

ORDINANCE No. 2016-2803

AN ORDINANCE ANNEXING 3.06 ACRES OF PROPERTY LOCATED NORTH OF COLUMBIA DRIVE, SOUTH OF LYNN DRIVE, TAX LOTS 3218AB-1700, -1701 AND -1702, PLUS THE AREA OF THE ADJACENT RIGHTS-OF-WAY, INTO THE NEWBERG CITY LIMITS, WITHDRAWING IT FROM THE NEWBERG RURAL FIRE PROTECTION DISTRICT, AND CHANGING THE ZONING FROM YAMHILL COUNTY VLDR-1 TO NEWBERG R-2

RECITALS:

1. Del Boca Vista, LLC submitted an application to annex 3.06 acres of property, plus the area of the adjacent rights-of-way, into the City of Newberg and change the zoning from Yamhill County VLDR-1 to Newberg R-2. The R-2 zoning is consistent with the adopted MDR (medium density residential) Comprehensive Plan designation on the site. The property is located directly west and south of the current Newberg city limits, north of Columbia Drive, south of Lynn Drive, on Yamhill County tax lots 3218AB-1700, -1701, and -1702.
2. The property is located within the Newberg urban growth boundary and is adjacent to the Newberg city limits. Adequate public services and utilities are or can be made available to serve the property within three years.
3. The Newberg Planning Commission held a hearing on May 12, 2016, to consider the application. The Commission considered testimony, deliberated, and voted to approve Planning Commission Resolution No. 2016-319 recommending that the City Council approve the annexation request and concurrent zone change as conditioned.
4. State law recently changed with the passage and adoption of Oregon Senate Bill 1573, which added language to ORS 222.111 that preempts Newberg's requirement that annexations go to a public vote, and instead directs the legislative body of a city to annex property without a public vote when the property meets certain requirements, including: being within the urban growth boundary; subject to the Comprehensive Plan of the city; contiguous to city limits; and meeting the city's adopted Development Code criteria for annexation. This property meets those criteria.
5. After proper notice, the Newberg City Council held a hearing on July 5, 2016 to consider the proposed annexation and concurrent zone change. After the staff report and public testimony, the City Council finds the proposal has met the required criteria as conditioned.

THE CITY OF NEWBERG ORDAINS AS FOLLOWS:

1. The property shown in Exhibit "A" and described in Exhibit "B" is hereby annexed into the Newberg city limits and withdrawn from the Newberg Rural Fire Protection District, and the zoning of the property is changed from Yamhill County VLDR-1 to Newberg R-2. Exhibits "A" and "B" are hereby adopted and by this reference incorporated.

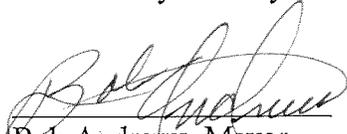
2. This decision is based on the findings shown in Exhibit "C" and the findings that the property meets ORS 222.111 criteria as set forth in Recital #4 above. Exhibit "C" is hereby adopted and by this reference incorporated.

➤ **EFFECTIVE DATE** of this ordinance is 30 days after the adoption date, which is: August 4, 2016.

