

NOTICE OF DECISION
Want CPA
Design Review DR221-0004

November 7, 2021

Brian Williamson
105 Parkview Drive
PO Box 1042
Newberg, OR 97132

Dear Mr. Williamson:

The Newberg Community Development Director has approved the proposed design review DR221-0004 for Want CPA located on Yamhill County Tax Map R3219AB 05400, subject to the conditions of approval listed in the attached report. The decision will become effective on November 21, 2021, unless an appeal is filed.

You may appeal this decision to the Newberg Planning Commission within 14 calendar days of this decision in accordance with Newberg Development Code 15.100.170. All appeals must be in writing on a form provided by the Planning Division. Anyone wishing to appeal must submit the written appeal form together with the required fee of \$550.20 to the Planning Division within 14 days of the date of this decision.

The deadline for filing an appeal is 4:30 pm on November 20, 2021.

At the conclusion of the appeal period, please remove all notices from the site.

Design review approval is only valid for one year from the effective date above. If the Public Improvement Permit and Building Permit are not obtained within this time period, then design review approval becomes null, and void and no construction may take place. If design review approval on your project is approaching its expiration date, contact the Planning Division regarding extension opportunities.

Please note that final building plans submitted for building permit review must comply with the attached conditions of approval. You must comply with all conditions of approval required through the design review process before final occupancy will be signed off by the planning division.

Feel free to contact me by email at doug.rux@newbergoregon.gov or call 503-537-1212, if you have any further questions.

Regards,



Doug Rux, AICP
Community Development Director





Community Development Department

P.O. Box 970 ▪ 414 E First Street ▪ Newberg, Oregon 97132
503-537-1240 ▪ Fax 503-537-1272 ▪ www.newbergoregon.gov

STAFF REPORT

Want CPA – Design Review – DR221-0004

FILE NO: DR221-0004

REQUEST: Building renovations and site updates to an existing 6,000 square foot commercial building on Main Street

LOCATION: 105 N Main St.

TAX LOT: R3219AB 05400 and 05500

APPLICANT: Brian Williamson

OWNER: Balding Buffalo LLC

ZONE: C-3, Central Business District

OVERLAY: Airport Overlay (Conical Surface)

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Attachments:

1. Application Material and Supplemental Material
2. Agency Comments
3. Public Comments

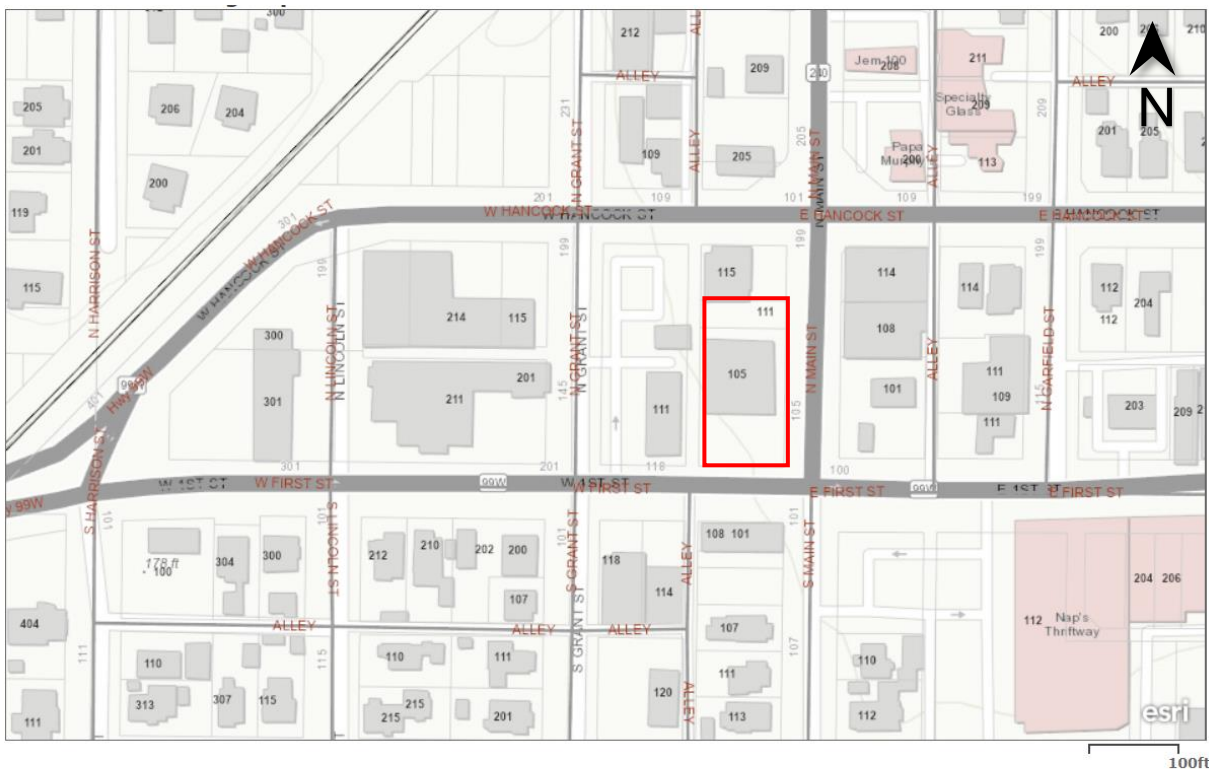
Section I: Application Information

A. DESCRIPTION OF APPLICATION: The applicant seeks approval of a renovation to upgrade an existing commercial building to serve a new tenant. The existing building footprint will remain. A new configuration of parking spaces and new ingress/egress are proposed. Improvements to the sidewalks on N Main Street are also proposed. The renovations will exceed 25% of the assessed value of the structure and therefore is subject to a Type II Design Review.

The property is located at the northwest corner of the intersection of N Main Street and E First Street. West of the property is an alley located to the west of the site. The site contains two tax lots, with the building located only on the southern tax lot. The building has the address of 105 N Main Street. The site is zoned C-3 (Central Business District).

B. SITE INFORMATION:

1. Location: 105 N Main Street



City of Newberg, Oregon Metro, Bureau of Land Management, State of Oregon, State of Oregon DOT, State of Oregon GEO, Esri Canada, Esri, HERE, Garmin, INCREMENT P, USGS, EPA, USDA | City of Newberg, Oregon Metro, Geoterra | Oregon Geospatial Enterprise Office, Hazards FIT | Yamhill County Tax Assessor's Office | Originally created by Jan Wolf 2007-present | City of Newberg Planning Department | Jan Wolf | City of Newberg GIS

- 2. Size: 0.38 acres
- 3. Topography: Flat
- 4. Current Land Uses: Vacant commercial building
- 5. Natural Features: None

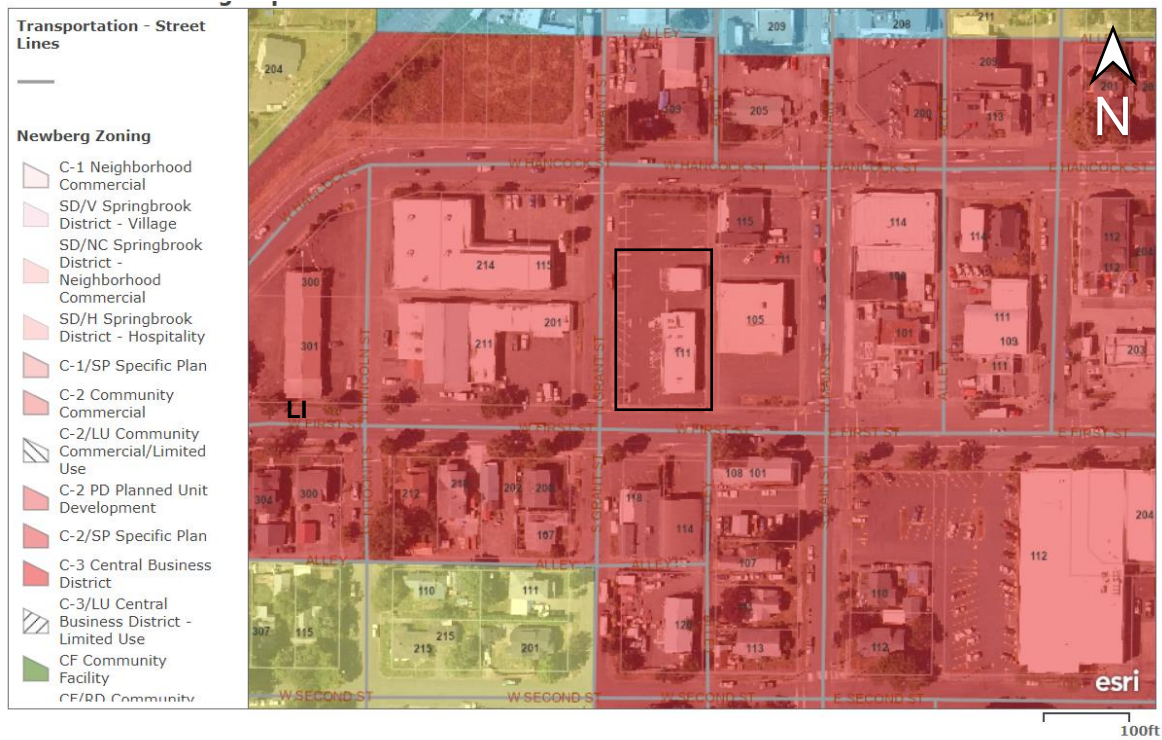
6. Adjacent Land Uses:



City of Newberg, Oregon Metro, Bureau of Land Management, State of Oregon, State of Oregon DOT, State of Oregon GEO, Esri Canada, Esri, HERE, Garmin, INCREMENT P, USGS, EPA, USDA | City of Newberg, Oregon Metro, Geoterra | Oregon Geospatial Enterprise Office, Hazards FIT | Yamhill County Tax Assessor's Office | City of Newberg Planning Department | Originally created by Jan Wolf 2007-present | Jan Wolf | City of Newberg GIS

- a. North: Convenience Store, City Center Food Mart
- b. East: Coffee Shop
- c. South: Welding Shop
- d. West: Restaurant

7. Zoning: The following zoning districts about the subject property.



City of Newberg, Oregon Metro, Bureau of Land Management, State of Oregon, State of Oregon DOT, State of Oregon GEO, Esri Canada, Esri, HERE, Garmin, INCREMENT P, USGS, EPA, USDA | Oregon Geospatial Enterprise Office, Hazards FIT | City of Newberg, Oregon Metro, Geoterra | Yamhill County Tax Assessor's Office | City of Newberg Planning Department | Originally created by Jan Wolf 2007-present | Jan Wolf | City of Newberg GIS

- a. North: Central Business District (C-3)
 - b. East: Central Business District (C-3)
 - c. South: Central Business District (C-3)
 - d. West: Central Business District (C-3)
8. Access and Transportation: Access to the proposed development is provided from two driveways on N Main Street and from an alley on E First Street. Both streets are ODOT facilities. The applicant is addressing necessary permitting with ODOT.
9. Utilities:
- a. Water: The City's GIS system shows there is an existing 6-inch water line in N Main and E First Street.
 - b. Wastewater: The City's GIS system shows there is an existing 8-inch wastewater line in the alley west of the building.
 - c. Stormwater: The City's GIS system shows a stormwater line located in E First Street.

