

ORDER No. 2008-0009

AN ORDER FINDING THAT PROPERTY LOCATED AT 2216, 2304, 2305, 2313, 2317 N. ALICE WAY & 2004 E. MOUNTAINVIEW DRIVE, YAMHILL COUNTY TAX LOTS 3217BA-100, 200, 500, 600, 700, 800, MEETS THE APPLICABLE NEWBERG DEVELOPMENT CODE CRITERIA TO BE ANNEXED INTO THE CITY, AND MEETS THE APPLICABLE CODE CRITERIA TO CHANGE THE CURRENT COMPREHENSIVE PLAN DESIGNATION OF IND (INDUSTRIAL) TO MDR (MEDIUM DENSITY RESIDENTIAL), AND ZONING DESIGNATION FROM COUNTY VLDR-1 TO CITY R-2, WITH A SC (STREAM CORRIDOR) OVERLAY ON THE WESTERN PARCELS

RECITALS:

1. On September 5, 2006 the Newberg City Council initiated the annexation application for properties located at 2216, 2304, 2305, 2313, 2317 N. Alice Way & 2004 E. Mountainview Drive (Yamhill County tax lots 3217BA-100, 200, 500, 600, 700, 800) by approving Ordinance 2006-2656, which created the Alice Way LID. These six properties are an “island” of county land within the city and contain existing single family homes. Several of the properties have water and sewer problems, which will be remedied by the LID. All of the property owners consented to annexation as part of the LID approval. There is a temporary “hardship” conditional use permit for a dwelling unit on two of the properties.
2. The properties currently have a City Comprehensive Plan designation of Industrial (IND), with a Stream Corridor (SC) overlay on the western properties. If the land was annexed with an industrial zone then the existing houses would become non-conforming uses and would have to be removed within 1 to 10 years (timeline would be set by the City Council). The comprehensive plan change from Industrial to Medium Density Residential is necessary in order to allow the owners to keep living on the site after annexation, and to provide some ability to redevelop the properties to City standards in the future. This does not represent a significant loss of industrial land since the parcels are small, are already developed with single family homes, and the western parcels have some stream corridor slopes.
3. The request is for annexation of six parcels (approximately 3.55 acres) into the City of Newberg, as well as a comprehensive plan change to Medium Density Residential and corresponding zone change to R-2 upon annexation. The three parcels west of Alice Way have a Stream Corridor overlay on their western edge
4. The Newberg Planning Commission heard the annexation and comprehensive plan amendment/zoning amendment on January 10, 2008 and recommended approval per Resolution 2007-246.

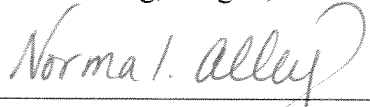
5. After proper notice, on February 19, 2008, the Newberg City Council held a hearing to consider the annexation and comprehensive plan amendment/zoning amendment requests.
6. The City Council finds that the requirements of the City of Newberg Comprehensive Plan and Newberg Development Code regarding comprehensive plan and zoning map amendments have been met, and that the applicable criteria for annexation have been met.

THE CITY OF NEWBERG ORDERS AS FOLLOWS:

1. The City Council finds that the annexation, comprehensive plan map amendment, and zoning map amendment meet the Newberg Comprehensive Plan and Newberg Development Code criteria.
2. The City Council adopts the findings, which are attached hereto as Exhibit A and incorporated herein by reference.
3. Annexation requires the City Council to adopt an ordinance annexing the property, and requires approval at a public vote. If the annexation is approved through these procedures, then the City orders the following:
 - A. The property shown in Exhibit B and described in Exhibit C is changed from IND (Industrial) to MDR (Medium Density Residential) comprehensive plan designation.
 - B. The zoning of the property described in Exhibit C is changed to R-2 (medium density residential) with a SC (stream corridor) overlay on the western parcels as shown on the map in Exhibit D.
4. This order is subject to the following:
 - A. Require the property owner of tax lots 3217BA-600 and 700 to furnish a copy of the "hardship" dwelling conditional use permit to the City, update the City every two years on the status of the people that the dwelling was approved for, and remove the dwelling when the people it was approved for no longer reside on the property.

➤ **EFFECTIVE DATE** of this order is the day after the adoption date, which is: February 20, 2008.

ADOPTED by the City Council of the City of Newberg, Oregon, this 19th day of February, 2008.



Norma I. Alley, City Recorder

ATTEST by the Mayor this 21st day of February, 2008.



Bob Andrews, Mayor

QUASI-JUDICIAL HISTORY

By and through Planning Commission Committee at 1/10/2008 meeting. Or, None.
(committee name) (date) (check if applicable)

EXHIBIT A: FINDINGS
ANX-07-005/CPA-07-004

ANNEXATION FINDINGS: NDC § 151.261

A. The following conditions must be met prior to or concurrent with City processing of any annexation request:

1. *The subject site must be located within the Newberg Urban Growth Boundary or Newberg Urban Reserve Areas.*

Finding: All the property proposed for annexation is within the Newberg Urban Growth Boundary (UGB). The property is an island of County land, and is completely surrounded by the city.

