMITTED BUILDINGS AND USES

(A) In the Airport Residential (AR) District, the following buildings and uses are permitted: as hereinafter specifically provided.

(B) The buildings and uses are subject to the general provisions and exceptions set forth in this code:

- (1) Residential Airpark Development, meaning one residence per lot with addition of a tiedown or hangar for an airplane. At a minimum, a paved tiedown or hangar shall be provided on the property, or the property shall include permanent rights to a private hangar within a subdivision.**
- (2) Accessory uses and structures:**
- (3) Aircraft Hangar. No aircraft hangar shall be constructed on any parcel or lot without a residential dwelling, except if it is provided with permanent rights to a nearby airpark residence as per (a) above. An aircraft hangar cannot be used as a residence.**
- (4) Customary and usual aviation-related activities, including but not limited to takeoffs and landings; construction and maintenance of airport facilities; and other activities incidental to the normal operation of an airport.**
- (5) Greenways, including but not limited to bicycle and pedestrian paths.**
- (6) Public and semi-public buildings, structures and uses that provide necessary services to an airport, such as fire stations, pump stations and water storage.**

- (7) **Transportation facilities and improvements**
- (8) **Private streets that function as taxiways are allowed in the AR District and may include gates with designs approved by the Fire Marshal, at the limit of the taxiways.**

Part 13.4 AIRPORT RESIDENTIAL OVERLAY (ARO) SUB-DISTRICT

151.449.4 Purpose

The Airport Residential Overlay (ARO) Sub-District is intended to support the continued operation and vitality of Sportsman Airpark by addressing potential land use conflicts with adjacent residential development. It also addresses how properties in the area could be converted to Airport Residential District.

151.449.5 NOTICES AND RESTRICTIONS REQUIRED FOR DEVELOPMENT WITHIN THE AIRPORT RESIDENTIAL OVERLAY (ARO) SUB-DISTRICT

- (A) **Avigation Easement.** When a subdivision plan or partition is required for any property within the ARO Sub-District, the property owner shall dedicate an avigation easement to the City over and across that property. The easement shall hold the City, public and airfield, harmless from any damages caused by noise, fumes, dust, fuel, fuel particles, or other effects that may be caused by the operation of aircraft taking off, landing, or operating on or near the airfield, not including the physical impact of aircraft or parts thereof.
- (B) **Notification of Buyers.** No person shall sell, nor offer for sale, any property within the ARO Sub-District unless the prospective buyer has been notified of the fact that the property is within the ARO Sub-District. When property ownership is transferred, the property deed shall be amended to note that the property is within the Airport Residential Overlay Sub-district.
- (C) **Agree to Noise Abatement.** No person shall sell, nor offer for sale, any property within the ARO Sub-District unless the prospective buyer agrees to follow Aircraft Owners and Pilots Association (AOPA) standard noise abatement procedures, or the most recent noise abatement procedures established at the airport.
- (D) **CC&Rs:** The applicant for a subdivision or design review in the ARO Sub-District in the shall provide a copy of the CC&Rs in conformance to the requirements listed above.

151.449.6 Density Transfer Allowances within the ARO Sub-district

Due to the complexity and intermixing of roads, taxiways, and constructing hangars in an airport residential district, properties within the district may not be able to be developed to the density otherwise allowed. Thus, the applicant for a subdivision or partition within the ARO district may transfer allowed dwelling unit density to other property within the ARO Sub-district and reduce minimum lot sizes such that the overall dwelling density complies with that of a conventionally developed R-2 zoned property.

Lot coverage may be calculated using the entire site area of both the donor and recipient area, excluding public and private street and alley areas. The following dimensional requirements shall be applicable in the R-2 District in order to accommodate the density transfer provision of this Section: front yard setback – 10 feet; Garage front yard setback – 18 feet; interior yard setback – 3 feet; Non-alley rear yard setback – 5 feet; Alley rear yard setback – 3 feet. Maximum lot depth to lot width ratio is 3:1. The minimum lot width shall be 28 feet.

151.449.7 CONVERSION OF PROPERTY TO THE AIRPORT RESIDENTIAL (AR) DISTRICT

Property within the Airport Residential Overlay (ARO) Sub-district may be converted to the Airport Residential (AR) District at the request of the applicant concurrent with and through the approval of a subdivision with the Airport Residential Overlay (ARO) Sub-district. Property may also be converted to the Airport Residential (AR) District through the zone change process 151.122

151.536 BUILDING HEIGHT LIMITATION.

(A) Residential:

(1) In the R-1, R-2, **AR**, and RP Districts, no main building shall exceed two and one-half stories, or 30 feet in height, whichever is lesser. Accessory buildings in the R-1, R-2, R-3, AR, and RP Districts are limited to one story, or 16 feet in height, whichever is lesser, **except that aircraft hangars in the AR District may be the same as the main building.**

151.550 GENERAL YARD REGULATIONS

Add:

(G) In the Airport Residential (AR) District clear areas, safety areas, object free areas, taxiways, parking aprons, and runways may be counted as required yards for a building, if located upon an adjacent parcel.

151.551 FRONT YARD SETBACK

(A) *Residential (Figure X).*

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

151.552 INTERIOR YARD SETBACK

(A) *Residential.*

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

151.556 YARD EXCEPTIONS AND PERMITTED INTRUSIONS INTO REQUIRED YARD SETBACKS

(G) Hangars within the Airport Residential (AR) District may be constructed with no yard setbacks to property lines adjacent to other properties within the Airport Residential or Airport Industrial Districts.

151.565 LOT AREA; LOT AREAS PER DWELLING UNIT

(A) In the following districts, each lot or development site shall have an area as shown below except as otherwise permitted by this code.

(1) In the R-1 District, each lot or development site shall have a minimum area of 7,500 square feet or as may be established by a sub-district.

(2) In the **AR**, R-2, R-3, RP, C-1, C-2, and C-3 Districts, each lot or development site shall have a minimum of 5,000 square feet or as may be established by a sub-district.

(B)(2) In the R-2, **AR**, and R-P Districts, there shall be a minimum of 3,750 square feet of lot or development site per dwelling unit.

151.567 LOT DIMENSIONS AND FRONTAGE.

(D) Frontage.

(1) No lot or development site shall have less than the following lot frontage standards:

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

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

(c) Each lot in an AR Zone shall have a minimum width of 45 feet at the front building line.

151.568 LOT COVERAGE AND PARKING COVERAGE REQUIREMENTS.

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

(1) Maximum lot coverage.

(a) R-1: 30%.

(b) R-2 and RP: 40%.

(c) **AR and R-3:** 50%.

151.580 REQUIRED MINIMUM STANDARDS (LANDSCAPING)

(A) *Private and shared outdoor recreation areas in residential developments.*

(3) In the Airport Residential (AR) District a 5% landscaping standard is required with the goal of “softening” the buildings and making the development “green” with plants where possible. The existence of the runway, taxiway, and approach open areas already provide generally for the 15% requirement.

Appendix C: General Development Code Language Amendments

Section 151.003 DEFINITIONS

[“**Bold**” text indicates added language and “normal” text indicates existing language to remain.]

AVIGATION EASEMENT. A property right acquired from a land owner that grants the right-of-flight; the right to cause noise, etc., related to aircraft flight; the right to restrict or prohibit certain lights and electromagnetic signals; the right to unobstructed airspace over the property above a specified height.

CLEAR AREA. A land area required to be clear of obstructions per FAA regulations for airports and airspace.

HANGAR. A building for storage and maintenance of aircraft.

OBJECT FREE AREA. An area on the ground centered on a runway or taxiway centerline provided to enhance the safety of aircraft operations by having the area free of objects, except for objects that need to be located in the OFA for air navigation or aircraft ground maneuvering purposes.

PARKING APRON. A paved or grass area intended for parking aircraft.

RUNWAY. A defined rectangular surface on an airport prepared or suitable for the landing or takeoff of airplanes.

SAFETY AREA. A defined surface surrounding the runway prepared or suitable for reducing the risk of damage to airplanes in the event of an undershoot, overshoot, or excursion from the runway.

TAXIWAY. A defined path established for the taxiing of aircraft from one part of an airport to another.

151.538 PUBLIC ACCESS REQUIRED.

No building or structure shall be erected or altered except on a lot fronting or abutting on a public street or having access to a public street over a private street or easement of record approved in accordance with provisions contained in this code. New private streets may not be created to provide access **except as allowed under 151.449.2(B)(8) and 151.498.1(B)(24)**. Existing private streets may not be used for access for new dwelling units, except as allowed under 151.567. No building or structure shall be erected or altered without provisions for access roadways as required in the Uniform Fire Code, as adopted by the city.

151.567 LOT DIMENSIONS AND FRONTAGE.

(2) The above standards apply with the following exceptions:

(a) Legally created lots of record in existence prior to the effective date of this code.

(b) Lots or development sites which as a process of their creation, were approved with sub-standard widths in accordance with provisions of this code.

(c) Existing private streets may not be used for new dwelling units, except private streets that were created prior to March 1, 1999, including paving to fire access roads standards and installation of necessary utilities, **and private streets allowed in the Airport Residential and Airport Industrial Districts.**

151.581 LANDSCAPING AND AMENITIES IN PUBLIC RIGHTS-OF-WAY.

D. Exception. In the Airport Industrial (AI) District and Airport Residential (AR) District, no landscape or amenities except for grass are required for any area within 50 feet of aircraft operations areas including aircraft parking areas, taxiways, clear areas, safety areas, object free areas, and the runway.

151.611 PARKING AREA AND SERVICE DRIVE DESIGN.

Add:

(C) In the Airport Industrial (AI) District and Airport Residential (AR) District, taxiways may be used as part of the service drive design where an overall site plan is submitted that shows how the circulation of aircraft and vehicles are safely accommodated, where security fences are located, if required, and is approved by the Fire Marshal, Planning Director, and Public Works Director. The following submittal must be made:

(1) A drawing of the area to be developed, including the probable location, height, and description of structures to be constructed; the location and description of a security fence or gate to secure the aircraft operations areas of off-airport property from the other non-secured pedestrian/auto/truck areas of on-airport property; the proposed location of the proposed taxiway access in accordance with FAA specifications; (Refer to Federal Aviation Administration Advisory Circular No. 150/5300-13, regarding Airport Design, and AC/5370-10B regarding Construction Standards for specifications that should be used as a guideline); and the identification of the vehicular traffic pattern area clearly separated from aircraft traffic. Once specific buildings have been designed, FAA Form 7460-1, Notice of Proposed Construction or Alteration, must be submitted to the City of Newberg, the private airport owner, and the FAA for airspace review.

151.620.2 WHERE REQUIRED (ON-SITE WALKS)

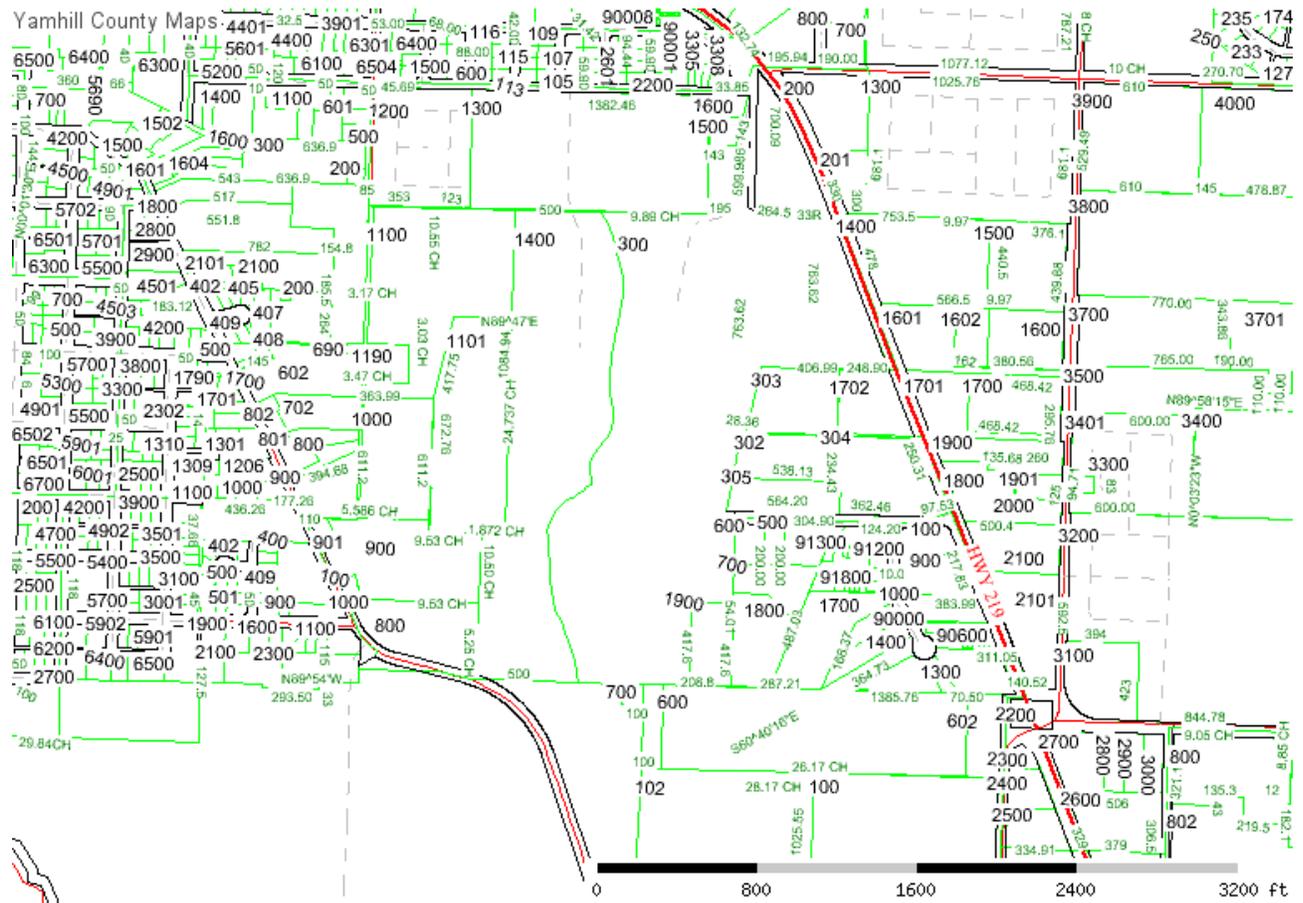
Private walkways shall be constructed as part of any development requiring Type II design review, including mobile home parks. In addition, they may be required as part of conditional use permits or planned unit developments. **In the Airport Industrial (AI) District and Airport Residential (AR) District, on-site walks are not required in aircraft operations areas, such as parking aprons, taxiways, and runways.**

