



ORDER No. 2013-0032

**AN ORDER AFFIRMING PLANNING COMMISSION APPROVAL OF THE
TERRA ESTATES SUBDIVISION LOCATED AT 3805 TERRACE DRIVE**

RECITALS:

1. Mike Hanks, member of Del Boca Vista, LLC, submitted an application for tentative subdivision approval for the Terra Estates subdivision to include 44 lots and one tract located at 3805 Terrace Drive, Yamhill County Tax Lot 3207-00500. The tract, Tract A, would be used for a stormwater quality/detention pond to serve the subdivision.
2. The planning commission held hearings on August 8, 2013, and September 12, 2013, to consider the proposal. On September 12, 2013, the planning commission adopted Order No. 2013-13 approving the Terra Estates subdivision at 3805 Terrace Drive with 44 lots and one tract.
3. On September 26, 2013, Jane Greller submitted an appeal to the city of the planning commission decision to approve the Terra Estates subdivision.
4. After proper notice, the Newberg City Council held a hearing on November 18, 2013, to consider the appeal of the Terra Estates subdivision. The city council heard public testimony, closed public testimony, and continued the hearing at the point of deliberation to December 16, 2013. On December 16, 2013, the city council deliberated on the proposed subdivision. The city council finds the proposed subdivision meets the applicable criteria as shown in the findings in Exhibit "A" and must comply with the conditions of approval in Exhibit "B".

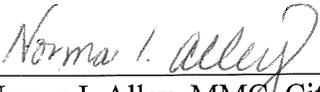
THE CITY OF NEWBERG ORDERS AS FOLLOWS:

1. The tentative subdivision plan application SUB2-12-003 for the Terra Estates subdivision is hereby approved, subject to the conditions contained in Exhibit "B". Exhibit "B" is hereby adopted and by this reference incorporated.
2. The findings attached as Exhibit "A" are hereby adopted and by this reference incorporated.

3. The following two items are referred to the traffic safety commission for their consideration: (1) whether stop signs should be placed at the Natalie Drive/Morris Street intersection, and (2) whether they recommend the city pursue acquisition of right-of-way at the northeast corner of Terrace Drive and College Street to allow realignment or other improvements at the intersection. The traffic safety commission may also consider and recommend other improvements in the area to improve safety.

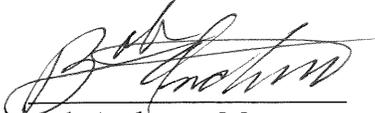
➤ **EFFECTIVE DATE** of this order is the day after the adoption date, which is: December 17, 2013.

ADOPTED by the City Council of the City of Newberg, Oregon, this 16th day of December, 2013.



Norma I. Alley, MMC, City Recorder

ATTEST by the Mayor this 17th day of December, 2013.



Bob Andrews, Mayor

Findings –File SUB2-12-003 – Terra Estates Subdivision

I. Applicable Subdivision Criteria: Newberg Development Code 15.235.060(A).

The Director (Type II) or Planning Commission (Type III) shall approve a subdivision of four parcels or more under a Type II or Type III procedure if the resulting parcels comply with the following approval criteria:

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

Finding: This criterion requires that a subdivision can’t create safety problems for future development of any portion of the property not developed nor for development or redevelopment of adjacent properties. This is what gives the city the right to require streets and utilities to be “to and through” the property being developed to the edges of adjacent undeveloped properties. In other words, if a property were going to be subdivided but did not put a road to the edge of their property to allow the adjacent undeveloped property to have access, it would be in violation of this criterion. Similarly, if public utilities were not extended to a point adjacent to the neighboring property, it would be an unacceptable adverse impact on the development potential of the adjacent property. In this particular case, the roads and public utilities are planned to be extended through the lot to the east and west edges to allow for future development of adjacent properties, and the entirety of the lot is planned for development so there is no remainder.

This is also a land use criterion that gives the city the ability require development to meet other applicable parts of the development code related to street improvements and public utilities. This is how the city may require such things as public utility hookups, sidewalks, street trees, and public pathways necessary for safety.

This criterion does not require correction of existing problems not caused by or affected by the development. It is a reasonable interpretation that the criterion could be used to require improving health or safety issues that are worsened by the subdivision. However, those requirements (1) must be directly tied to the impact of the development, and (2) must be roughly proportional to those impacts.