- d. **Overhead Lines:** There are overhead utilities serving the property or running parallel to the property frontage. Any new connection to the property will need to be undergrounded. See NMC 15.430.010 for exception provisions.
10. **Other Site Conditions:** This development is proposed at a site with soil and groundwater contamination. The Oregon Department of Environmental Quality has entered into a Prospective Buyer Agreement with the owner/ applicant. This agreement resulted in a Consent Decree and Easement and Equitable Servitude Document. These documents were submitted as part of the application. The soil and groundwater contamination present at the site are considered here as part of the stormwater management findings and conditions. Landscaping requirements should take into account the recommendations that will be in the stormwater and erosion control plan that is conditioned as part of this decision.

C. PROCESS: The Design Review is a Type II application and follows the procedures in Newberg Development Code 15.100.030. Following a 14 day public comment period, the Community Development Director makes a decision on the application based on the criteria listed in the attached findings. The Director’s decision is final unless appealed.

Important dates related to this application are as follows:

- 1. 9/16/2021: The Community Development Director deemed the application complete.
- 2. 9/22/2021: The applicant mailed notice to the property owners within 500 feet of the site.
- 3. 9/22/2021: The applicant posted notice on the site.
- 4. 10/5/2021: The 14-day public comment period ended.
- 5. 11/7/2021: The Community Development Director issued a decision on the application.

D. AGENCY COMMENTS: The application was routed to several public agencies for review and comment (Attachment 1). Comments and recommendations from city departments have been incorporated into the findings and conditions. As of the writing of this report, the city received the following agency comments:

- 1. Ziplly Fiber: Contact Ziplly Fiber before cutting/removing or relocating any terminals or cables. This could cause issues with other working customers. Developer would be liable for any repairs. Contact: Scott Albert at 503-526-3544, or.metro.engineering@ziplly.com.
- 2. Police Department: Reviewed; no conflict.
- 3. Finance Department: Reviewed; no conflict.
- 4. Engineering Division: Reviewed; comments integrated into findings.

5. Public Works Maintenance: Reviewed; no conflict.
6. Public Works Director: Reviewed; no conflict.
7. Public Works Wastewater Treatment Plant: Reviewed; no conflict.

E. PUBLIC COMMENTS:

No public comments were submitted.

Section II: Findings – File DR221-0004 Design Review – Want CPA

15.220.050 Criteria for design review (Type II process).

B. Type II. The following criteria are required to be met in order to approve a Type II design review request:

1. Design compatibility. The proposed design review request incorporates an architectural design which is compatible with and/or superior to existing or proposed uses and structures in the surrounding area. This shall include, but not be limited to, building architecture, materials, colors, roof design, landscape design, and signage.

Finding: The proposed remodel will add new exterior materials and architectural definition with a metal trellis/tower at the main entry and a multi-tiered parapet along the facades. The building uses red brick and gray painted corrugated metal panels, with painted fiber cement board and batt at the tower. Bronzed aluminum storefront windows will be installed to break up the façade. New landscaping will be installed along the site's Main Street frontage. The existing sidewalks will be upgraded with accessible sidewalks and curbs that meet city standards. No signage has been proposed as part of this Design Review, but the applicant has indicated that signage will be placed on the building. A separate sign review application will be required in order to approve signs.

This section of the NMC will be met with adherence to the aforementioned condition of approval.

15.220.030 Site design review requirements.

12. Trash and Refuse Storage. All trash or refuse storage areas, along with appropriate screening, shall be indicated on the plans. Refuse storage areas must be constructed of brick, concrete block or other similar products as approved by the director.

Finding: A trash enclosure will be installed at the northwest corner of the site, next to the parking spaces along the north property line. The application does not specify screening or screening materials for the enclosure. The applicant must submit trash or refuse storage area screening, and screening materials that comply with 15.220.030(12) that indicates the refuse storage will be constricted of brick, concrete block or other similar products as approved by the director prior to issuance of building permits.

This criterion will be met with the adherence to the aforementioned condition of approval.

15.220.080 Additional requirements for development in the C-3 zoning district.

The purpose of this section is to ensure that new development and redevelopment in the C-3 zoning district maintains and promotes downtown Newberg as a desirable place to spend time. The standards below will help to assure continued quality and compatibility in construction and design. An applicant for a new development or redevelopment within the C-3 zoning district, which is subject to the site design review process, must demonstrate that seven out of 10 of the following site and building design elements have been incorporated into the design of the project. Exceptions to these additional development requirements may be granted if the

requirements would result in construction that is out of character with surrounding development. Applicants for redevelopment of a designated landmark will not be subject to these additional requirements.

Finding: The proposed improvements are renovations to an existing structure located in the C-3 zone; and therefore, are subject to the standards of this provision. Pursuant to the standard, the development meets the following seven (7) of the ten (10) additional site and building design elements: façade elements, façade articulation, windows, window glazing (percentage and materials), dominant material, and wall materials.

Compliance with each element is addressed in subsequent standards.

A. Elements of the Facade.

1. Windows. To maintain compatibility with historic proportions, windows facing public streets shall be primarily vertical. With the exception of transom windows, the width-to-height ratio of any single window pane (defined as either a true divided light or a "pane" created by "snap-in" dividers) shall be no more than 1:1.

Finding: The windows on the street facing facades (south and east) are primarily vertical. Horizontal windows are only present along the top portion of the metal tower at the building's entrance.

The criterion is met.

2. Awnings. To provide shade and protection from the rain, awnings of fabric, glass, wood or metal shall extend along at least 25 percent of street-facing facades. Awnings shall be securely attached to the building and at their lowest point shall not be lower than eight feet above the ground level. Awnings may encroach a maximum of eight feet into the public sidewalk right-of-way, but no closer than two feet from the curb line.

Finding: Awnings along the two street-facing facades, the east and south façades, are proposed. On the east façade, awnings will be installed along 45% of the façade. However, on the south façade, awnings will consist of 10% of the façade. As this is a renovation and not new construction the 10% south façade awning amount is acceptable. The building setback eliminates any conflict between awnings and the public sidewalks. The applicant will need to confirm all awnings will be at least 8 feet above ground level prior to issuance of building permits.

The applicant does not comply with this standard but meets seven of the ten building and design elements required pursuant to NMC 15.22.080.

B. Facade Articulation.

1. Emphasize Entrances. Entrances facing a public street shall be incorporated as an integral element in the facade. Entrances shall be emphasized to clearly communicate how to enter the building and to make buildings appear more inviting. Some strategies for emphasizing the entrance on a facade include: using transom windows above entrance doors to increase their apparent scale, detailing and emphasizing the trim or pilasters surrounding the entrance doors, and locating projections such as awnings or balconies above the entrance.

Finding: The entrance to the building is articulated by the enhanced height of the entry corner, the awnings, and differential materials above the brick.

The criterion is met.

2. Maximum Horizontal Facade Plane. *To avoid overwhelming and visually monotonous facades, buildings shall not extend more than 60 feet horizontally without a change in the plane of the facade of at least one foot. Vertically stacked bay windows are one way to satisfy this criterion.*

Finding: The building facades range from 77 to 82 feet. Along the south and east facades, the 16-foot wide entrance tower breaks up the facades. On the west façade, there is a change in materials horizontally. The north façade contains a monotonous horizontal façade greater than 60 feet but is existing and not proposed to be modified.

The criterion is met.

C. Windows.

1. Depth of Windows. *Windows shall be recessed at least one and one-half inches from the general plane of the facade. This creates shadow lines and visual interest, giving the facade the perception of depth. Depth in the facade promotes the perception of high quality and durable construction, and contributes to the district's historic character.*

Finding: The applicant states that windows will be recessed at least one and one-half inches from the general plane of the façade to create shadow line and depth. The criterion is met.

2. Percentage of Glazing. *The percent of glazing based on the horizontal distance of the facade shall be as follows:*

a. Primary facade: at least 50 percent of ground floor and 30 percent of floors above the ground floor; and

b. All other facades facing a public street: at least 30 percent per floor.

Finding: The glazing for the building is 58% glazing along the primary façade (N Main Street), and 49% glazing on the other street facing façade (E First Street).

The criterion is met.

3. Window Glazing Material. *Windows facing a public street shall be made of clear or low-e glazing (pursuant to Oregon Structural Code Section 1312.1.3). Tinted or reflective glass shall not be visible from public rights-of-way.*

Finding: The applicant does not address window glazing. The applicant will need to submit plans confirming windows on the east and south will be clear or low-e glazed prior to issuance of building permits.

This criterion will be met with the adherence to the aforementioned condition of approval.