Appendix D: Yamhill County Existing GIS Property Data

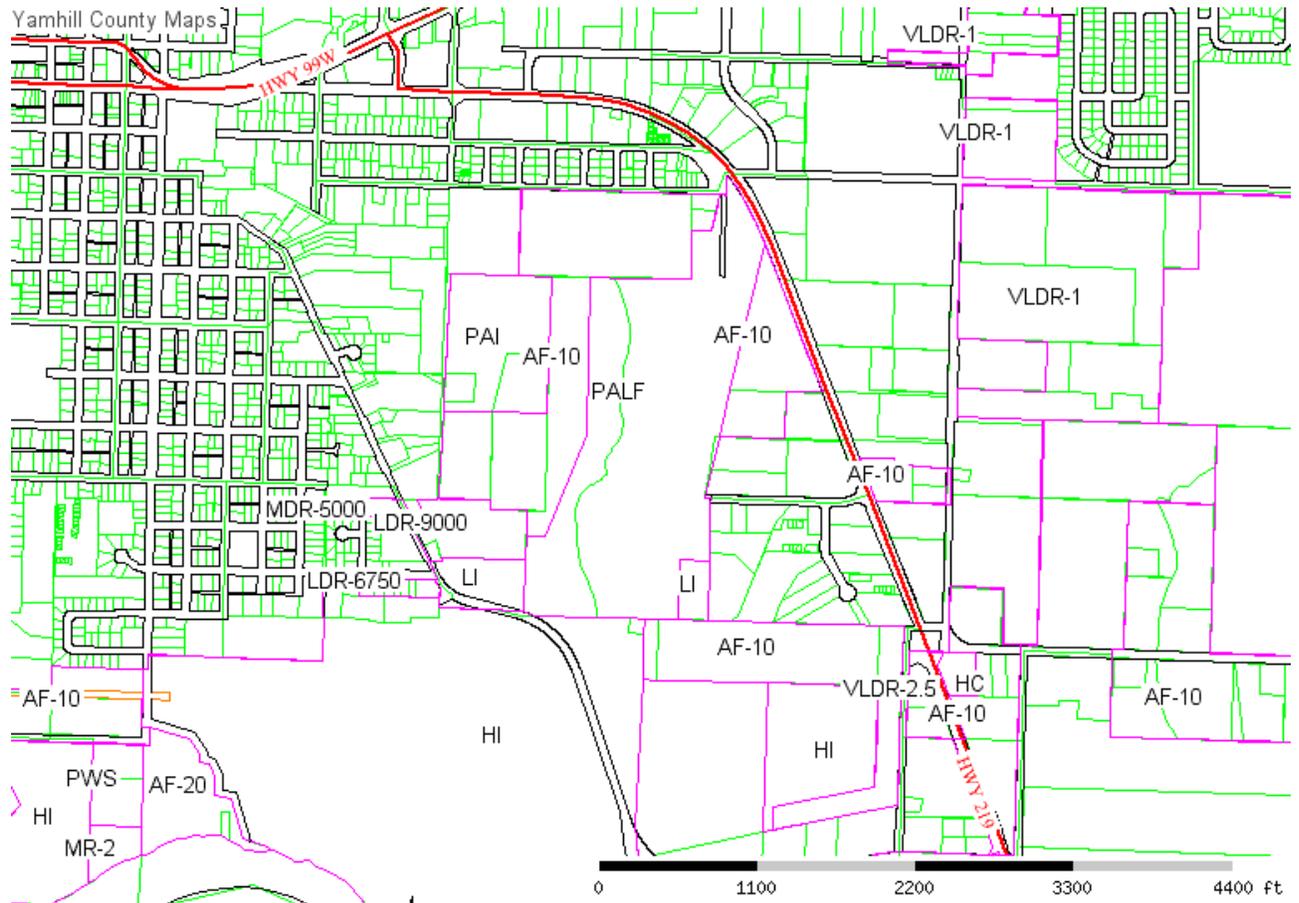
Attached is the following information:

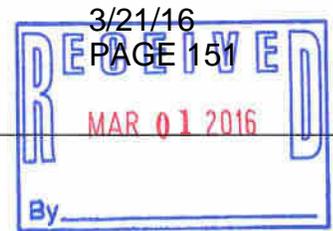
- Tax Map
- Zoning Map
- Property Values
- Spreadsheets and Graphs concerning Future Values

Tax Lot Map



Zoning





Oregon Aviation Plan 2014
Version OR 3.1 4/10/14.

Airport Role in Economy

Airport: Sportsman Airpark
Airport Code: 2S6

Evaluated for Year: 2012

County: Yamhill

Activity Data

Total Commercial Operations:	0
Total Commercial Enplanements:	0
Total Commercial Visitors:	0
Total GA Operations:	7,894
Total GA Passengers:	7,894
Total GA Visitors:	7,894
Total Military Operations:	0

Region: Willamette Valley and Coast

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On-going Contribution to the Regional and State Economies

	Jobs		Wages		Business Sales	
	Local	State	Local	State	Local	State
Direct Effects of On Airport Activities and Visitor Spending						
1. On Airport (incl. FBO and air related tenants)	46	46	\$3,067,000	\$3,067,000	\$12,052,000	\$12,052,000
2. Off-Airport: Visitor Spending	12	12	\$240,000	\$240,000	\$788,000	\$788,000
Total Direct	58	58	\$3,307,000	\$3,307,000	\$12,840,000	\$12,840,000
Spin-off Effects: Supplier and Income Re-spending						
3. Due to On Airport Aviation	69	81	\$2,124,000	\$2,831,000	\$7,318,000	\$9,862,000
4. Due to Visitor Spending	4	5	\$136,000	\$181,000	\$419,000	\$574,000
Total Spin-off	73	86	\$2,260,000	\$3,012,000	\$7,737,000	\$10,436,000
Total Airport Aviation Related Impacts	131	143	\$5,567,000	\$6,319,000	\$20,577,000	\$23,276,000
Total Airport Generated Impacts - Not Aviation						
5. On Airport Non-aviation Activities	0	0	\$0	\$0	\$0	\$0
6. Spin-offs due to Non-aviation Activities	0	0	\$0	\$0	\$0	\$0
Total Airport Non-aviation Impacts	0	0	\$0	\$0	\$0	\$0
Total Aviation and Non-aviation Related	131	143	\$5,567,000	\$6,319,000	\$20,577,000	\$23,276,000
Regional Off-Airport Aviation Dependent Business Activity						
7. Direct Business Activity	4,717	4,717	\$310,238,000	\$310,238,000	\$1,319,304,000	\$1,319,304,000
8. Spin-offs due to Dependent Activity	5,586	7,552	\$222,057,000	\$352,528,000	\$629,692,000	\$991,227,000
Total Off-airport Aviation Dependent Activity	10,303	12,270	\$532,295,000	\$662,766,000	\$1,948,996,000	\$2,310,531,000

Note: Regional Off-airport Aviation Dependent Business Activities account for business activity in the region that rely on aviation for business travel and cargo, and do not reflect a specific airport.

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Economic Impact Analysis

The 2014 Update focuses on the Economic Impact Study that was completed as part of the Oregon Aviation Plan 2007. The Economic Impact Study Update (Update) was conducted to determine the value of the Oregon Aviation System. The Update includes fifty-seven Oregon airports listed in the National Plan of Integrated Airport Systems (NPAIS). The economic impact analysis of airports in Oregon was developed for each airport, measuring economic impacts of airport facilities, within regions and throughout the state. This study used the five regions of *ConnectOregon* to measure local/regional economic impacts of airports and for dependent non-aviation businesses.

Total economic impacts are the sum of on-airport economic activities, off-airport spending by visitors who arrive by air, and spin-off impacts (multiplier effect). Airport impacts are provided by region and state to show the contribution of each airport to the regional and state economies. In addition, aviation dependent impacts are provided by region to show the importance of airports in each region to non-aviation businesses. All impacts reported represent a base year of 2012. Each type of impact is defined in the following paragraphs.

On-Airport direct impacts represent economic activities that occur on airport grounds. Aviation related activities are those that would not occur without the airport, such as airlines, fixed base operators (FBO), government, and other tenants located at the airport or directly dependent on the airport. This category also includes airport management and other individuals employed directly by the airport, as well as retail and service operations for passengers, pilots, and other airport employees. In some cases, airports provide land or building space for companies that are not affiliated with aviation. These tenants are not related to the aviation mission of the airport, but are using the facility as a convenient and affordable business or industrial parks.

Off-Airport visitor spending (Direct Impacts) are expenditures made by air travelers who are visiting from outside the region, and occurs off the airport, in the regional economy. Visitor spending includes lodging, food, entertainment, retail purchases and ground transportation (retail purchases and on-airport car rentals are captured by on-airport impacts). Visitor spending is analyzed for commercial passengers as well as for general aviation pilots and passengers. Visitors flying into Oregon from another state or nation contribute to the airport's regional economy as well as to the state. However, passengers flying within Oregon, from one region to another, contribute to the region of their destination airport, but are not bringing additional money into Oregon. Therefore, in regions with air carrier airports, the direct impact of visitor spending for the region is higher than the impact of visitor spending for the state.

Airport dependent impacts represent area businesses that are dependent on an airport for incoming and outgoing, and for business travel. These businesses may relocate or suffer substantial loss if the airport were not available. This impact is not included in traditional economic impact methodology and is analyzed and reported by region for this study. Thus the economic dependence of a region on aviation represents the cumulative impacts of all airports within a region. The analysis is provided as an indicator of the importance of airports to regional economies.

Spin-off impacts (Multiplier Affect) are calculated using impact multipliers, which are used to reflect the recycling of dollars through both the regional and state economy. A dollar spent in the economy does not disappear; rather, it continues to move through the local economy in successive rounds until it is incrementally exported from the community. As the expenditures described above are released into the economy, they circulate among other industry sectors, creating successive waves of additional economic benefit in the form of jobs, payroll, and output (expenditures). These successive rounds of spending are known as spin-off impacts, and help to represent the full impact of each dollar spent in a region. An example would be an airport employee spending his or her salary for housing, food, and other services. Spending occurring outside the area is considered economic leakage and is not reflected in the multiplier. Spin-off impacts are often reported as indirect and induced impacts. Indirect impacts reflect the purchase of goods and services by businesses. Induced impacts reflect worker making consumer purchases.

The project team analyzed the economic contributions of 57 airports under the jurisdiction of the Oregon Department of Aviation (ODA) that are part of the NPIAS. The Port of Portland commissioned a separate economic impact study of Portland International Airport which is included by reference. The sum of economic impacts derived from the 2012 Update and the 2011 Port of Portland study account for economic impacts generated by the NPIAS airports in Oregon.

Contribution of Airports to the Economy of Oregon

As shown in **Table 1**, NPIAS airports in Oregon contributed a total economic impact of \$9.1 billion to the state economy, including \$3.6 billion from NPIAS airports and \$5.5 billion from Portland International Airport.

Additional study highlights include:

- Oregon's NPIAS airports (excluding PDX), including airport tenants, directly employ 7,700 people for aviation related activities and expend \$495 million in wages. PDX supports an additional 16,300 jobs and \$922 million in wages.
- Oregon's NPIAS airports' (excluding PDX) employees and tenants earned an average annual salary \$64,500 per year for aviation activities, including jobs related to administrating and maintaining airport facilities, servicing air carriers and GA aircraft, and providing terminal services to passengers, as well as to air crews and other employees.
- 5,000 jobs across the state are directly attributed to visitor spending at Oregon's NPIAS airports (excluding PDX).
- Air cargo and business travel services directly contribute \$8 billion to the state economy by enabling long distance business sales of goods and services produced in Oregon. The value of instate productivity supported by aviation supports more than 23,700 jobs to State residents.

*Sportsman Airpark – Individual Airport Report***Table 1 2012 Economic Contribution of Airports to the Oregon Economy**

	Jobs	Wages	Business Sales
Direct Effects of ODA On-Airport Aviation Activities and Visitor Spending			
On-Airport, including aviation-related tenants	7,677	\$494,920,000	\$1,680,058,000
Off-Airport: visitor spending	4,938	\$102,187,000	\$342,540,000
Subtotal of Direct Effects From ODA Airports	12,615	\$597,107,000	\$2,022,598,000
ODA Spin-off Effects of Supplier and Income Re-spending			
Due to On-Airport Aviation	11,193	\$365,742,000	\$1,351,803,000
Due to Visitor Spending	2,054	\$80,250,000	\$250,918,000
Subtotal of Spin-off Effects	13,247	\$445,992,000	\$1,602,721,000
Total ODA Airport Aviation Related Impacts	25,862	\$1,043,099,000	\$3,625,319,000
Portland International Airport Totals			
Airport Generated	16,308	\$922,000,000	\$3,725,000,000
Visitor Generated	35,963	\$1,020,400,000	\$1,752,700,000
Total Impact Portland International Airport	52,271	\$1,942,500,000	\$5,477,700,000
Grand Total – NPIAS Airports	76,711	\$2,811,790,000	\$8,721,948,000

Source: Airport and Tenant Surveys, EDR Group and Mead & Hunt Analyses, IMPLAN econometric package.

Note: Numbers may not add due to rounding.

Comparisons of 2007 and 2012 Studies

The 2007 and 2012 studies bracketed the severe national downturn that began in late 2008, and for which the effects are still being felt in states and communities across the United States. From 2007-2012 the Oregon gross state product increased in real terms by 15% but worker earnings fell by 2% and the number of jobs fell by 3%. Together, these data indicate that productivity per job of Oregon workers has increased, meaning on average it takes more economic activity to create a job and generate wages to those who are working.

Significant economic changes are also seen in air cargo. The International Trade Administration of the U.S. Census Bureau traces annual value and metric tonnage of international air exports from point of origin as well as by airport. (Unfortunately, no such data set is available for domestic cargo shipments.) Tonnage has decreased by 27% for goods produced in Oregon and shipped from Oregon airports (primarily Portland International Airport), while the value of Oregon generated goods has increased by 63% in constant value. Thus, less production is needed to sustain overall value across commodities. For domestic cargo shipments, PDX reported 127,890 tons enplaned in 2007 and 91,480 tons in 2012, a decrease of 28%.

The scopes of the 2007 and 2012 studies have two major differences. The first difference is in the airports that are covered by the two studies. The 2007 study encompassed all 93 public use airports in the state of Oregon, other than those operated by the Port of Portland. In contrast the 2012 study is limited to 56 NPIAS airports (National Plan for Integrated Air Service; NPIAS designation is by the Federal Aviation Administration). Three airports, Wasco State Airport, Hillsboro Airport and Troutdale airport are part of the 2012 study but were not included in the 2007 effort. Thus, 53 airports are in common in the two studies.

The second difference is that on-airport impacts counted in the 2007 studies included both aviation related and non-aviation related tenants, although these were separated when impacts were reported. The 2012 study is limited to aviation related tenants. A comparison of the 2007 and 2012 studies is shown in **Table 2**.

Table 2 Aviation impact comparison: 2007 vs. 2012 (in 2012 dollars) for 53 NPIAS airports

Impact Type	Jobs		Wages (thousands)		Business Sales (thousands)	
	2007	2012	2007	2012	2007	2012
On Airport tenants	7,287	6,774	\$301,970	\$417,349	\$953,175	\$1,445,103
Off Airport Visitor Spending	6,945	4,434	\$120,299	\$89,221	\$377,978	\$304,029
Subtotal Direct Contribution	14,232	11,208	\$422,269	\$422,269	\$1,331,153	\$1,749,132
Tenant Spin Off	12,033	9,836	\$352,319	\$309,185	\$1,018,264	\$1,173,627
Visitor Spending Spin Off	3,153	1,845	\$92,081	\$70,353	\$357,883	\$223,355
Subtotal Spin Off	15,186	11,681	\$444,400	\$379,538	\$1,376,148	\$1,396,982
Total Aviation Impacts	29,418	22,889	\$866,669	\$886,108	\$2,707,300	\$3,146,114
Reliant/Dependent Impacts	91,645	75,984	\$4,211,110	\$4,680,386	\$17,446,481	\$15,500,260

Sportsman Airpark – Individual Airport Report

As shown in **Table 3**, it took 49% more business sales to generate a job in 2012 than in 2007, and workers were paid 31% more for the increase in productivity. For economic activities reliant on Oregon's NPIAS airports, labor productivity rose by 7% and wages were 34% higher, but as discussed above less cargo was moved and value per ton increased. Following **Table 3** is a summary entitled *Airport Role in Economy*, which illustrates the individual airport economic impact.