Testimony through the planning commission process raised concerns about safety at the Terrace Drive/College Street intersection. This intersection was redesigned as part of the Terrace Heights subdivision to the south to meet engineering sight distance standards. The applicant’s traffic study analyzed this intersection. The traffic study showed that the subdivision would add approximately 31 trips to this intersection in the p.m. peak hour. This would roughly double the turning movements through the intersection. The traffic study did not recommend any improvements to the intersection.

Public testimony raised concerns about vegetation along the east side of College Street blocking sight distance for northbound vehicles on College Street turning left onto Terrace Drive. This vegetation previously had been trimmed as part of the Terrace Heights subdivision’s intersection improvements. Public testimony requested that the intersection be realigned to the north to further extend sight distance. However, the intersection cannot be realigned without acquisition of right-of-way from an abutting private property owner, which would be beyond the scope of what could be

**Exhibit “A”
to Order No. 2013-0032**

required from the private developer. Additional potential solutions to this issue include replacing the landscaping in this stretch so that it does not continue to be an issue, or restriping the intersection to move the turn lane further north. Replacing the landscaping would require cooperation of the abutting property owner; restriping the intersection would require approval from ODOT. Either replacing the landscaping or restriping the intersection would address the impact of adding traffic to the intersection, and would be proportional to the impact of subdivision.

Public testimony also raised concerns about an existing culvert on the north side of the Terrace Drive/College Street intersection. Testimony stated that southbound vehicles on College Street turning right onto Terrace Drive sometimes veer into that ditch, likely because of the acute angle of the intersection. Realigning the intersection to the north would resolve this issue, however this also would require acquisition of land from the abutting property owner, which again would be beyond the scope of what could be required of a private developer. Additional potential solutions include placing reflectors or other markers at the edge of the pavement to better mark the ditch, or adding paving within the existing right-of-way. Because the intersection is partly Yamhill County jurisdiction and partly ODOT jurisdiction, approval of these jurisdictions would be needed for any physical improvements. Either marking the ditch or adding pavement would address the impact of adding traffic to the intersection, and would be proportional to the impact of the subdivision. Therefore, a condition of this subdivision is:

***Terrace Drive/College Street Intersection Safety.** Coordinate with city staff, Yamhill County, and ODOT on safety improvements to the intersection. Improvements may include installation of safety reflectors, additional striping, replacing landscaping, or additional paving, as warranted and approved by all agencies.*

Other public testimony raised concerns about potential safety issues on Morris Street. Morris Street is a local street that currently dead ends just north of Natalie Drive. The subdivision would extend Morris Street to the north. The applicant’s traffic study shows that the subdivision will add approximately 13 trips in the p.m. peak hour to Morris Street. The traffic study did not recommend any improvements to Morris Street.

One request from public testimony was for placement of stop signs at the Natalie Drive/Morris Street intersection. Information from the Engineering Services Department contained in the record shows that stop signs where warranted can improve safety, but where not warranted can actually harm safety. That information also summarized engineering warrants for stop signs. At this point, it is not clear whether that intersection would meet the stop sign warrants. Morris Street currently dead ends just north of Natalie Drive with only a few houses accessing it north of Natalie Drive. Thus, traffic from the subdivision will generate a very high percentage of the trips on one leg of the four-way intersection. Therefore the need for a stop sign would be directly tied to the impact of the subdivision and would be roughly proportional to the impacts. The traffic safety commission can determine whether stop signs are warranted. Therefore, a condition of approval is:

Install stop signs at the intersection of Natalie Drive and Morris Street if found to be warranted by the Newberg Traffic Safety Commission.

With these conditions, the subdivision does not impede the future best use of the remainder of the property under the same ownership or adversely affect the safe and healthful development of such remainder or adjoining land or access thereto.

Exhibit "A"
to Order No. 2013-0032

2. The subdivision complies with this code including but not limited to 15.340.010 through 15.440.080 and 15.235.030 et seq.

Finding: Following compliance with the conditions of approval as shown in Exhibit "B", the subdivision complies with all applicable requirements of the code. See sections II through IV for specific development code standards and findings.

