



ORDER NO. 2014-0033

AN ORDER FINDING PROPERTY LOCATED AT 108 S. SPRINGBROOK ROAD, YAMHILL COUNTY TAX LOT 3221-900, MEETS THE APPLICABLE NEWBERG DEVELOPMENT CODE CRITERIA TO BE ANNEXED INTO THE CITY AND TO CHANGE THE ZONING DESIGNATION FROM YAMHILL COUNTY VLDR-1 TO CITY R-3

RECITALS:

1. On September 24, 2013, Springbrook Investments LLC submitted an application to annex one parcel (approximately 7.2 acres) located at 108 S. Springbrook Road, Yamhill County tax lot 3221-900, into the City of Newberg with a concurrent zone change from county VLDR-1 to city R-3, with a stream corridor overlay zone on the eastern part of the site and an airport inner horizontal surface overlay.
2. The Newberg Planning Commission heard the annexation request on December 12, 2013, took public testimony, and found that the request met the applicable Newberg Development Code criteria. The planning commission recommended approval of the annexation and concurrent zone change, and withdrawal of the parcel from the Newberg Rural Fire Protection District.
3. After proper notice, on January 21, 2014, the Newberg City Council held a hearing to consider the annexation request.
4. The city council finds that the applicable criteria have been met, and that approval of the annexation is in the best interests of the community.

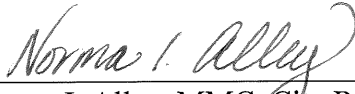
THE CITY OF NEWBERG ORDERS AS FOLLOWS:

1. The city council finds the annexation and concurrent zone change meet the Newberg Development Code criteria and adopts the findings attached hereto as Exhibit A and by this reference incorporated.
2. 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 zoning of the property shown in Exhibit B and described in Exhibit C is changed to R-3 (high density residential), with a stream corridor overlay zone and an airport inner horizontal surface overlay zone as shown in Exhibit D. Exhibits B, C and D are hereby adopted and by this reference incorporated.
 - B. The following conditions will also apply:
 1. Connect existing house to sewer and water within three years or remove the house.

2. Transportation:
 - a. A left turn pocket at Brutscher/Fernwood will be required at time of development.
 - b. The Fernwood Road frontage will need to be improved to city standards at the time of development, which could include additional paving, curb, gutter, planter strip, sidewalk, and utility undergrounding.
 - c. Future access to the site will be limited to Fernwood Road. If the site is developed it should include two driveways, and the westerly driveway should be right-in/right-out only.

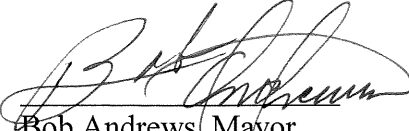
➤ **EFFECTIVE DATE** of this order is the day after the adoption date, which is: January 22, 2014.

ADOPTED by the City Council of the City of Newberg, Oregon, this 21st day of January, 2014.



Norma I. Alley, MMC, City Recorder

ATTEST by the Mayor this 23rd day of January, 2014.



Bob Andrews, Mayor

Exhibits:

- Exhibit A: Findings
- Exhibit B: Annexation map
- Exhibit C: Legal description
- Exhibit D: Zoning map

Exhibit A: Findings

A. 15.250.020 Conditions for annexation.

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

A. The subject site must be located within the Newberg urban growth boundary or Newberg urban reserve areas.

B. The subject site must be contiguous to the existing city limits.

Finding: The subject site is within the Newberg urban growth boundary and is contiguous to the existing city limits on the east and west sides. The Fernwood Road right of way is within the city limits, so the south side of the site is also contiguous to the city limits.

B. 15.250.030 Quasi-judicial annexation criteria.

The following criteria shall apply to all annexation requests:

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 Newberg comprehensive plan map designation for the site is HDR (high density residential), with a Stream Corridor overlay on the eastern edge of the site. The requested R-3 zoning matches the HDR comprehensive plan designation, and will also include a Stream Corridor overlay on the eastern edge of the site and an Airport Inner Horizontal Surface overlay. The applicant's concept development plan shows a multifamily housing development, which is an allowed use in the R-3 zone. The proposed use therefore complies with the Newberg Comprehensive Plan and the designation on the comprehensive plan map.