Table 3 Productivity analysis-change in wage and sales per job 2007 vs. 2012 (in 2012 dollars)

Impact Type	Wages per Job		Output per Job		% Change Wage	% Change Output
	2007	2012	2007	2012		
Total Aviation Related Impacts	\$29,461	\$38,713	\$92,029	\$137,451	31%	49%
Air Reliant/Dependent impacts	\$45,950	\$61,597	\$190,371	\$203,994	34%	7%



**AGREEMENT
BETWEEN THE
CITY OF SANTA PAULA
AND
SANTA PAULA AIRPORT ASSOCIATION, LTD.**

THIS AGREEMENT is made and executed this 21st day of August, 2007, between the CITY OF SANTA PAULA, a municipal corporation and general law city ("City"), and SANTA PAULA AIRPORT ASSOCIATION, LTD., a California Corporation (Corporation No. C0138612; "SPAA").

1. **RECITALS.** This Agreement is made with reference to the following facts and objectives:

A. SPAA owns approximately 45.52 acres of real property located within City's jurisdiction, directly adjacent to the Santa Clara River. That real property is identified in attached Exhibit "A" and incorporated by reference ("Property");

B. The United States Department of Transportation-Federal Aviation Administration's ("FAA") Airport Development Rights Pilot Program ("Program") was created for the purpose of buying development rights at privately-owned airports that are open to the public to preclude loss of the property as a public airport in accordance with 49 U.S.C. § 47138;

C. Under the Program, a "public use airport" is a privately-owned airport open to the public; "sponsors" are pilot program grantees buying development rights from private airport owners to preserve public-use airports;

D. The intent of the FAA in administering the pilot program is to encourage the sale of airport development rights that would contribute to the safe and efficient use of airports;

E. SPAA operates an airport that could be under pressure to convert airport land for higher land development uses;

F. On May 7, 2007, the City Council adopted Resolution No. 6404 which, among other things, set forth City's agreement to become a sponsor for the Program and the conditions upon which such commitment was based;

G. As the sponsor, City would use the program grant proceeds to purchase the development rights of the Santa Paula Airport and enter into a restrictive covenant that ensures the continued public airport operation ("Property Easement"); and

H. It is in the public interest to purchase the Property Easement because operating the airport contributes, among other things, to the public welfare of the community by sustaining economic and tourism activities.

2. **PHYSICAL CONDITION; PROPERTY "AS IS."** City acknowledges that it had the opportunity to enter onto and fully investigate the condition of the Property. Accordingly, City certifies that it is familiar with the Property and its physical aspects, conditions and characteristics. City understands and agrees that any interest in the Property would be conveyed "AS IS"; other than as expressly provided in this Agreement, SPAA has not made or given, and does not make or give, any representations or warranties whatever (oral, written, express or implied) respecting any physical aspects, conditions or characteristic of the Property or its suitability for use.

3. **TITLE.** If an interest in the Property is conveyed to City in the manner contemplated by this Agreement, SPAA will provide City with a grant deed for such interest the Property. City agrees that such a deed will satisfy its requirements for real property conveyances.

4. **CITY'S CONDITIONS PRECEDENT.** The Parties understand and agree that the following are conditions precedent to City's obligations set forth in this Agreement. SPAA's acquiescence to these conditions precedent is a material inducement for City entering into this Agreement and, accordingly, if these conditions are not fulfilled, City may terminate this Agreement upon written notice to SPAA within one (1) year following its full execution:

A. City must review the impact of the proposed Property conveyance in accordance with the California Environmental Quality Act (Public Resources Code §§ 21000, *et seq.*, "CEQA"), the regulations promulgated thereunder (14 Cal. Code of Regulations §§15000, *et seq.*, the "CEQA Guidelines"), and City's Environmental Guidelines ("Santa Paula Guidelines"; CEQA, CEQA Guidelines and Santa Paula Guidelines collectively referred to as "CEQA Regulations");

B. Within one (1) year after this Agreement is executed, the City Council must determine either (i) that the Property Easement should be acquired pursuant to the Program; or (ii) that the Property Easement should not be acquired; and

C. The City Manager must separately approve conveyance of the Property to City after making the determinations set forth above and in accordance with Resolution No. 6404 as adopted by the City Council on May 7, 2007.

5. **SPAA'S OBLIGATIONS.** In addition to conveying the Property Easement as described in this Agreement and reimbursing City for all costs associated with this Agreement, SPAA must ensure the following:

A. In accordance with Resolution No. 6404, City must receive monies from a third-party source so that it can provide matching funds required by the Program to obtain FAA grant monies;

B. SPAA must immediately (within 24 hours after an event) inform City and the FAA regarding its inability to operate the Property as an airport whether for

reasons of natural disaster, financial inability, or otherwise; and

C. In accordance with the terms and conditions of the Program, and as will be set forth in the Property Easement, operate the Property as a public use airport in perpetuity.

D. In accordance with the requirements of the FAA, and so that City is not required by the FAA to assume any obligations for the operation of the Property, SPAA must operate and maintain the Property in a safe manner. For purposes of this Subsection, SPAA and City agree that "safe manner" means operation and maintenance in compliance with all rules, regulations and permit or license conditions imposed upon SPAA by the Division of Aeronautics of the California Department of Transportation and other applicable law.

6. CONVEYANCE; DESCRIPTION OF PROPERTY. Subject to the conditions precedent set forth above and the terms and conditions otherwise found within this Agreement, SPAA agrees to convey an easement in the Property to City in consideration of City's payment to SPAA for the easement as set forth in this Agreement and the Program. City agrees to cooperate with SPAA in the event that SPAA elects to convey the easement to City and receive City's payment subject to a tax-deferred exchange pursuant to Internal Revenue Code § 1031 and applicable provisions of the California Revenue and Tax Code ("1031 Exchange"). Whether or not to exercise the 1031 Exchange is at SPAA's sole discretion. If SPAA uses the 1031 Exchange, it must be at no cost to City. Such conveyance is anticipated to occur within three (3) months after the date of full execution of this Agreement (the "Closing Date"). The closing of the sale of the Property Easement to City pursuant to this Agreement (the "Closing") may, at the option of the Parties, be accomplished through an escrow with a Title Company (the "Escrow"). SPAA will pay all costs of escrow.

7. CONVEYANCE OF AFTER-ACQUIRED PROPERTY. City is advised that SPAA is in the process of negotiating a boundary adjustment and Parcel Map Waiver with The Nature Conservancy, a District of Columbia non-profit corporation, which owns adjoining property. In the event that such boundary adjustment and Parcel Map Waiver becomes effective after the recording of the grant deed described in Section 3, above, upon the recording of such Parcel Map Waiver SPAA must immediately convey to City the Property Easement described herein with respect to any additional real property of which SPAA becomes the owner of record as the result thereof.

8. REPRESENTATIONS AND WARRANTIES OF SPAA. SPAA represents and warrants to City as follows, which representations and warranties (i) are to SPAA's actual knowledge without the duty to investigate and (ii) are deemed given as of the date of this Agreement and again as of the Closing Date: Except as otherwise disclosed to City pursuant to this Agreement or in the Preliminary Report:

A. There are no existing violations of any applicable law, court order, or other government directive with respect to the Property;

B. There are no legal proceedings that are pending or threatened with respect to the ownership or operation of the Property;

C. There are no unsatisfied mechanics' or materialmen's lien rights concerning the Property;

D. There is no pending or threatened action in condemnation which has as a goal of acquiring all or any part of the Property;

E. There are not, and have not been, any substances released or located on, under or relevantly adjacent to the Property whose nature and/or quantity of existence, use, manufacture, disposal or effect render them subject to federal, state or local regulation, investigation, remediation or removal as potentially injurious to public health or welfare ("Hazardous Materials"), nor has any enforcement, clean-up, removal or other governmental or regulatory action been instituted or threatened with respect to Hazardous Materials located on, under or adjacent to the Property, except as follows: There previously existed on the Property approximately 40 underground fuel tanks, all of which have been removed, and the area surrounding them remediated under the supervision of the Environmental Health Division of the Resource Management Agency of Ventura County and in accordance with applicable state and federal law and regulation. Attached hereto, labeled Exhibit "B", and incorporated herein is a summary of such removal and remediation, including the Ventura County LUFT No. for each such underground tank. Before executing this Agreement, SPAA provided City the opportunity to review a complete set of true and correct copies of each of the site closure letters for each such underground fuel tank and City is satisfied that no further action is required in connection therewith;

F. Except for one (1) above-ground aviation fuel tank presently located upon the Property, and the former underground fuel tanks removed in accordance with the procedures described above, there are no above-ground or below-ground storage tanks located on the Property, nor have any been located there in the past which were not removed in full compliance with all applicable laws;

G. Except as shown in the title report accepted by City and as more particularly described in Exhibit C, there are no leases, licenses, easements, tenancies, possessory rights, rights of way, rights of first refusal, option rights, or other third party rights to lease, use, occupy, or purchase all or any portion of the Property (whether of record, prescriptive, or otherwise), except as set forth in attached Exhibits D and E, which is incorporated by reference. Exhibit C is a summary of all hangar ground leases held by shareholders of SPAA showing the hangar location and date of present lease. Also attached as Exhibit D, and incorporated by reference, is a summary of all non-shareholder commercial leases affecting the Property. Before executing this Agreement, SPAA provided City the opportunity to review a complete set of true and correct copies of all such leases and City is satisfied that no lessee is possessed of any rights that would affect the Property Easement; and,

H. There are no existing contracts or agreements of any kind affecting the Property entered into by SPAA or any predecessor of SPAA under which any person or entity will have any rights against City or the Property after the Closing.

9. **EXPENDITURES BEFORE AGREEMENT.** SPAA understands and agrees that City expended funds for actions related to this Agreement before it was executed. These funds must be reimbursed by SPAA before the Property Easement is conveyed. The approximate sum of the amounts spent by City are listed below; a detailed accounting will be provided to SPAA at the time this Agreement becomes effective, the balance, if any, will be paid to SPAA within (30) days after the accounting:

A. Program application, City Council approval, and legal costs for negotiations, drafting miscellaneous legal documents:\$4,000.00;

B. Costs associated with preparing legal description and property conveyances including, without limitation, legal costs: \$8,359.00; and

C. Miscellaneous additional costs: \$3,550.00.

10. **SPENDING FUNDS.** SPAA will spend funds received from City and/or any income or other proceeds from any real property acquired by SPAA in connection with the 1031 Exchange in accordance with the Program for public purposes identified in this Agreement. Funds not spent during the fiscal year may be brought forward into succeeding years. SPAA will provide for such fiscal control and accounting procedures as are necessary to ensure proper disbursement and accounting for funds received from City.

11. **ADDITIONAL FUNDING.** Nothing contained in this Agreement limits SPAA's ability to raise and receive funds from other sources including, without limitation, fundraising activities.

12. FUNDING COMMITTEE.

A. Creation of Committee

i. The Parties agree to create a Committee that will be responsible for overseeing the expenditure of funds derived from purchase of the Property Easement ("Purchase Funds"). The Committee will be comprised of three (3) persons. City will select one representative; SPAA will select one representative; and one representative will be selected by the other two representatives.

ii. Each regular representative will have alternates designated by the party. An alternate will have full voting privileges, if any, in the absence of the regular member.

B. Advisory Vote

- i. Except as otherwise provided in this Agreement, each representative on the Committee will have one vote.
- ii. Except as otherwise provided herein, votes taken by the Committee will be advisory only; the Parties are not bound by Committee decisions.

C. Duties

- i. The Committee will oversee SPAA's expenditure of Purchase Funds.
- ii. The Committee will decide other miscellaneous matters as determined by the Parties.
- iii. The Committee will meet as needed, but not less than twice every year.

13. **BROWN ACT.** The Parties understand and agree that the Committee must comply with all statutory and regulatory requirements of the Ralph M. Brown Act (California Government Code §§ 54950-54962), and any successor statute or regulation. SPAA understands that this provision is a material term of this Agreement without which City would not execute this Agreement.

14. **ANNUAL REPORTS.** Beginning on March 1, 2008, and on every March 1 for each subsequent year, SPAA will submit an annual report to City for the preceding January 1 through December 31 calendar year. That report will, at a minimum, contain the following:

- A. Report of expending Purchase Funds in accordance with this Agreement;
- B. Current and complete listing of SPAA's Board of Directors; and
- C. Year-end compilation financial statement reviewed by an independent certified public accountant.

15. **DISPUTES AND REMEDIES.**

- A. Claims, disputes, and other matters in question between the Parties to this Agreement, arising out of or relating to this Agreement or the breach thereof, must be resolved by the following procedure:
 - i. City and SPAA will exercise their best efforts to resolve disputes through the development of a consensus.

ii. If unresolved within thirty (30) days, the parties may, but are not required, to mediate any remaining dispute;

iii. If unresolved, then the matter may be appealed to a court of law in Ventura County.

B. Pending a final resolution of any dispute, SPAA will continue to diligently perform its obligations under this Agreement.

C. The Parties' rights and remedies under this Agreement are in addition to any other rights and remedies provided by law.

16. INDEMNIFICATION.

A. Except as set forth below, SPAA will hold City, and its agents, harmless and free from any and all liability arising out of this Agreement, or its performance, including any such liability caused, in part, by the passive negligent act or omission of City, or its agents. Should City, or its agents, be named in any suit, or should any claim be against it, or any of its agents, by suit or otherwise, whether the same be groundless or not, arising out of this Agreement, or its performance, pursuant to this Agreement, SPAA will defend City (with counsel satisfactory to City), and its agents, and will indemnify them for any judgment rendered against them or any sums paid out in settlement or otherwise.

B. This provision will not apply to liability arising solely from the actions or inactions of City employees acting within the course and scope of their employment with City while using SPAA's facilities or personal property.

C. It is expressly understood and agreed that the foregoing provisions will survive termination of this Agreement.

D. The Parties expressly agree that this release, waiver, and indemnity agreement is intended to be as broad and inclusive as is permitted by the law of the State of California and that if any portion is held invalid, it is agreed that the balance will, notwithstanding, continue in full legal force and effect.

17. **AUDIT AND ACCESS TO RECORDS.** SPAA will maintain records and other evidence of all expenses incurred in the performance of this Agreement for a period of three (3) years after completion. City or any of its duly authorized representatives will, for the purpose of audit and examination, have access to and be permitted to inspect such records. For purposes of audit, the date of completion of the Agreement will be the date this Agreement terminates.

18. **BROKERS.** Each party warrants and represents to the other that no brokers were retained or consulted in connection with this transaction. Each party agrees to defend, indemnify, protect and hold harmless the other party from any claims, expenses, costs, or liabilities arising in connection with a breach of that party's representations, warranties, or covenants under this Agreement.

19. **ASSIGNMENT.** Neither City nor SPAA have the right to assign, in whole or in part, this Agreement or its rights and obligations under this Agreement, to another party.