3. Either:

a. Improvements required to be completed prior to final plat approval; or

b. The sub divider will substantially complete, as defined by city policies, required improvements prior to final plat approval, and enter into a performance agreement to complete the remaining improvements. The performance agreement shall include security in a form acceptable to the city in sufficient amount to insure completion of all required improvements; or

c. A local improvement district shall have been formed to complete the required improvements; or

d. The required improvements are contained in a city or other government agency capital improvement project that is budgeted and scheduled for construction.

Finding: The required improvements will either be completed prior to final plat or the developer will enter into an agreement with the city for the remainder of the improvements to be completed. In this case, public improvements required for the subdivision include: construction of Morris Street northward through the subdivision; construction of both east-west roads through the subdivision; a three-quarter street improvement to Terrace Drive along the frontage of the subdivision; a half street improvement to Petunia Drive; construction of city water, sewer, and stormwater infrastructure throughout the subdivision; construction of a stormwater quality/detention facility to serve the subdivision; and any required safety improvements to the Terrace Drive/College Street intersection. All street improvements will include sidewalk, curb, gutter, and planting strip.

II. Applicable Lot Requirement: Newberg Development Code 15.405.010, 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 5,000 square feet or as may be established by a subdistrict. The average size of lots in a subdivision intended for single-family development shall not exceed 10,000 square feet.

D. Lot size averaging is allowed for any subdivision. Some lots may be under the minimum lot size required in the zone where the subdivision is located, as long as the average size of

Exhibit "A"
to Order No. 2013-0032

all lots is at least the minimum lot size.

Finding: The property is all zoned R-1. The size of the lots in the proposed subdivision range from 4,910 square feet to 7,629 square feet. Due to the east-west road alignment and resulting lot configuration, one lot is below the 5,000 square foot lot size. However, the average size of all lots in the subdivision is 5,656 square feet, which meets this criterion.

III. Applicable Lot Requirements – Newberg Development Code 15.405.030 Lot Dimensions and Frontage

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

B. Depth to Width Ratio. Each lot and parcel shall have an average depth between the front and rear lines of not more than two and one-half times the average width between the side lines. Depths of lots shall conform to the standards of this code. Development of lots under 15,000 square feet are exempt from the lot depth to width ratio requirement.

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

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 NMC 15.05.030, shall be created to provide frontage or access.

c. Each lot in an R-1, AI, or RP zone shall have a minimum width of 50 feet at the front building line.

Finding: Each proposed lot meets the required width for the R-1 zone and all have adequate frontage on a public street. Lots 7, 8, 25, 34, and 36 must have buildings facing the wide section of the lot in order to comply with the criterion. Therefore, lot 7 is conditioned to have the house facing Terrace Drive; lots 25 and 34 are conditioned to have houses facing Morris Street; and lot 36 and lot 8 are conditioned to have a house facing the east-west road.

IV. Applicable Development Standards

NDC 15.510.040: Water Supply. All lots and parcels within subdivisions and partitions shall be served by the water system of the City of Newberg.

NDC 15.510.050: Sewage. All lots and parcels within subdivisions and partitions shall, where practicable, as determined by the Director, in accordance with the

**Exhibit “A”
to Order No. 2013-0032**

provisions of this Code, be served by the sewage system of the City.

NDC 15.510.060: Land Surface Drainage. Such grading shall be done and such drainage facilities shall be constructed by the land divider as are adequate for the purpose of proper drainage of the partition or subdivision, of areas affected thereby, and for the preservation of healthful and convenient surroundings and conditions for residents of the subdivision or partition, and for the general public, in accordance with specifications adopted by the City Council under 15.510.030.

NDC 15.505.030: Streets and Alleys. The land divider or developer shall grade and pave all streets and alleys in the subdivision or partition to the width specified in 15.505.060, and provide for drainage of all such streets and alleys, construct curbs and gutters within the subdivision or partition in accordance with specifications adopted by the City Council under 15.510.030. Such improvements shall be constructed to specifications of the City under the supervision and direction of the Director. It shall be the responsibility of the land divider or developer to provide street signs

NDC 15.505.040: Existing Streets. A subdivision, partition or development requiring a Type II design review abutting or adjacent to an existing road of inadequate width, shall dedicate additional right-of-way to and improve the street to the width specified in 15.505.060.