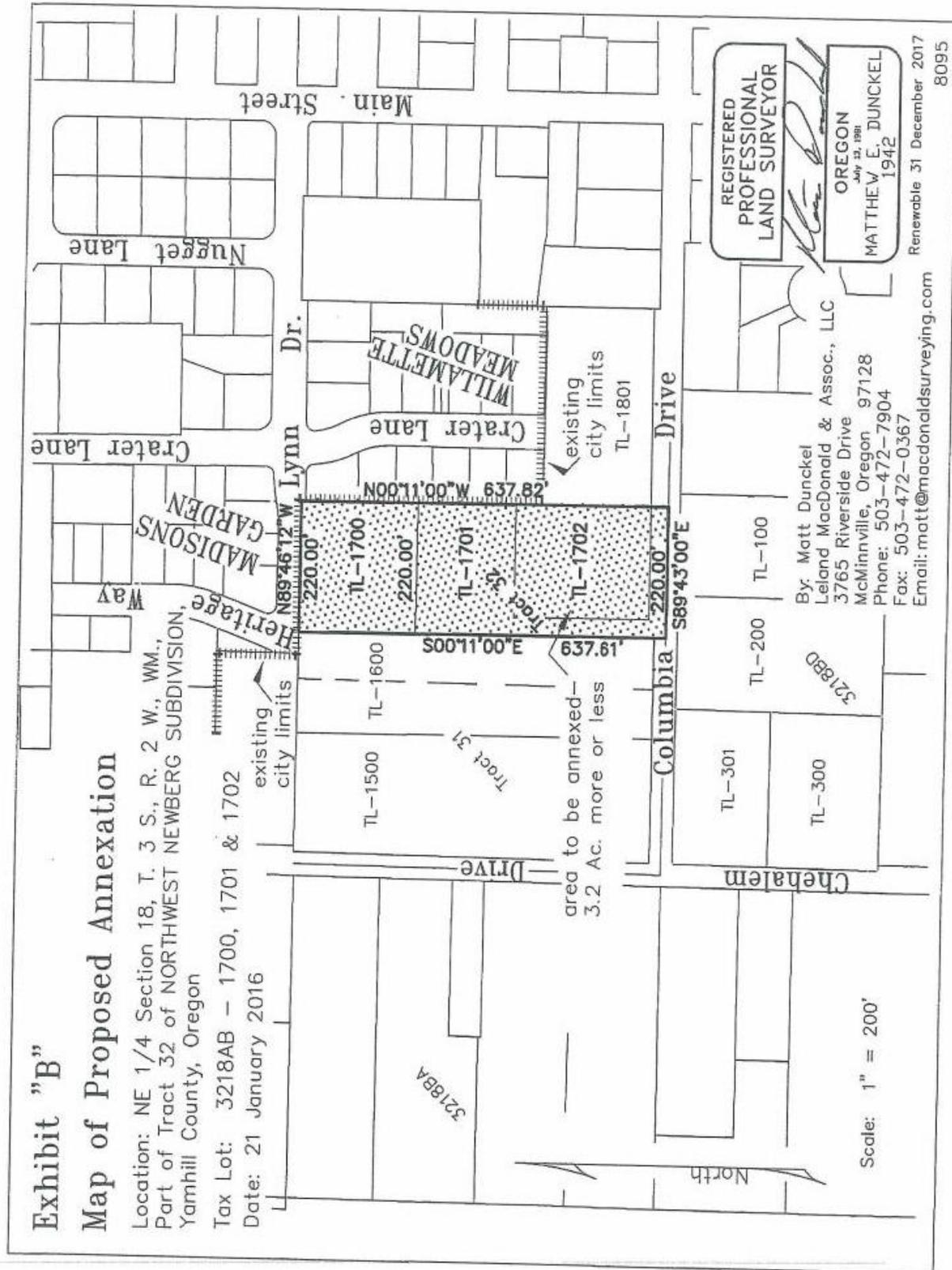
ADOPTED by the City Council of the City of Newberg, Oregon, this 5th day of July, 2016, by the following votes: **AYE: 6 NAY: 1 ABSENT: 0 ABSTAIN: 0**


Sue Ryan, City Recorder

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


Bob Andrews, Mayor

**Exhibit "A" to Ordinance No. 2016-2803
Annexation Map – Columbia Estates**



"Working Together For A Better Community-Serious About Service"

Exhibit "B" to Ordinance 2016-2803
Legal Description – Columbia Estates Annexation

Date: 21 January 2016

Proposed Annexation - Legal Description (3.2 Ac. more or less)

A tract of land in Section 18, Township 3 South, Range 2 West, City of Newberg, Yamhill County, Oregon, being more particularly described as follows:

Beginning at the northeast corner of Tract 32 of the NORTHWEST NEWBERG SUBDIVISION; thence North 89°46'12" West 220.00 feet along the north line of said Tract 32; thence South 00°11'00" East 637.61 feet parallel with the east line of said Tract 32 to the center line of Columbia Drive; thence South 89°43'00" East 220.00 feet along said centerline to the southerly extension of the east line of said Tract 32; thence North 00°11'00" West 637.82 feet more or less along the east line of said Tract 32 to the point of beginning as shown by Exhibit "B".

Also described as the East 220 feet for Tract 32 of the NORTHWEST NEWBERG SUBDIVISION as shown by Exhibit "B".

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**Exhibit “C” to Ordinance 2016-2803
Findings –File ANX-16-003 – Columbia Estates**

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 proposed annexation site, located on Yamhill County tax lots 3218AB-1700, -1701, and -1702, is within the Newberg urban growth boundary and contiguous to the existing city limits on its north boundary and most of its east boundary. The legal description of the area to be annexed extends to the centerline of the Columbia Drive right-of-way, which provides for future continuity of the city limits. This criterion is met.

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 property has a Comprehensive Plan designation of MDR (Medium Density Residential), which corresponds with the requested zoning of R-2 (Medium Density Residential). The R-2 zone allows either single-family, duplex or multifamily development, with a minimum lot area per unit of 3,000 square feet, and a minimum lot size of 3,000 square feet. The applicant’s concept development plan shows a single-family home subdivision with a minimum lot size of 3,000 square feet, and a 54 foot wide public right-of-way for a street. The applicant is not bound by the concept development plan, and approval of the annexation would not approve a subdivision for the site. If the applicant wishes to apply for a subdivision as shown in the concept development plan then they would need to submit a subdivision application after the property was annexed. The concept development does show a use (single-family homes) and a lot size (3,000 square feet) that comply with the R-2 zone and the MDR Comprehensive Plan designations. This criterion is met.

*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: City water and sewer lines are currently in place along Lynn Drive, which could be used to serve the site. The sanitary sewer line flows to the Highway 240 Pump Station. A very preliminary assessment provided by the applicant's engineer has determined that the pump station could serve the additional flows contributed by this development. If necessary, upgrades to the pump station could be completed by the developer to provide the capacity needed. At the time of development, a detailed analysis of the Highway 240 sanitary sewer pump station is required, and any necessary upgrades to the pump station would be completed by the developer.

