

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: June 21, 2021

Order ___ Ordinance XX Resolution ___ Motion ___ Information ___
No. No. 2020-2883 No.

SUBJECT: An Ordinance amending the Newberg Municipal Code, Title 15, 15.250.080 Comprehensive Plan and Zoning Designations

Staff: Doug Rux, Director
Department: Community Development
File Number: DCA21-0001

Business Session

Order on Agenda: Public Hearing

HEARING TYPE: LEGISLATIVE QUASI-JUDICIAL ADMINISTRATIVE
 NOT APPLICABLE

RECOMMENDATION:

Adopt Ordinance No. 2021-2883.

EXECUTIVE SUMMARY:

A. SUMMARY:

The proposed amendment does the following:

Amends Newberg Municipal Code, Title 15 Development Code, 15.250.080 adding the M-E (Mixed Employment) appropriate zoning classification to the MIX Comprehensive Plan Classification, and adds text to IND consistent with COM and MIX on the appropriate zoning as determined by the director.

BACKGROUND:

The Newberg City Council accepted the 2019 Riverfront Master Plan on September 16, 2019 by Resolution No. 2019-3596. On November 16, 2020 the City Council adopted Ordinance No. 2020-2868 adopting land use regulations related to the Riverfront Master Plan area through CPTA20-0001/CPMA20-0002/DCA20-0001/ZMA20-0002.

Staff has been discussing with property owners in the Riverfront area the option of annexing into the city limits. During those discussions staff noted that with the MIX Comprehensive Plan designation and the adopted M-E (Mixed Employment Planning District designation) in the Riverfront area for a portion of the mill site that the corresponding M-E planning district classification had not been included in Newberg Municipal Code, Title 15 development Code, 15.250.080. This proposal clears up that oversight so that at the time of annexation of the mill site the appropriate zoning designation can be applied.

In addition the COM and MIX Comprehensive Plan and the corresponding zoning classification has language that the appropriate zoning classification would be determined by the Director. This language is missing in the IND Comprehensive Plan designation and corresponding zoning classification and is proposed to be added.

B. PROCESS: A municipal code amendment is a Type IV application and follows the procedures in Newberg Municipal Code 15.100.060. The Planning Commission will hold a legislative hearing on the application. The Commission will make a recommendation to the Newberg City Council. Following the Planning Commission’s recommendation, the Newberg City Council will hold a legislative public hearing to consider the matter. Important dates related to this application are as follows:

1. 2/16/21: The Newberg City Council adopted Resolution 2021-3724, initiating the Comprehensive Plan Amendment (Attachment 1).
2. 4/28/21: Planning staff placed notice on Newberg’s website, and posted notice in four public buildings. The Newberg Graphic published notice of the hearing.
3. 5/13/21: The Planning Commission held a public hearing, took public testimony, deliberated on the proposal and adopted Resolution No. 2021-370 (Attachment 2).
4. 6/9/21: Planning staff placed notice on Newberg’s website, and posted notice in four public buildings for the City Council public hearing. The Newberg Graphic published notice of the hearing.
5. 6/21/21: After proper notice, the City Council held a legislative hearing to consider the item.

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

C. STAFF COMMENTS: As of the writing of this report, the City has received the following comments on the proposal.

- Finance Department – Reviewed, no conflict
- Police Department – Reviewed, no conflict
- Ziplly - Reviewed, no conflict
- Public Works Engineering - Reviewed, no conflict

D. DISCUSSION:

To implement the Riverfront Master Plan the City Council reviewed a proposal, Ordinance No. 2020-2868 to adopt new land use regulations as part of CPTA20-0001/CPMA20-0002/DCA20-0001/ZMA20-0002. Part of these new land use regulations created a new zoning classification of M-E (Mixed Employment) for 21.5 acres of the mill site located immediately east of S River Street and south of the Newberg-Dundee Bypass. The M-E zoning allows the base uses of industrial and a limited amount of commercial activities with a cap of 60,000 square feet of commercial and 60,000 square feet of office.

The Newberg Development Code has a provision in 15.250.080B which at the time of annexation, the area annexed shall be automatically zoned to the corresponding land use zoning classification which implements the Newberg Comprehensive Plan Map designation. The M-E

zoning classification was not added to this section in November 2020. This proposal corrects that oversight.

In addition the COM and MIX Comprehensive Plan and the corresponding zoning classification has language that the appropriate zoning classification would be determined by the Director. This language is missing in the IND Comprehensive Plan designation and corresponding zoning classification and is proposed to be added.

FISCAL IMPACT:

Not applicable. Staff time was utilized to prepare the proposal.

STRATEGIC ASSESSMENT:

2020 Council Goals:

1. Change operational culture to one focused on Customer Service and act to Resolve Ongoing Legal Disputes

Not applicable.

2. Further develop an operational culture that adopts and cherishes Diversity, Equity, and Inclusion as core values.

Not applicable.

3. Promote development of housing affordability such as houselessness, transitional housing, workforce housing.

Not applicable.

4. Create and support an Urban Renewal Plan and Authority

Not applicable.

5. Collaborate with local partners and with entities like ICLEI in the development of a Sustainability program.

Not applicable.