B. An adequate level of urban services must be available, or made available, within three years' time of annexation, except as noted in subsection (E) of this section. An adequate level of urban services shall be defined as:

1. Municipal wastewater and water service meeting the requirements enumerated in the Newberg comprehensive plan for provision of these services.

2. 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: There are public water, stormwater and sanitary sewer lines in the rights of way adjacent to the site, so the site has the ability to connect to city services within three years of annexation.

a. Sanitary Sewer: 15 inch line in Springbrook, 12 inch force main line in Fernwood

- b. Water: 12 inch lines in Springbrook and Fernwood
- c. Storm: 24 inch line in Fernwood

The Public Works - Maintenance Superintendent has noted that any utility access from Springbrook Road will need to be completed prior to the bypass project reconstruction, otherwise it will be a several year "no cut" moratorium on the pavement.

The applicant plans to remove the existing house on the site. The existing house will need to be either removed or be connected to sanitary sewer and water lines within three years

The Springbrook Road frontage of the property will be improved by ODOT as part of the Newberg-Dundee Bypass project (2014-2016). Springbrook will be widened and repaved to include a center turn lane, bike lanes, curbs, planter strips and sidewalks. ODOT will also install a traffic signal at the Springbrook Road/Fernwood Road intersection.

The Fernwood Road frontage will need to be improved to city standards at the time of development, which could include additional paving, curb, gutter, planter strip, sidewalk, and utility undergrounding. The traffic impact analysis was prepared by a professional engineer and analyzed the potential impact of a 120-unit apartment project on the Springbrook/Fernwood intersection, at two driveway location on Fernwood, and at the Fernwood/Brutscher intersection. Springbrook Road is a minor arterial and Fernwood Road is a major collector, so city staff indicated that access would need to be taken solely from Fernwood Road. The major finding of the TIA is that:

The intersections in this study are currently functioning with levels of service that are within generally accepted standards during the peak hour. The development of the Apartments on Springbrook will not increase traffic to the point where the intersections studied will be reduced to unacceptable levels of service when complete.

Specifically, the TIA projected that the Springbrook/Fernwood intersection, the eastern site driveway, and the Brutscher/Fernwood intersection would have a level of service (LOS) of B in 2016. The western site driveway would have a LOS of A. The queue analysis indicated that the main (eastern) site driveway will be located outside of the westbound queue on Fernwood Road; the TIA recommended that the site be developed with two driveways, and that the westerly driveway be developed as a right-in/right-out driveway. The TIA also performed a left turn warrant analysis and determined that the intersection of Fernwood Road and Brutscher Road meets the requirements for the installation of left turn pockets with or without the proposed apartment project. In order for the road to have adequate design capacity the left turn pocket at Fernwood and Brutscher needs to be in place at time of development.

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. Fire service is provided by Newberg Rural Fire District. The proposed annexation will shift police and fire services to the city. Neither agency noted an inability to serve the property. Development of the site would ultimately increase the city tax base, which would help fund police and fire services. An increase in population will also increase the city's allocation of state revenue-sharing funds, which is part of the

city budget, and will help fund these services.

The Chehalem Park and Recreation District collects a fee when new residential units are developed (currently set at \$1475.00 per unit in multifamily developments). This revenue is for the development of new parks, so future development will help fund future parks in the district.

The Newberg School District receives state funding on a per pupil basis, so future population increases due to development should increase future funding. The school district also collects a construction excise tax on new development (currently set at \$1.00 per square foot of new residential buildings). This construction excise tax revenue is for development of new schools, so new development will help fund new school construction within the district.

Overall, adequate public facilities and services exist to support the proposed annexation.

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

Finding: The applicant has provided findings for this section.

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) of this section, but where annexation is needed to address a health hazard, to annex an island, to address wastewater 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 city 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: This criterion is not applicable to this application.

C. 15.302.030(A) Zoning map amendment criteria.

3. Amendment Criteria. The owner must demonstrate compliance with the following criteria:

a. The proposed change is consistent with and promotes the goals and policies of the Newberg comprehensive plan and this code;

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

Finding: As noted in an earlier finding, the proposed zoning change from County VLDR-1 to City R-3 is consistent with and promotes the goals and policies of the development code and the comprehensive plan because it matched the HDR comprehensive plan designation of the site. Also as noted earlier, public facilities and services are available to support the uses allowed by the proposed change.