2. *The subject site must be contiguous to the existing City limits.*

Finding: The properties are contiguous to the existing City limits on all four sides, as they constitute an island.

NDC § 151.262

(A) *The proposed use for the site complies with the Newberg comprehensive plan and with the designation on the Newberg comprehensive plan map. If a redesignation of the plan map is requested concurrent with annexation, the uses allowed under the proposed designation must comply with the Newberg comprehensive plan.*

Finding: The applicants intend to continue to use the properties for residential use. If the properties are annexed under the current Industrial comprehensive plan designation then they would have industrial zoning, which would make these residences non-conforming uses and require their removal within 1 to 10 years. The owners therefore want the comprehensive plan designation changed to residential. A comprehensive plan map amendment to Medium Density Residential has therefore been requested concurrently with annexation. If it is approved then the proposed use will comply with the Newberg comprehensive plan, and the properties will have R-2 (Medium Density Residential) zoning upon annexation.

Existing “hardship” dwelling on tax lots 3217BA-600 and 700: The hardship dwelling was approved by Yamhill County under a conditional use permit to allow for the care of elderly relatives. The terms of the conditional use permit prohibit the dwelling from becoming a permanent dwelling, so it will have to be removed eventually. The County typically renews the permit every two years as long as the same people occupy the property. The hardship dwelling will be a non-conforming use upon annexation into the City. The City could require the owner of tax lots 3217BA-600 and 700 to furnish a copy of the “hardship” dwelling conditional use permit to the City, update the City every two years on the status of the people that the dwelling was approved for, and remove the dwelling when the people it was approved for no longer reside on the property.

(B). *An adequate level of urban services must be available, or made available, within three years time of annexation. An adequate level of urban services shall be defined as:*
(a) *Municipal sanitary sewer and water service meeting the requirements enumerated in the Newberg comprehensive plan for provision of these services.*

- (b) ***Roads with an adequate design capacity for the proposed use and projected future uses. Where construction of the road is not deemed necessary within the three-year time period, the city shall note requirements such as dedication of right-of-way, waiver of remonstrance against assessment for road improvement costs, or participation in other traffic improvement costs, for application at the appropriate level of the planning process. The city shall also consider public costs for improvement and the ability of the city to provide for those costs.***

Finding: The Alice Way LID, created by Ordinance 2006-2656, will extend water and sewer lines to the site.

Water: The LID will extend a water line within Alice Way from Mountainview Drive within the next three years.

Sanitary sewer: Sewer service is not currently available near these properties. A sewer line will be installed in Mountainview Drive within three years, however, and the LID will extend a sewer line within Alice Way at that time.

Stormwater: No storm drainage improvements are included within the LID. Storm drainage improvements will be completed if the properties redevelop in the future and would be the responsibility of the owner/developer.

Roads: Alice Way is a gravel road, and no street improvements are included within the LID. Street improvements will be completed if the properties redevelop in the future and would be the responsibility of the owner/developer.

- (C). ***Findings documenting the availability of police, fire, parks, and school facilities and services shall be made to allow for conclusionary findings either for or against the proposed annexation. The adequacy of these services shall be considered in relation to annexation proposals.***

Finding: Police services are currently provided to the area by Yamhill County Sheriff's Office. Newberg Rural Fire District currently provides fire service. The proposed annexation will shift police and fire services to the City. The current development includes only six houses. This will add only a minimal amount to the police and fire services needed. The property taxes collected will largely offset the additional services needed. When development occurs, additional police and fire services will be needed, and additional property taxes will be generated. The fiscal analysis calculation estimated that the annual revenues from the annexation would slightly reduce the level of public safety provided in the City. The current level of public safety service for the city is 2.9 FTE (full time employees) per 1000 people. The annexed properties, when redeveloped, would probably generate revenue at a rate of 2.1 FTE per 1000, which would slightly reduce the overall level of public safety provided within the city. Most of the recent development within the city, however, has consisted of relatively expensive single family homes that would more than offset this potential medium density development.

The property will generate additional needs for school and park facilities if redeveloped. The Newberg School District receives state funding on a per student basis. Thus, with the additional population, the school district will receive additional funding for school services. Development of the property will also generate additional property tax revenue that will go to fund school and park

services, school excise taxes that will go towards the development of schools, and system development charges that will go toward the development of parks.

The development of the site will not have adverse affects on the availability of police, fire, parks, and school facilities and services for the community as a whole.

- (D) *The burden for providing the findings for divisions (A), (B) and (C) of this section is placed upon the applicant.*

Finding: The applicant is the City of Newberg. These findings have been prepared by City staff.