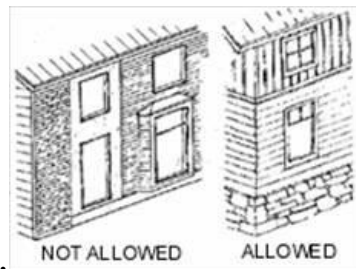
D. Facade Materials.

1. Dominant Material. All facades shall be comprised of a single dominant material. Additional materials are allowed as accents.

Finding: On all facades, the dominant building material is corrugated metal siding. Brick siding, fiber-cement board and batt (also known as batten) are also included as an accent.

This criterion is met.

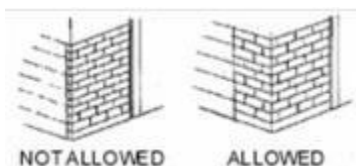
2. Allowed Wall Materials. Allowed wall cladding materials include horizontal wood and cementitious lap siding, horizontal board and batten siding, shingles, and shakes. Lap siding, shingles, and shakes shall be exposed a maximum of six inches to the weather. In board and batten siding, battens shall be spaced a maximum of eight inches on center. In addition, brick, rusticated concrete block, or stone masonry is allowed, but when used as a veneer material, it must be at least two and one-half inches thick. Cement-based stucco and poured-in-place concrete are allowed



Finding: The applicant has stated that their proposed improvements meet the requirement but does not specifically address this requirement in the application. The applicant will need to submit plans confirming building materials are consistent with NMC 15.220.080.D.2. prior to issuance of building permits.

This criterion is met.

3. Changes in Material. Brick and stone street-facing facades shall return at least 18 inches around the exposed side walls. When multiple cladding materials are used, changes shall occur along horizontal lines only, with a maximum of three different materials allowed per facade. Heavier-appearing materials (e.g., brick) shall be used only below lighter-appearing materials (e.g., shingles).



Finding: The building facades have horizontal change in materials, except for the west façade that has vertical change in materials. The brick is located below the lighter-appearing corrugated metal. The brick façade around the west elevation does not extend to 18 inches.

The applicant does not comply with this standard, but meets seven of the ten building and design elements required pursuant to NMC 15.22.080.

2. Parking and On-Site Circulation. *Parking areas shall meet the requirements of NMC 15.440.010. Parking studies may be required to determine if adequate parking and circulation are provided for uses not specifically identified in NMC 15.440.010. Provisions shall be made to provide efficient and adequate on-site circulation without using the public streets as part of the parking lot circulation pattern. Parking areas shall be designed so that vehicles can efficiently enter and exit the public streets with a minimum impact on the functioning of the public street.*

15.440.010 Required off-street parking.

A. *Off-street parking shall be provided on the development site for all R-1, C-1, M-1, M-2 and M-3 zones. In all other zones, the required parking shall be on the development site or within 400 feet of the development site which the parking is required to serve. All required parking must be under the same ownership as the development site served except through special covenant agreements as approved by the city attorney, which bind the parking to the development site.*

Finding: Off-street parking is not required in the C-3 zone. However, 15 parking spaces are provided which is consistent with code section 15.440.030 that indicates that office buildings should provide 1 space for every 400 square feet of gross floor area. The subject building is 6,004 square feet (including the garage); therefore, 15 parking spaces would meet the office building standard.

The criterion is met.

B. *Off-street parking is not required in the C-3 district, except for:*

- 1. Dwelling units meeting the requirements noted in NMC 15.305.020.*
- 2. New development which is either immediately adjacent to a residential district or separated by nothing but an alley.*

Finding: The applicant is not proposing entirely new development adjacent to residential districts. No off-street parking is required for the site.

C. *Within the C-4 district, the minimum number of required off-street parking spaces shall be 50 percent of the number required by NMC 15.440.030, except that no reduction is permitted for residential uses.*

Finding: The development area is not within the C-4 district and is not applicable.

D. *All commercial, office, or industrial developments that have more than 20 off-street parking spaces and that have designated employee parking must provide at least one preferential carpool/vanpool parking space. The preferential carpool/vanpool parking space(s) must be located close to a building entrance.*

Finding: The applicant is not proposing more than 20 off-street parking spaces and this criterion is not applicable.

15.440.020 Parking area and service drive design.

A. All public or private parking areas, parking spaces, or garages shall be designed, laid out and constructed in accordance with the minimum standards as set forth in NMC 15.440.070.

Finding: The proposed parking spaces meet the dimensional requirements. The one-way drive isles are both greater than 12 feet.

The criterion is met.

B. Groups of three or more parking spaces, except those in conjunction with single-family or two-family dwellings on a single lot, shall be served by a service drive so that no backward movement or other maneuvering of a vehicle within a street, other than an alley, will be required. Service drives shall be designed and constructed to facilitate the flow of traffic, provide maximum safety in traffic access and egress and maximum safety of pedestrian and vehicular traffic on the site, but in no case shall two-way and one-way service drives be less than 20 feet and 12 feet, respectively. Service drives shall be improved in accordance with the minimum standards as set forth in NMC 15.440.060.

Finding: There are two groupings of more than three parking spaces on the site: six (6) spaces north of the building, and seven (7) spaces south of the building. Both are located along one-way service drives and do not require backward movement onto a street or alley. The south service drive is 15 feet wide, and the north service drive is 27 feet wide.

This criterion is met.

C. Gates. A private drive or private street serving as primary access to more than one dwelling unit shall not be gated to limit access, except as approved by variance.

Finding: These criteria are not applicable because there are no gates being proposed and the subject property is zoned C-3 and not AI or AR.

D. In the AI airport industrial district and AR airport residential district, taxiways may be used as part of the service drive design where an overall site plan is submitted that shows how the circulation of aircraft and vehicles are safely accommodated, where security fences are located, if required, and is approved by the fire marshal, planning director, and public works director. The following submittal must be made:

1. A drawing of the area to be developed, including the probable location, height, and description of structures to be constructed; the location and description of a security fence or gate to secure the aircraft operations areas of off-airport property from the other nonsecured pedestrian/auto/truck areas of on-airport property; the proposed location of the proposed taxiway access in accordance with FAA specifications (refer to Federal Aviation Administration Advisory Circular No. 150/5300-13 regarding airport

design, and AC/5370-10B regarding construction standards for specifications that should be used as a guideline); and the identification of the vehicular traffic pattern area clearly separated from aircraft traffic. Once specific buildings have been designed, FAA Form 7460-1, Notice of Proposed Construction or Alteration, must be submitted to the City of Newberg, the private airport owner, and the FAA for airspace review

Finding: This criterion is not applicable as the development area is not in an AI or AR district.

15.440.030 Parking spaces required.

<i>Use</i>	<i>Minimum Parking Spaces Required</i>
<i>Office buildings, business and professional offices</i>	<i>1 for every 400 sq. ft. of gross floor area</i>

Finding: The proposed use for the subject property is a professional office. The 6,004 square foot building would require 15 parking spaces and fifteen (15) on site spaces are provided. However, parking is not required in the C-3 zone.

This criterion is met.

15.440.040 Parking requirements for uses not specified.

The parking space requirements for buildings and uses not set forth herein shall be determined by the director through a Type I procedure. Such determination shall be based upon the requirements for the most comparable building or use specified herein.

Finding: Offices are a specified use in NMC 15.440.030. This criterion is not applicable.

15.440.050 Common facilities for mixed uses.

A. In the case of mixed uses, the total requirements for off-street parking spaces shall be the sum of the requirements for the various uses. Off-street parking facilities for one use shall not be considered as providing parking facilities for any other use except as provided below.

Finding: This criterion is not applicable as the proposed use is a single use, office.

B. Joint Uses of Parking Facilities. The director may, upon application, authorize the joint use of parking facilities required by said uses and any other parking facility; provided, that:

- 1. The applicant shows that there is no substantial conflict in the principal operating hours of the building or use for which the joint use of parking facilities is proposed.*
- 2. The parking facility for which joint use is proposed is no further than 400 feet from the building or use required to have provided parking.*

3. The parties concerned in the joint use of off-street parking facilities shall evidence agreement for such joint use by a legal instrument approved by the city attorney as to form and content. Such instrument, when approved as conforming to the provisions of the ordinance, shall be recorded in the office of the county recorder and copies of the instrument filed with the director.

Finding: This criterion is not applicable because the applicant is not proposing joint use parking facilities.

C. Commercial establishments within 200 feet of a commercial public parking lot may reduce the required number of parking spaces by 50 percent.

Finding: This criterion is not applicable because the applicant is not requesting a reduction in the number of spaces required.

Parking and Service Drives

15.440.060 Parking area and service drive improvements.

All public or private parking areas, outdoor vehicle sales areas, and service drives shall be improved according to the following:

A. All parking areas and service drives shall have surfacing of asphaltic concrete or Portland cement concrete or other hard surfacing such as brick or concrete pavers. Other durable and dust-free surfacing materials may be approved by the director for infrequently used parking areas. All parking areas and service drives shall be graded so as not to drain stormwater over the public sidewalk or onto any abutting public or private property.

Finding: The proposed parking areas are existing asphaltic concrete and meet the criterion.

B. All parking areas shall be designed not to encroach on public streets, alleys, and other rights-of-way. Parking areas shall not be placed in the area between the curb and sidewalk or, if there is no sidewalk, in the public right-of-way between the curb and the property line. The director may issue a permit for exceptions for unusual circumstances where the design maintains safety and aesthetics.

Finding: Submitted plans indicate that parking and service drive areas will not encroach onto public streets and that no parking areas are proposed between the curb and sidewalk in the public right-of-way.

This criterion is met.

C. All parking areas, except those required in conjunction with a single-family or two-family dwelling, shall provide a substantial bumper which will prevent cars from encroachment on abutting private and public property.

Finding: The landscaping buffer along the north and south property lines prevent cars from encroaching.

This criterion is met.

D. All parking areas, including service drives, except those required in conjunction with single-family or two-family dwellings, shall be screened in accordance with NMC 15.420.010(B).

Finding: See response to NMC 15.420.010(B).