Ordinance No. 2021-2883 with
Exhibit “A”: Proposed Development Code Text Amendment
Exhibit “B”: Findings

Attachments:

1. Resolution 2021-3724
2. Resolution No. 2021-370



ORDINANCE No. 2021-2883

**AN ORDINANCE AMENDING THE NEWBERG MUNICIPAL CODE, TITLE
15, 15.250.080 COMPREHENSIVE PLAN AND ZONING DESIGNATIONS**

RECITALS:

1. The City Council accepted the Riverfront Master Plan on September 16, 2019 by Resolution No. 2019-3596.
2. The Newberg City Council adopted Resolution 2021-3724 on February 16, 2021 initiating an amendment to the Newberg Municipal Code to implement the M-E (Mixed Employment) zoning designation within the MIX Comprehensive Plan designation in the Riverfront Master Plan area at the time of annexation.
3. After proper notice, the Newberg Planning Commission opened the hearing on May 13, 2021, considered public testimony and deliberated. They found that the proposed amendments were in the best interests of the City and adopted Resolution No. 2021-370.
4. After proper notice, the Newberg City Council opened the hearing on June 21 2021, considered public testimony and deliberated. They found that the proposed amendments were in the best interests of the City

THE CITY OF NEWBERG ORDAINS AS FOLLOWS:

1. The Newberg Development Code is amended as shown in Exhibit “A”
6. The adoption is based upon the findings in Exhibit “B”.
7. Exhibits “A” and “B” are hereby adopted and by this reference incorporated.

➤ **EFFECTIVE DATE** of this ordinance is 30 days after the adoption date, which is: July 21, 2021.

ADOPTED by the City Council of the City of Newberg, Oregon, this 21st day of June, 2021, by the following votes: **AYE:** **NAY:** **ABSENT:** **ABSTAIN:**

Sue Ryan, City Recorder

ATTEST by the Mayor this 24th day of June, 2021.

Rick Rogers, Mayor

List of Exhibits:

- Exhibit "A": Development Code Amendment
- Exhibit "B": Findings

**Exhibit “A” to Ordinance No. 2021-2883
Development Code Amendment – File DCA21-0001**

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

The Newberg Development Code shall be amended as follows:

Section 1. Newberg Development Code, Annexations, Section 15.5250.080 shall be amended to read as follows:

15.250.080 Comprehensive plan and zoning designations.

A. The comprehensive plan map designation of the property at the time of annexation shall be used as a criterion to determine whether or not the proposed request complies with the Newberg comprehensive plan. A redesignation of the comprehensive plan map may be requested concurrent with annexation. The proposed redesignation shall then be used to determine compliance with the Newberg comprehensive plan.

B. Upon annexation, the area annexed shall be automatically zoned to the corresponding land use zoning classification which implements the Newberg comprehensive plan map designation. The corresponding designations are shown in the table below. The procedures and criteria of NMC 15.302.030 shall not be required.

Comprehensive Plan Classification	Appropriate Zoning Classification
OS	Any zoning classification
LDR	R-1
MDR	R-2, R-4
HDR	R-3, R-4
COM	C-1, C-2, or C-3 as determined by the director
MIX	C-2, M-1, or M-2, <u>or M-E</u> as determined by the director
IND	M-1, M-2, M-3, M-4, or AI <u>as determined by the director</u>
PQ	Any zoning classification
P	CF

C. If a zoning classification is requested by the applicant for other than that described in subsection (B) of this section, the criteria of NMC 15.302.030 shall apply. This application shall be submitted concurrently with the annexation application.

D. In the event that the annexation request is denied, the zone change request shall also be denied. [Ord. 2747 § 1 (Exh. A § 6), 9-6-11; Ord. 2720 § 1(9), 11-2-09; Ord. 2451, 12-2-96. Code 2001 § 151.267.]

Exhibit “B” to Ordinance No. 2021-2883
Findings – File DCA21-0001

APPROVAL CRITERIA

A. Statewide Planning Goals (the “Goals”)

GOAL 1: CITIZEN INVOLVEMENT

To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process.

Finding: The City meets this requirement by having various citizen committees and/or commissions with opportunities for the public to testify on general or specific matters. The proposal went before the Newberg Planning Commission on May 13, 2021 and Newberg City Council on June 21, 2021, which provided the opportunity for public comment. A web page was also prepared to inform the public of the pending proposal. Finally, notice was published in the Newberg Graphic newspaper and posted in four public places.

The amendment is subject to the Type IV Legislative process, which requires public notification and public hearings before the Planning Commission and the City Council. This process has been established by the City and determined to be consistent with Goal I of the Oregon Statewide Planning Goals. The public hearing notice of the action and decision, and the hearings on this case before the Planning Commission and the City Council are all recognized as opportunities for citizen participation.

The Goal is met.

GOAL 2: LAND USE PLANNING

To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.

Finding: This Goal requires that land use decisions 1) have an adequate factual base, 2) that alternatives have been considered, and 3) that implementation measures are consistent with and adequate to carry out comprehensive plan policies and designations.

The proposed land use action has an adequate factual base and has been thoroughly described in this application.

The alternatives to amending the municipal code text would be to: 1) deny the application and require an applicant to go through an extended application process to apply the M-E zone.

Implementation measures proposed are consistent with and adequate to carry out comprehensive plan policies and designations as noted in these findings.

The Goal is met.

GOAL 3: AGRICULTURAL LANDS

To preserve and maintain agricultural lands.

Finding: Not applicable because the proposal does not propose any land use regulation changes to agricultural lands outside of the Newberg Urban Growth Boundary.

GOAL 4: FOREST LANDS

To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.

Finding: Not applicable because the proposal does not propose any land use regulation changes to the Stream Corridor that protects wooded areas within the Newberg Urban Growth Boundary.