- (E) *The City Council may annex properties where urban services are not and cannot practically be made available within the three year time frame noted in subsection (B) above, but where annexation is needed to address a health hazard, to annex an island, to address sewer or water connection issues for existing development, to address specific legal or contract issues, to annex property where the timing and provision of adequate services in relation to development is or will be addressed through legislatively adopted specific area plans or similar plans, or to address similar situations. In these cases, absent a specific legal or contractual constraint, the Council shall apply an interim zone, such as a limited-use overlay, that would limit development of the property until such time as the services become available.*

Finding: The City Council considered urban services for these properties when the Alice Way LID was created. The Council at that time decided to include water and sewer services with the LID. Water and sewer services will be provided within three years by the LID. If the properties redevelop in the future then the developers will be required to construct storm drainage and street improvements.

Positive and Negative Effects of the Annexation

Finding: The annexation of these properties was required as a condition of the Alice Way LID, which was created to relieve water and sewer problems for these six parcels. The annexation and concurrent change of these properties to R-2 medium density residential zoning would have the positive effect of allowing these residents to remain on their properties with safe water and sewer services, and would allow the potential redevelopment of these properties in the future to more urban densities. The owners have consented to the annexation and LID for these properties. A negative effect of the annexation and zone change would be the loss of 3.55 acres of industrial land. The parcels were unlikely to be developed for industrial uses, however, due to their small sizes (0.47 – 1 acre) and the steep slopes on the western parcels.

**COMPREHENSIVE PLAN AMENDMENT AND ZONING MAP AMENDMENT FINDINGS:
NDC § 151.122(3)**

- A. The proposed change is consistent with and promotes the objectives of the Newberg Comprehensive Plan and this Code.**

1. Comprehensive Plan Description

MEDIUM DENSITY RESIDENTIAL (MDR)

The objective of this designation is to provide a wide range of housing types and styles while maintaining an overall density of up to 8.8 units per acre.

Typical housing types include single-family housing on small lots, attached or detached single-family or duplex units or tri- or four-plexes where adequate opens areas exist and where the overall density is within the limits of this classification.

Services shall include improved streets, underground utilities (except electrical transmission lines), street lighting, sidewalks and, in some cases, bikeways.

Finding: The request is to amend the comprehensive plan designation to MDR for all six parcels, which would allow development at up to 8.8 units per acre. The current comprehensive plan designation is Industrial (IND), which does not allow residential development and would require the removal of the residences as non-conforming uses within 1 to 10 years of annexation. The owners intend to continue to live on the properties, and therefore need a residential comprehensive plan designation for the properties. The existing development is low density single family residential (ranges from 1 to 2.12 units per acre), which is allowed within the Medium Density Residential designation. The properties could be changed to Low Density Residential instead, but it is likely that this density would be too low to ever make it feasible to redevelop these properties and bring the street and storm drainage improvements up to City standards. The MDR designation would make it more likely that redevelopment could occur in the future, as the properties range in size from 0.47 acres to 1 acre and have some potential for infill development. The properties west of Alice Way would have a Stream Corridor overlay.

2. Development Code - Description and Purpose

R-2 MEDIUM DENSITY RESIDENTIAL DISTRICT

(A) The purpose of this land use designation is to provide a wide range of housing types and styles, while maintaining a maximum overall density of 8.8 units per gross residential acre.

(B) Typical housing types will include single-family dwellings on small lots, attached and detached single family, duplex or multi-family housing, cluster developments and townhouses. The R-2 District is intended to be consistent with the "Medium Density Residential" designation of the comprehensive plan.

(Ord. 96-2451, passed 12-2-96; Am. Ord. 99-2505, passed 2-1-99)

Finding: The proposed R-2 zoning district would be consistent with the proposed MDR

comprehensive plan district. The properties west of Alice Way would also have a Stream Corridor overlay zone. The owners propose to maintain their existing single-family homes, which is consistent with the R-2 zone requirements. The existing development ranges from 1 to 2.12 units per acre, which does not exceed the maximum 8.8 dwelling units per acre allowed in the R-2 zone. The owners could redevelop their properties in the future, however, as long as the new development still meets the requirements of the zoning district

3. Comprehensive Plan Goals and Policies

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 process of holding a public hearing before the Planning Commission and City Council for approval of this request is consistent with providing citizens an opportunity to have involvement in the land use process.

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

HOUSING DENSITY POLICY (b): Target densities should be as follows: Urban Medium Density: 9 units per gross acre (includes a 25 percent allowance for streets). The City shall encourage development to occur at or near these planned densities by providing positive incentives, such as lot size averaging while maintaining and improving livability.

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

HOUSING MIX POLICY (j): The City shall encourage innovation in housing types and design as a means of offering a greater variety of housing and reducing housing costs.

HOUSING MIX POLICY (m): Within the urban area, land use policies will attempt to provide a broad range of residential uses and encourage innovative development techniques.