20. **COMPLIANCE WITH LAW.** Each party will, at its sole cost and expense, comply with all of the requirements of all federal, state, and local authorities now in force, or which may hereafter be in force, pertaining to this Agreement. The judgment of any court of competent jurisdiction that a party violated any such ordinance or statute is conclusive of that fact as between City and SPAA.

21. **WAIVER OF BREACH.** Any express or implied waiver of a breach of any term of this Agreement will not constitute a waiver of any further breach of the same or other term of this Agreement.

22. **INSOLVENCY; RECEIVER.** Either the appointment of a receiver to take possession of all or substantially all of the assets of SPAA, or a general assignment by SPAA for the benefit of creditors, or any action taken or offered by SPAA under any insolvency or bankruptcy action, will constitute a breach of this Agreement by SPAA, and in such event this Agreement will automatically cease and terminate.

23. **NOTICES.** Except as otherwise expressly provided by law, all notices or other communications required or permitted by this Agreement or by law to be served on or given to either party to this Agreement by the other party will be in writing and will be deemed served when personally delivered to the party to whom they are directed, or in lieu of the personal service, upon deposit in the United States Mail, certified or registered mail, return receipt requested, postage prepaid, addressed to:

If to City:

City Manager
City of Santa Paula
970 Ventura Street
P.O. Box 569
Santa Paula, CA 93060
Phone: (805) 933-4200

(phone numbers are for overnight deliveries)

If to SPAA:

Santa Paula Airport Association
28 Wright Taxiway
Santa Paula, CA 93060
Phone:

Copy to:

Rowena S. Mason
226 N. Mill St.
Santa Paula, CA 93060
Phone:

Either party may change its address for the purpose of this Section by giving written notice of the change to the other party.

24. **ACCEPTANCE OF FACSIMILE SIGNATURES.** The Parties agree that agreements ancillary to this Agreement and related documents to be entered into in connection with this Agreement will be considered signed when the signature of a party is delivered by facsimile transmission. Such facsimile signature will be treated in all respects as having the same effect as an original signature.

25. **GOVERNING LAW.** This Agreement has been made in and will be construed in accordance with the laws of the State of California and exclusive venue for any action involving this Agreement will be in Ventura County.

26. **PARTIAL INVALIDITY.** Should any provision of this Agreement be held by a court of competent jurisdiction to be either invalid or unenforceable, the remaining provisions of this Agreement will remain in effect, unimpaired by the holding.

27. **INTEGRATION.** This instrument and its attachments constitute the sole agreement between City and SPAA respecting the Property and correctly sets forth the obligations of City and SPAA. Any Agreement or representations respecting the Property not expressly set forth in this instrument are void.

28. **CONSTRUCTION.** The language of each part of this Agreement will be construed simply and according to its fair meaning, and this Agreement will never be construed either for or against either party.

29. **WAIVERS.** Any waiver of a breach of any covenant or condition in this Agreement is not a waiver of any other covenant or condition in this Agreement, and no waiver is valid unless in writing and executed by the duly authorized representative of the waiving party. An extension of time for performance of any obligation or act is not an extension of time for performance of any other obligation or act.

30. **SURVIVAL.** The representations, warranties, covenants, agreements, and obligations of the parties hereto will not merge with the transfer of title to the Property, but remain in full force and effect after the Closing, or any earlier termination of this Agreement, until and unless there is a waiver or release of such representation, warranty, covenant, agreement, or obligation by the beneficiary thereof.

31. **AUTHORITY/MODIFICATION.** The Parties represent and warrant that all necessary action has been taken by the Parties to authorize the undersigned to execute this Agreement and to engage in the actions described herein. This Agreement may be modified by written amendment. City's city manager, or designee, may execute any such amendment on behalf of City.

32. **COUNTERPARTS.** This Agreement may be executed in any number or counterparts, each of which will be an original, but all of which together will constitute one instrument executed on the same date.

IN WITNESS WHEREOF the parties hereto have executed this contract the day and year first hereinabove written.

CITY OF SANTA PAULA

Wally Bobkiewicz
Wally Bobkiewicz,
City Manager

SANTA PAULA AIRPORT ASSOCIATION

Rowena Mason
Rowena Mason
President

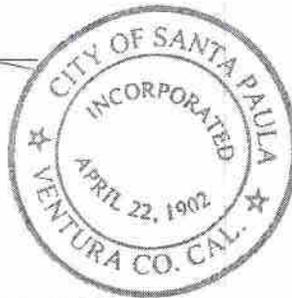
Joe Lausden, Sr.
Joe Lausden
Secretary

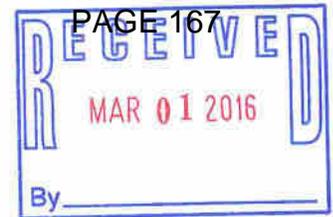
ATTEST:

Josie G. Herrera
Josie G. Herrera,
City Clerk

APPROVED AS TO FORM:

Karl H. Berger
Karl H. Berger, City Attorney





UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

Page 1 of 2 Pages

Project No. 3-06-0240-01

Santa Paula Airport

Santa Paula, California

AMENDMENT NO. 1 TO GRANT AGREEMENT FOR AIP PROJECT NO. 3-06-0240-01

WHEREAS, the Federal Aviation Administration (herein after referred to as the "FAA") has determined it to be in the interest of the United States that the Grant Agreement between the FAA, acting for and on behalf of the United States, and the City of Santa Paula (hereinafter referred to as the "Sponsor"), accepted by said Sponsor on September 26, 2007, be amended as hereinafter provided.

NOW THEREFORE, WITNESSETH:

That in consideration of the benefits to accrue to the parties hereto, the FAA on behalf of the United States, on the one part, and the Sponsor, on the other part, do hereby mutually agree as follows:

- 1. That the maximum obligation of the United States as set forth in the terms and conditions of said Grant Agreement as amended is hereby decreased by \$351,000.00 from \$6,075,000.00 to \$5,724,000.00 which is comprised of:

- \$ 0.00 for planning
 - \$5,724,000.00 for Acquisition of Airport Development Rights Pilot Program

- 2. That the United States share of 95% of the allowable costs incurred in accomplishing the project as stated on page 2 of the Grant Agreement, is reduced to 90%.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to said Grant Agreement to be duly executed as of the 17 day of February, 2008.

UNITED STATES OF AMERICA
FEDERAL AVIATION ADMINISTRATION

By: _____
Ruben Cabalbag
Assistant Manager, Los Angeles Airports District Office

Page 2 of 2 Pages

Project No. 3-06-0240-01

Santa Paula Airport

Santa Paula, California

City of Santa Paula
(Name of Sponsor)

By: Wally B. Murray

(SEAL)

Title: City Manager

Attest: Joanna De

Title: DEPUTY CITY CLERK

CERTIFICATE OF SPONSOR'S ATTORNEY:

I, acting as Attorney for the Sponsor, do hereby certify:

That I have examined the foregoing Amendment to the Grant Agreement and the proceedings taken by said Sponsor relating thereto, and find that the execution thereof by said Sponsor has been duly authorized and is in all respects due and proper and in accordance with the laws of the State of California, and further that, in my opinion, said Amendment to Grant Agreement constitutes a legal and binding obligation of the Sponsor in accordance with the terms thereof.

Dated at Santa Paula, this 17th day of March, 2008

By: [Signature]

Title: City Attorney



U.S. Department
of Transportation

Federal Aviation
Administration

GRANT AGREEMENT

Part I - Offer

Date of Offer: September 24, 2007

Santa Paula Airport /Planning Area

Project No. 3-06-0240-01

TO: City of Santa Paula
(herein called the "Sponsor")

FROM: The United States of America (acting through the Federal Aviation Administration,
herein called the "FAA")

WHEREAS, the Sponsor has submitted to the FAA Project Application dated May 22, 2007, for a grant of Federal funds for a project at or associated with the Santa Paula Airport/Planning Area which Project Application, as approved by the FAA, is hereby incorporated herein and made part hereof; and

WHEREAS, the FAA has approved a project for the Airport or Planning Area (herein called the "Project") consisting of the following:

Acquisition of Airport Development Rights Pilot Program

NOW THEREFORE, pursuant to and for the purpose of carrying out the provisions of Title 49, United States Code, as amended, herein called the "Act," and in consideration of (a) the Sponsor's adoption and ratification of the representations and assurances contained in said Project Application and its acceptance of this Offer as hereinafter provided, and (b) the benefits to accrue to the United States and the public from the accomplishment of the Project and compliance with the assurances and conditions as herein provided, **THE FEDERAL AVIATION ADMINISTRATION, FOR AND ON BEHALF OF THE UNITED STATES, HEREBY OFFERS AND AGREES** to pay, as the United States share of the allowable costs incurred in accomplishing the Project, 95 % of those eligible project costs:

The Offer is made on and subject to the following terms and conditions:

Conditions

1. The maximum obligation of the United States payable under this offer shall be **\$6,075,000.00**
\$ 0.00 for planning
\$6,075,000.00 for Acquisition of Airport Development Rights Pilot Program.
2. The allowable costs of the project shall not include any costs determined by the FAA to be ineligible for consideration as to allowability under the Act.
3. Payment of the United States share of the allowable project costs will be made pursuant to and in accordance with the provisions of such regulations and procedures as the Secretary shall prescribe. Disbursement of the all funds associated with this project will not be taken through the Electronic Clearing House Operation (ECHO). Funds will be disbursed through manual payments. Final determination of the United States share will be based upon the final audit of the total amount of allowable project costs and settlement will be made for any upward or downward adjustments to the Federal share of costs.
4. The Sponsor shall carry out and complete the Project without undue delays and in accordance with the terms hereof, and such regulations and procedures as the Secretary shall prescribe, and agrees to comply with the assurances which were made part of the project application.
5. The FAA reserves the right to amend or withdraw this offer at any time prior to its acceptance by the sponsor.
6. This offer shall expire and the United States shall not be obligated to pay any part of the costs of the project unless this offer has been accepted by the sponsor on or before September 27, 2007 or such subsequent date as may be prescribed in writing by the FAA. This grant must be closed out by August 31, 2011 in accordance with FAA Order 5100.38C and applicable policies.
7. The Sponsor shall take all steps, including litigation if necessary, to recover Federal funds spent fraudulently, wastefully, or in violation of Federal antitrust statutes, or misused in any other manner in any project upon which Federal funds have been expended. For the purposes of this grant agreement, the term "Federal funds" means Federal funds however used or disbursed by the Sponsor that were originally paid pursuant to this or any other Federal grant agreement. It shall obtain the approval of the Secretary as to any determination of the amount of the Federal share of such funds. It shall return the recovered Federal share, including funds recovered by settlement, order or judgment, to the Secretary. It shall furnish to the Secretary, upon request, all documents and records pertaining to the determination of the amount of the Federal share or to any settlement, litigation, negotiation, or other efforts taken to recover such funds. All settlements or other final positions of the Sponsor, in court or otherwise, involving the recovery of such Federal share shall be approved in advance by the Secretary.
8. The United States shall not be responsible or liable for damage to property or injury to persons which may arise from, or be incident to, compliance with this grant agreement.

9. It is understood and agreed by and between the parties hereto that in order for the easements rights conveyed to the Sponsor to remain enforceable in perpetuity any mortgage or other judgment or lien that may affect the enforcement of easement terms shall be cleared or subordinated to the Sponsor's easement right. Further, the FAA will not make nor be obligated to make any payments herein involving the aforesaid parcels until the Sponsor has submitted evidence that it has cleared or subordinated any and all mortgage or other judgment or lien which must be found satisfactory to the FAA in and to said conveyance for which grant payment is sought which in the opinion of the FAA might create an undue risk of interference with the use and operation of the airport.
10. It is understood and agreed by and between the parties hereto that the Santa Paula Airport Association shall grant an aviation easement on the parcels described in the Project Application to the City of Santa Paula, California.
11. The easement purchased and conveyed to the airport sponsor, City of Santa Paula, under this grant for the "Airport Development Rights Program" will contain all the terms and conditions necessary to restrict use of the described real property owned by Santa Paula Airport Association, the current fee owner and any successors, to allowable airport use in perpetuity. The "Certificate of Sponsor's Attorney" executed below in Part 2 of this agreement acknowledges that this is a grant involving a project to be carried out on property not owned by the Sponsor and the attorney's certification assures FAA that there are no legal impediments that will prevent full performance by the Sponsor. The sponsor's attorney must review the proposed easement document and advise and assure the sponsor and FAA the easement to be conveyed is legally sufficient for the sponsor's conformance to the Airport Development Rights Program requirements (see attached FAA Program Guidance Letter 04-05, dated August 17, 2004) and other applicable FAA policies.
12. **Subordination.** The City of Santa Paula's purchase agreement for the easement will provide that the selling owner shall subordinate all mortgages on the property to the easement to be conveyed or the selling owner will prior to or at settlement pay off mortgages and secure the mortgage holder's release. The FAA shall be included in the purchase agreement as a third party beneficiary to this requirement. No payment shall be made under terms of this Grant Agreement until all existing mortgages on the real property and other encumbrances or liens that may affect the enforcement of the easement to be purchased are subordinated to the easement or are paid and released by the mortgage lien holder. The FAA must review and approve this documentation.
13. **Airport Hangar Homes and Residential Use.** No payment shall be made under the terms of this Grant Agreement until both parties of the development rights agreement understand and agree that the easement rights to be conveyed prohibit the use of the airport property for non-airport use or development, including all residential uses. The purchase agreement for the easement will provide that both parties covenant and agree that the development rights conveyed prohibit the development or use of the property for "hangar homes" or residences on airport property. Existing hangar home leases or leases permitting residential use of existing airport structures, such as residential use of hangars, if any, may be allowed to continue until the current lease expiration date, but may not be extended. The FAA must review and approve this documentation. An exception for this condition shall be provided for the residence of the Airport Manager.
14. **Adjoining Residential Airpark Development.** Both parties of the development rights agreement agree and understand that direct access to the airport property (through-the-fence) by adjoining residential use is not considered as compatible airport use of the property. The FAA recommends that the City of Santa Paula and the Santa Paula Airport Association refrain from entering into any agreement which grant through-the-fence access. An exception for the proposed Adjoining Residential Airpark Development can be granted provided the City of Santa Paula and the Santa Paula Airport Association can ensure such development will not compromise the safety of airport operations. No payment shall be made under the terms of this Grant Agreement until the FAA reviews and concurs with the Adjoining Residential Airpark Development arrangement.
15. **Removal of Operational Restrictions.** No payment shall be made under the terms of this Grant Agreement until the property owner, Santa Paula Airport Association, eliminates any published operational restrictions in the FAA Form 5010, Airport Master Record, and the United States Flight Information Publication Airport/Facility Directory that would not permit the availability of the airport for public use under fair and reasonable terms without unjust discrimination to all users. The property owner and the City of Santa Paula must also assure and commit, in writing, that in the future, such operational restrictions will not be enacted, published or enforced without FAA approval.

16. **Removal of Minimal Altitude Restrictions.** No payment shall be made under the terms of this Grant Agreement until the property owner, Santa Paula Airport Association, and the grant sponsor, City of Santa Paula will rescind any and all ordinances that implement a minimum flight altitude or restriction, including the minimum altitude of 1,500 feet listed in the current the FAA Form 5010, Airport Master Record for the Airport.
17. **General Hazard Removal and Mitigation.** The property owner, Santa Paula Airport Association, and the grant sponsor, City of Santa Paula will take appropriate action to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards, and to do so in a manner consistent with 14 CFR Part 77 and airport design standards.
18. **General Compatible Land Use.** The City of Santa Paula will take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations. Restrictions must include a prohibition on new residential use in the runway protection zones or in the DNL 65 dB contour for the airport.