NDC 15.505.210: Sidewalks. Sidewalks shall be located and constructed in accordance with the provisions of 15.510.030. Minimum width is five feet.

NDC 15.505.220.(A): Public Walkways. The review body for a design review or land division may require easements for and construction of public walkways where such walkway is needed for the public safety and convenience or where the walkway is necessary to meet the standards of this code or a walkway plan. Public walkways are to connect to cul-de-sacs, to pass through oddly shaped or unusually long blocks, to provide for networks of public paths according to adopted plans, or to provide access to schools, parks or other community destinations or public areas of such design, width, and location as reasonably required to facilitate public use. Where possible, said dedications may also be employed to accommodate public utilities.

NDC 15.510.070: Street Trees. Street trees shall be provided adjacent to all public rights-of-way abutting or within a subdivision or partition. Street trees shall be installed in accordance with the provisions of 15.420.010(B) (4).

Finding: All of the proposed lots will be served by an extension of city sewer and water facilities. The existing 8-inch sanitary sewer line in Terrace Drive will be extended north and west “to and through” the property in Terrace Drive and the northern east-west road in order to serve future development on adjacent properties. The sewer line will also be extended west on Drèa’s Way and south down Morris Street from the northern east-west road. The existing 8-inch water line will be extended north in both Terrace Drive and Morris Street, looped through the site, and similarly extended “to and through” to the edges of the property. There is an existing fire hydrant at the north

**Exhibit “A”
to Order No. 2013-0032**

edge of the property in Terrace Drive; two new fire hydrants are planned for the north and south boundaries of Morris Street in the subdivision. The applicant submitted a preliminary fire flow report indicating there was adequate domestic and fire flow capacity. The applicant will be conditioned to submit further calculations conforming to Fire Department and Building Division standards indicating minimum service requirements will be met.

In accordance with the city’s new stormwater standards, the development will include a tract set aside for a stormwater quality/detention pond facility to serve the subdivision. There will be new stormwater lines installed at various points in the subdivision to collect the stormwater. Stormwater will be conveyed from the detention pond to the existing creek. As conditioned, the outfall will have erosion control measures to protect against water velocity and the design must be approved by the Engineering Services Department. The detention pond facility will be privately owned and maintained with a public storm drainage easement, and must be designed to Clean Water Services Standards and approved by the Engineering Services Department. A private maintenance agreement through a homeowners association will be required, as conditioned.

Morris Street and the two east-west streets are all standard local streets with a 54-foot right-of-way. All will be fully improved with sidewalk, curb, gutter, and planter strip. As conditioned, all sidewalks are setback behind the planter strip. Terrace Drive required a right-of-way dedication of 10 feet along the frontage, and will be improved with a three-quarter street improvement to widen the paved area and add sidewalk, curb, gutter, and planter strip along the frontage. Petunia Drive required a right-of-way dedication of 7-15 feet along the frontage, and will be improved with a half street improvement to widen the paved area and add sidewalk, curb, gutter, and planter strip along the frontage. All public streets will have street trees in accordance with the code. In addition, a paved pedestrian path will be built in the public access easement between lots 4, 5, 9, and 10. The pedestrian path will be privately maintained and maintenance responsibility will need to be included in the CC&Rs, as conditioned.

NDC 15.505.160: Platting standards for blocks. B. Maximum Block Length and Perimeter. The maximum length and perimeters of blocks in the zones listed below shall be according to the following table. The review body for a subdivision, partition, conditional use permit, or a Type II design review may require installation of streets or walkways as necessary to meet the standards below.

<i>Zone(s)</i>	<i>Maximum Block Length</i>	<i>Maximum Block Perimeter</i>
<i>R-1</i>	<i>800 feet</i>	<i>2,000 feet</i>
<i>R-2, R-3, RP, I</i>	<i>1,200 feet</i>	<i>3,000 feet</i>

Finding: The proposal meets the block length and perimeter standard. The northern east-west road is approximately 620 feet long from Terrace Drive to the west edge of the property. Morris Street is approximately 722 feet long from the northern east-west road south to Natalie Drive. The block bounded by the northern east-west road/Morris Street/Drèa’s Way/Terrace Drive is approximately

**Exhibit “A”
to Order No. 2013-0032**

1325 feet in perimeter length. The block bounded by Drèa’s Way/Morris Street/Natalie Drive/Dahlia Street/Petunia Drive/Terrace Drive is approximately 1792 feet in perimeter length. The block length standards are met, and the tentative plat shows a paved pedestrian path between lots 4, 5, 10, and 11 that will contribute to the overall connectivity through the subdivision.