GOAL 5: NATURAL RESOURCES, SCENIC AND HISTORIC AREAS, AND OPEN SPACES

To protect natural resources and conserve scenic and historic areas and open spaces.

Finding: The proposed amendment will not negatively impact inventoried Goal 5 resources because the amendments do not change protections that already exist in the Newberg Municipal Code to protect these resources. The Riverfront Master Plan also envisions regional trail connections connecting Newberg's parks and nearby regional destinations. Newberg has an acknowledged Stream Corridor designation, inventoried historic resources, and identified open spaces in compliance with Goal 5.

This Goal is met.

GOAL 6: AIR, WATER AND LAND RESOURCES QUALITY

To maintain and improve the quality of the air, water and land resources of the state.

Finding: Newberg has an acknowledged Comprehensive Plan that complies with this goal. Protections are already in place for air, water, and land resource quality. This proposal does not modify the existing goals and policies.

This Goal is met.

GOAL 7: AREAS SUBJECT TO NATURAL HAZARDS

To protect people and property from natural hazards.

Finding: Newberg has an acknowledged Comprehensive Plan that complies with this goal. This proposal does not modify the City's natural hazards requirements such as flood plain or landslide areas. This proposal does not modify the existing goals and policies.

This Goal is met.

GOAL 8: RECREATIONAL NEEDS

To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.

Finding: Newberg has an acknowledged Comprehensive Plan that complies with this goal. This

proposal does not modify the City's recreational goals and policies.

This Goal is met.

GOAL 9: ECONOMIC DEVELOPMENT

To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

Finding: The 2019 Riverfront Master Plan proposal envisions the riverfront as an economically thriving area with a mix of residential, commercial, industrial, and employment uses. The adopted changes to the Comprehensive Plan and Map, and Development Code (CPMA20-0002/DCA20-0001) included a new mixed employment area on the Riverfront Mill Site that is intended to provide a flexible mix of light industrial and employment uses that will support the City's diverse employment opportunities. This proposal clarifies that at the time of annexation the M-E zoning would apply to this mixed employment area.

The Goal is met.

GOAL 10: HOUSING

To provide for the housing needs of citizens of the state.

Finding: Not applicable as the proposal does not relate to proposed housing. The proposal relates to mixed employment areas in the Riverfront that does not allow housing.

The Goal is met.

GOAL 11: PUBLIC FACILITIES AND SERVICES

To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

Finding: Not applicable as the proposal does not relate to proposed public facilities housing. The proposal relates to the mixed employment area in the Riverfront. Through separate actions the City has or is addressing public facilities (CPTA20-0002 - Transportation, CPAT20-0003 - Water, CPAT20-0004 - Wastewater, and CPTA20-0005 - Stormwater).

The proposal meets the Goal.

GOAL 12: TRANSPORTATION

To provide and encourage a safe, convenient and economic transportation system.

Finding: Not applicable as the proposal does not relate to proposed transportation. The proposal relates to the mixed employment area in the Riverfront. Through a separate action the City has addressed transportation (CPTA20-0002, Ordinance No. 2021-2871).

The proposal meets the Goal.

GOAL 13: ENERGY CONSERVATION

To conserve energy.

Finding: Not applicable as the proposed amendment does not affect energy conservation.

This Goal is met.

GOAL 14: URBANIZATION

To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.

Finding: The proposed amendment does not include an expansion of the Urban Growth Boundary but ensures the efficient use of the land within the Urban Growth Boundary for the projected population and employment opportunities within the City and meets the goal. Development of the Riverfront area will maintain Newberg's identity and enhance the quality living and employment environment by balancing growth and providing cultural activities.

This Goal is met.

GOAL 15: WILLAMETTE RIVER GREENWAY

To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.

Finding: Not applicable because the proposal does not propose any land use regulation changes to the Willamette River Greenway.

This Goal is met.

B. Newberg Comprehensive Plan

II. GOALS AND POLICIES

A. CITIZEN INVOLVEMENT

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

Finding: The City meets this requirement by having various citizen committees and commissions with opportunities for the public to testify on general or specific matters. The proposal went before the Newberg Planning Commission on May 13, 2021 and Newberg City Council on June 21, 2021, which provided the opportunity for public comment. A web page was also prepared to inform the public of the pending proposal. Finally, notice was published in the Newberg Graphic newspaper and posted in four public places.

The amendment is subject to the Type IV Legislative process, which requires public notification and public hearings before the Planning Commission and the City Council. This process has been established by the City and determined to be consistent with Goal I of the Oregon Statewide Planning Goals. The public hearing notice of the action and decision, and the hearings on this case before the Planning Commission and the City Council are all recognized as opportunities for citizen participation.

The Goal is met.

B. LAND USE PLANNING

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

Finding: This Goal requires that land use decisions 1) have an adequate factual base, 2) that alternatives have been considered, and 3) that implementation measures are consistent with and adequate to carry out comprehensive plan policies and designations.

The proposed land use action has an adequate factual base and has been thoroughly described in this application.

The alternatives to amending the municipal code text would be to: 1) deny the application and require an applicant to go through an extended application process to apply the M-E zone.

Implementation measures proposed are consistent with and adequate to carry out comprehensive plan policies and designations as noted in these findings.

The Goal is met.

C. AGRICULTURAL LANDS

GOAL: To provide for the orderly and efficient transition from rural to urban land uses.

Finding: Not applicable because the proposal does not propose any land use regulation changes to agricultural lands outside of the Newberg Urban Growth Boundary.

D. WOODED AREAS

GOAL: To retain and protect wooded areas.