The Sponsor's acceptance of this Offer and ratification and adoption of the Project Application incorporated herein shall be evidenced by execution of this instrument by the Sponsor, as hereinafter provided, and this Offer and Acceptance shall comprise a Grant Agreement, as provided by the Act, constituting the contractual obligations and rights of the United States and the Sponsor with respect to the accomplishment of the Project and compliance with the assurances and conditions as provided herein. Such Grant Agreement shall become effective upon the Sponsor's acceptance of this Offer.

UNITED STATES OF AMERICA
FEDERAL AVIATION ADMINISTRATION

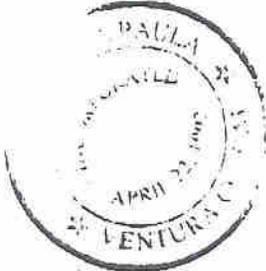
Ruben Cabalbag

Ruben Cabalbag
Assistant Manager, Los Angeles Airports District Office

Part II - Acceptance

The Sponsor does hereby ratify and adopt all assurances, statements, representations, warranties, covenants, and agreements contained in the Project Application and incorporated materials referred to in the foregoing Offer and does hereby accept this Offer and by such acceptance agrees to comply with all of the terms and conditions in this Offer and in the Project Application.

Executed this 26 day of September, 2007



(SEAL)

City of Santa Paula
(Name of Sponsor)

By: *Wally Brubaker*
(Sponsor's Designated Official Representative)

Title: *City Manager*

Attest: *Joselyn*

Title: *DEPUTY CITY CLERK*

CERTIFICATE OF SPONSOR'S ATTORNEY

Karl H. Berger, acting as Attorney for the Sponsor do hereby certify.

That in my opinion the Sponsor is empowered to enter into the foregoing Grant Agreement under the laws of the State of California. Further, I have examined the foregoing Grant Agreement and the actions taken by said Sponsor and Sponsor's official representative has been duly authorized and that the execution thereof is in all respects due and proper in accordance with the laws of the said State and the Act. In addition, for grants involving projects to be carried out on property not owned by the Sponsor, there are no legal impediments that will prevent full performance by the Sponsor. Further, it is my opinion that the said Grant Agreement constitutes a legal and binding obligation of the Sponsor in accordance with the terms thereof.

Dated at *Manhattan Beach* this *27* day of *September*, 2007

[Signature]
Signature of Sponsor's Attorney

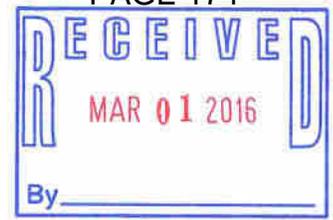
RECORDING AT REQUEST OF

Attachment 3, Appendix 3c

LAWYERS TITLE COMPANY-81

RECORDING REQUESTED BY AND
WHEN RECORDED, RETURN TO:

City of Santa Paula
970 Ventura Street
P.O. Box 569
Santa Paula, CA 93060



20080604-00087985-0 1/12
Ventura County Clerk and Recorder
Philip J. Schmit
08/04/2008 08:00:00 AM
208644 \$.00 AR

APN: 104-0-181-045

1043200

PERPETUAL COVENANT FOR PUBLIC USE AIRPORT

For good and valuable consideration, receipt of which is acknowledged, this PERPETUAL COVENANT FOR PUBLIC USE AIRPORT (hereinafter "Covenant") is made this 30th day of MAY 2008, by Santa Paula Airport Association, Ltd., a California corporation ("Grantor"), for the benefit of the City of Santa Paula, California (hereinafter "Grantee") and the United States Department of Transportation-Federal Aviation Administration (hereinafter "FAA").

RECITALS

WHEREAS, Grantor is the owner of 45.52 acres of real property located in the City of Santa Paula, County of Ventura, State of California, within Grantee's city limits and municipal jurisdiction, and upon which Grantor owns and operates the public general aviation airport commonly known as the Santa Paula Airport (hereinafter "Airport"), which real property is more particularly described in Exhibit A attached hereto and incorporated herein by this reference (hereinafter "the Property");

WHEREAS, Grantee is authorized by applicable law including, without limitation, Government Code § 37350, to purchase and hold easements and covenants for the purpose of buying development rights at privately-owned public-use airports that are open to the public to ensure continued availability as a public-use airport in accordance with 49 U.S.C. § 47138;

WHEREAS, Grantee is the qualified recipient of such development rights pursuant to the FAA's Airport Development Rights Pilot Program (hereinafter "Program");

WHEREAS, Grantor and Grantee recognize the public airport values and the significance and importance to Grantee and the surrounding community, of the economic and other benefits generated by operation of a public use airport on the Property (hereinafter "Covenant Values"), and have the common purpose of preserving the Airport and Property in perpetuity as a public use airport that is open to the public;

WHEREAS, this Covenant will serve the purpose of the Program as administered by the FAA and will enable the sale of airport development rights in such a manner as to preserve the Airport and

Property for public use airport use and contribute to its safe and efficient operation in perpetuity; and,

WHEREAS, Grantor desires to grant to Grantee, and Grantee desires to accept, this Covenant and Grantor's development rights for the purpose of ensuring the continued public use airport operation of the Property;

NOW, THEREFORE, in consideration of Grantor's desire to keep the Airport and the Property open as a public use airport that is open to the public, and that continues to be operated as a public use airport in perpetuity, and for the monetary consideration described herein, the receipt of which is hereby acknowledged, Grantor grants and conveys to Grantee, for the benefit of Grantee and FAA, with general warranty of title, the following covenants and easements in perpetuity in and to the Property.

The development rights hereby conveyed to the Grantee are for the right to develop and use the Property for a purpose other than as an airport open to the public or enhancing convenience of aviation activities. The purpose of the acquisition of development rights is to ensure that the airport will continue to be available as a public use airport. This Covenant, to be of the nature and character hereinafter further expressed, shall constitute a binding servitude upon the Property, and to that end Grantor covenants with Grantee and FAA, on behalf of itself, its shareholders, officers, directors, successors, and assigns, such covenants being deemed to run with the land as a binding servitude, in perpetuity.

I. PURPOSES OF THE COVENANT

Grantor and Grantee acknowledge that the purposes of this Covenant are as follows (hereinafter "Purposes of Covenant"): Consistent with the goals of the Program, to continue the Covenant Values, and to ensure that the Airport and the Property shall remain open to the public for use as an airport in perpetuity. Therefore, Grantor and Grantee recognize and acknowledge the Covenant Values and share the common purpose of preserving these Values by the conveyance of this Covenant and the conveyance of development rights hereunder, to prevent the use or development of the Airport or the Property for any purpose or in any manner which would conflict with the maintenance of the Covenants Values. Grantee accepts such restrictions and development rights in order to preserve these Values for present and future generations.

II. RESTRICTED USES OF PROPERTY

The restrictions hereby imposed upon the Airport and Property, and the acts which Grantor shall do or refrain from doing, are as follows:

(A). Public Airport Uses.

(1) The Airport and the Property shall be used solely as a public use airport that is open to the public, including, but not limited to: one or more operating aircraft runways; facilities and services for general aviation aircraft; aircraft hangars owned by shareholders of Grantor and situated within the Property on designated areas subject to ground leases between the Grantor and its respective shareholders; commercial aircraft hangars owned by Grantor and leased to commercial enterprises involving general aviation, including, but not limited to, aircraft services, repairs, sales, exchanges, rentals and storage, the manufacture, sale or repair of aviation equipment; pilot services, instruction and training; one or more restaurants open to owners and operators of general aviation aircraft and the

general public; and other uses and functions that are reasonably related to general aviation and operation of a public use airport.

(2). All other public and private uses, whether commercial, industrial, residential or personal, are prohibited (except for residences or other personal or living areas constructed by Grantor pursuant to applicable permits issued by Grantee for the exclusive use of one or more of Grantor's employees or contractors and reasonably necessary in connection with or related to the Grantor's management, security or operation of the Airport, while Grantor is the airport operator).

(3). This Covenant is perpetual unless modified or released with the approval of the FAA under (4) below, and none of Grantor, Grantee, FAA, or any assign, agent, or lessee of Grantor or Grantee shall perform, or knowingly allow others to perform, any act on or affecting the Airport or the Property that is inconsistent with the provisions of this Section II(A), and further:

(a) Grantor's Obligation for Airport Operation in Perpetuity. The airport owner or its successor is obligated to own the airport and operate it as an airport except for periods of temporary climatic conditions that interfere with safe operation and maintenance. In the event the airport owner discontinues safe airport operation and maintenance, the owner shall notify the FAA within 24 hours.

(b) Grantee's Obligation for Airport Operation. The Grantee may be obligated to operate and maintain the airport if it is closed during other than periods of temporary climatic conditions that interfere with safe operation and maintenance. The Grantor and Grantee agree that in the event the Grantor discontinues safe airport operation and maintenance, the Grantee, in consultation with the FAA, may be required to assume that obligation.

(c) Enforcement of Covenant by FAA. The Grantor and Grantee through this Covenant grant the FAA third party beneficiary rights to enforce the Covenant that the Airport and Property shall remain a public-use airport in perpetuity and the Grantee's obligation for airport operation.

(d) Notice to Airmen. The Grantor will promptly notify airmen of any condition affecting aeronautical use of the Property.

(4) Modification or Release of Purchased Rights and Covenant. The Grantee shall obtain approval of the FAA before a modification of the Covenant and airport development rights conveyed. The Grantee shall obtain approval of the FAA before transfer or disposal of the airport development rights that were purchased, which shall be approved only if the FAA finds that it is in the public interest.

(B) Structures.

(1) The construction, reconstruction, modification, replacement or maintenance of any building or structure, except those existing on the effective date of this Covenant, and except aircraft hangars and other structures intended to be used in connection with the operation of a public use airport, or related services to pilots, airmen, owners and operators of general aviation aircraft, and visitors, and as specifically permitted herein, is prohibited.

(2) New buildings and other structures and improvements to be used solely for public use airport and general aviation purposes may only be built on the Property with the advance written approval of Grantee.

(C) Subdivision

The subdivision of the Property is prohibited.

(D) Access Agreements

Grantor reserves the right to convey to the owners or operators of real property adjoining the Property, on such terms and conditions as Grantor may determine, rights of access to the Property, provided that such rights of access are solely for public airport and general aviation purposes, and are approved by Grantee prior to the recording of any conveyance thereof. Access to the Property from residential use property is limited to provisions of revocable license agreements that expire and/or are null and void upon the Grantor ceasing to operate the Airport as specified in this covenant or otherwise. The Grantee reserves the right to limit approval of such licenses so as not to interfere with the public's use of the airport. Except as described above, no access rights shall be conveyed to residential use land and any access right conveyed to owners or operators of real property adjoining the property shall be restricted to nonresidential use land that is determined by the Grantee and FAA to be compatible with a public use airport.

(E) Other Uses

Structures, improvements or activities inconsistent with current or future use of the Airport or the Property as a public use airport are prohibited.

III. Reserved Uses of The Property

Grantor retains the right to perform and act in any manner not specifically prohibited or limited by this Covenant. These rights include, but are not limited to, the right to exclude any member of the public from trespassing on the Airport and the Property, the right of quiet enjoyment thereof and the right to sell or otherwise transfer the Property, subject to terms of this Covenant, to anyone of the Grantor's choice.

IV. INDEMNIFICATION; TAXES

(A) **Indemnification.** Grantor hereby agrees to pay, defend, indemnify, and hold harmless at its own cost and expense, Grantee, its agents, directors, employees and contractors from and against any and all claims, liabilities, expenses, costs, damages, losses, and expenditures (including reasonable attorneys' fees and disbursements hereafter incurred) arising from, or in connection with, injury to or death of any persons; physical damage to the Property; the presence or release in, on, or about the Property at any time, of any substance now or hereafter defined, listed, or otherwise classified pursuant to any law, ordinance, or regulation as a hazardous, toxic, polluting, or contaminating substance, or other injury or damage occurring on or about the Airport or the Property, unless such injury or damage is caused by Grantee or any agent, director, employee, or contractor of Grantee;

(B) **Taxes.** Grantor shall pay immediately, when first due or owing, all general taxes, special taxes, special assessments, water charges, sewer service charges, and other charges which may become a lien on the Property unless Grantor timely objects to the amount or validity of the assessment or charge and diligently prosecutes an appeal thereof, in which case the obligation hereunder to pay such charges shall be suspended for the period permitted by law for prosecuting such appeal and any applicable grace period following completion of such action. In place of Grantor, Grantee is hereby authorized, but in no event required or expected, to make or advance upon three (3) days prior written notice to Grantor any payment relating to taxes, assessments, water rates, sewer service charges, and other governmental or municipality charges, fines, impositions, or liens asserted against the Property. Grantee may make such payment according to any bill, statement, or estimate procured from the appropriate public office without inquiry into the accuracy of such bill, statement, or assessment or into validity of such tax, assessment, sale of forfeiture. Such payment if made by Grantee shall constitute a lien against the Property with the same effect and priority as a mechanic's lien, except that such lien shall not jeopardize the priority of any recorded lien of mortgage or deed of trust given in connection with a promissory note secured by the Property.

V. ADMINISTRATION AND ENFORCEMENT

(A) Written Notice

(1) Any notice which Grantor, Grantee or FAA may desire or be required to give to the other party shall be in writing and shall be delivered by one of the following methods: By overnight courier postage prepaid, facsimile transmission, registered or certified mail with return receipt requested, or hand delivered:

If to Grantor, at:

If to Grantee, at:

If to FAA, at:

(2) Each party may change its address set forth herein by a notice to such effect to the other party.

(B) Notice of Proposed Sale

Grantor shall promptly notify Grantee in writing of any proposed sale of the Property and provide the opportunity for Grantee to explain the terms of the Covenant to potential owners prior to sale closing.

VI. BINDING EFFECT; ASSIGNMENT

(A) Runs with the Land.

The obligations imposed by this Covenant shall be effective in perpetuity and shall be deemed to run as a binding servitude with the Property. This Covenant shall extend to and be binding upon Grantor and Grantee, their respective successors in interest and all persons hereafter claiming under or through Grantor or Grantee, and the words "Grantor" and "Grantee" when used herein shall include all such persons. Any right, title, or interest herein granted to Grantee also shall be deemed granted to each successor and assign of Grantee and each such following successor and assign thereof, and the word "Grantee" shall include all such successors and assigns.

(B) Assignment.

Grantee may convey, assign, or transfer this Covenant to a unit or agency of federal, state, or local government or to a similar local, state, or national organization that is qualified by law to hold the rights conveyed to Grantee herein.

(C) Recording and Effective Date

Grantee shall do and perform at its own cost all acts necessary to the prompt recording of this Covenant in the Official Records of Ventura County, California. Grantor and Grantee intend that this document and the restrictions arising under this Covenant shall take effect on the day of recording hereof.