E. Any lights provided to illuminate any public or private parking area or vehicle sales area shall be so arranged as to reflect the light away from any abutting or adjacent residential district.

Finding: This criterion is not applicable because the subject property does not abut and is not adjacent to any residential zoning districts.

F. All service drives and parking spaces shall be substantially marked and comply with NMC 15.440.070.

Finding: The applicant proposes to mark the proposed parking spaces. The plans indicate asphalt surface arrows will be provided along the one-way access service drives.

This criterion is met.

G. Parking areas for residential uses shall not be located in a required front yard, except as follows: [...]

Finding: This criterion of the NMC is not applicable because the use is not residential and there is no required front yard within the C-3 zoning district.

H. A reduction in size of the parking stall may be allowed for up to a maximum of 30 percent of the total number of spaces to allow for compact cars. For high turnover uses, such as convenience stores or fast-food restaurants, at the discretion of the director, all stalls will be required to be full-sized.

Finding: The applicant is not requesting any compact parking spaces. This criterion is not applicable.

I. Affordable housing projects may use a tandem parking design, subject to approval of the community development director.

Finding: The proposed project is not an affordable housing project, and this criterion does not apply.

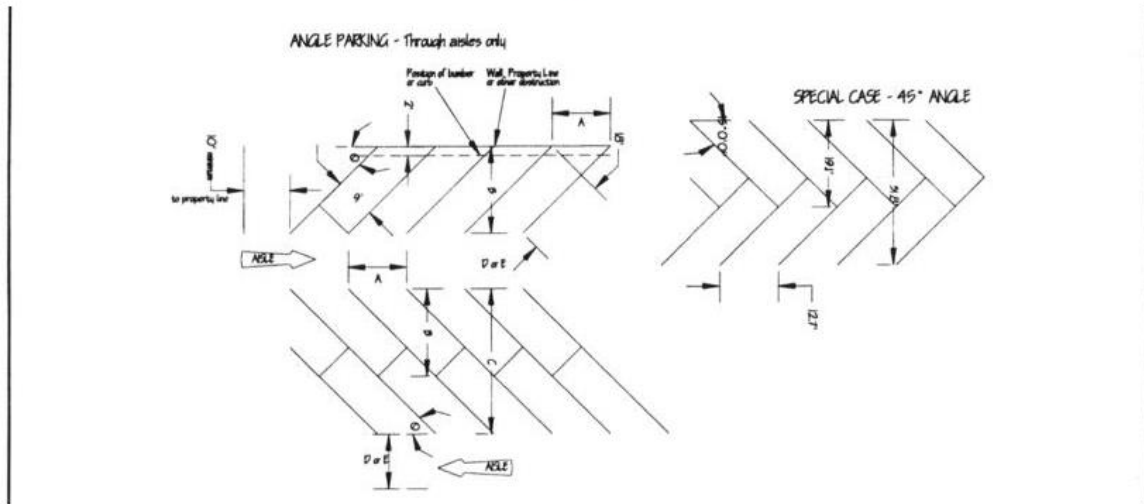
J. Portions of off-street parking areas may be developed or redeveloped for transit-related facilities and uses such as transit shelters or park-and-ride lots, subject to meeting all other

applicable standards, including retaining the required minimum number of parking spaces.

Finding: This criterion is not applicable because the applicant is not proposing transit-related facilities or uses and there is no immediate plan to locate one of these facilities by other governmental entities within the project area.

15.440.070 Parking tables and diagrams.

Diagram 1



Finding: Surface stalls are identified to be striped. There are two parking areas on the site, compliance for each is summarized below:

- Six angled paces (52 degrees) along the north property line: the spaces do not meet the dimensional requirements of “A” and “B”. The one-day drive isle is 17 feet, meeting the 13 foot standard.
- Seven angled parking (60 degrees) along the south property line: the spaces meet all dimensional requirements.
- Two parallel parking spaces just south of building: the spaces do not meet the dimensional requirements, 22-foot wide spaces.

The applicant will need to submit a plan that meets the minimum dimensions of NMC 15.440.070. prior to issuance of building permits.

This criterion will be met with compliance with the aforementioned condition of approval.

15.440.080 Off-street loading.

A. Buildings to be built or substantially altered which receive and distribute materials and merchandise by trucks shall provide and maintain off-street loading berths in sufficient number and size to adequately handle the needs of the particular use.

1. The following standards shall be used in establishing the minimum number of berths required: [...]

Finding: The proposed use will not receive or distribute materials and merchandise. The criterion is not applicable.

2. A loading berth shall contain a space 10 feet wide and 35 feet long and have a vertical clearance of 14 feet. Where the vehicles generally used for loading and unloading exceed these dimensions, the required length of these berths shall be increased.

Finding: This criterion is not applicable because a loading berth is not required.

3. Additional off-street loading requirements within the C-4 district are described in NMC 15.352.040(H)(7).

Finding: This criterion is not applicable as the site is not in the C-4 district.

4. Where a facility includes an aircraft hangar, the off-street loading requirement is not required since loading may occur through the hangar doors.

Finding: There is no aircraft hangar proposed for the development and this criterion does not apply.

B. The following provisions shall apply to off-street loading facilities:

1. The provision and maintenance of off-street loading space is a continuing obligation of the property owner. No building permit shall be issued until plans are presented that show property that is and will remain available for exclusive use as off-street loading space. The subsequent use of property for which the building permit is issued shall be conditional upon the unqualified continuance and availability of the amount of loading space required by this code. Should the owner or occupant of any building change the use to which the building is put, thereby increasing off-street loading requirements, it shall be unlawful and a violation of this code to begin or maintain such altered use until such time as the increased off-street loading requirements are met.

Finding: This criterion is not applicable because a loading berth is not required.

2. Owners of two or more buildings may agree to utilize jointly the same loading spaces when the hours of operation do not overlap; provided, that satisfactory legal evidence is

presented to the city attorney in the form of deeds, leases or contracts to establish the joint use.

Finding: This criterion is not applicable because a loading berth is not required. The owners of two or more buildings are not proposing to jointly utilize loading spaces. This criterion does not apply.

3. A plan drawn to scale, indicating how the off-street loading requirements are to be fulfilled, shall accompany an application for a building permit.

Finding: This criterion is not applicable because a loading berth is not required.

4. Design Requirements for Loading Areas.

- a. Areas used for standing and maneuvering of vehicles shall have durable and dustless surfaces of asphaltic concrete or Portland cement concrete, maintained adequately for all-weather use and so drained as to avoid flow of water across the sidewalks.*
- b. Loading areas adjacent to residential zones designed to minimize disturbance of residents.*
- c. Artificial lighting which may be provided shall be so deflected as not to shine or create glare in any residential zone or on any adjacent dwelling.*
- d. Access aisles shall be of sufficient width for all vehicular turning and maneuvering.*
- e. Vision clearance standards as identified in NMC 15.410.060 shall apply.*

Finding: This criterion is not applicable because a loading berth is not required.

Bicycle Parking

15.440.100 Facility requirements.

Bicycle parking facilities shall be provided for the uses shown in the following table. Fractional space requirements shall be rounded up to the next whole number.

<i>Use</i>	<i>Minimum Number of Bicycle Parking Spaces Required</i>
<i>New commercial, industrial, office, and institutional developments, including additions that total 4,000 square feet or more</i>	<i>One bicycle parking space for every 10,000 square feet of gross floor area. In C-4 districts, two bicycle parking spaces, or one per 5,000 square feet of building area, must be provided, whichever is greater</i>

Finding: The building is 6,004 square feet and requires one bicycle parking space. The application is silent on bike parking. The applicant shall submit a plan showing the location of the one required bicycle parking space to comply with NMC 15.440.100 prior to issuance of building permits.

This criterion will be met with compliance with the aforementioned condition of approval.

15.440.110 Design.

A. Bicycle parking facilities shall consist of one or more of the following:

- 1. A firmly secured loop, bar, rack, or similar facility that accommodates locking the bicycle frame and both wheels using a cable or U-shaped lock.**
- 2. An enclosed locker.**
- 3. A designated area within the ground floor of a building, garage, or storage area. Such area shall be clearly designated for bicycle parking.**
- 4. Other facility designs approved by the director.**

B. All bicycle parking spaces shall be at least six feet long and two and one-half feet wide. Spaces shall not obstruct pedestrian travel.

C. All spaces shall be located within 50 feet of a building entrance of the development.

D. Required bicycle parking facilities may be located in the public right-of-way adjacent to a development subject to approval of the authority responsible for maintenance of that right-of-way.

Finding: No details of bicycle parking facilities have been provided. The applicant shall submit the location and design detail of the proposed bike parking facility to comply with NMC 15.440.110A.1. prior to issuance of building permits.

This criterion will be met with compliance with the aforementioned condition of approval.

Private Walkways

15.440.130 Where required.

Private walkways shall be constructed as part of any development requiring Type II design review, including mobile home parks. In addition, they may be required as part of conditional use permits or planned unit developments. In the airport industrial (AI) district and residential (AR) district, on-site walks are not required in aircraft operations areas, such as parking aprons, taxiways, and runways.

15.440.140 Private walkway design.

A. All required private walkways shall meet the applicable building code and Americans with Disabilities Act requirements.

Finding: The applicant will be required to ensure all private walkways meet the applicable building code and ADA requirements.

This criterion will be met with compliance with the aforementioned condition of approval.

B. Required private walkways shall be a minimum of four feet wide.

Finding: The private walkway along N Main Street is a minimum of 6.5 feet wide.

The criterion is met.

C. Required private walkways shall be constructed of Portland cement concrete or brick.

Finding: The proposed private walkways are identified as stamped concrete and meet the requirement.

The criterion is met.

D. Crosswalks crossing service drives shall, at a minimum, be painted on the asphalt or clearly marked with contrasting paving materials or humps/raised crossings. If painted striping is used, it should consist of thermoplastic striping or similar type of durable application.

Finding: The applicant indicates the crosswalks across the north service drive will be painted.