Finding: Not applicable because the proposal does not propose any land use regulation changes to the Stream Corridor that protects wooded areas within the Newberg Urban Growth Boundary.

E. AIR, WATER, AND LAND RESOURCE QUALITY

GOAL: To maintain and, where feasible, enhance the air, water and land resource qualities within the community.

POLICY: 1. Development shall not exceed the carrying capacity of the air, water or land resource base.

Finding: Newberg has an acknowledged Comprehensive Plan that complies with this goal. Protections are already in place for air, water, and land resource quality. This proposal does not modify the existing goal and policy.

This Goal is met.

F. AREAS SUBJECT TO NATURAL HAZARDS

GOAL: To protect life and property from flooding and other natural hazards.

Finding: Newberg has an acknowledged Comprehensive Plan that complies with this goal. This proposal does not modify the City's natural hazards requirements such as flood plain or landslide areas. This proposal does not modify the existing goal.

This Goal is met.

G. OPEN SPACE, SCENIC, NATURAL, HISTORIC AND RECREATIONAL RESOURCES

GOALS:

1. To ensure that adequate land shall be retained in permanent open space use and that natural, scenic and historic resources are protected.
2. To provide adequate recreational resources and opportunities for the citizens of the community and visitors.
3. To protect, conserve, enhance and maintain the Willamette River Greenway.

Finding: Newberg has an acknowledged Comprehensive Plan that complies with this goal. This proposal does not modify the City's recreational goal.

This Goal is met.

H. THE ECONOMY

GOAL: To develop a diverse and stable economic base.

POLICY: 1. General Policies. b. The City shall encourage economic expansion consistent with local needs.

Finding: The 2019 Riverfront Master Plan proposal envisions the riverfront as an economically thriving area with a mix of residential, commercial, industrial, and employment uses. The adopted changes to the Comprehensive Plan and Map, and Development Code (CPMA20-0002/DCA20-0001) included a new

mixed use area on the Riverfront Mill Site that is intended to provide a flexible mix of light industrial and employment uses that will support the City’s diverse employment opportunities. This proposal clarifies that at the time of annexation the M-E zoning would apply to this mixed employment area.

The Goal is met.

I. HOUSING

GOAL: 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. (Ordinance 2006-2634)

Finding: Not applicable as the proposal does not relate to proposed housing. The proposal relates to mixed employment are in the Riverfront that does not allow housing.

The Goal is met.

J. URBAN DESIGN

GOAL 1: To maintain and improve the natural beauty and visual character of the City.

GOAL 2: To develop and maintain the physical context needed to support the livability and unique character of Newberg.

Finding: Not applicable because the proposal does not propose any land use regulation changes to urban design policies or regulations.

K. TRANSPORTATION

GOAL 1: Establish cooperative agreements to address transportation based planning, development, operation and maintenance.

GOAL 2: Establish consistent policies which require concurrent consideration of transportation/land use system impacts.

GOAL 3: Promote reliance on multiple modes of transportation and reduce reliance on the automobile.

GOAL 4: Minimize the impact of regional traffic on the local transportation system.

GOAL 5: Maximize pedestrian, bicycle and other non-motorized travel throughout the City.

GOAL 6: Provide effective levels of non-auto oriented support facilities (e.g. bus shelters, bicycle racks, etc.).

GOAL 8: Maintain and enhance the City's image, character and quality of life.

GOAL 9: Create effective circulation and access for the local transportation system.

GOAL 10: Maintain the viability of existing rail, water and air transportation systems.

GOAL 11: Establish fair and equitable distribution of transportation improvement costs.

GOAL 12: Minimize the negative impact of a Highway 99 bypass on the Newberg community.

GOAL 13: Utilize the Yamhill County Transit Authority (YCTA) Transit Development Plan (TDP) as a Guidance Document.

GOAL 14: Coordinate with Yamhill County Transit Area.

GOAL 15: Implement Transit-Supportive Improvements.

Finding: Not applicable as the proposal does not relate to proposed transportation. The proposal relates to mixed employment are in the Riverfront area. Through a separate action the City has addressed transportation (CPTA20-0002, Ordinance No. 2021-2871).

L. PUBLIC FACILITIES AND SERVICES

GOAL: To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban development.

Finding: Not applicable as the proposal does not relate to proposed public facilities housing. The proposal relates to the mixed employment area in the Riverfront. Through separate actions the City has addressed public facilities (CPTA20-0002 - Transportation, CPAT20-0003 - Water, CPAT20-0004 - Wastewater, and CPTA20-0005 - Stormwater).

M. ENERGY

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

Finding: Not applicable as the proposed amendment does not affect energy conservation.

N. URBANIZATION

GOALS:

1. To provide for the orderly and efficient transition from rural to urban land uses.
2. To maintain Newberg's identity as a community which is separate from the Portland Metropolitan area.
3. To create a quality living environment through a balanced growth of urban and cultural activities.

Finding: The proposed amendment does not include an expansion of the Urban Growth Boundary but ensures the efficient use of the land within the Urban Growth Boundary for the projected population and employment opportunities within the City and meets the goal. Development of the Riverfront area will maintain Newberg's identity and enhance the quality living and employment environment by balancing growth and providing cultural activities.

The Goals are met.

D. Newberg Municipal Code

Chapter 15.100 LAND USE PROCESSES AND PROCEDURES

15.100.060 Type IV procedure – Legislative.

A. Type IV Actions Are Legislative. The planning commission shall hold a public hearing and make a recommendation to the city council. The city council shall hold another public hearing and make a final decision.