Finding: There are several reasons why Industrial zoning is not a good fit for these parcels. As already mentioned, if the properties are annexed into the city as industrial land then the existing homes would become nonconforming uses and be required to be removed within 1 to 10 years. This outcome would be contrary to the purpose of the Alice Way LID, which was to replace a failing water system for the residents of these properties. The lots would also be difficult to develop for industrial uses. Most industrial users desire large flat parcels. These six parcels are relatively small, ranging from 0.47 acres to 1 acre. The properties on the west side of Alice Way slope down to a stream corridor. For these reasons they are not well suited to industrial development, even though the property to the east is industrial (Ushio) and the properties to the south have industrial zoning. The Ushio property has landscape buffers and is a clean industrial use that is compatible with adjacent residential development. The two small properties just to the south of the annexation area would remain M-2 industrial land, but are unlikely to be developed as industrial land. The southern property on the west side of side of Alice Way contains a residence and a cellular tower on 1 acre. The cellular tower would become a nonconforming use if this property was converted to a residential zone, so this property is unlikely to change in the near future. The southern property on the east side of Alice Way is 0.97 acres. It is owned by the Austin family but not connected to the A-dec campus. The undeveloped parcel just south of the end of Alice Way is owned by Hazelden Springbrook and

will be used for future expansion. The Hazelden facility is quiet, well landscaped and compatible with nearby residential uses. The properties west of the annexation area lie across a stream corridor and are low density residential. The properties north of the annexation area are currently undeveloped but are planned for low density residential development as part of the Springbrook Master Plan. For all of these reasons the properties are better suited to residential uses than industrial uses.

The Housing Goal encourages a mix of housing types within the city and favors placing medium and high density residential zones along collector streets or minor arterials that do not require traffic to move through low density residential neighborhoods. Most of the nearby residential land is zoned low density residential, so making these properties medium density could provide some variety in housing types if they redevelop in the future. These properties are adjacent to Mountainview Drive, a minor arterial, and would not cause additional traffic to move through low density residential neighborhoods. Medium density R-2 zoning allows development at up to 8.8 units per acre, which would provide some flexibility for the property owners if they decide to redevelop their existing low density properties.

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

ENERGY PLANNING POLICY A: The City will encourage energy-efficient development patterns. Such patterns shall include the mixture of compatible land uses and a compactness of urban development.

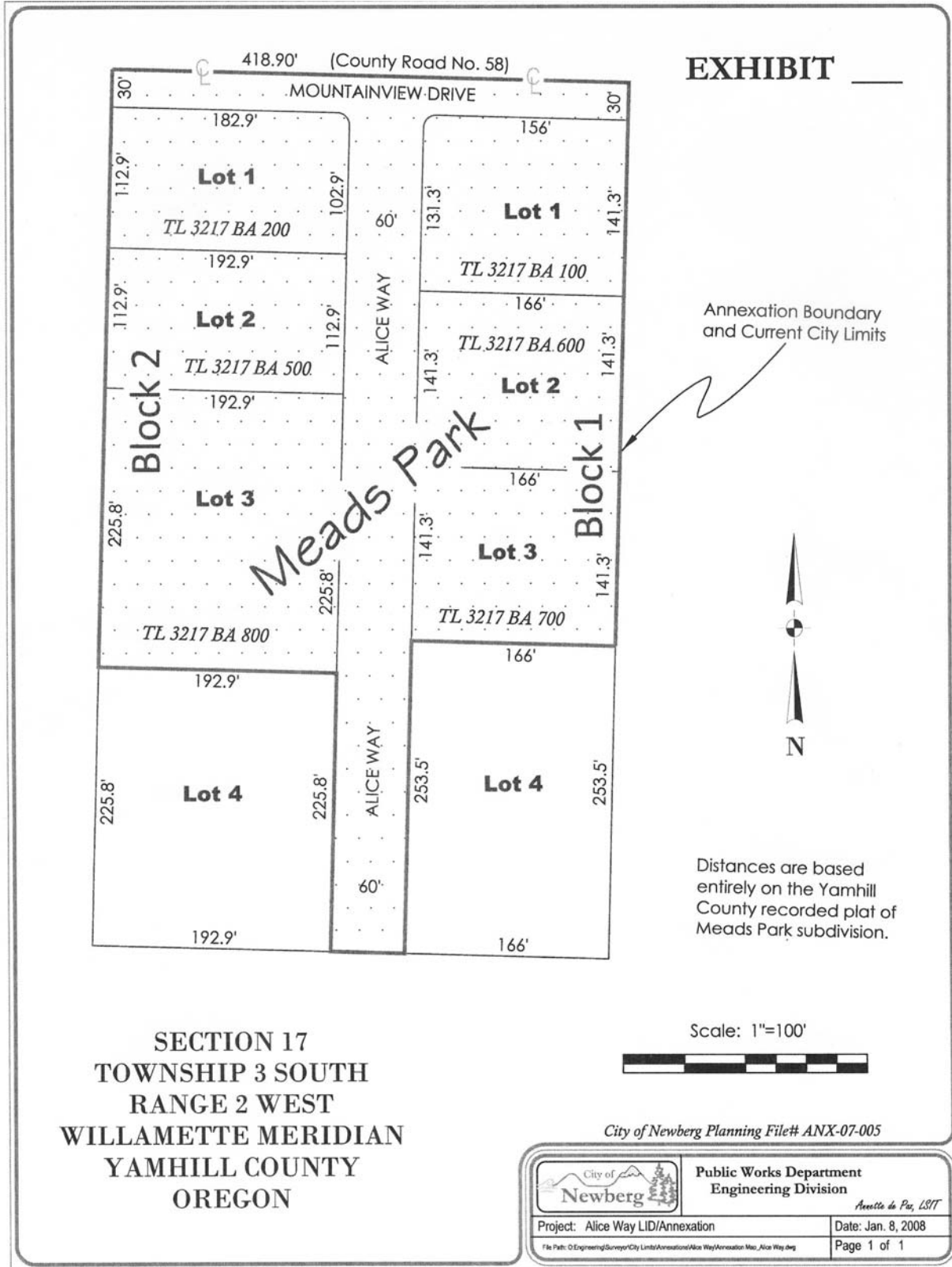
Finding: Changing these parcels to MDR would contribute to a more compact and energy-efficient city if they redevelop in the future.