The criterion is met.

E. At a minimum, required private walkways shall connect each main pedestrian building entrance to each abutting public street and to each other.

Finding: The private walkway on the east side of the building will function as the main connection for pedestrian connection into the building.

This criterion is met.

F. The review body may require on-site walks to connect to development on adjoining sites.

Finding: The proposed development is connected to neighboring properties by the sidewalks. No pedestrian connections on-site are recommended.

G. The review body may modify these requirements where, in its opinion, the development provides adequate on-site pedestrian circulation, or where lot dimensions, existing building layout, or topography preclude compliance with these standards.

Finding: The review body has not identified any necessary modifications per this criterion.

3. Setbacks and General Requirements. The proposal shall comply with NMC 15.415.010 through 15.415.060 dealing with height restrictions and public access; and NMC 15.405.010 through 15.405.040 and NMC 15.410.010 through 15.410.070 dealing with setbacks, coverage, vision clearance, and yard requirements.

Finding: The site is zoned Central Business District (C-3). The proposed improvements are redevelopment to an existing structure; therefore, certain siting standards are not applicable.

This section of the NMC is met because the requirement of Sections 15.415.010 through 15.415.060, 15.405.010 through 15.405.060 and 15.410.010 through 15.410.070 have been met outright or will be met with the implementation of the conditions of approval.

15.415.020 Building height limitation.

B. Commercial and Industrial.

2. In the AI, C-2, C-3, M-1, M-2, and M-3 districts there is no building height limitation, except, where said districts abut upon a residential district, the maximum permitted building height shall not exceed the maximum building height permitted in the abutting residential district for a distance of 50 feet from the abutting boundary.

Finding: The subject property is zoned C-3 and abuts C-3 zoned property to the north, south, east, and west. The proposed building height is 20 feet 4 inches. This criterion is met.

15.415.030 Building height exemptions.

Roof structures and architectural features for the housing of elevators, stairways, tanks, ventilating fans and similar equipment required to operate and maintain the building, fire or parapet walls, skylights, towers, flagpoles, chimneys, smokestacks, wireless masts, TV antennas, steeples and similar structures may be erected above the height limits prescribed in this code; provided, that no roof structure, feature or any other device above the prescribed height limit shall be allowed or used for the purpose of providing additional floor space. Further, no roof structure or architectural feature under this exemption shall be erected more than 18 feet above the height of the main building, whether such structure is attached to it or freestanding, nor shall any such structure or feature exceed the height limits of the airport overlay subdistrict.

Finding: The C-3 Zoning District does not have a maximum height restriction. No exemptions are applied to the proposed application. This section of the NMC is not applicable.

15.415.040 Public access required.

No building or structure shall be erected or altered except on a lot fronting or abutting on a public street or having access to a public street over a private street or easement of record approved in accordance with provisions contained in this code. New private streets may not be created to provide access except as allowed under MC 15.332.020(B)(24), 15.336.020(B)(8), and in the M-4 zone. Existing private streets may not be used for access for new dwelling units, except as allowed under NMC 15.405.030. No building or structure shall be erected or altered without provisions for access roadways as required in the Oregon Fire Code, as adopted by the city.

Finding: The proposed building directly abuts and will utilize access to N Main Street (Hwy 151) and W First Street (Hwy 091). The applicant contacted ODOT to determine requirements for access onto those streets. The applicant must submit the following ODOT applications:

- Hwy 151 , 11.47 – The new northern driveway on Main Street will require an Application for State Highway Approach.
- Hwy 151 MP 11.48 – The existing center driveway on Main Street will be removed and replaced with curb/gutter/sidewalk. No separate application is required for this work.

- Hwy 151, MP 11.49 – The existing southern driveway on Main Street will be reduced in size. This will require an Application for Upgrade to Existing State Highway Approach.
- Hwy 091 (First Street), MP 23.73 – The existing alley access on First Street will be reduced in size. This will require an Application for Upgrade to Existing State Highway Approach. The property owner for this application will be the City of Newberg, and the applicant of this application will be the designated agent.

This criterion will be met, subject to ODOT approval of applications. The applicant shall submit to the Oregon Department of Transportation for the following permits:

- Application for State Highway Approach for the north driveway on N Main Street (Hwy 151, MP 11.47).
- Application for Upgrade to Existing State Highway Approach to reduce the size of: southern driveway on N Main Street (Hwy 151, MP 11.49) and alley access from E First Street (Hwy 091, MP 23.73).

15.405.010 Lot area – Lot areas per dwelling unit.

A. In the following districts, each lot or development site shall have an area as shown below except as otherwise permitted by this code:

3. In the AI, AR, C-1, C-2, and C-3 districts, each lot or development site shall have a minimum area of 5,000 square feet or as may be established by a subdistrict.

Finding: The subject properties are zoned C-3 and are existing lots of record and are not required to meet the requirement of 15.405.010A.3.

15.405.020 Lot area exceptions.

The following shall be exceptions to the required lot areas:

A. Lots of record with less than the area required by this code.

B. Lots or development sites which, as a process of their creation, were approved in accordance with this code.

C. Planned unit developments, provided they conform to requirements for planned unit development approval.

Finding: The subject property is a lot of record, and therefore is exempt from the minimum lot area of 5,000 square feet for C-3 zoned property.

The exception is met.

15.405.030 Lot dimensions and frontage.

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

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

Finding: The subject properties are 13,972 square feet and 2,779 square feet which is less than 15,000 square feet and thus these pre-existing lots of record are exempt from the depth to width ratio requirement.

This criterion is not applicable.

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

Finding: The lot area for the subject properties is 13,972 square feet and 2,779 square feet. The lot sizes do include public or private streets. Per NMC 15.405.020 the properties are lots of record that are exempt from the minimum lot size requirement in the C-3 zone.

This criterion is met.

D. Frontage.

- 1. No lot or development site shall have less than the following lot frontage standards:
 - a. Each lot or development site shall have either frontage on a public street for a distance of at least 25 feet or have access to a public street through an easement that is at least 25 feet wide. No new private streets, as defined in NMC 15.05.030, shall be created to provide frontage or access except as allowed by NMC 15.240.020(L)(2).******

Finding: The subject properties have frontage on both E First Street and N Main Street. The frontage on E First Street is 100 ft across the southern tax lot (Lot 05500). The frontage on N Main Street is 108 feet, across the site's two tax lots (Lots 05400 and 05500). Both lots exceed the minimum street frontage requirement. This criterion is met.

- 2. The above standards apply with the following exceptions:
 - a. Legally created lots of record in existence prior to the effective date of the ordinance codified in this code.***
 - b. Lots or development sites which, as a process of their creation, were approved with sub-standard widths in accordance with provisions of this code.***
 - c. Existing private streets may not be used for new dwelling units, except private streets that were created prior to March 1, 1999, including paving to fire access roads standards and installation of necessary utilities, and private streets allowed in the airport residential and airport industrial districts.******

Finding: The aforementioned exceptions are not required because the applicant meets the frontage requirement of Section 15.405.020D.1.a.

15.410.010 General yard regulations.

- A. No yard or open space provided around any building for the purpose of complying with the provisions of this code shall be considered as providing a yard or open space for any other building.***

B. No yard or open space on adjoining property shall be considered as providing required yard or open space for another lot or development site under the provisions of this code.

C. No front yards provided around any building for the purpose of complying with the regulations of this code shall be used for public or private parking areas or garages, or other accessory buildings, except as specifically provided elsewhere in this code.

D. When the common property line separating two or more contiguous lots is covered by a building or a permitted group of buildings with respect to such common property line or lines does not fully conform to the required yard spaces on each side of such common property line or lines, such lots shall constitute a single development site and the yards as required by this code shall then not apply to such common property lines.

E. Dwellings Where Permitted above Nonresidential Buildings. The front and interior yard requirements for residential uses shall not be applicable; provided, that all yard requirements for the district in which such building is located are complied with.

F. In the AI airport industrial district, clear areas, safety areas, object-free areas, taxiways, parking aprons, and runways may be counted as required yards for a building, even if located upon an adjacent parcel.

G. In the AR airport residential district, clear areas, safety areas, object-free areas, taxiways, parking aprons, and runways may be counted as required yards for a building, if located upon an adjacent parcel. [Ord. 2647, 6-5-06; Ord. 2451, 12-2-96. Code 2001 § 151.550.]

C. Industrial. All lots or development sites in the M-1, M-2 or M-3 districts shall have a front yard of 20 feet. Lots or development sites in the AI district shall have a front yard of 10 feet. Lots or development sites in the M-4 district shall have a front yard of 20 feet where abutting Highway 219, arterials, and collectors, and a front yard of 10 feet along other streets.

Finding: The subject properties are zoned C-3 and do not have any yard or open space requirements. This criterion is not applicable.

15.410.030 Interior yard setback.

A. Residential.

- 1. All lots or development sites in the AR, R-1, R-2 and R-3 districts shall have interior yards of not less than five feet, except that where a utility easement is recorded adjacent to a side lot line, there shall be a side yard no less than the width of the easement.*
- 2. All lots or development sites in the RP district shall have interior yards of not less than eight feet.*

Finding: These criteria are not applicable because the subject property is zoned C-3 and is not a residentially zoned tax lot.

B. Commercial.

- 1. All lots or development sites in the C-1 and C-2 districts have no interior yards required where said lots or development sites abut property lines of commercially or industrially zoned property. When interior lot lines of said districts are common with*

property zoned residentially, interior yards of not less than 10 feet shall be required opposite the residential districts.

2. All lots or development sites in the C-3 district shall have no interior yard requirements.

3. All lots or development sites in the C-4 district will comply with the interior yard requirements described in NMC 15.352.040(E).

Finding: These criteria are not applicable because the subject properties are zoned C-3 and is therefore exempt from interior yard requirements.

C. Industrial. All lots or development sites in the AI, M-1, M-2, M-3, and M-4 districts shall have no interior yards where said lots or development sites abut property lines of commercially or industrially zoned property. When interior lot lines of said districts are common with property zoned residentially, interior yards of not less than 10 feet shall be required opposite the residential districts.