V. Newberg Comprehensive Plan Sections:

Public Facilities and Services, All Facilities and Services Policy #1.h. – *New residential areas shall have: paved streets, curbs, pedestrian ways, water, sewer, storm drainage, street lights and underground utilities.*

Finding: The policy above is not a mandatory approval criteria; however, according to the finding above for Development Code requirements for infrastructure, the proposed subdivision meets the requirements to have paved streets, curbs, pedestrian ways, water, sewer, storm drainage, street lights and underground utilities, and meets the intent of the Newberg Comprehensive Plan.

Newberg Comprehensive Plan III.2.a. (Plan Classifications) - Low Density Residential (LDR)

The objective of this designation is to provide a wide range of housing types and styles, while allowing for an overall density of up to 4.4 units per acre.

Typical housing types will include single-family attached and detached housing. Clustered housing areas within Planned Unit Developments or condominiums must include adequate open areas to maintain the low overall density of this classification.

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

Finding: The subdivision tentative plat decision is a limited land use decision within the definition 197.015 (12). ORS 197.195 (1) states,

*A limited land use decision shall be consistent with applicable provisions of city or county comprehensive plans and land use regulations. Such a decision may include conditions authorized by law. Within two years of September 29, 1991, cities and counties shall incorporate all comprehensive plan standards applicable to limited land use decisions into their land use regulations. A decision to incorporate all, some, or none of the applicable comprehensive plan standards into land use regulations shall be undertaken as a post-acknowledgment amendment under ORS 197.610 to 197.625. **If a city or county does not incorporate its comprehensive plan provisions into its land use regulations, the comprehensive plan provisions may not be used as a basis for a decision by the city or county or on appeal from that decision.** [emphasis added]*

The criteria for approval of the subdivision are contained in Newberg Development Code Section 15.235.060. There is nothing in the language of these criteria, other criteria in the development code, or any other land use regulations to indicate that compliance with Newberg Comprehensive Plan III.2.a. is required for a limited land use decision. The language of the plan provision itself is aspirational (“the objective of this designation” and “allowing for an overall density”) rather than mandatory. Thus, regardless of whether the council were to find compliance or noncompliance with

Exhibit "A"
to Order No. 2013-0032

this policy, the city has not incorporated the provision cited above into its land use regulations and therefore it may not be used as a basis for the decision on this subdivision.

VI. House Design: House design and other particular details of single-family residential development on individual lots is not a subdivision criteria for approval. However, a letter from Marc Willcuts to the planning commission was included into the record on August 8, 2013 in testimony from Mr. Reitz. The letter refers to the applicant's offer to include the following items in CC&Rs in exchange for neighbor support of the subdivision:

- 1500 square feet minimum house size
- Minimum two car garages
- Lap siding; no vinyl
- Front yard to have sprinklers and irrigation
- Minimum of three exterior colors on house
- Wood trimmed windows on front of house

At the hearing on August 8, 2013, the applicants indicated they would be willing to do these items if their project was approved, but not if the project was subjected to an extended appeal. The city cannot require such conditions because aesthetics are not related to the quasi-judicial criteria for a subdivision; however, the applicant can agree to add such things in CC&Rs as a condition if they so choose. The planning commission modified condition C.3.d. in the staff report to reflect these developments, as follows:

- *[Documents required:] C.3.d. A final draft copy of Codes, Covenants and Restrictions (CC&Rs) for the subdivision. Planning staff will review the proposed CC&Rs for compliance with City Code prior to recordation. The CC&Rs must include the following:*
 - *Maintenance responsibility for the paved pedestrian path between lots 4, 5, 10, and 11.*
 - *If the subdivision has final preliminary plat approval by March 12, 2014, the CC&Rs shall include the following design elements:*
 - *1500 square feet minimum house size*
 - *Minimum two car garages*
 - *Lap siding; no vinyl*
 - *Front yard to have sprinklers and irrigation*
 - *Minimum of three exterior colors on house*
 - *Wood trimmed windows on front of house*

VII. Conclusion: Based on the above findings, the application meets the goals and policies of the Newberg Comprehensive Plan and the required criteria within the Newberg Development Code for a subdivision, subject to completion of the attached conditions.