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

660-012-0060

Plan and Land Use Regulation Amendments

(1) If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:

(a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);

(b) Change standards implementing a functional classification system; or

(c) Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.

(A) Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;

(B) Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or

(C) Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.

Finding: The proposed annexation would change the city zoning map for the site to R-3. This matches the adopted and acknowledged city comprehensive plan map, which has a HDR (high density residential) designation for the site. The traffic impact analysis for the annexation was prepared by a professional engineer and analyzed the potential impact of a 120-unit apartment project. The study found that the intersections in this study are currently functioning with levels of service that are within generally accepted standards during the peak hour. The development of the apartments on Springbrook will not increase traffic to the point where the intersections studied will be reduced to unacceptable levels of service when complete.

Specifically, the TIA projected that the Springbrook/Fernwood intersection, the eastern site driveway, and the Brutscher/Fernwood intersection would have a level of service (LOS) of B in 2016. The western site driveway would have a LOS of A. The proposed annexation will therefore not significantly affect an existing or planned transportation facility, and no major mitigation (such as a trip cap) is required to meet the Transportation Planning Rule.

D. Coordination process:

15.250.090 Coordination.

Annexation requests shall be coordinated with affected public and private agencies, including, but not limited to, Yamhill County, Chehalem Park and Recreation District, Newberg School District, Northwest Natural Gas, Portland General Electric, and, where appropriate, various state agencies. Coordination shall be made by referral of annexation request to these bodies sufficiently in advance of final city action to allow for reviews and recommendations to be incorporated into the city records. [Ord. 2745 § 1 (Exh. A), 7-18-11; Ord. 2451, 12-2-96. Code 2001 § 151.268.]

Finding: The annexation request was forwarded to Yamhill County, Chehalem Park and Recreation District, Newberg School District, relevant utilities, DLCD, Oregon Dept. of Transportation, and Oregon Dept. of State Lands for their review and comment. All comments received as of the date of this report are included within this staff report and findings.

- E. Conclusion:** Based on the above-mentioned findings, the application meets criteria, goals and policies within the Newberg Comprehensive Plan and Development Code with the following conditions.

CONDITIONS OF APPROVAL: ANX-13-001

1. Connect existing house to sewer and water within three years or remove the house.
2. Transportation:
 - a. A left turn pocket at Brutscher/Fernwood will be required at time of development.
 - b. The Fernwood Road frontage will need to be improved to city standards at the time of development, which could include additional paving, curb, gutter, planter strip, sidewalk, and utility undergrounding.
 - c. Future access to the site will be limited to Fernwood Road. If the site is developed it should include two driveways, and the westerly driveway should be right-in/right-out only.

Development notes:

1. Any utility access from Springbrook Road will need to be completed prior to the bypass project reconstruction, otherwise it will be a several year "no cut" moratorium on the pavement.
2. Wetland delineation: The Department of State Lands (DSL) has commented that there is a wetland/waterway on the property, and that a state permit is required for 50 cubic yards or more of removal/fill in wetlands. They noted that the wetland extent may be greater than what is mapped on the National Wetland Inventory. A wetland delineation is needed to determine precise wetland boundaries, and should be submitted to DSL for review and approval.