B. Legislative actions include, but are not limited to:

1. Amendments to the Newberg comprehensive plan text;
2. Amendments to the Newberg development code;
3. The creation of any land use regulation.

C. The public hearing before the planning commission shall be held in accordance with the requirements of this code. Notice of a hearing on a legislative decision need not include a mailing to property owners or posting of property (refer to NMC 15.100.200 et seq.).

D. Interested persons may present evidence and testimony relevant to the proposal. If criteria are involved, the planning commission shall make findings for each of the applicable criteria.

E. The city council shall conduct a new hearing pursuant to this code. At the public hearing, the staff shall present the report of the planning commission and may provide other pertinent information. Interested persons shall be given the opportunity to present new testimony and information relevant to the proposal that was not heard before the planning commission.

F. To the extent that a finding of fact is required, the city council shall make a finding for each of the applicable criteria and in doing so may sustain or reverse a finding of the planning commission. In granting an approval, the city council may delete, add, or modify any of the provisions in the proposal or attach certain conditions beyond those warranted for the compliance with standards if the city council determines that the conditions are necessary to fulfill the approval criteria.

G. The city council's decision shall become final upon the effective date of the ordinance or resolution.

Finding: Public hearings with the Planning Commission and the City Council will be required to finalize a decision regarding the application for the amendment to the Development Code.

This requirement can be met.

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



RESOLUTION No. 2021-3724

**A RESOLUTION INITIATING AN AMENDMENT TO THE NEWBERG
MUNICIPAL CODE, TITLE 15 DEVELOPMENT CODE, 15.250.080
COMPREHENSIVE PLAN AND ZONING DESIGNATIONS**

RECITALS:

1. On September 16, 2019 the City Council adopted Resolution No. 2019-3596 accepting the Riverfront Master Plan.
2. On November 16, 2020 City Council adopted Ordinance No. 2020-2868 implementing Comprehensive Plan and Map changes, Development Code, and Zoning changes related to implementing the Riverfront Master Plan.
3. The request is to consider initiating an amendment to the Newberg Municipal Code Title 15 Development Code (NDC), 15.250.080B.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. The City Council initiates an amendment to the Newberg Municipal Code, Title 15 Development Code, 15.250.080B. to implement the M-E (Mixed Employment) zoning designation within the MIX Comprehensive Plan designation in the Riverfront Master Plan area. This starts the public process to study the proposed amendments.
2. By initiating this amendment, the City Council does not commit to taking any specific action on the proposal. It only wishes to give the amendment full consideration by the Planning Commission and City Council in public hearings.

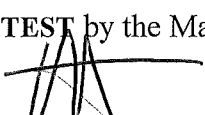
➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: February 17, 2021.

ADOPTED by the City Council of the City of Newberg, Oregon, this 16th day of February, 2021.

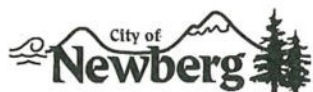


 Sue Ryan, City Recorder

ATTEST by the Mayor this 18th day of February, 2021.



 Rick Rogers, Mayor



PLANNING COMMISSION RESOLUTION 2021-370

A RESOLUTION RECOMMENDING CITY AMENDING NEWBERG MUNICIPAL CODE TITLE 15 DEVELOPMENT CODE, 15.250.080


RECITALS

1. The Newberg City Council accepted the 2019 Riverfront Master Plan on September 16, 2019 by Resolution No. 2019-3596.
2. The Newberg City Council adopted Resolution 2021-3724 on February 16, 2021, which initiated an amendment to the Newberg Municipal Code Title 15 Development Code, 15.250.080.
3. After proper notice, the Newberg Planning Commission opened the hearing on May 13, 2021, considered public testimony and deliberated. They found that the proposed amendment was in the best interests of the City.

The Newberg Planning Commission resolves as follows:

1. The Planning Commission of the City of Newberg recommends the City Council adopt the proposed Development Code amendments for inNMC 15.250.080.
2. This recommendation is based on the staff report, Exhibit "A" Development Code language, and the Findings in Exhibit "B".

Adopted by the Newberg Planning Commission this 13th day of May, 2021.


 Planning Commission Chair

ATTEST:


 Planning Commission Secretary

List of Exhibits:

- Exhibit "A": Development Code Amendment**
Exhibit "B": Findings

**Exhibit “A” to Planning Commission Resolution 2021-370
Development Code Amendment – File DCA21-0001**

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

The Newberg Development Code shall be amended as follows:

Section 1. Newberg Development Code, Annexations, Section 15.5250.080 shall be amended to read as follows:

15.250.080 Comprehensive plan and zoning designations.

A. The comprehensive plan map designation of the property at the time of annexation shall be used as a criterion to determine whether or not the proposed request complies with the Newberg comprehensive plan. A redesignation of the comprehensive plan map may be requested concurrent with annexation. The proposed redesignation shall then be used to determine compliance with the Newberg comprehensive plan.

B. Upon annexation, the area annexed shall be automatically zoned to the corresponding land use zoning classification which implements the Newberg comprehensive plan map designation. The corresponding designations are shown in the table below. The procedures and criteria of NMC 15.302.030 shall not be required.