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

Finding: As previously stated under the annexation criteria, public facilities will be available within three years to support the existing residential uses and the potential redevelopment of these parcels for medium density residential.

EXHIBIT B: ANNEXATION MAP

EXHIBIT _____



SECTION 17
 TOWNSHIP 3 SOUTH
 RANGE 2 WEST
 WILLAMETTE MERIDIAN
 YAMHILL COUNTY
 OREGON

Distances are based
 entirely on the Yamhill
 County recorded plat of
 Meads Park subdivision.

Scale: 1"=100'



City of Newberg Planning File# ANX-07-005

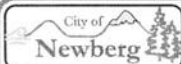
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|  | Public Works Department Engineering Division <i>Annette de Paz, LSIT</i> | |
| | Project: Alice Way LID/Annexation | Date: Jan. 8, 2008 |
| <small>File Path: O:\Engineering\Surveyor\City Limits\Annexation\Alice Way\Annexation Map_Alice Way.dwg</small> | | Page 1 of 1 |

EXHIBIT C: LEGAL DESCRIPTION

**LEGAL DESCRIPTION
FOR
ANNEXED LANDS
TO THE CITY OF NEWBERG**

A tract of land being located in Section 17, Township 3 South, Range 2 West of the Willamette Meridian, Yamhill County, Oregon being a portion of Meads Park, a Yamhill County recorded subdivision, said tract of land being more particularly described as follows;

All of the following Lots of said Meads Park Subdivision;

Lot 1 of Block 1

Lot 2 of Block 1

Lot 3 of Block 1

Lot 1 of Block 2

Lot 2 of Block 2

Lot 3 of Block 2

Together with all of that land dedicated as public right of way by the recorded plat of said Meads Park subdivision, including Alice Way and County Road No. 58, said County Road now being known as Mountainview Drive.