Finding: These criteria are not applicable because the subject property is zoned C-3 and is not an industrially zoned tax lot.

D. Institutional and Community Facility. All lots or development sites in the I and CF district shall have interior yards of not less than 10 feet, except outdoor activity facilities, such as pools, basketball courts, tennis courts, or baseball diamonds, including any accessory structures and uses, shall have an interior yard setback of 25 feet when abutting a residential district.

Finding: These criteria are not applicable because the subject property is zoned C-3 and is not an Institutional or Community Facility zoned tax lot.

15.410.040 Setback and yard restrictions as to schools, churches, public buildings.

A. Building Setback. No buildings shall be erected, used or maintained for a school, church or public or semi-public building or use, institution or similar use under the regulations of this code unless such building is removed at least 25 feet from every boundary line of any property included in any residential district.

B. Required Yard. No required front or interior yard of the lot on which such building or use is located shall be used for play or parking purposes.

Finding: These criteria are not applicable because the subject property is zoned C-3 and the proposed uses are not schools, churches, public buildings. These criteria do not apply.

15.410.050 Special setback requirements to planned rights-of-way.

A. Yard Requirements for Property Abutting Partial or Future Street Rights-of-Way.

1. Except as provided in subsection (A)(2) of this section, no building shall be erected on a lot which abuts a street having only a portion of its required width dedicated, unless the yards provided and maintained in connection with such building have a

- width and/or depth needed to complete the street width plus the width and/or depths of the yards required on the lot by this code.*
- 2. Where a comprehensive plan street design or a future street plan exists, the placement of buildings and the establishment of yards where required by this code shall relate to the future street boundaries as determined by said plans.*
- B. Planned Street Right-of-Way Widths.*** *Planned street right-of-way widths are established as indicated in subsection (C) of this section for the various categories of streets shown in the transportation system plan.*
- C. A lot or parcel of land in any district adjoining a street for which the planned right-of-way width and alignment have been determined shall have a building setback line equal to the yard required in the district, plus a distance of:***
- 1. Fifty feet from and parallel with the centerline of expressways.*
 - 2. Thirty-five feet from and parallel with the centerline of major and minor arterials.*
 - 3. Thirty feet from and parallel with the centerline of multifamily, commercial and industrial streets and single-family collector streets.*
 - 4. Thirty feet from and parallel with the centerline of single-family local streets.*
 - 5. Twenty-five feet from and parallel with the centerline of single-family hillside, cul-de-sacs and local streets which will never be extended more than 2,400 feet in length and which will have a relatively even division of traffic to two or more exits.*
- Exceptions to the above five classifications are shown in the transportation system plan.*
- D. The centerline of planned streets shall be either the officially surveyed centerline or a centerline as on a precise plan. In the event of conflict between the two, the latter-described line shall prevail. In all other cases, a line midway between properties abutting the right-of-way shall be the centerline for the purposes of this code.***

Finding: These criteria are not applicable because there are no future planned rights-of-ways that are part of this application or being planned for adjacent properties.

15.410.060 Vision clearance setback.

The following vision clearance standards shall apply in all zones (see Appendix A, Figure 9).

- A. At the intersection of two streets, including private streets, a triangle formed by the intersection of the curb lines, each leg of the vision clearance triangle shall be a minimum of 50 feet in length.***
- B. At the intersection of a private drive and a street, a triangle formed by the intersection of the curb lines, each leg of the vision clearance triangle shall be a minimum of 25 feet in length.***
- C. Vision clearance triangles shall be kept free of all visual obstructions from two and one-half feet to nine feet above the curb line. Where curbs are absent, the edge of the asphalt or future curb location shall be used as a guide, whichever provides the greatest amount of vision clearance.***

Finding: The footprint of the existing structure will remain. Within the vision clearance area at the intersection of E First Street and N Main Street, landscaping and one street light are proposed. Because of these landscape improvements the height of the landscape material must comply with the requirements of 15.410.060. The applicant shall ensure that landscape material planted in vision clearance areas complies with 15.410.060.

This criterion will be met with compliance with the aforementioned condition of approval.

15.410.070 Yard exceptions and permitted intrusions into required yard setbacks.

The following intrusions may project into required yards to the extent and under the conditions and limitations indicated:

A. Depressed Areas. In any district, open work fences, hedges, guard railings or other landscaping or architectural devices for safety protection around depressed ramps, stairs or retaining walls may be located in required yards; provided, that such devices are not more than three and one-half feet in height.

B. Accessory Buildings. In front yards on through lots, where a through lot has a depth of not more than 140 feet, accessory buildings may be located in one of the required front yards; provided, that every portion of such accessory building is not less than 10 feet from the nearest street line.

C. Projecting Building Features. The following building features may project into the required front yard no more than five feet and into the required interior yards no more than two feet; provided, that such projections are no closer than three feet to any interior lot line:

- 1. Eaves, cornices, belt courses, sills, awnings, buttresses or other similar features.***
- 2. Chimneys and fireplaces, provided they do not exceed eight feet in width.***
- 3. Porches, platforms or landings which do not extend above the level of the first floor of the building.***
- 4. Mechanical structures (heat pumps, air conditioners, emergency generators and pumps).***

Finding: These criteria are not applicable because there are no minimum yard requirements for C-3 zoned property.

D. Fences and Walls.

1. In the residential district, a fence or wall shall be permitted to be placed at the property line or within a yard setback as follows:

- a. Not to exceed six feet in height. Located or maintained within the required interior yards. For purposes of fencing only, lots that are corner lots or through lots may select one of the street frontages as a front yard and all other yards shall be considered as interior yards, allowing the placement of a six-foot fence on the***

property line. In no case may a fence extend into the clear vision zone as defined in NMC 15.410.060.

b. Not to exceed four feet in height. Located or maintained within all other front yards.

Finding: These criteria are not applicable as the site is not within a residential district.

2. In any commercial or industrial district, a fence or wall shall be permitted to be placed at the property line or within a yard setback as follows:

a. Not to exceed eight feet in height. Located or maintained in any interior yard except where the requirements of vision clearance apply. For purposes of fencing only, lots that are corner lots or through lots may select one of the street frontages as a front yard and all other yards shall be considered as interior yards, allowing the placement of an eight-foot fence on the property line.

b. Not to exceed four feet in height. Located or maintained within all other front yards.

3. If chain link (wire-woven) fences are used, they are manufactured of corrosion-proof materials of at least 11-1/2 gauge.

4. The requirements of vision clearance shall apply to the placement of fences.

Finding: These criteria are not applicable because the applicant is not proposing any fencing or walls as part of the proposed site improvements.

E. Parking and Service Drives (Also Refer to NMC 15.440.010 through 15.440.080).

1. In any district, service drives or accessways providing ingress and egress shall be permitted, together with any appropriate traffic control devices in any required yard.

Finding: There are no required yards in the C-3 zone. The applicant has proposed one-way ingress and egress service drives that will be appropriately marked.

The criterion is met.

2. In any residential district, public or private parking areas and parking spaces shall not be permitted in any required yard except as provided herein: [...]

Finding: These criteria are not applicable because the subject property is not in a residential district.

3. In any commercial or industrial district, except C-1, C-4 and M-1, public or private parking areas or parking spaces shall be permitted in any required yard (see NMC 15.410.030). Parking requirements in the C-4 district are described in NMC 15.352.040(H).

Finding: The applicant is proposing parking that is not within any required yard. The subject property is zoned C-3 and is exempt from yard requirements as described in Sections 15.410.020(B) and 15.410.030(B). This criterion is not applicable because the subject property is zoned C-3.

4. In the I district, public or private parking areas or parking spaces may be no closer to a front property line than 20 feet, and no closer to an interior property line than five feet.

Finding: This criterion is not applicable because the subject property is zoned C-3 and is not zoned as I or Institutional.

F. Public Telephone Booths and Public Transit Shelters. Public telephone booths and public transit shelters shall be permitted; provided, that vision clearance is maintained for vehicle requirements for vision clearance.

Finding: This criterion is not applicable because the applicant is not proposing any public telephone booths or public transit shelters and at this time there is not another governmental entity proposing a public transit shelter within the project area.

G. Hangars within the AR airport residential district may be constructed with no yard setbacks to property lines adjacent to other properties within the airport residential or airport industrial districts.

Finding: This criterion is not applicable because there are no hangars being proposed and the subject property is not within the AR Airport Residential District.

4. Landscaping Requirements. The proposal shall comply with NMC 15.420.010 dealing with landscape requirements and landscape screening.

15.420.010 Required minimum standards.

B. Required Landscaped Area. The following landscape requirements are established for all developments except single-family dwellings:

1. A minimum of 15 percent of the lot area shall be landscaped; provided, however, that computation of this minimum may include areas landscaped under subsection (B)(3) of this section. Development in the C-3 (central business district) zoning district and M-4 (large lot industrial) zoning district is exempt from the 15 percent landscape area requirement of this section. Additional landscaping requirements in the C-4 district are described in NMC 15.352.040(K). In the AI airport industrial district, only a five percent landscaping standard is required with the goal of "softening" the buildings and making the development "green" with plants, where possible. The existence of the runway, taxiway, and approach open areas already provide generally for the 15 percent requirement. Developments in the AI airport industrial district with a public street frontage shall have said minimum landscaping between the front property line and the front of the building.

Finding: The site is within the C-3 district and is exempt from the 15% landscape requirement. Although landscaping is not required, the applicant will provide landscaping between the building façade and streets.

The criterion is met.

2. All areas subject to the final design review plan and not otherwise improved shall be landscaped.

Finding: Landscaping will be provided on the site in areas that are not a building, parking, drive aisles or walkways.

This criterion is met.

3. The following landscape requirements shall apply to the parking and loading areas:

a. A parking or loading area providing 10 or more spaces shall be improved with defined landscaped areas totaling no less than 25 square feet per parking space.