The site stormwater management would be designed to comply with the stormwater requirements of the municipal code and public works design and construction standards manual in effect at the time of site development.

The property has road frontage along Columbia Drive and Lynn Drive. Future development of this property will necessitate roadway frontage improvements, along both property frontages, to City standards. A Yamhill County Permit is required for all improvements along Columbia Drive. The applicant was not required to complete a full traffic impact analysis for the site, as the expected impact (29 new trips in the PM peak hour) from development is below the 40 trips in the PM peak hour that would trigger a requirement for a traffic study. City Engineering staff noted that this development would add trips to the Main Street/Lynn Drive intersection, which currently does not have traffic controls. It would be appropriate to require a limited traffic study to evaluate this intersection to see if the impact of this development would require traffic controls or other improvements at the intersection. The Planning Commission recommended an additional condition, based on public testimony, that the limited traffic study also look at the stretch of Columbia Drive east to Main Street. Therefore, at the time of development, a limited traffic study will be required to evaluate the intersection of Main Street and Lynn Drive, and to evaluate Columbia Drive.

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: The city sent the application information out to the Police and Fire Departments, Chehalem Parks and Recreation District (CPRD), and the Newberg School District, among other agencies, for comments prior to the staff report. The School District commented "reviewed, no conflict." There is

no information to suggest that city services could not support the addition of the 3.06 acres of property, plus the area of the adjacent right-of-way, to the city limits, and in fact future development of the site helps fund these city services and other System Development Charge or permit fee funded services such as the School District and CPRD. It should be noted that the City of Newberg does not do future planning for the Parks District or the School District; however, the city coordinates with those agencies on a regular basis in regards to future planning efforts. This type of coordination is typically done at the time of urban growth boundary expansion, when properties are added to serve as the future 20-year urbanizable area.

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

Finding: The applicant submitted adequate information to allow the city to make findings to the applicable criteria.

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 because adequate urban services are found to be available within the three year time frame.

**C. 15.302.030 Procedures for comprehensive plan map and zoning map amendments.
A.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;

Finding: The property has a Comprehensive Plan designation of MDR (Medium Density Residential), which corresponds with the requested zoning of R-2 (Medium Density Residential). The Comprehensive Plan Housing Goal says “To provide for diversity in the type, density and location of housing within the City to ensure there is an adequate supply of affordable housing units to meet the needs of City residents of various income levels.” Annexations meet the intent of the Goal because they provide land to meet the needs of City residents. The proposed change is consistent with and promotes the goals and policies of Newberg’s comprehensive plan. This criterion is met.

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

Finding: As demonstrated in the finding to 15.250.030.B. above, the applicant has demonstrated that adequate public facilities and services can be reasonably made available to support future development of the property at R-2 permitted densities.

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

Finding: Annexation of the property complies with the State Transportation Planning Rule (TPR) (OAR 660-012-0060) because it meets the requirements for an amendment to a zoning map that does not significantly affect an existing or planned transportation facility as permitted by Subsection (9) of the TPR: the proposed zoning of R-2 is consistent with the existing comprehensive plan map designation of MDR; the City of Newberg has an acknowledged TSP which included this area in the urban reserve as planned future urbanizable land; this property was brought into the urban growth boundary in 2006 as part of a larger urban growth boundary amendment that included a full report with adequate justifications for transportation and other public facilities. The TPR report submitted by the applicant's traffic engineer states that, in order to comply with the TPR, development should be limited to 29 single-family homes or acceptable uses that generate less than the 300 trips anticipated in the Comprehensive Plan.

OAR 660-012-0060(9) Notwithstanding section (1) of this rule, a local government may find that an amendment to a zoning map does not significantly affect an existing or planned transportation facility if all of the following requirements are met.

(a) The proposed zoning is consistent with the existing comprehensive plan map designation and the amendment does not change the comprehensive plan map;

(b) The local government has an acknowledged TSP and the proposed zoning is consistent with the TSP; and

(c) The area subject to the zoning map amendment was not exempted from this rule at the time of an urban growth boundary amendment as permitted in OAR 660-024-0020(1)(d), or the area was exempted from this rule but the local government has a subsequently acknowledged TSP amendment that accounted for urbanization of the area.

[Subsection (1) of OAR 660-012-0060]

(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.

D. Conclusion: Based on the above findings, the application, as conditioned, meets the criteria of the Newberg Development Code.

Conditions of approval

1. At the time of development, a detailed analysis of the Highway 240 sanitary sewer pump station is required, and any necessary upgrades to the pump station would be completed by the developer.
2. At the time of development, a limited traffic study will be required to evaluate the intersection of Main Street and Lynn Drive, and to evaluate Columbia Drive.
3. The TPR report submitted by the applicant's traffic engineer states that, in order to comply with the TPR, development should be limited to 29 single-family homes or acceptable uses that generate less than the 300 trips anticipated in the Comprehensive Plan.