Comprehensive Plan Classification	Appropriate Zoning Classification
OS	Any zoning classification
LDR	R-1
MDR	R-2, R-4
HDR	R-3, R-4
COM	C-1, C-2, or C-3 as determined by the director
MIX	C-2, M-1, or M-2 <u>or M-E</u> as determined by the director
IND	M-1, M-2, M-3, M-4, or AI <u>as determined by the director</u>
PQ	Any zoning classification
P	CF

C. If a zoning classification is requested by the applicant for other than that described in subsection (B) of this section, the criteria of NMC 15.302.030 shall apply. This application shall be submitted concurrently with the annexation application.

D. In the event that the annexation request is denied, the zone change request shall also be denied. [Ord. 2747 § 1 (Exh. A § 6), 9-6-11; Ord. 2720 § 1(9), 11-2-09; Ord. 2451, 12-2-96. Code 2001 § 151.267.]

**Exhibit “B” to Planning Commission Resolution 2021-370
Findings – File DCA21-0001**

APPROVAL CRITERIA

A. Statewide Planning Goals (the “Goals”)

GOAL 1: CITIZEN INVOLVEMENT

To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process.

Finding: The City meets this requirement by having various citizen committees and/or commissions with opportunities for the public to testify on general or specific matters. The proposal went before the Newberg Planning Commission on May 13, 2021 and Newberg City Council on June 21, 2021, which provided the opportunity for public comment. A web page was also prepared to inform the public of the pending proposal. Finally, notice was published in the Newberg Graphic newspaper and posted in four public places.

The amendment is subject to the Type IV Legislative process, which requires public notification and public hearings before the Planning Commission and the City Council. This process has been established by the City and determined to be consistent with Goal I of the Oregon Statewide Planning Goals. The public hearing notice of the action and decision, and the hearings on this case before the Planning Commission and the City Council are all recognized as opportunities for citizen participation.

The Goal is met.

GOAL 2: LAND USE PLANNING

To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.

Finding: This Goal requires that land use decisions 1) have an adequate factual base, 2) that alternatives have been considered, and 3) that implementation measures are consistent with and adequate to carry out comprehensive plan policies and designations.

The proposed land use action has an adequate factual base and has been thoroughly described in this application.

The alternatives to amending the municipal code text would be to: 1) deny the application and require an applicant to go through an extended application process to apply the M-E zone.

Implementation measures proposed are consistent with and adequate to carry out comprehensive plan

policies and designations as noted in these findings.

The Goal is met.

GOAL 3: AGRICULTURAL LANDS

To preserve and maintain agricultural lands.

Finding: Not applicable because the proposal does not propose any land use regulation changes to agricultural lands outside of the Newberg Urban Growth Boundary.

GOAL 4: FOREST LANDS

To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.

Finding: Not applicable because the proposal does not propose any land use regulation changes to the Stream Corridor that protects wooded areas within the Newberg Urban Growth Boundary.

GOAL 5: NATURAL RESOURCES, SCENIC AND HISTORIC AREAS, AND OPEN SPACES

To protect natural resources and conserve scenic and historic areas and open spaces.

Finding: The proposed amendment will not negatively impact inventoried Goal 5 resources because the amendments do not change protections that already exist in the Newberg Municipal Code to protect these resources. The Riverfront Master Plan also envisions regional trail connections connecting Newberg's parks and nearby regional destinations. Newberg has an acknowledged Stream Corridor designation, inventoried historic resources, and identified open spaces in compliance with Goal 5.

This Goal is met.

GOAL 6: AIR, WATER AND LAND RESOURCES QUALITY

To maintain and improve the quality of the air, water and land resources of the state.

Finding: Newberg has an acknowledged Comprehensive Plan that complies with this goal. Protections are already in place for air, water, and land resource quality. This proposal does not modify the existing goals and policies.

This Goal is met.

GOAL 7: AREAS SUBJECT TO NATURAL HAZARDS

To protect people and property from natural hazards.

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Finding: Newberg has an acknowledged Comprehensive Plan that complies with this goal. This proposal does not modify the City's natural hazards requirements such as flood plain or landslide areas. This proposal does not modify the existing goals and policies.

This Goal is met.

GOAL 8: RECREATIONAL NEEDS

To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.

Finding: Newberg has an acknowledged Comprehensive Plan that complies with this goal. This proposal does not modify the City's recreational goals and policies.

This Goal is met.

GOAL 9: ECONOMIC DEVELOPMENT

To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

Finding: The 2019 Riverfront Master Plan proposal envisions the riverfront as an economically thriving area with a mix of residential, commercial, industrial, and employment uses. The adopted changes to the Comprehensive Plan and Map, and Development Code (CPMA20-0002/DCA20-0001) included a new mixed employment area on the Riverfront Mill Site that is intended to provide a flexible mix of light industrial and employment uses that will support the City's diverse employment opportunities. This proposal clarifies that at the time of annexation the M-E zoning would apply to this mixed employment area.

The Goal is met.

GOAL 10: HOUSING

To provide for the housing needs of citizens of the state.

Finding: Not applicable as the proposal does not relate to proposed housing. The proposal relates to mixed employment areas in the Riverfront that does not allow housing.

The Goal is met.

GOAL 11: PUBLIC FACILITIES AND SERVICES

To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

Finding: Not applicable as the proposal does not relate to proposed public facilities housing. The proposal relates to the mixed employment area in the Riverfront. Through separate actions the City

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has or is addressing public facilities (CPTA20-0002 - Transportation, CPAT20-0003 - Water, CPAT20-0004 - Wastewater, and CPTA20-0005 - Stormwater).

The proposal meets the Goal.

GOAL 12: TRANSPORTATION

To provide and encourage a safe, convenient and economic transportation system.