Exhibit "B"
to Order No. 2013-0032

Conditions of Approval – File SUB2-12-003 – Terra Estates Subdivision

A. The applicant must provide the following information for review and approval prior to construction of any improvements:

- 1. Revised Tentative Plan:** Provide a revised tentative subdivision plan that shows the following:
 - a. Name the northern east-west road. Note that the name cannot be Camellia Road, as the new road does not line up with the existing Camellia Road.

- 2. Construction Plans:** Submit engineered construction plans for review and approval of all public utilities. Plans should be drawn to show storm information on one sheet; water and sanitary on another sheet. Please note that additional Engineering Services Department plan review application and fees apply for review of plans. The plans must note the following:
 - a. Sanitary Sewer/Water:
 - i. Submit detailed utility construction plans for review and approval for all public water meters, sanitary sewer mains, and sanitary sewer laterals.
 - ii. Sanitary sewer facilities in Terrace Drive shall be constructed to serve future development in the basin. A basin plan shall be prepared by engineer of record and submitted to the Engineering Services Department.
 - iii. An abbreviated fire flow calculation dated July 25, 2013 for the project site was submitted by the applicant. Fire flow calculations will be required to be submitted to the Engineering Services Department for the proposed subdivision that conform to the City of Newberg Fire Department standards, indicating that each lot in the new subdivision will meet the minimum service requirements.
 - iv. Domestic water flow calculations will be required to be submitted to the Engineering Services Department for the proposed subdivision that conform to the City Building Division requirements indicating that minimum service pressures are available at the future highest fixtures in the development.
 - b. Streets:
 - i. Full improvements for Morris Street, the northern east-west road, and Drèa's Way, including curb, gutter, planter strip, and sidewalk. Note: all sidewalks are to be setback behind the planter strip.

**Exhibit “B”
to Order No. 2013-0032**

- ii. Half street improvement to the north side of Petunia Drive along the frontage, to include curb, gutter, planter strip, and sidewalk. Note: the sidewalk must be setback behind the planter strip.
 - iii. Street names should be “Morris Street” and “Drèa’s Way”, plus a new street name for the northern east-west road.
 - iv. Each street intersection in the proposed subdivision shall meet AASHTO vertical and horizontal intersection sight distance requirements, as verified by the engineer of record.
 - v. Terrace Drive is to be constructed with the proper structural road section applicable to its designation to provide a three-quarter street improvement as depicted by the typical section on the “Site and Utility Plan” plus additional paving and improvements as necessary to construct a 28-foot wide street matching the construction profile of the southern portion of Terrace Drive adjacent to the Terrace Heights subdivision.
- c. Stormwater:
- i. The proposed stormwater quality/detention pond facility shall be fully constructed with the first phase of development. Applicant’s Civil Engineer is to meet with Engineering Services Department Staff to review the proposed design. The stormwater facility should be designed according to Clean Water Services standards, and the control structure shall discharge into a rock armored open channel/ditch to transmit the stormwater flows to the receiving stream. The plan for the stormwater facility shall include a secure fence around the pond.
 - ii. The proposed stormwater tract shall be under ownership separate from the City and subject to a recorded public storm drainage easement over its entirety. A City standard private stormwater facility maintenance agreement shall be completed by the applicant and recorded for private maintenance of the stormwater facility. The agreement shall state the responsible party(s) for the required facility maintenance.
 - iii. All stormwater detention and water quality hydraulic and sediment control structures shall have adequate maintenance access for the City vactor truck within 10 feet of the proposed structure.
 - iv. Delineate the stream corridor and provide a plan to protect the stream corridor during site grading and construction.
 - v. The applicant shall coordinate with City Engineering staff to prepare a protocol for the maintenance of the stormwater quality/detention pond and water quality swale.