Finding: No parking areas on the site consist of 10 or more spaces. Therefore, the provision is not applicable.

b. A parking, loading area, or drive aisle which runs adjacent to a property line shall be separate from any lot line adjacent to a street by a landscaped strip at least 10 feet in interior width or the width of the required yard, whichever is greater, and any other lot line by a landscaped strip of at least five feet in interior width. See subsections (B)(3)(c) and (d) of this section for material to plant within landscape strips.

Finding: Where parking spaces abut the south property line, a 10 foot landscaped buffer is provided. Along the north property line an existing 2-foot landscape buffer is provided. Given the existing north property line no additional landscape width will be required.

This criterion is met.

c. A landscaped strip separating a parking area, loading area, or drive aisle from a street shall contain street trees spaced as appropriate to the species, not to exceed 50 feet apart on average, and a combination of shrubs and ground cover, or lawn. This landscaping shall provide partial screening of these areas from the street.

Finding: A ten-foot wide landscape buffer along the south property line and frontage landscaping along N Main Street are provided. Both provide a variety of groundcover, shrubs, and trees.

The criterion is met.

d. A landscaped strip separating a parking area, loading area, or drive aisle from an interior lot line shall contain any combination of trees, shrubs, ground cover or lawn. Plant material shall be selected from at least two different plant material groups (example: trees and shrubs, or lawn and shrubs, or lawn and trees and shrubs).

Finding: The landscaping buffer along the north property line (interior lot line) includes ground cover. The applicant will need to choose a secondary plant material group (shrubs or tree) to incorporate into the landscape buffer along the north property line and submit a revised drawing prior to issuance of a building permit.

This criterion will be met with the adherence to the aforementioned condition of approval.

e. Landscaping in a parking or loading area shall be located in defined landscaped areas which are uniformly distributed throughout the parking or loading area.

Finding: No landscape islands are proposed. The criterion is not applicable.

f. Landscaping areas in a parking lot, service drive or loading area shall have an interior width of not less than five feet.

Finding: No landscape islands are proposed. The criterion is not applicable.

g. All multifamily, institutional, commercial, or industrial parking areas, service drives, or loading zones which abut a residential district shall be enclosed with a 75 percent opaque, site-obscuring fence, wall or evergreen hedge along and immediately adjacent to any interior property line which abuts the residential district. Landscape plantings must be large enough to provide the required minimum screening requirement within 12 months after initial installation. Adequate provisions shall be maintained to protect walls, fences or plant materials from being damaged by vehicles using said parking areas.

Finding: This criterion is not applicable as the site does not abut a residential district.

h. An island of landscaped area shall be located to separate blocks of parking spaces. At a minimum, one deciduous shade tree per seven parking spaces shall be planted to create a partial tree canopy over and around the parking area. No more than seven parking spaces may be grouped together without an island separation unless otherwise approved by the director based on the following alternative standards:

- i. Provision of a continuous landscaped strip, with a five-foot minimum width, which runs perpendicular to the row of parking spaces (see Appendix A, Figure 13).*
- ii. Provision of tree planting landscape islands, each of which is at least 16 square feet in size, and spaced no more than 50 feet apart on average, within areas proposed for back-to-back parking (see Appendix A, Figure 14).*

Finding: Landscape islands are not proposed. These criteria are not applicable.

4. Trees, Shrubs and Ground Covers. *The species of street trees required under this section shall conform to those authorized by the city council through resolution. The director shall have the responsibility for preparing and updating the street tree species list which shall be adopted in resolution form by the city council.*

a. Arterial and minor arterial street trees shall have spacing of approximately 50 feet on center. These trees shall have a minimum two-inch caliper tree trunk or stalk at a measurement of two feet up from the base and shall be balled and burlapped or boxed.

Finding: N Main Street is a minor arterial. Only one tree is proposed, so spacing requirements are not applicable. E First Street is an major arterial. Two Magnolia Virginiana trees spaced approximately 50 feet apart are proposed. The proposed trees do not meet the species requirements in the downtown area. Permitted trees are Eastern Redbud “Forest Pansy”, Glorybower Tree, Korean Dogwood, Norwegian Sunset Maple, Fasigate European Hornbeam, or Columnar Sargent Cherry. The Landscape Plan shall be revised to identify one of the permitted trees of Eastern Redbud “Forest Pansy”, Glorybower Tree, Korean Dogwood, Norwegian Sunset Maple, Fasigate European Hornbeam, or Columnar Sargent Cherry prior to issuance of building permits.

This criterion will be met with the adherence to the aforementioned condition of approval.

b. Collector and local street trees shall be spaced approximately 35 to 40 feet on center. These trees shall have a minimum of a one and one-half or one and three-fourths inch tree trunk or stalk and shall be balled and burlapped or boxed.

Finding: This criterion is not applicable as E First Street and N Main Street are not collector or local streets.

c. Accent Trees. Accent trees are trees such as flowering cherry, flowering plum, crab-apple, Hawthorne and the like. These trees shall have a minimum one and one-half inch caliper tree trunk or stalk and shall be at least eight to 10 feet in height. These trees may be planted bare root or balled and burlapped. The spacing of these trees should be approximately 25 to 30 feet on center.

Finding: Accent trees are not proposed. The criterion is not applicable.

d. All broad-leafed evergreen shrubs and deciduous shrubs shall have a minimum height of 12 to 15 inches and shall be balled and burlapped or come from a two-gallon can. Gallon-can size shrubs will not be allowed except in ground covers. Larger sizes of shrubs may be required in special areas and locations as specified by the design review board. Spacing of these shrubs shall be typical for the variety, three to eight feet, and shall be identified on the landscape planting plan.

e. Ground Cover Plant Material. Ground cover plant material such as greening juniper, cotoneaster, minor Bowles, English ivy, hypericum and the like shall be one of the following sizes in specified spacing for that size:

Gallon cans	3 feet on center
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<i>4" containers</i>	<i>2 feet on center</i>
<i>2-1/4" containers</i>	<i>18" on center</i>
<i>Rooted cuttings</i>	<i>12" on center</i>

Finding: The applicant’s landscape plan identifies the size of containers for plants and ground cover. With the exception of 1 gallon ground cover, all other shrubs and ground over will be placed a minimum of 3 feet.

The criterion is met.

5. Automatic, underground irrigation systems shall be provided for all areas required to be planted by this section. The director shall retain the flexibility to allow a combination of irrigated and nonirrigated areas. Landscaping material used within nonirrigated areas must consist of drought- resistant varieties. Provision must be made for alternative irrigation during the first year after initial installation to provide sufficient moisture for plant establishment.

Finding: The applicant states an automatic underground irrigation system will be provided and will provided full coverage for all plant materials. The system is guaranteed for a minimum of one year from installation.

The criterion is met.

6. Required landscaping shall be continuously maintained.

Finding: The applicant is proposing new or enhanced landscape areas. The applicant stated all plantings will be irrigated by an automatic system for a minimum of one year after installation. Following the first year, the applicant shall continuously maintain all landscape areas in accordance with NMC 15.420.010B.6.

This criterion will be met if the aforementioned condition of approval is adhered to.

7. Maximum height of tree species shall be considered when planting under overhead utility lines.

Finding: There are no existing overhead facilities that would interfere with the proposed tree plantings.

The criterion is met.

C. Installation of Landscaping. All landscaping required by these provisions shall be installed prior to the issuance of occupancy permits, unless security equal to 110 percent of

the cost of the landscaping as determined by the director is filed with the city, insuring such installation within six months of occupancy. A security – cash, certified check, time certificates of deposit, assignment of a savings account, bond or such other assurance of completion as shall meet with the approval of the city attorney – shall satisfy the security requirements. If the installation of the landscaping is not completed within the six-month period, or within an extension of time authorized by the director, the security may be used by the city to complete the installation. Upon completion of the installation, any portion of the remaining security deposited with the city shall be returned to the applicant.

Finding: All proposed landscaping installation shall comply with NMC 15.420.010C. If the applicant does not install the required landscaping prior to the issuance of occupancy permits then, per Section 15.420.010(C), a security equal to 110 percent the cost of the landscaping is required.

This criterion will be met with the adherence to the aforementioned condition of approval.

15.420.020 Landscaping and amenities in public rights-of-way.

The following standards are intended to create attractive streetscapes and inviting pedestrian spaces. A review body may require any of the following landscaping and amenities to be placed in abutting public rights-of-way as part of multifamily, commercial, industrial, or institutional design reviews, or for subdivisions and planned unit developments. In addition, any entity improving existing rights-of-way should consider including these elements in the project. A decision to include any amenity shall be based on comprehensive plan guidelines, pedestrian volumes in the area, and the nature of surrounding development.

A. Pedestrian Space Landscaping. Pedestrian spaces shall include all sidewalks and medians used for pedestrian refuge. Spaces near sidewalks shall provide plant material for cooling and dust control, and street furniture for comfort and safety, such as benches, waste receptacles and pedestrian-scale lighting. These spaces should be designed for short-term as well as long-term use. Elements of pedestrian spaces shall not obstruct sightlines and shall adhere to any other required city safety measures. Medians used for pedestrian refuge shall be designed for short-term use only with plant material for cooling and dust control, and pedestrian-scale lighting. The design of these spaces shall facilitate safe pedestrian crossing with lighting and accent paving to delineate a safe crossing zone visually clear to motorists and pedestrians alike.

1. Street trees planted in pedestrian spaces shall be planted according to NMC 15.420.010(B)(4).

Finding: No street trees are proposed.

The standard is not applicable.

2. Pedestrian spaces shall have low (two and one-half feet) shrubs and ground covers for safety purposes, enhancing visibility and discouraging criminal activity.

- a. Plantings shall be 90 percent evergreen year-round, provide seasonal interest with fall color or blooms, and at maturity maintain growth within the planting area (refer to plant material matrix below).*
- b. Plant placement shall also adhere to clear sight line requirements as well as any other relevant city safety measures.*

Finding: Not applicable as there is no landscaping proposed in the public right-of-way.