Exhibit B: Annexation Map

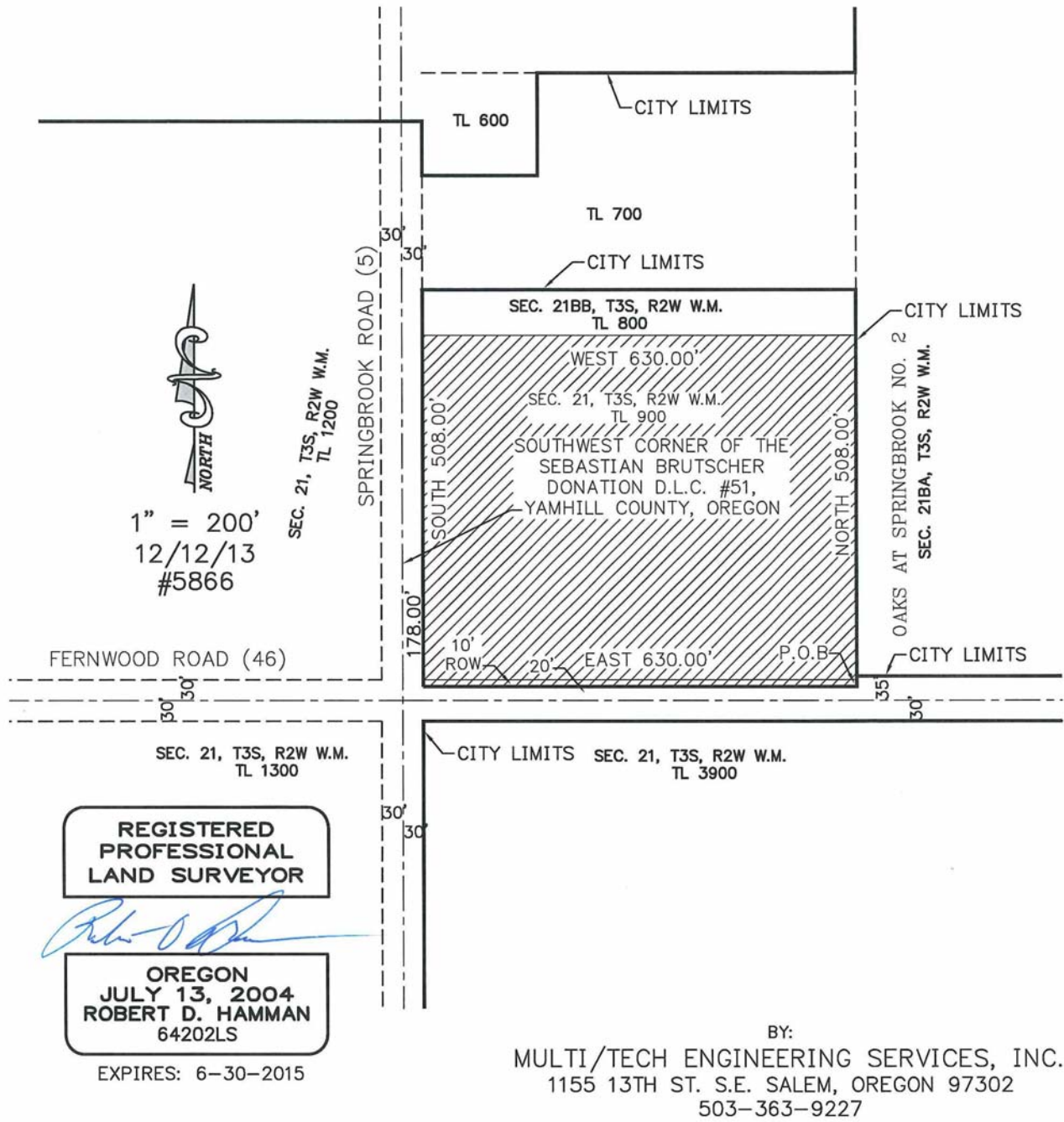


Exhibit C: Legal Description

Beginning at a point being 178.00 feet South and 660.00 feet East of the Southwest corner of the Sebastian Brutscher Donation Land Claim #51 in Township 3 South, Range 2 West of the Willamette Meridian, in Yamhill County, Oregon, said point also being 20.00 feet North of the centerline of County Road 46 (Fernwood Road); thence along the City Limits North 508.00 feet along the West line of Oaks at Springbrook No. 2, as recorded in Volume 12, Page 84, Yamhill County Plat Records; thence leaving the City Limits West 630.00 feet to City Limits on the East right of way of Market Road No. 5 (Springbrook Road); thence along the City Limits and said right of way South 508.00 feet to the City Limits; thence along the City Limits East 630.00 feet to the Point of beginning and containing 7.347 acres more or less.

REGISTERED
PROFESSIONAL
LAND SURVEYOR



OREGON
JULY 13, 2004
ROBERT D. HAMMAN
64202LS

EXPIRES: 6/30/2015

Exhibit D: Zoning Map