EXHIBIT D: COMPREHENSIVE PLAN MAP

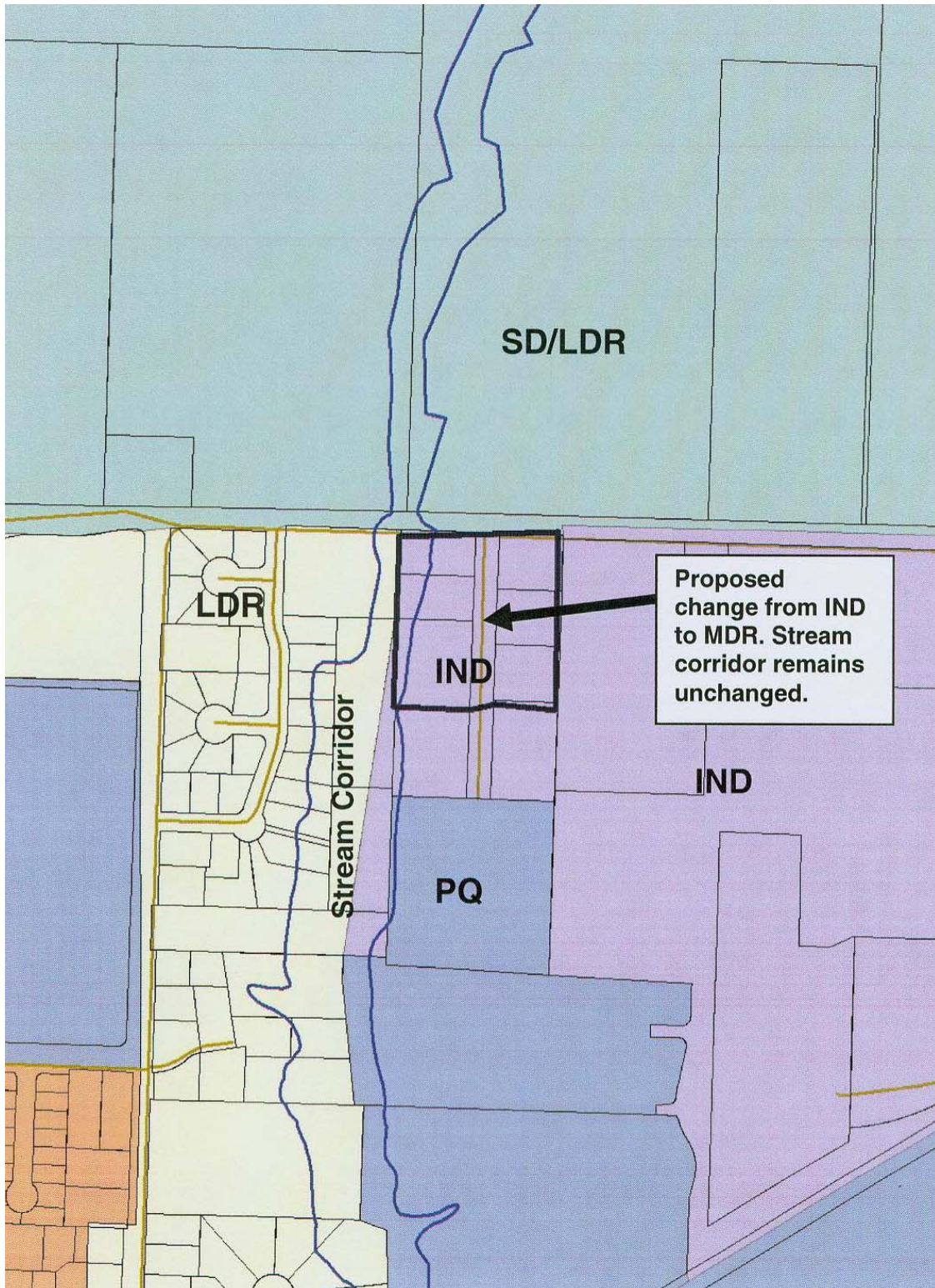
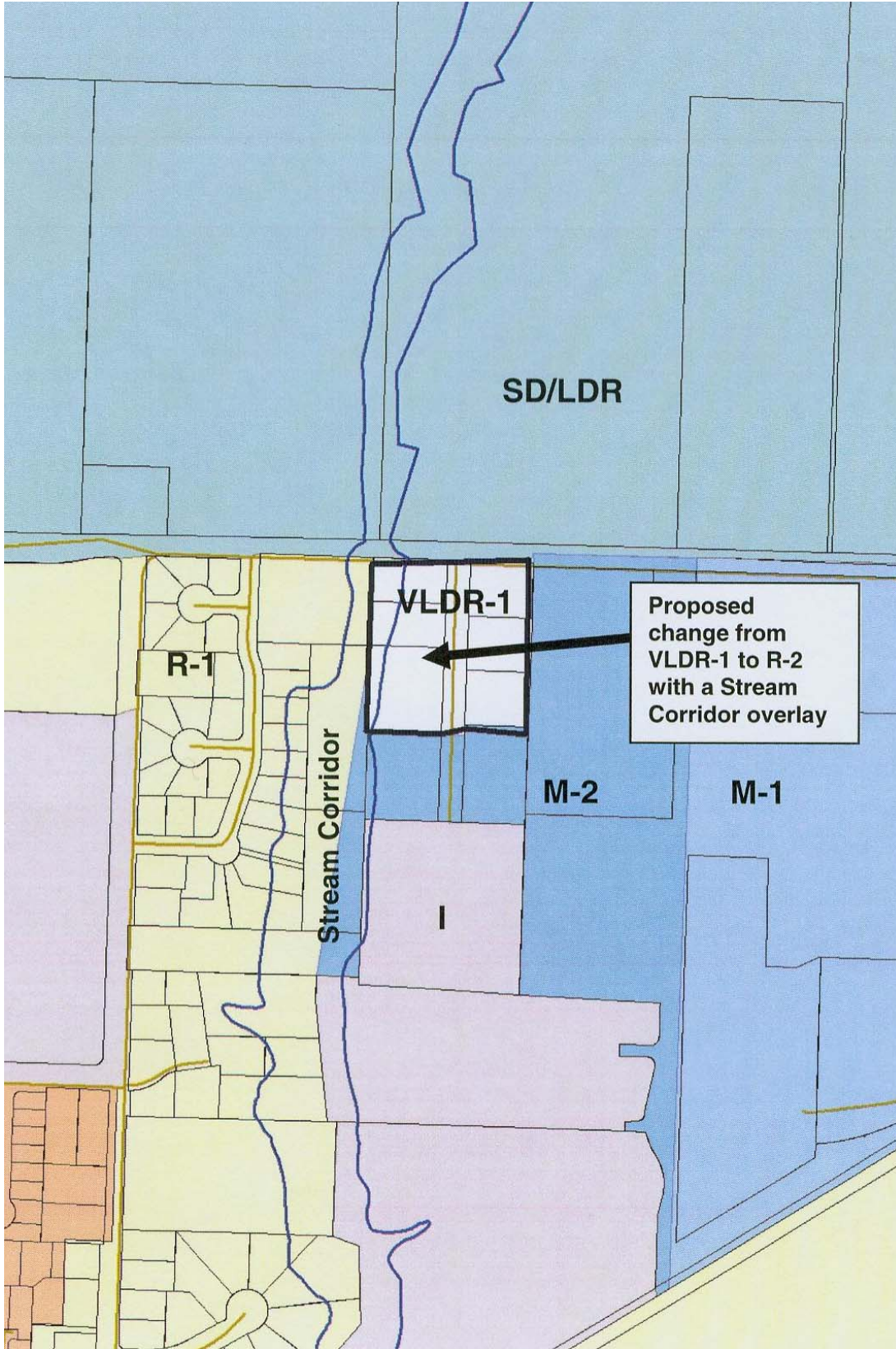
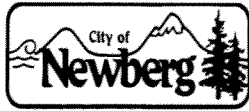