Dated: 05/30/2008 2008

Santa Paula Airport Association, LTD., a California Corporation

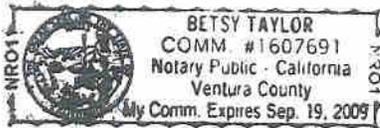
By: Rowena Mason
Rowena Mason, President

By: Michael Lawrence
Michael Lawrence, Secretary

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California
County of VENTURA }
On _____ before me, BETSY TAYLOR, NOTARY PUBLIC
Date Here Insert Name and Title of the Officer
personally appeared ROWENA MASON AND
Name(s) of Signer(s)
MICHAEL LAWRENCE

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Betsy Taylor
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: PERPETUAL COVENANT FOR PUBLIC USE AIRPORT
Document Date: 5/30/2008 Number of Pages: 6
Signer(s) Other Than Named Above: Ø

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
 Individual
 Corporate Officer — Title(s): Pres & Sec.
 Partner — Limited General
 Attorney in Fact
 Trustee
 Guardian or Conservator
 Other: _____
Signer Is Representing: _____



Signer's Name: _____
 Individual
 Corporate Officer — Title(s): _____
 Partner — Limited General
 Attorney in Fact
 Trustee
 Guardian or Conservator
 Other: _____
Signer Is Representing: _____



ACCEPTANCE OF EASEMENT
by
CITY OF SANTA PAULA

This is to certify that the interest in real property conveyed by the deed or grant dated 6-3, 2008 from the Santa Paula Airport Association, Ltd. to the city of Santa Paula, a general law city and municipal corporation, is accepted by the undersigned officer on behalf of the City pursuant to authority conferred by City Council Resolution No. 6043 adopted on December 15, 2003 and the City consents to recordation thereof by its duly authorized officer.

Wally Bolewicz
Wally Bolewicz,
City Manager

6-2-08
Date

ATTEST:

Josie Guzman Herrera
Josie Guzman Herrera,
City Clerk



APPROVED AS TO FORM:

Karl H. Berger
Karl H. Berger,
City Attorney

EXHIBIT "A"

All that certain real property situated in the County of Ventura, State of California, described as follows:

Being a portion Lots 28, 29, 76 and 77 of Rancho Santa Paula y Saticoy, in the City of Santa Paula, County of Ventura, State of California as shown on a Map recorded in Book A, Page(s) 290 inclusive, of Maps, (transcribed records from Santa Barbara County), in the office of the County Recorder of said County, described as follows:

Beginning at the Southwesterly corner of the land described in the Deed to J.S. & Bouton, recorded in Book 63, Page(s) 4 of Deeds, records of Ventura County, said point being also the Easterly terminus of the Northerly line of the land described in the Grant Deed recorded in Book 5158, Page 693 of Official Records of Ventura County; thence along said Northerly line and the Northerly of the land describe in the partnership Grant Deed recorded September 19, 1989 as Document No. 89-147336 of Official Records of Ventura County.

1st South 58° 16' 40" West 380.16 feet to the Northwesterly corner of the land described in said partnership Grant Deed; thence along the Westerly line of said land,

2nd: South 36° 40' 30" East 651.97 feet to the Southwesterly toner of said land; thence along the Southerly line of said land and the Southerly line of the land described in the Grant Deed recorded in Book 5158, Page 693 of Official Records of Ventura County,

3rd: North 63° 02' 30" East 243.69 feet to the Southeasterly corner of the land described in said Grant Deed; thence along the Easterly line of said land,

4th: North 24° 49' 30" West 399.66 feet to the Southwesterly corner of the land described in the Quitclaim Deed recorded in Book 4041, Page 542 of Official Records of Ventura County; thence along the boundary of said land by the following two courses,

5th: North 59° 11' 20" East 1480.00 feet; thence,

6th: North 62° 27' 32" East 1151.73 feet to a pint in the line described in the sixteenth course of the document filed by the Ventura County Board of Supervisors December 27, 1949; thence along the boundary of the land described in said document by the following two courses,

7th: North 20° 59' 30" West 41.08; thence,

8th: North 68° 57' 48" East 360.25 feet to the Southeasterly corner of the land described in the Grant Deed recorded in Book 4041, Page 349 of Official Records of Ventura County; thence along the Easterly line of said land and Its Northerly prolongation,

9th: North 21° 02' 12" West 421.61 feet to a point in the Southerly line of Santa Clara Street, also known as Frontage Road; thence along said Southerly line,

File No: 1043200

10th: South 56° 17' 34" West 20.50 feet to the Northwesterly corner of the land described in the document recorded July 20, 1990 as Document No. 90-108000 of Official Records of Ventura County; thence along the westerly line of said land,

11th: South 21° 02' 12" East 12.35 feet to the most Northerly corner of the land described in the Corporation Grant Deed recorded In Book 5407, Page 929 of Official Records of Ventura County; thence along the boundary of said land by the following four courses,

12th: South 88° 48' 44" West 22.42 feet; thence,

13th: South 56° 17' 34" West 265.35 feet; thence,

14th: South 20° 59' 30" East 32.02 feet; thence,

15th: South 69° 00' 30" West 60.00 feet to a point in the Easterly line of Parcel 2 of the Parcel Map filed in Book 5, Page 3 of Maps records of Ventura County; thence along the boundary of said Parcel 2 by the following two courses,

16th: North 20° 59' 30" West 28.47 feet; thence,

17th: South 62° 30' 10" West 127.42 feet to the Southwesterly corner of Parcel 1 as shown on said Parcel Map; thence along said Westerly line of said Parcel 1 and its Northerly prolongation,

18th: North 20° 56' 30" West 161.34 feet to a point in the Southerly line of State Highway 126, as established by various record document; thence along the boundary of said highway and the boundary of the land described in the Quitclaim Deed hereinabove described in the fourth course by the following eleven courses,

19th: South 76° 01' 18" West 63.98 feet to the beginning of a tangent curve, concave Northerly and having a radius of 128.00 feet; thence,

20th: Westerly along said curve an arc distance of 68.94 feet through a central angle 30° 51' 40"; thence tangent to said curve,

21st: North 73° 07' 02" West 61.42; thence,

22nd: South 20° 56' 30" East 1.70 feet thence,

23rd: North 75° 41' 54" West 61.40 feet; thence,

24th: South 78° 58' 51" West 152.35 feet; thence,

25th: South 69° 13' 00" West 167.72 feet; thence,

26th: South 76° 29' 36" West 113.11 feet; thence,

27th: South 72° 04' 18" West 195.57 feet; thence,

File No: 1043200

28th: South 66° 35' 14" West 124.42 feet to the beginning of a tangent curve, concave Southerly and having a radius 4106.00 feet thence,

29th: Westerly along said curve and arc distance of 50.07 feet through a central angle of 0° 41' 55" to a point in the Westerly line of the land surveyed per the map recorded in Book 5, Page 10 Records of Surveys, records of Ventura County; thence along the boundary of said land the following three courses,

30th: South 20° 47' 00" East 295.76 feet; thence,

31st South 69° 13' 00" West 731.17 feet thence,

32nd: South 20° 47' 00" East 4.00 feet to the Southeasterly corner of the land described in the Deed recorded in Book 638, Page 522 of Official Records of Ventura County; thence along the Southerly line of said land,

33rd: South 69° 13' 00" West 100.70 feet to a point in the Easterly line of the land described in the Grant Deed recorded in Book 1950, Page 369 of Official Records of Ventura County; thence along said Easterly line,

34th: North 20° 47' 00" West 118.16 feet to a point in the Southerly line of Parcel 9, as shown on the Map of Proposed State Highway Relinquishment to the City of Santa Paula recorded in State Highway Map Book 2, Page 92; thence along said Southerly line,

35th: South 54° 47' 36" West 285.66 feet to a point in the Easterly line of the land surveyed per the map recorded in Book 3, Page 27 Records of Surveys of Ventura County; thence along said Easterly line,

36th: South 24° 45' 00" East 318.92 feet to the Southerly line of Lot 10, as shown on said Map; thence along said Southerly line and its Westerly prolongation,

37th: South 69° 10' 40" West 152.36 feet to a point in the Easterly line of Tract No. 4545, as shown on the map recorded in Book 118, Page 1 of Maps of Ventura County; thence along the boundary of said tract by the following two courses

38th: South 24° 45' 00" East 148.92 feet thence,

39th: South 57° 16' 56" West 246.09 feet to a point in the Northerly prolongation of the Easterly line of the land described in the Grant Deed hereinabove referenced in the second course; thence along said prolongation,

40th: South 24° 49' 30" East 32.81 to the point of beginning.

Said land is shown on a delineated on Parcel Map Waiver (Merger) Community Development Project (CDP) Number 94-07, recorded May 22, 1995 as Document No. 95-060299 of Official Records.

Except the oil, minerals and other rights granted to Edward W. Haskell in Deed dated December 24, 1864, recorded in Book "B", Page 153 of Deeds.

Also except from a portion of said land, the interest in the portion of said land lying within the land granted for storm water, surface water and waste water drainage, to the City of Santa Paula by Deed recorded October 20, 1927 in Book 171, Page 114 of Official Records,

File No: 1043200

Also except from a portion of said land, any and all remaining interest in and to all oil, oil rights, minerals, mineral rights, natural gas natural gas rights and hydrocarbon substances by whatsoever name known that may be within or under the parcel of land hereinabove described, together with the perpetual right to whipstock or directionally drill wells, tunnels and shafts under and beneath beyond the exterior lines thereof, and to redrill, retunnel, equip, maintain, repair, deeded and operate any said wells or mines, without, however, the right to drill mine explore and operate through the surface or the upper 100 feet of the subsurface of the land hereinabove described, as excepted in the Deed from Earl M. Smith et ux., recorded January 17, 1961 in Book 1950, Page 369 of Official Records.

Also except from a portion of said land all oil, oil minerals, natural gas and other hydrocarbons by whatsoever name known, that may be within or under the herein conveyed parcel of land and the rights thereto, together with certain other conditions, as excepted and reserved in Deed to the State of California, recorded in Book 2204, Page 200, Book 1941, Page 593, Book 1959, Page 421, all of Official Records in the office of the County Recorder of said Ventura County.

Assessor's Parcel Number: 104-0-181-055

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: March 21, 2016

Order ___	Ordinance ___	Resolution ___	Motion <u>XX</u>	Information ___
No.	No.	No.		

SUBJECT: Adoption of Work plans/Timelines for City Council Strategic Priorities

**Contact Person (Preparer) for this Motion: Stephen A. Rhodes, CMPT
Dept.: City Manager
File No.:**

RECOMMENDATION:

Adoption of Work Plans/Timelines for implementation of City Council Strategic Priorities.

EXECUTIVE SUMMARY:

On October 3, 2015 the Council and Department Heads met in a Strategic Objectives Planning Session to develop mid-range strategic priorities for the City. The session was facilitated by Joseph Bailey. The time frame for the priorities is considered to be 1-3 years. There were six priorities developed by the Council. These priorities are seen as precursors to a Strategic Plan and Visioning process that will be developed after the hiring of a new City Manager.

The priorities relate to issues and needs in: Visioning, Technology, Funding/Fiscal, Project Planning, Communications and Staffing. (See January 4, 2016 Agenda)

At the January 4, 2016 Council meeting the Council adopted the six Strategic Priorities and directed staff to develop work plans for the implementation of the priorities. The work plans for four of the priorities developed by staff are attached to this RCA. The two priorities that do not have work plans are for 1) Visioning and 2) Communications. Work on these priorities will commence this summer once the new City Manager has been appointed and begins work.

FISCAL IMPACT:

Fiscal impacts will be identified as a part of the annual Budget process that will begin in April.

STRATEGIC ASSESSMENT:

These priorities set the process in motion for the future development of a Strategic Plan and can assist in conducting a Community Visioning program.

Newberg City Council Strategic Priorities

FUNDING/FISCAL

Within 18-24 months, develop a 5-year financial plan to guide long-term fiscal health for the City. Within one year, create a fiscal policy that addresses use of debt, preservation of contingencies and reserves and ensures that fee structures are consistent with service levels. These policies will be used to help develop the financial plan.

Work Program

Key Components & Timeframes

1. Review and update key financial policies..... March - July 2016
 - a. Fund Balance, Contingency, and Reserve Policy
 - b. Debt Policy
 - c. Revenue Policy
 - d. Operating Budget Policy
 - e. Capital Improvement Policy

2. Develop long-term financial planning process.....August 2016
 - a. Identify key funds to forecast
 - i. General Fund
 - ii. Street Fund
 - iii. 911 Emergency Fund
 - iv. Public Safety Fee Fund
 - v. Wastewater Funds (Rate fund and SDC fund)
 - vi. Water Funds (Rate fund and SDC fund)
 - vii. Stormwater Funds (Rate fund and SDC fund)
 - viii. Admin Support Services Fund
 - ix. Transient Lodging Tax Fund
 - x. Building Inspection Fund
 - b. Identify resources necessary to complete the plan
 - i. Staff Time – City Manager, Finance Director, Financial Analyst, Public Works Director, and Community Development Director.
 - c. Evaluate key information coming from other planning processes, such as strategic plan, capital improvement plan, facilities master plan, capital replacement plans, and economic development plans.
 - d. Identify key issues that need to be addressed in plan
 - i. Alternate revenue sources
 - ii. Impact of rising employment costs on staffing levels
 - iii. Others
 - e. Define recurring update process and schedule
 - i. Annual or bi-annual
 - ii. Comparison of estimates versus actual on a yearly basis

iii. Rolling five-year window

3. Create long-term financial model and reporting tool..... September 2016 - January 2017
 - a. In-house design using Excel
 - b. Create key assumptions with identified sources
 - c. Determine key measurements and financial health indicators to track
 - i. Fund Balance
 - ii. Debt leverage ratios
 - iii. Revenue ratios
 - d. Design communication reports using summary information, tables, and graphs.

4. Deliver first financial plan to Council February 2017

Newberg City Council Strategic Priorities

PROJECT PLANNING

In 3 years the council will have a schedule for reviewing of existing Master and Long Range plans. These will include acknowledgement of inter-departmental dependencies and demonstrate a mitigation of redundancy. The intent of this is to have a strategic approach for the Council to review existing plans in a scheduled manner to ensure that the original intentions and targets are being achieved. It is not intended that the council reviews the details of all the documents.

Work Program

The Public Works Department, Engineering Services Department and Community Development Department will coordinate on developing a program to review and provide updates on a variety of Master and Long Range Plans that have been adopted or that are in the process of being prepared.

Actions:

1. Inventory and catalogue all existing Master and Long Range Plans - June 30, 2016.
2. Categorize the existing plans into focus areas for land use, public infrastructure and miscellaneous – July 29, 2016.
3. Prepare a timeline for Master and Long Range Plans for City Council review on the status of the plans and their respective activities October 31, 2016.
4. Report to City Council on the proposed schedule for Master and Long Range Plan reviews – November 2016.
5. City Council begins review of Master and Long Range Plans reviews per the proposed schedule – 2017.

Newberg City Council Strategic Priorities

STAFFING

In 18 months, we will create a fully functional and operational HR function to meet city-wide staffing goals as defined in a staffing plan.

Work Program

The foundation of a fully functional and operational Human Resources Department is based upon the following elements:

- a) Adequately staffed professional HR positions to meet the needs of the employment population to be served.
- b) A current and relevant Classification & Compensation System.
- c) Well-defined City Policies and Procedures regarding Employee Relations.
- d) A current and relevant Employee Personnel Manual, which contains information for all employees and coordinates well with strategically-negotiated collective bargaining agreements with represented employees.
- e) User-friendly electronic resources which integrates the needs of the HR Department with those of the Finance Department; specifically Payroll and Budgeting.