Exhibit "B"
to Order No. 2013-0032

3. **Stormwater Facility Maintenance Agreement:** Provide a stormwater facility maintenance agreement for private maintenance of the stormwater facility. The agreement must state the responsible party(s) for the required facility maintenance.
4. **Geotechnical Report.** Provide a geotechnical engineering report for the subdivision.
5. **Grading:** If required, obtain a DEQ 1200-C permit and a city grading permit prior to site grading.
6. **Stream Corridor Protection Plan.** Provide a plan to protect the stream corridor during construction with erosion control measures.
7. **Stormwater Outfall.** Provide an erosion control plan for the proposed stormwater outfall area into the existing creek to reduce water velocity and speed.
8. **Terrace Drive/College Street Intersection Safety.** Coordinate with city staff, Yamhill County, and ODOT on safety improvements to the intersection. Improvements may include installation of safety reflectors, additional striping, replacing landscaping, or additional paving, as warranted and approved by all agencies.

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

1. **Substantially Complete the Construction Improvements:** Prior to final plat approval, the applicant must substantially complete the construction improvements and secure for them in accordance with city policy. Complete construction and call for a walk-through inspection with the Engineering Services Department (503-537-1273). In addition to those items listed below, the inspector will also be looking for completion of items such as street signs, street lights, etc.
 - a. Construct all water meters, sanitary sewer mains, and sanitary sewer laterals as shown on the approved utility construction plans.
 - b. Construct the stormwater system as shown in the approved plans.
 - c. Construct all public roads and the public pathway identified on the approved tentative plat.
 - d. Install stop signs at the intersection of Natalie Drive and Morris Street if found to be warranted by the Newberg Traffic Safety Commission.
2. **Street Tree Bond:** Provide a landscape plan that identifies all planned tree species for street trees in accordance with NDC 15.420.010. A landscape bond will be required for installation of street trees prior to final plat approval.
3. **Existing Wells/Septic:** Decommission any wells or septic tanks currently on the property.

Exhibit "B"
to Order No. 2013-0032

C. Final Plat Application: In accordance with NDC 15.235.150, submit the following for City review of the final plat application. Construction improvements should be substantially complete at this point.

1. Application Materials:

- a. Type I application form (found either at City Hall or on the website – www.newbergoregon.gov in the Planning Forms section) with the appropriate fees.
- b. A current title report (within 6 months old) for the property. Include copies of all existing easements and CC&Rs that pertain to the property.
- c. A written response to these Conditions of Approval that specifies how each condition has been met.
- d. Two blue-line copies of the final subdivision plat for preliminary review by the City Engineering Services Department. The Engineering Services Department will make red-line comments on these sheets for your surveyor/engineer to correct prior to printing final Mylar copies.

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

- a. 10 ft public utility easements along all street frontages.
- b. A 15-foot wide public access and storm drainage easement between lots 4, 5, 9, and 10.
- c. The storm drainage easement along the northern edge of the subdivision as shown on the tentative plat. In addition, the entirety of Tract A shall have a public surface water and public storm drainage easement.
- d. Right-of-way as shown on the preliminary plat for Terrace Drive and Petunia Drive improvements.

3. Documents Required: Provide the following documents for review and approval:

- a. Stormwater facility maintenance agreement for private maintenance of the stormwater facility. The agreement must state the responsible party(s) for the required facility maintenance.
- b. A signed and notarized performance agreement that assures construction and performance in accordance with the approved final plans.
- c. A bond for street tree planting in an amount to be approved by the Planning Division.
- d. A final draft copy of Codes, Covenants and Restrictions (CC&Rs) for the subdivision. Planning staff will review the proposed CC&Rs for compliance with City Code prior to recordation. The CC&Rs must include the following:
 - i. Maintenance responsibility for the paved pedestrian path between lots 4, 5, 10, and 11.

Exhibit "B"
to Order No. 2013-0032

- ii. If the subdivision has final preliminary plat approval by March 12, 2014, the CC&Rs shall include the following design elements:
 - (a) 1500 square feet minimum house size
 - (b) Minimum two car garages
 - (c) Lap siding; no vinyl
 - (d) Front yard to have sprinklers and irrigation
 - (e) Minimum of three exterior colors on house
 - (f) Wood trimmed windows on front of house

4. Final Mylar Copies of the Subdivision Plat: Submit final mylar copies of the corrected final subdivision plat (after red-line corrections have been made).