EXHIBIT E: ZONING MAP





ORDINANCE No. 2008-2689

AN ORDINANCE DECLARING PROPERTY LOCATED AT 2216, 2304, 2305, 2313, 2317 N. ALICE WAY & 2004 E. MOUNTAINVIEW DRIVE, YAMHILL COUNTY TAX LOTS 3217BA-100, 200, 500, 600, 700, 800, BE ANNEXED INTO THE CITY OF NEWBERG AND WITHDRAWN FROM THE NEWBERG RURAL FIRE PROTECTION DISTRICT SUBJECT TO A PUBLIC VOTE, AND AUTHORIZING AND DIRECTING THE CITY ELECTIONS OFFICER TO CERTIFY TO THE YAMHILL COUNTY CLERK A BALLOT TITLE FOR THE MEASURE TO BE SUBMITTED TO THE ELECTORATE OF THE CITY OF NEWBERG FOR THEIR APPROVAL OF AN ANNEXATION FOR THIS SAME PROPERTY

RECITALS:

1. On September 5, 2006 the Newberg City Council initiated the annexation application for properties located at 2216, 2304, 2305, 2313, 2317 N. Alice Way & 2004 E. Mountainview Drive (Yamhill County tax lots 3217BA-100, 200, 500, 600, 700, 800) by approving Ordinance 2006-2656, which created the Alice Way LID. All of the property owners consented to annexation as part of the LID approval.
2. After proper notice, on February 19, 2008 at the hour of 7:00 PM in the Newberg Public Safety Building, 401 E. Third Street, the City Council held a public hearing on the item: accurately stated objections to jurisdiction, bias, and ex-parte contact; considered public testimony; examined the record; heard the presentation from staff and the applicant; examined and discussed the appropriate criteria to judge the project (as listed in the staff report); considered all relevant information regarding the item; and deliberated.
3. On February 19, 2008, the City Council adopted Order 2008-0009 which affirmed that the annexation met the applicable Newberg Development Code criteria.
4. The City of Newberg Charter requires that territory may be annexed into the City of Newberg only upon approval by a majority vote among the electorate of the City.
5. The matter can be placed before the voters at the May 20, 2008 general election.

THE CITY OF NEWBERG ORDAINS AS FOLLOWS:

1. The question of annexing the property shown in Exhibit "A" and described in Exhibit "B" shall be submitted to the electorate of the city at the May 20, 2008 general election.
2. The City Council directs that all costs associated with placing the item on the ballot be paid for by the owners. This includes but is not limited to noticing, signage, advertising, and cost assessed by the Yamhill County Clerk to place the item on the ballot. Owners may be required to place monies in escrow to cover the costs of elections.
3. The City Elections Officer is hereby authorized and directed to certify to the Yamhill County Clerk the ballot title for the annexation measure to be placed before the voters. Further, the City Elections Officer is directed to give all necessary notices of the ballot title and do all other necessary acts and deeds which may be required to place the matter before the voters of the City of Newberg at said election
4. The City Attorney is directed to have prepared and review the explanatory statement which shall be submitted to the Yamhill County Clerk with the ballot title. Such explanatory statement shall be filed with the City Elections Officer and the City Elections Officer is further directed to certify this explanatory statement to the Yamhill County Clerk.
5. The City Elections Officer is authorized to do all other necessary acts and deeds which may be required to conduct the election concerning this measure.
6. Should this annexation request be approved by a majority of the electorate of the City of Newberg at the identified election date, the property shown in Exhibit "A" and described in Exhibit "B", shall be annexed and withdrawn from the Newberg Rural Fire Protection District, and the following events will occur:
 - A. The City of Newberg land use inventory data and GIS data will be updated to reflect the new addition.

B. The Recorder of the City of Newberg is hereby authorized and directed to make and submit to the Secretary of State, the Department of Revenue, the Yamhill County Elections Officer, and the Assessor of Yamhill County, a certified copy of this ordinance.

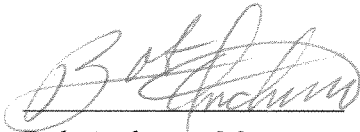
➤ **EFFECTIVE DATE** of this ordinance is 30 days after the adoption date, which is: March 20, 2008.