Key Components & Timeframes

1. Update and implement Classification & Compensation System for Non-Represented EmployeesOctober 2015-March 2016
 - a. Perform comparable jurisdiction and market analysis study.
 - b. Determine appropriate updated position description titles and reassignments.
 - c. Establish updated pay ranges base on study results and factoring in internal comparability.
 - d. Update all position descriptions based on required knowledge, skills and abilities and bring into conformance with regulated government standards.
2. Update Employee Personnel Manual creating standards/procedures in compliance with regulated government standards and management best practices.....March – April 2016
 - a. Manual format will be reconstructed to be user-friendly and provide guidance to employees.
 - b. Update City Policies and Procedures to support updated Personnel Manual.
 - c. Create template of consistent and updated City forms for employee and management use to support updated Personnel Manual.

3. Recruitment for regular, full-time Human Resources Director.....April – June 2016
 - a. Present top 2-3 vetted candidates to new City Manager to expedite selection of the final candidate (targeted start date July, 2016.)
4. Recruit for regular, half-time Human Resources Assistant.....August 2016
5. Update/implement Performance Evaluation Standards and Instrument...September 2016
6. Develop a 3-5 Year City-Wide Staffing Plan with the goal of meeting the future needs of the organization by providing consistency of service levels.September – December 2016
 - a. Meet with Department Heads to review current staffing capabilities and discuss projected needs for the next 3-5 years.
 - b. If necessary, create new position descriptions with salary ranges for future hires.
 - c. Create a hiring plan complete with timelines and wage and benefit cost projections.
 - d. Prepare the Staffing Plan for presentation to City Council for approval prior to department's beginning the budget cycle for FY 2017-2018.

Information Technology Strategic Plan

Projects	Q3 FY 18-19			Q4 FY 18-19			Q1 FY 19-20			Q2 FY 19-20		
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Public Works												
Upgrade Radio Read/Pump Stations												
IT												
Hi speed redundant network												
Network Device Upgrades												

SUMMARY:

This Strategic Plan works to address priorities laid out by City Council. These priorities have the aim of reducing redundancies while meeting the software and hardware needs of all City Departments. The Council directed that the plan should apply funds towards long-term goals rather than short-term fixes. To accomplish this, Department Heads were consulted by IT to get a better understanding of their immediate and long-term technology needs. IT staff estimated project lengths and forecasted a timeline through Fiscal Year 2019-2020.

During evaluation it was determined by IT that many needs of the Departments could be combined to create a larger project. This will allow the City to purchase a single software package that will reduce training, installation and ongoing maintenance costs.

The IT Project Budget contains a large amount of necessary infrastructure costs. The IT Department has been transitioning our environment to use shared resources such as storage, computing power, and network resources. We can now add additional capacity that multiple Departments will be able to leverage for the projects that we are scheduling.

These projects will require significant IT staff time for implementation and support. Additional staffing has been requested to accomplish these projects and meet the goals of City Council.

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: March 21, 2016

Order ___	Ordinance ___	Resolution _	Motion ___	Information _XX_
No.	No.	No.		

<p>SUBJECT: Information about a future Community Development Block Grant (CDBG) application for manufactured housing rehabilitation funds.</p>	<p>Contact Person (Preparer) for this Motion: Steve Olson, Senior Planner Dept.: Community Development File No.: GR-16-002</p>
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EXECUTIVE SUMMARY: The City is a member of the Yamhill County Affordable Housing Corporation (YCAHC), which provides low-interest (or no-interest) loans to low-income homeowners for home repairs. This is a revolving loan program, which is jointly administered by YCAHC and the Housing Authority of Yamhill County (HAYC). The program rules require that the homeowner have a certain level of equity in the home, and that they own the lot the home is on. This means that owners of manufactured homes in parks are not eligible for assistance, even though there is a significant unmet need for repairs to address health, safety and accessibility issues.

The State has recently started to allow jurisdictions the option of applying for CDBG funds in order to give homeowners grants instead of loans. This option would allow the new grant funds to be used to assist the owners of manufactured homes in parks. YCAHC and HAYC are interested in submitting a 2016 CDBG application on behalf of the City with the goal of assisting the owners of manufactured homes in parks with grants for needed repairs. The City Affordable Housing Commission heard a brief presentation on the proposal and moved unanimously to support the submittal of the application. When the State announces that CDBG funds are available then YCAHC and HAYC will return to the City Council and ask for formal support for the grant application. No action is required at this time.

FISCAL IMPACT: No significant fiscal impact to the City is expected.

STRATEGIC ASSESSMENT (RELATE TO COUNCIL GOALS): Council Goal 7 is to “Manage and operate the City government in an efficient and effective manner”, and Objective 7.5 is to “Partner with other organizations to ensure systems for meeting the needs of the community’s underprivileged or disadvantaged citizens.” The City’s partnership with YCAHC assists low-income homeowners with needed repairs to their homes, helps maintain the existing affordable housing in the city, and allows the residents to stay in their homes.

Attachments:

1. Letter from Darcy Reynolds, HAYC

Attachment 1: HAYC letter



HOUSING AUTHORITY OF YAMHILL COUNTY

DATE: March 4, 2016
TO: City of Newberg Mayor, and City Council Members
FROM: Darcy Reynolds, Housing Authority of Yamhill County, Housing Rehabilitation
SUBJECT: Support for Submission of a 2016 Community Development Block Grant

Background

The Yamhill County Housing Rehabilitation Program has provided assistance to lower income homeowners throughout the county to make necessary repairs and upgrades to their homes since 1980, through a revolving loan program. The program is funded through Community Development Block Grants (CDBG's) that are awarded to local jurisdictions by the state's Infrastructure Finance Authority, a department within the Oregon Business Development Department.

These grants are administered by the Yamhill County Affordable Housing Corporation (YCAHC) and its agent, the Housing Authority of Yamhill County (HAYC).

Assistance has traditionally only been provided as 0% deferred, or 2% loans, and has required homeowners to own the land that their homes are situated on. This has made owners of manufactured homes in parks and on leased lots ineligible to receive assistance. This has been an unmet need in our region for quite some time. In fact, the Housing Rehabilitation program currently has 172 applications on its waiting list from such home owners, and 29 of these families are located in the City of Newberg. We anticipate this number will increase significantly once we conduct targeted outreach.

Responding to Need

In 2013 the State started to allow jurisdictions the option of applying for CDBG funds in order to give homeowners grants instead of loans for home repairs. This option would allow owners of manufactured homes to receive much needed assistance for repairs. This will ultimately enable them to remain in their homes, and will help to maintain affordable housing in your community.

2016 City of Newberg Housing Rehabilitation Application

YCAHC and HAYC are interested in submitting a 2016 CDBG application, on behalf of the City of Newberg, to focus on the needs of these owners of manufactured homes. If awarded, assistance would be provided in the form of grants, to address immediate health, safety, or accessibility issues.

We discussed the possibility of applying for a 2016 Housing Rehabilitation CDBG with Community Development Director Doug Rux, Senior Planner and YCAHC board member Steve Olson, and the Newberg Affordable Housing Commission during their January meeting, and we had their unanimous support.

There is no action required at this time, but we hope at a future Council meeting to receive your approval to apply for the Community Development Block grant, hold the required public hearing, and appoint a certifying officer. We will do this once the state's available CDBG funds are announced, in order to move forward with the preparation of a 2016 Housing Rehabilitation CDBG application. Finally, because grants for this project will need to be approved by both the YCAHC board member, and the certifying officer, we would also like to recommend that the council consider appointing the current



HOUSING AUTHORITY OF YAMHILL COUNTY

YCAHC board representative for Newberg, Steve Olson, as the certifying officer for this project in order to ease the administrative time required once the project gets underway.

If you have any questions or would like additional information do not hesitate to contact Darcy Reynolds at 503-883-4324 or dreynolds@hayc.org.

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: March 21, 2016

Order ___ No.	Ordinance ___ No.	Resolution ___ No.	Motion ___	Information <u>XX</u>
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SUBJECT: Newberg Financial Report for January 2016

**Contact Person (Preparer) for this
Item: Matt Zook
Dept.: Finance**

EXECUTIVE SUMMARY:

Included with this report are the financial summary statements for January 2015. These are provided for your information only. No action is required.

In general, the January report is on track with the budget. The Supplemental Budget passed by Council on January 19, 2016 is reflected in this report. Staff continues to evaluate the year-end estimates and prepare for the 2016-17 Proposed Budget.

SUMMARY REPORT

JAN 2015

FUNDS	2015-16 BUDGET	MONTH OF JAN 2015	2015-16 YTD	Current YTD	2014-15 PRIOR YTD
				Compare to Budget 58%	
City Budget Totals					
Total Beg Fund Balance	\$ 33,764,928	\$ 38,243,710	\$ 38,243,710	113%	31,493,673
Total Revenues	58,225,620	15,451,931	39,603,286	68%	38,656,956
Total Beg Fund Bal & Revenues	91,990,548	53,695,642	77,846,997		70,150,629
Total Expenses	67,465,423	15,334,518	36,396,559	54%	33,108,089
Total Contingencies / Reserves	24,525,125	-	-	0%	-
Total Exp & Contingen / Reserves	91,990,548	15,334,518	36,396,559	40%	33,108,089
Total Monthly Activity Net Gain / (Loss)		\$ 38,361,124			
Total Ending Fund Balance			<u>\$ 41,450,438</u>		37,042,541
City Services					
<u>General Fund</u>					
Beg Fund Balance	\$ 2,528,413	\$ 2,797,675	\$ 2,797,675	111%	2,835,743
Revenues					
General Government	-	-	-	0%	15,155.00
Municipal Court	31,000	1,494	14,930	48%	15,800
Police	1,074,135	75,254	613,263	57%	633,897
Fire	330,504	137,354	234,075	71%	123,606
Communications	59,686	14,894	44,681	75%	42,462
Library	112,859	20,776	58,929	52%	88,966
Planning	476,700	20,682	268,648	56%	283,778
Property Taxes	7,200,000	144,801	6,643,124	92%	6,345,179
Other Taxes	1,400	25	150	11%	358,090
Franchise Fees	1,486,882	30,319	111,395	7%	91,527
Intergovernmental	1,246,755	151,918	724,511	58%	707,075
Miscellaneous	2,500	(78)	5,651	226%	1,499
Interest	7,300	1,771	5,251	72%	5,081
Transfers	620,000	-	-	0%	-
Revenue Total	12,649,721	599,210	8,724,608	69%	8,712,114
Expenses					
General Government	179,862	10,750	112,381	62%	213,701
Municipal Court	382,464	26,816	208,877	55%	186,847
Police	5,952,876	482,182	3,312,084	56%	3,210,725
Fire	3,403,276	273,275	2,141,964	63%	1,871,074
Communications	1,087,961	66,476	630,899	58%	620,425
Library	1,311,025	100,468	781,008	60%	707,105
Planning	626,365	48,847	350,440	56%	339,382
Transfers	34,263	-	12,323	36%	-
Contingency	1,100,042	-	-	0%	-
Unappropriated Ending Balance	1,100,000	-	-	0%	-
Total Expenses	15,178,134	1,008,814	7,549,977	50%	7,149,260
Monthly Activity Net Gain / (Loss)		\$ 2,388,071			
Ending Fund Balance			\$ 3,972,306		4,398,597

SUMMARY REPORT

JAN 2015

FUNDS	2015-16				Current YTD Compare to Budget 58%	2014-15 PRIOR YTD
	BUDGET	MONTH OF JAN 2015	2015-16 YTD			
<u>Public Safety Fee</u>						
Beg Fund Balance	\$ 134,969	\$ 197,858	\$ 197,858	147%	196,153	
Revenues	480,600	40,456	283,366	59%	183,436	
Expenses	547,603	44,640	298,332	54%	267,981	
Contingencies / Reserves	67,966	-	-	0%	-	
Monthly Activity Net Gain / (Loss)		\$ 193,674				
Ending Fund Balance			\$ 182,891		111,609	
<u>EMS</u>						
Beg Fund Balance	\$ 595,725	\$ 806,952	\$ 806,952	135%	457,509	
Revenues	1,886,600	156,424	1,335,129	71%	1,140,209	
Expenses	1,911,034	134,972	992,233	52%	1,069,464	
Contingencies / Reserves	571,291	-	-	0%	-	
Monthly Activity Net Gain / (Loss)		\$ 828,404				
Ending Fund Balance			\$ 1,149,849		528,254	
<u>911 Emergency</u>						
Beg Fund Balance	\$ 19,768	\$ 20,940	\$ 20,940	106%	89,061	
Revenues	196,200	50,463	103,086	53%	99,138	
Expenses	204,628	23,575	125,940	62%	139,725	
Contingencies / Reserves	11,340	-	-	0%	-	
Monthly Activity Net Gain / (Loss)		\$ 47,828				
Ending Fund Balance			\$ (1,914)		48,474	
<u>Civil Forfeiture</u>						
Beg Fund Balance	\$ 19,596	\$ 20,146	\$ 20,146	103%	-	
Revenues	4,100	12	4,084	100%	3,590	
Expenses	23,696	-	-	0%	-	
Contingencies / Reserves	-	-	-	0%	-	
Monthly Activity Net Gain / (Loss)		\$ 20,158				
Ending Fund Balance			\$ 24,230		3,590	
<u>Library Gift & Memorial</u>						
Beg Fund Balance	\$ 48,169	\$ 86,434	\$ 86,434	179%	92,623	
Revenues	129,389	6,484	23,848	18%	37,183	
Expenses	171,000	1,503	19,695	12%	27,169	
Contingencies / Reserves	6,558	-	-	0%	-	
Monthly Activity Net Gain / (Loss)		\$ 91,415				
Ending Fund Balance			\$ 90,587		102,637	

SUMMARY REPORT

JAN 2015

FUNDS	2015-16 BUDGET	MONTH OF JAN 2015	2015-16 YTD	Current YTD	2014-15 PRIOR YTD
				Compare to Budget 58%	
<u>Building Inspection</u>					
Beg Fund Balance	\$ 404,838	\$ 620,378	\$ 620,378	153%	339,929
Revenues	407,850	10,566	288,335	71%	372,875
Expenses	500,497	38,233	263,362	53%	241,515
Contingencies / Reserves	312,191	-	-	0%	-
Monthly Activity Net Gain / (Loss)		\$ 592,711			
Ending Fund Balance			\$ 645,351		471,290
<u>Streets (Operating)</u>					
Beg Fund Balance	\$ 808,548	\$ 798,186	\$ 798,186	99%	689,103
Revenues	1,343,520	119,401	725,678	54%	714,447
Expenses	1,549,803	87,670	905,409	58%	701,927
Contingencies / Reserves	602,265	-	-	0%	-
Monthly Activity Net Gain / (Loss)		\$ 829,918			
Ending Fund Balance			\$ 618,455		701,623
<u>Water (Operating)</u>					
Beg Fund Balance	\$ 3,294,255	\$ 3,773,455	\$ 3,773,455	115%	4,783,887
Revenues	9,984,346	5,495,950	8,939,522	90%	3,398,650
Expenses	8,307,724	496,914	2,560,221	31%	2,648,441
Contingencies / Reserves	4,970,877	-	-	0%	-
Monthly Activity Net Gain / (Loss)		\$ 8,772,490			
Ending Fund Balance			\$ 10,152,756		5,534,096
<u>Wastewater (Operating)</u>					
Beg Fund Balance	\$ 4,403,799	\$ 4,944,662	\$ 4,944,662	112%	7,576,184
Revenues	13,033,100	7,137,994	10,679,679	82%	3,667,648
Expenses	8,582,706	335,141	3,672,078	43%	4,237,701
Contingencies / Reserves	8,854,193	-	-	0%	-
Monthly Activity Net Gain / (Loss)		\$ 11,747,514			
Ending Fund Balance			\$ 11,952,263		7,006,131
<u>Stormwater (Operating)</u>					
Beg Fund Balance	\$ 573,645	\$ 731,487	\$ 731,487	128%	1,004,730
Revenues	1,924,972	786,294	1,409,318	73%	679,284
Expenses	1,685,057	118,712	859,526	51%	506,882
Contingencies / Reserves	813,560	-	-	0%	-
Monthly Activity Net Gain / (Loss)		\$ 1,399,068			
Ending Fund Balance			\$ 1,281,279		1,177,132