Finding: Not applicable as the proposal does not relate to proposed transportation. The proposal relates to the mixed employment area in the Riverfront. Through a separate action the City has addressed transportation (CPTA20-0002, Ordinance No. 2021-2871).

The proposal meets the Goal.

GOAL 13: ENERGY CONSERVATION

To conserve energy.

Finding: Not applicable as the proposed amendment does not affect energy conservation.

This Goal is met.

GOAL 14: URBANIZATION

To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.

Finding: The proposed amendment does not include an expansion of the Urban Growth Boundary but ensures the efficient use of the land within the Urban Growth Boundary for the projected population and employment opportunities within the City and meets the goal. Development of the Riverfront area will maintain Newberg's identity and enhance the quality living and employment environment by balancing growth and providing cultural activities.

This Goal is met.

GOAL 15: WILLAMETTE RIVER GREENWAY

To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.

Finding: Not applicable because the proposal does not propose any land use regulation changes to the Willamette River Greenway.

This Goal is met.

B. Newberg Comprehensive Plan

II. GOALS AND POLICIES

A. CITIZEN INVOLVEMENT

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

Finding: The City meets this requirement by having various citizen committees and commissions with opportunities for the public to testify on general or specific matters. The proposal went before the Newberg Planning Commission on May 13, 2021 and Newberg City Council on June 21, 2021, which provided the opportunity for public comment. A web page was also prepared to inform the public of the pending proposal. Finally, notice was published in the Newberg Graphic newspaper and posted in four public places.

The amendment is subject to the Type IV Legislative process, which requires public notification and public hearings before the Planning Commission and the City Council. This process has been established by the City and determined to be consistent with Goal I of the Oregon Statewide Planning Goals. The public hearing notice of the action and decision, and the hearings on this case before the Planning Commission and the City Council are all recognized as opportunities for citizen participation.

The Goal is met.

B. LAND USE PLANNING

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

Finding: This Goal requires that land use decisions 1) have an adequate factual base, 2) that alternatives have been considered, and 3) that implementation measures are consistent with and adequate to carry out comprehensive plan policies and designations.

The proposed land use action has an adequate factual base and has been thoroughly described in this application.

The alternatives to amending the municipal code text would be to: 1) deny the application and require an applicant to go through an extended application process to apply the M-E zone.

Implementation measures proposed are consistent with and adequate to carry out comprehensive plan policies and designations as noted in these findings.

The Goal is met.

C. AGRICULTURAL LANDS

GOAL: To provide for the orderly and efficient transition from rural to urban land uses.

Finding: Not applicable because the proposal does not propose any land use regulation changes to agricultural lands outside of the Newberg Urban Growth Boundary.

D. WOODED AREAS

GOAL: To retain and protect wooded areas.

Finding: Not applicable because the proposal does not propose any land use regulation changes to the Stream Corridor that protects wooded areas within the Newberg Urban Growth Boundary.

E. AIR, WATER, AND LAND RESOURCE QUALITY

GOAL: To maintain and, where feasible, enhance the air, water and land resource qualities within the community.

POLICY: 1. Development shall not exceed the carrying capacity of the air, water or land resource base.

Finding: Newberg has an acknowledged Comprehensive Plan that complies with this goal. Protections are already in place for air, water, and land resource quality. This proposal does not modify the existing goal and policy.

This Goal is met.

F. AREAS SUBJECT TO NATURAL HAZARDS

GOAL: To protect life and property from flooding and other natural hazards.

Finding: Newberg has an acknowledged Comprehensive Plan that complies with this goal. This proposal does not modify the City's natural hazards requirements such as flood plain or landslide areas. This proposal does not modify the existing goal.

This Goal is met.

G. OPEN SPACE, SCENIC, NATURAL, HISTORIC AND RECREATIONAL RESOURCES

GOALS:

1. To ensure that adequate land shall be retained in permanent open space use and that natural, scenic and historic resources are protected.
2. To provide adequate recreational resources and opportunities for the citizens of the community and visitors.
3. To protect, conserve, enhance and maintain the Willamette River Greenway.

Finding: Newberg has an acknowledged Comprehensive Plan that complies with this goal. This proposal does not modify the City's recreational goal.

This Goal is met.

H. THE ECONOMY

GOAL: To develop a diverse and stable economic base.

POLICY: 1. General Policies. b. The City shall encourage economic expansion consistent with local needs.

Finding: The 2019 Riverfront Master Plan proposal envisions the riverfront as an economically thriving area with a mix of residential, commercial, industrial, and employment uses. The adopted changes to the Comprehensive Plan and Map, and Development Code (CPMA20-0002/DCA20-0001) included a new mixed use area on the Riverfront Mill Site that is intended to provide a flexible mix of light industrial and employment uses that will support the City's diverse employment opportunities. This proposal clarifies that at the time of annexation the M-E zoning would apply to this mixed employment area.

The Goal is met.

I. HOUSING

GOAL: 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. (Ordinance 2006-2634)

Finding: Not applicable as the proposal does not relate to proposed housing. The proposal relates to mixed employment areas in the Riverfront that does not allow housing.

The Goal is met.

J. URBAN DESIGN

GOAL 1: To maintain and improve the natural beauty and visual character of the City.

GOAL 2: To develop and maintain the physical context needed to support the livability and unique character of Newberg.

Finding: Not applicable because the proposal does not propose any land use regulation changes to urban design policies or regulations.

K. TRANSPORTATION

GOAL 1: Establish cooperative agreements to address transportation based planning, development, operation and maintenance.