ADOPTED by the City Council of the City of Newberg, Oregon, this 19th day of February, 2008, by the following votes: **AYE: 7** **NAY: 0** **ABSENT: 0** **ABSTAIN:**



Norma I. Alley, City Recorder

ATTEST by the Mayor this 21st day of February, 2008.



Bob Andrews, Mayor

LEGISLATIVE HISTORY

By and through Planning Commission Committee at 1/10/2008 meeting. Or, ___ None.

(committee name)

(date)

(check if applicable)

EXHIBIT A: ANNEXATION MAP

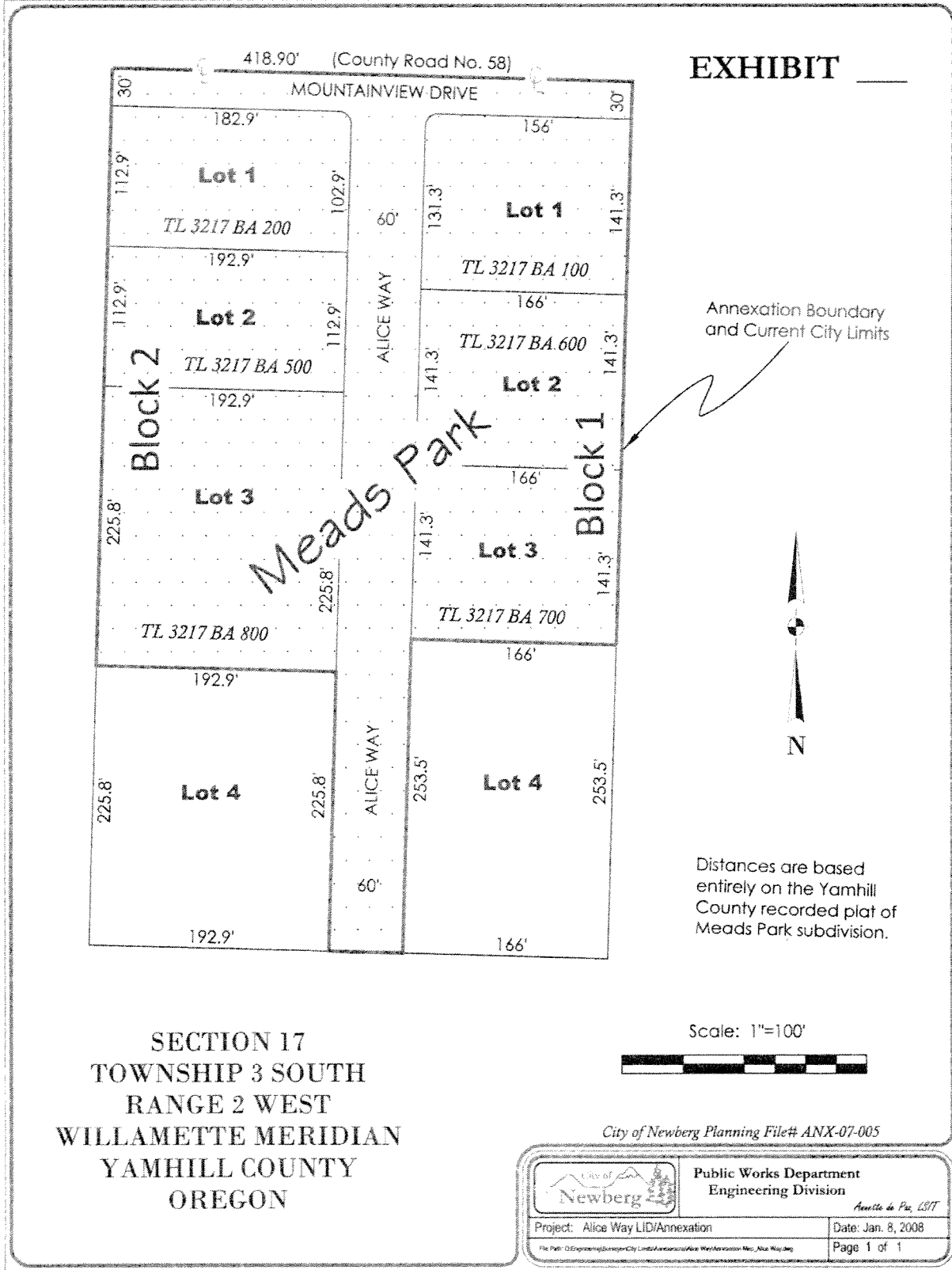


EXHIBIT B: LEGAL DESCRIPTION

**LEGAL DESCRIPTION
FOR
ANNEXED LANDS
TO THE CITY OF NEWBERG**

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All of the following Lots of said Meads Park Subdivision;

- Lot 1 of Block 1
- Lot 2 of Block 1
- Lot 3 of Block 1
- Lot 1 of Block 2
- Lot 2 of Block 2
- Lot 3 of Block 2

Together with all of that land dedicated as public right of way by the recorded plat of said Meads Park subdivision, including Alice Way and County Road No. 58, said County Road now being known as Mountainview Drive.