SUMMARY REPORT

JAN 2015

FUNDS	2015-16 BUDGET	MONTH OF JAN 2015	2015-16 YTD	Current YTD	2014-15 PRIOR YTD
				Compare to Budget 58%	
Administrative Support					
Beg Fund Balance	\$ 563,272	\$ 588,457	\$ 588,457	104%	684,851
Revenues	3,652,103	304,545	2,137,997	59%	2,124,679
Expenses					
City Manager	805,374	53,290	425,539	53%	155,100
Human Resources	-	-	-	0%	77,219
City Recorder	-	-	-	0%	67,605
Emergency Management	-	-	-	0%	38
Finance	567,668	41,935	341,844	60%	339,114
Gen Office(Postage/Phones)	155,000	11,826	82,237	53%	78,472
Utility Billing	281,200	20,954	158,249	56%	150,269
Information Technology	704,856	56,663	415,289	59%	381,602
Legal	468,654	32,831	254,108	54%	251,904
Fleet Maintenance	178,866	14,963	102,101	57%	90,372
Facilities Repair/Replacement	471,312	25,627	215,102	46%	209,198
Insurance	353,168	1,249	298,509	85%	244,182
Transfers	-	-	-	0%	500,000
Contingencies / Reserves	229,277	-	-	0%	-
Total Expenses	4,215,375	259,337	2,292,978	54%	2,545,075
Monthly Activity Net Gain / (Loss)		\$ 633,664			
Ending Fund Balance			\$ 433,476		264,455

Capital Improvement Projects

Streets CIP's

Beg Fund Balance	\$ 164,193	\$ 164,209	\$ 164,209	0%	109,838
Revenues	778,425	57,313	628,423	81%	314,077
Expenses	777,625	57,229	627,699	81%	313,649
Contingencies / Reserves	164,993	-	-	0%	-
Monthly Activity Net Gain / (Loss)		\$ 164,293			
Ending Fund Balance			\$ 164,933		110,266

Water / Wastewater / Stormwater CIP's

Beg Fund Balance	\$ -	\$ -	\$ -	0%	-
Revenues	6,346,875	330,557	1,399,210	22%	4,942,038
Expenses	6,346,875	330,557	1,309,459	21%	2,261,934
Contingencies / Reserves	-	-	-	0%	-
Monthly Activity Net Gain / (Loss)		\$ -			
Ending Fund Balance			\$ 89,751		2,680,104

Wastewater Financed CIP's

Beg Fund Balance	\$ (749,096)	\$ (749,096)	\$ (749,096)	0%	-
Revenues	1,500,000	-	-	0%	7,266,675
Expenses	750,904	28,156	201,179	0%	6,263,780
Contingencies / Reserves	-	-	-	0%	-
Monthly Activity Net Gain / (Loss)		\$ (777,252)			
Ending Fund Balance			\$ (950,275)		1,002,895

SUMMARY REPORT

JAN 2015

FUNDS	2015-16 BUDGET	MONTH OF JAN 2015	2015-16 YTD	Current YTD	2014-15 PRIOR YTD
				Compare to Budget 58%	
<u>Street SDC</u>					
Beg Fund Balance	\$ 1,918,739	\$ 2,574,473	\$ 2,574,473	134%	2,534,551
Revenues	47,839	10,594	420,432	879%	427,503
Expenses	259,125	44,859	165,999	64%	141,093
Contingencies / Reserves	1,707,453	-	-	0%	-
Monthly Activity Net Gain / (Loss)		\$ 2,540,208			
Ending Fund Balance			\$ 2,828,906		2,820,961
<u>Water SDC</u>					
Beg Fund Balance	\$ 36	\$ 1,239,405	\$ 1,239,405	3442793%	468,918
Revenues	927,540	18,781	241,655	26%	303,573
Expenses	846,856	100	758,100	90%	1,377,129
Contingencies / Reserves	80,720	-	-	0%	-
Monthly Activity Net Gain / (Loss)		\$ 1,258,086			
Ending Fund Balance			\$ 722,960		(604,638)
<u>Wastewater SDC</u>					
Beg Fund Balance	\$ 3,475,181	\$ 4,175,483	\$ 4,175,483	120%	1,794,112
Revenues	75,120	29,337	375,265	500%	968,472
Expenses	739,361	1,864	286,564	39%	446,996
Contingencies / Reserves	2,810,940	-	-	0%	-
Monthly Activity Net Gain / (Loss)		\$ 4,202,956			
Ending Fund Balance			\$ 4,264,184		2,315,588
<u>Stormwater SDC</u>					
Beg Fund Balance	\$ 138,259	\$ 131,416	\$ 131,416	95%	351,007
Revenues	3,980	1,060	25,864	650%	24,965
Expenses	3,125	100	1,466	47%	853
Contingencies / Reserves	139,114	-	-	0%	-
Monthly Activity Net Gain / (Loss)		\$ 132,376			
Ending Fund Balance			\$ 155,815		375,119

SUMMARY REPORT

JAN 2015

FUNDS	2015-16			Current YTD Compare to Budget 58%	2014-15 PRIOR YTD
	BUDGET	MONTH OF JAN 2015	2015-16 YTD		
Debt					
<u>Debt Service (General Op)</u>					
Beg Fund Balance	\$ 206,309	\$ 210,221	\$ 210,221	102%	195,259
Revenues	896,711	27,034	750,681	84%	746,757
Expenses	895,317	-	551,022	62%	537,566
Contingencies / Reserves	207,703	-	-	0%	-
Monthly Activity Net Gain / (Loss)		\$ 237,254			
Ending Fund Balance			\$ 409,880		404,450
<u>City Hall</u>					
Beg Fund Balance	\$ 529,638	\$ 535,601	\$ 535,601	101%	576,115
Revenues	89,400	5,588	48,697	54%	56,141
Expenses	108,240	-	95,224	88%	76,977
Contingencies / Reserves	-	-	-	0%	-
Unappropriated Ending Balance	510,798	-	-	0%	-
Monthly Activity Net Gain / (Loss)		\$ 541,190			
Ending Fund Balance			\$ 489,074		555,279
Reserves					
<u>Water Replacement Reserve</u>					
Beg Fund Balance	\$ 5,151,846	\$ 5,151,846	\$ 5,151,846	100%	2,961,007
Revenues	-	-	-	0%	614,619
Expenses	5,151,846	5,151,846	5,151,846	100%	37,781
Contingencies / Reserves	-	-	-	0%	-
Monthly Activity Net Gain / (Loss)		\$ -			
Ending Fund Balance			\$ -		3,537,844
<u>Wastewater Replacement Reserve</u>					
Beg Fund Balance	\$ 6,446,100	\$ 6,446,100	\$ 6,446,100	100%	1,234,745
Revenues	-	-	-	0%	1,018,389
Expenses	6,446,100	6,446,100	6,446,100	100%	1,525,304
Contingencies / Reserves	-	-	-	0%	-
Monthly Activity Net Gain / (Loss)		\$ -			
Ending Fund Balance			\$ -		727,831
<u>Stormwater Replacement Reserve</u>					
Beg Fund Balance	\$ 814,722	\$ 684,702	\$ 684,702	84%	-
Revenues	-	-	-	0%	52,229
Expenses	814,722	684,702	684,702	84%	1,000
Contingencies / Reserves	-	-	-	0%	-
Monthly Activity Net Gain / (Loss)		\$ -			
Ending Fund Balance			\$ -		51,229

SUMMARY REPORT

JAN 2015

FUNDS	2015-16			Current YTD Compare to Budget 58%	2014-15 PRIOR YTD
	BUDGET	MONTH OF JAN 2015	2015-16 YTD		
<u>Vehicle / Equipment Replacement</u>					
Beg Fund Balance	\$ 1,362,426	\$ 1,362,426	\$ 1,362,426	100%	1,658,968
Revenues	\$ 701,881	\$ 52,932	\$ 388,857	55%	581,581
Expenses					
General Government	1,348	-	-	0%	-
City Manager's Office	4,856	140	140	3%	-
Human Resources	-	-	-	0%	-
City Recorder/Clerk	-	-	-	0%	-
Finance	17,267	-	284	2%	-
Information Technology	235,606	2,683	72,711	31%	164,397
Legal	411	-	-	0%	-
Municipal Court	4,548	-	560	12%	-
Police	533,867	13,259	136,440	26%	84,484
Fire	516,625	-	-	0%	116,389
Communications	106,716	-	2,694	3%	6,149
Library	11,374	1,902	2,764	24%	-
Planning	-	-	-	0%	11,137
Building	49,573	-	280	1%	-
PW Administration	395,514	7,740	57,143	14%	108,213
Fleet Maintenance	14,736	-	232	2%	254
Facilities Repair/Replacement	157,000	508	69,686	44%	6,213
Contingencies / Reserves	14,866	-	-	0%	-
Total Expenses	2,064,307	26,233	342,934	17%	497,237
Monthly Activity Net Gain / (Loss)		\$ 1,389,125			
Ending Fund Balance			\$ 1,408,348		1,743,312
<u>Fire & EMS Equip Fee</u>					
Beg Fund Balance	\$ 244,012	\$ 246,483	\$ 246,483	101%	174,453
Revenues	143,700	12,282	85,724	60%	84,151
Expenses	387,712	-	11,179	3%	11,179
Contingencies / Reserves	-	-	-	0%	-
Monthly Activity Net Gain / (Loss)		\$ 258,765			
Ending Fund Balance			\$ 321,028		247,425

SUMMARY REPORT

JAN 2015

FUNDS	2015-16		MONTH OF		2015-16		Current YTD Compare to Budget 58%	2014-15 PRIOR YTD
	BUDGET		JAN 2015		YTD			
Community Projects								
<u>Cable TV Trust</u>								
Beg Fund Balance	\$	38,171	\$	37,339	\$	37,339	98%	41,744
Revenues		200		19		105	53%	109
Expenses		38,371		-		50	0%	-
Contingencies / Reserves		-		-		-	0%	-
Monthly Activity Net Gain / (Loss)				\$	37,358			
Ending Fund Balance					\$	37,394		41,853
<u>Economic Development</u>								
Beg Fund Balance	\$	629,395	\$	646,472	\$	646,472	103%	643,183
Revenues		66,448		4,823		39,476	59%	122,423
Expenses		446,865		1,843		143,022	32%	80,472
Contingencies / Reserves		248,978		-		-	0%	-
Monthly Activity Net Gain / (Loss)				\$	649,452			
Ending Fund Balance					\$	542,926		685,134
<u>Transient Lodging Tax</u>								
Beg Fund Balance	\$	-	\$	-	\$	-	0%	-
Revenues		955,000		193,812		544,248	57%	-
Expenses		955,000		11,417		80,264	8%	-
Contingencies / Reserves		-		-		-	0%	-
Monthly Activity Net Gain / (Loss)				\$	182,395			
Ending Fund Balance					\$	463,984		-

REQUEST FOR COUNCIL ACTION

Date of Council Meeting: March 21, 2016

Order ___	Ordinance ___	Resolution ___	Motion ___	Information <u>XX</u>
No.	No.	No.		

**SUBJECT: Forward Looking Calendar,
District 4 City Council Vacancy**

**Contact Person (Preparer) for this
Item: Sue Ryan, City Recorder
Dept.:
File No.:**

EXECUTIVE SUMMARY: These items are informational for the Council and the public.

Newberg City Council Vacancy

DISTRICT NO. 4

A City Council position is vacant due to the resignation of Councilor Tony Rourke on March 7, 2016. The City Council shall appoint a qualified person to fill the position for the remainder of the term until December 31, 2018.

The successful applicant will fill a vacant Council seat in District No. 4 with a term beginning upon appointment by the Council and expiring December 31, 2018.

TERMS & CONDITIONS

- City Council members:
- ▶ Set policy for the entire City
 - ▶ Approve the City budget
 - ▶ Attend two Council meetings per month and committees as assigned.
 - ▶ Participate in intergovernmental relations
 - ▶ Supervise City Manager, City Attorney and Municipal Judge
 - ▶ Various other responsibilities of running a municipal corporation

QUALIFICATIONS & RESIDENCY REQUIREMENTS

- Candidates must:
- ▶ Be a registered voter
 - ▶ Resided within the City of Newberg for at least one year.
 - ▶ Reside within the boundaries of District No. 4

TO APPLY:

- Candidates must:
- ▶ Fill out a City volunteer application
 - ▶ Submit a resume
 - ▶ Apply by March 28

Questions ? : Contact City Recorder Sue Ryan at sue.ryan@newbergoregon.gov or call (503) 537-1283. Visit online at <https://www.newbergoregon.gov/citycouncil/page/newberg-city-council-vacancy>

STRATEGIC ASSESSMENT (RELATE TO COUNCIL GOALS): To keep the citizenry informed.

**NEWBERG CITY COUNCIL
2016 FORWARD LOOKING CALENDAR**

Monday, April 4, 2016

Work Session – Design Star Kids presentations
Work Session – Newberg Animal Shelter contract review
Presentation on Chamber quarterly report
Presentation on Waste Management annual report
Resolution 3270 Public Works Operation Plant Mechanic
Resolution 3255 To hire tourism consultant
Yamhills Inc. Liquor License
Resolution Aquarius Street Wastewater lateral replacement contract bid award
Quasi-Judicial Public Hearing on Ordinance 2799 Rourke annexation
Administrative Public Hearing on Resolution: water hardship request for 1650 NE Chehalem Drive
Resolution *tentative on Master Fee Schedule Adoption*
Marijuana Tax
Resolution 3265 Updating performance standards for charter employees
Council Business – Discuss District 4 appointment

Saturday, April 9, 2016 9:00 a.m. to 3:00 p.m.

Executive Session City Manager 1st round interviews

Monday, April 18 Meeting will start early at 5:00 p.m. for joint City/County meeting

5:00 p.m. – Joint meeting with Yamhill County Commissioners
6:00 p.m. – Town Hall for community
Resolution on Yamhill County CDBG Housing grant
Resolution Adopting Newberg Economic Development strategy
Resolution Wastewater Treatment Plant Sodium Hypochlorite Generation System Contract Award
Resolution 3260 Murray Smith Villa contract amendment

Saturday, April 24 9:00 a.m. to 3:00 p.m.

Executive Session City Manager Finalist interviews

Other upcoming Council meetings

Monday, March 28 – 6:00 p.m. Economic Development Strategy Meeting, Springbrook Room at Friendsview on Hayes Street
Thursday, April 14 – 6:00 p.m. Chehalem Future Focus at Cultural Center
Saturday, April 16 – 9:00 a.m. to 2:00 p.m. Budget Committee Tour and orientation