- a. Two sets (one original and one copy) of the plat. Original plats shall be in substantial conformity to the approved tentative plan and shall conform to the Yamhill County Surveyor's specifications and requirements. Scale requirements shall be the same as specified for the tentative plans. Note: Newberg Development Code requires a mylar copy of the recorded plat. To complete this requirement, you may either record a mylar copy of the plat for the city or you may have your surveyor/engineer print a copy of the recorded plat on mylar. This requirement must be met to complete the final plat process, and building permits will not be issued until the mylar copy is received.

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

- 1. **City Review:** In accordance with NDC 15.235.160 and 15.235.180, Planning staff shall determine that:
 - a. Streets, roads, and alleys for public use are dedicated without any reservation or restriction other than reversionary rights upon vacation of any such street or road and easements for public utilities.
 - b. The proposal complies with this code.
 - c. The plat is in substantial conformity with the provisions of the tentative plan for the subdivision, as approved.
 - d. The plat contains a donation to the public of all common improvements, including but not limited to streets, roads, parks, sewage disposal and water supply systems.
 - e. Explanations of all common improvements required as conditions of approval of the tentative plan of the subdivision have been accounted for and referenced on the plat.
 - f. There will exist an adequate quantity and quality of water and an adequate sewage disposal system to support the proposed use of the land described in the plat.
 - g. Either:
 - i. Improvements as required by this code or as a condition of tentative plan approval have been filed with the Director; or

Exhibit "B"
to Order No. 2013-0032

- ii. A performance agreement (bond) or suitable substitute as agreed upon by the city and applicant has been filed with the Director in sufficient amount to insure the completion of all required improvements; or
- iii. A petition for improvements has been properly executed by the applicant who is effecting the subdivision and will be assessed for said improvements.
- h. Taxes, as well as public liens, assessments and fees, with respect to the subdivision area have been paid, or adequate guarantee has been provided assuring said taxes, liens, assessments and fees will be paid prior to recordation.
- i. The subdivider has entered into agreement with the city relating to completion of improvements, payment of sewer and water hookup fees, inspection fees, public lands payments, monumentation or any other elements deemed relevant to the purpose of this or any other city ordinance, state statute or federal law.
- j. If the conditions set at the time of tentative land division approval are not fulfilled and the final plat or final map is not recorded by the tentative plan expiration date, the tentative land division approval is null and void.

2. **Required Signatures:** According to NDC 15.235.180, approval of a final subdivision plat must be acknowledged and signed by the following:

- a. Planning and Building Director
- b. The County Assessor
- c. The County Surveyor
- d. The City Recorder

3. **Recording:** Deliver the approved subdivision plat to the office of the County Clerk for recording. The County Clerk's office is located at 414 NE Evans St, McMinnville, OR 97128.

4. **Completion:** Return an exact mylar copy of the recorded plat to the Director to complete the subdivision process. Note: the city will not issue building permits or other permits for construction on individual lots until the mylar copy is returned.

E. Development Notes:

1. **Postal Service:** The applicant shall submit plans to the Newberg Postmaster for approval of proposed mailbox delivery locations. Contact the Newberg Post Office for assistance at 503-554-8014.

2. **PGE:** PGE can provide electrical service to this project under terms of the current tariff which will involve developer expense and easements. Contact the Service & Design Supervisor, PGE, at 503-463-4348.

3. **Frontier:** The developer must coordinate trench/conduit requirements with Frontier. Contact the Engineering Services Department, Frontier, at 541-269-3375.

4. **Waste Management:** Contact Waste Management for garbage service to the new lots.

Exhibit "B"
to Order No. 2013-0032

5. **Addresses:** The Planning Division will assign addresses for the new subdivision. Planning Division staff will send out notice of the new addresses after they receive a recorded mylar copy of the final subdivision plat.
6. **Building Plans for Lots 7, 8, 25, 34, and 36:** The building plans for these lots must show the front of the house facing the widest portion of the lot. Lot 7 must face Terrace Drive, lots 25 and 34 must face Morris Street, and lots 7 and 36 must face the northern east-west road.
7. **Street Trees on Corner Lots:** Street trees on corner lots shall be adjusted to not interfere with street signs as necessary.
8. **Fence:** Consider constructing a six foot tall opaque fence along the southern boundary of the subdivision.