GOAL 2: Establish consistent policies which require concurrent consideration of transportation/land use system impacts.

GOAL 3: Promote reliance on multiple modes of transportation and reduce reliance on the automobile.

GOAL 4: Minimize the impact of regional traffic on the local transportation system.

GOAL 5: Maximize pedestrian, bicycle and other non-motorized travel throughout the City.

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GOAL 6: Provide effective levels of non-auto oriented support facilities (e.g. bus shelters, bicycle racks, etc.).

GOAL 8: Maintain and enhance the City's image, character and quality of life.

GOAL 9: Create effective circulation and access for the local transportation system.

GOAL 10: Maintain the viability of existing rail, water and air transportation systems.

GOAL 11: Establish fair and equitable distribution of transportation improvement costs.

GOAL 12: Minimize the negative impact of a Highway 99 bypass on the Newberg community.

GOAL 13: Utilize the Yamhill County Transit Authority (YCTA) Transit Development Plan (TDP) as a Guidance Document.

GOAL 14: Coordinate with Yamhill County Transit Area.

GOAL 15: Implement Transit-Supportive Improvements.

Finding: Not applicable as the proposal does not relate to proposed transportation. The proposal relates to mixed employment are in the Riverfront area. Through a separate action the City has addressed transportation (CPTA20-0002, Ordinance No. 2021-2871).

L. PUBLIC FACILITIES AND SERVICES

GOAL: To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban development.

Finding: Not applicable as the proposal does not relate to proposed public facilities housing. The proposal relates to the mixed employment area in the Riverfront. Through separate actions the City has addressed public facilities (CPTA20-0002 - Transportation, CPAT20-0003 - Water, CPAT20-0004 - Wastewater, and CPTA20-0005 - Stormwater).

M. ENERGY

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

Finding: Not applicable as the proposed amendment does not affect energy conservation.

N. URBANIZATION

GOALS:

1. To provide for the orderly and efficient transition from rural to urban land uses.
2. To maintain Newberg's identity as a community which is separate from the Portland Metropolitan area.
3. To create a quality living environment through a balanced growth of urban and cultural activities.

Finding: The proposed amendment does not include an expansion of the Urban Growth Boundary but ensures the efficient use of the land within the Urban Growth Boundary for the projected population and employment opportunities within the City and meets the goal. Development of the Riverfront area will maintain Newberg's identity and enhance the quality living and employment

environment by balancing growth and providing cultural activities.

The Goals are met.

D. Newberg Municipal Code

Chapter 15.100 LAND USE PROCESSES AND PROCEDURES

15.100.060 Type IV procedure – Legislative.

A. Type IV Actions Are Legislative. The planning commission shall hold a public hearing and make a recommendation to the city council. The city council shall hold another public hearing and make a final decision.

B. Legislative actions include, but are not limited to:

1. Amendments to the Newberg comprehensive plan text;
2. Amendments to the Newberg development code;
3. The creation of any land use regulation.

C. The public hearing before the planning commission shall be held in accordance with the requirements of this code. Notice of a hearing on a legislative decision need not include a mailing to property owners or posting of property (refer to NMC 15.100.200 et seq.).

D. Interested persons may present evidence and testimony relevant to the proposal. If criteria are involved, the planning commission shall make findings for each of the applicable criteria.

E. The city council shall conduct a new hearing pursuant to this code. At the public hearing, the staff shall present the report of the planning commission and may provide other pertinent information. Interested persons shall be given the opportunity to present new testimony and information relevant to the proposal that was not heard before the planning commission.

F. To the extent that a finding of fact is required, the city council shall make a finding for each of the applicable criteria and in doing so may sustain or reverse a finding of the planning commission. In granting an approval, the city council may delete, add, or modify any of the provisions in the proposal or attach certain conditions beyond those warranted for the compliance with standards if the city council determines that the conditions are necessary to fulfill the approval criteria.

G. The city council's decision shall become final upon the effective date of the ordinance or resolution.

Finding: Public hearings with the Planning Commission and the City Council will be required to finalize a decision regarding the application for the amendment to the Development Code.

This requirement can be met.

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



RESOLUTION No. 2021-3724

**A RESOLUTION INITIATING AN AMENDMENT TO THE NEWBERG
MUNICIPAL CODE, TITLE 15 DEVELOPMENT CODE, 15.250.080
COMPREHENSIVE PLAN AND ZONING DESIGNATIONS**

RECITALS:

1. On September 16, 2019 the City Council adopted Resolution No. 2019-3596 accepting the Riverfront Master Plan.
2. On November 16, 2020 City Council adopted Ordinance No. 2020-2868 implementing Comprehensive Plan and Map changes, Development Code, and Zoning changes related to implementing the Riverfront Master Plan.
3. The request is to consider initiating an amendment to the Newberg Municipal Code Title 15 Development Code (NDC), 15.250.080B.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. The City Council initiates an amendment to the Newberg Municipal Code, Title 15 Development Code, 15.250.080B. to implement the M-E (Mixed Employment) zoning designation within the MIX Comprehensive Plan designation in the Riverfront Master Plan area. This starts the public process to study the proposed amendments.
2. By initiating this amendment, the City Council does not commit to taking any specific action on the proposal. It only wishes to give the amendment full consideration by the Planning Commission and City Council in public hearings.


➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: February 17, 2021.

ADOPTED by the City Council of the City of Newberg, Oregon, this 16th day of February, 2021.



 Sue Ryan, City Recorder

ATTEST by the Mayor this 18th day of February, 2021.



 Rick Rogers, Mayor