- 3. Pedestrian-scale lighting shall be installed along sidewalks and in medians used for pedestrian refuge.**
 - a. Pole lights as well as bollard lighting may be specified; however, the amount and type of pedestrian activity during evening hours, e.g., transit stops, nighttime service districts, shall ultimately determine the type of fixture chosen.*
 - b. Luminaire styles shall match the area/district theme of existing luminaires and shall not conflict with existing building or roadway lights causing glare.*
 - c. Lighting heights and styles shall be chosen to prevent glare and to designate a clear and safe path and limit opportunities for vandalism (see Appendix A, Figure 17, Typical Pedestrian Space Layouts).*
 - d. Lighting shall be placed near the curb to provide maximum illumination for spaces furthest from building illumination. Spacing shall correspond to that of the street trees to prevent tree foliage from blocking light.*

Finding: This criterion is not applicable because pedestrian scale lighting is not proposed or required for the proposed site improvements.

- 4. Street furniture such as benches and waste receptacles shall be provided for spaces near sidewalks only.**
 - a. Furniture should be sited in areas with the heaviest pedestrian activity, such as downtown, shopping districts, and shopping centers.*
 - b. Benches should be arranged to facilitate conversation between individuals with L-shaped arrangements and should face the area focal point, such as shops, fountains, plazas, and should divert attention away from nearby traffic.*

Finding: This criterion is not applicable because street furniture is not required within this area of the C-3 Zoning District.

- 5. Paving and curb cuts shall facilitate safe pedestrian crossing and meet all ADA requirements for accessibility.**

Finding: Findings and conditions of approval have been recommended under Street standards in Section 15.505.030 that address curb cuts and paving to meet ADA requirements.

- B. Planting Strip Landscaping. All planting strips shall be landscaped. Planting strips provide a physical and psychological buffer for pedestrians from traffic with plant material that reduces heat and dust, creating a more comfortable pedestrian environment. Planting strips shall have different arrangements and combinations of plant materials according to the frequency of on-street parking (see Appendix A, Figures 18 and 19).**
 - 1. Planting strips which do not have adjacent parking shall have a combination of ground covers, low (two and one-half feet) shrubs and trees. Planting strips adjacent to**

frequently used on-street parking, as defined by city staff, shall only have trees protected by tree grates, and planting strips adjacent to infrequently used on-street parking shall be planted with ground cover as well as trees (see Appendix A, Figures 18 and 19, Typical Planting Strip Layouts). District themes or corridor themes linking individual districts should be followed utilizing a unifying plant characteristic, e.g., bloom color, habit, or fall color. When specifying thematic plant material, monocultures should be avoided, particularly those species susceptible to disease.

2. Street trees shall be provided in all planting strips as provided in NMC 15.420.010(B)(4).

a. Planting strips without adjacent parking or with infrequent adjacent parking shall have street trees in conjunction with ground covers and/or shrubs.

b. Planting strips with adjacent parking used frequently shall have only street trees protected by tree grates.

3. Shrubs and ground covers shall be provided in planting strips without adjacent parking with low (two and one-half feet) planting masses to enhance visibility, discourage criminal activity, and provide a physical as well as psychological buffer from passing traffic.

a. Plantings shall be 90 percent evergreen year-round, provide seasonal interest with fall color or blooms and at maturity maintain growth within the planting area.

b. Ground cover able to endure infrequent foot traffic shall be used in combination with street trees for planting strips with adjacent occasional parking (refer to plant material matrix below).

c. All plant placement shall adhere to clear sight line requirements as well as any other relevant city safety measures.

C. Maintenance. *All landscapes shall be maintained for the duration of the planting to encourage health of plant material as well as public health and safety. All street trees and shrubs shall be pruned to maintain health and structure of the plant material for public safety purposes.*

Finding: No planter strips on N Main Street or E First Street are existing or proposed.

The criterion is not applicable.

D. Exception. *In the AI airport industrial district and AR airport residential district, no landscape or amenities except for grass are required for any area within 50 feet of aircraft operation areas including aircraft parking areas, taxiways, clear areas, safety areas, object-free areas, and the runway.*

Finding: This criterion is not applicable because the site is not in the AI or AR residential district.

Exterior Lighting

15.425.020 Applicability and exemptions.

A. Applicability. *Outdoor lighting shall be required for safety and personal security in areas of assembly, parking, and traverse, as part of multifamily residential, commercial, industrial, public, recreational and institutional uses. The applicant for any Type I or Type II development permit shall submit, as part of the site plan, evidence that the proposed*

outdoor lighting plan will comply with this section. This information shall contain but not be limited to the following:

- 1. The location, height, make, model, lamp type, wattage, and proposed cutoff angle of each outdoor lighting fixture.*
- 2. Additional information the director may determine is necessary, including but not limited to illuminance level profiles, hours of business operation, and percentage of site dedicated to parking and access.*
- 3. If any portion of the site is used after dark for outdoor parking, assembly or traverse, an illumination plan for these areas is required. The plan must address safety and personal security.*

Finding: The applicant only addresses installation of a new street light on the corner of N Main Street and E First Street and lighting will be installed with the awnings. No information about the location, height, make, model, lamp type, wattage and cutoff angle or illumination plan for on-site lighting has been provided. Because light details have not been provided, the applicant shall provide lighting information in compliance with NMC 15.425.020A.1.-3. prior to issuance of building permits.

B. Exemptions. The following uses shall be exempt from the provisions of this section:

- 1. Public street and airport lighting.*
- 2. Circus, fair, carnival, or outdoor governmentally sponsored event or festival lighting.*
- 3. Construction or emergency lighting, provided such lighting is discontinued immediately upon completion of the construction work or abatement of the emergency necessitating said lighting.*
- 4. Temporary Lighting. In addition to the lighting otherwise permitted in this code, a lot may contain temporary lighting during events as listed below:*
 - a. Grand Opening Event. A grand opening is an event of up to 30 days in duration within 30 days of issuance of a certificate of occupancy for a new or remodeled structure, or within 30 days of change of business or ownership. No lot may have more than one grand opening event per calendar year. The applicant shall notify the city in writing of the beginning and ending dates prior to the grand opening event.*
 - b. Other Events. A lot may have two other events per calendar year. The events may not be more than eight consecutive days in duration, nor less than 30 days apart.*
- 5. Lighting activated by motion sensor devices.*
- 6. Nonconforming lighting in place as of September 5, 2000. Replacement of nonconforming lighting is subject to the requirements of NMC 15.205.010 through 15.205.100.*
- 7. Light Trespass onto Industrial Properties. The lighting trespass standards of NMC 15.425.040 do not apply where the light trespass would be onto an industrially zoned property. [Ord. 2720 § 1(18), 11-2-09; Ord. 2537, 11-6-00. Code 2001 § 151.586.]*

Finding: The applicant has not provided any information on exemptions requested for lighting for the site.

5. Signs. Signs shall comply with NMC 15.435.010 et seq dealing with signs.

15.435.010 Purpose.

A. The citizens of Newberg desire a clean, attractive, economically vibrant, and safe community. Well-planned and constructed signs can contribute to the community's success by directing and informing the public about commercial and other activities, and by creating attractive commercial and other neighborhoods. On the other hand, unregulated signage can create clutter, distractions, and hazards.

B. These regulations are designed:

- 1. To improve, maintain and preserve Newberg as a pleasing environment so as to improve the quality of life of all residents.*
- 2. To enhance the attractiveness of Newberg as a place to conduct business.*
- 3. To enable the identification of places of residence and business.*
- 4. To allow freedom of expression.*
- 5. To reduce distractions and obstructions from signs which would adversely affect safety.*
- 6. To reduce the hazards from improperly placed or constructed signs. [Ord. 2782 § 1 (Exh. A), 9-8-15; Ord. 2499, 11-2-98. Code 2001 § 151.590.]*

15.435.030 Permit required.

A. Except as follows, no person or entity shall place any sign within the city without first obtaining a permit from the director.

B. The following do not require sign permits, but must otherwise comply with the standards of this chapter:

- 1. Minor freestanding signs.*
- 2. Minor attached signs.*
- 3. Temporary signs.*
- 4. Portable signs.*
- 5. Flag display (one allowed on each street frontage).*
- 6. If any of the signs listed above require permits under the current edition of the Oregon Structural Specialty Code, the sign shall be placed only following the issuance of such permit. [Ord. 2782 § 1 (Exh. A), 9-8-15; Ord. 2499, 11-2-98. Code 2001 § 151.592.]*

Finding: The applicant has shown a general location of signage along the east and south elevations. However, no specifications are provided. Therefore, no signage is approved as a part of this application. A separate sign review application will be required in order to approve signs.

This section of the NMC will be met with adherence to the aforementioned condition of approval.

6. Manufactured Dwelling, Mobile Home and RV Parks. Manufactured dwelling and mobile home parks shall also comply with the standards listed in NMC 15.445.075 through 15.445.100 in addition to the other clear and objective criteria listed in this section. RV parks also shall comply with NMC 15.445.170 in addition to the other criteria listed in this section.

Finding: The criteria of NMC 445.075 through 15.445.100 do not apply because a manufactured dwelling or mobile home park is not being proposed.

7. Zoning District Compliance. *The proposed use shall be listed as a permitted or conditionally permitted use in the zoning district in which it is located as found in NMC 15.305.010 through 15.336.020. Through this site review process, the director may make a determination that a use is determined to be similar to those listed in the applicable zoning district, if it is not already specifically listed. In this case, the director shall make a finding that the use shall not have any different or more detrimental effects upon the adjoining neighborhood area than those specifically listed.*

Finding: The site is in the C-3 district. The proposed use is a permitted use per NMC 15.305.020. As noted in this report the proposed uses comply with NMC 15.305.010 through 15.336.020.

The criteria are met.

8. Subdistrict Compliance. *Properties located within subdistricts shall comply with the provisions of those subdistricts located in NMC 15.340.010 through 15.348.060.*

Finding: The subject site is not located in a subdistrict.

The criterion is not applicable.

9. Traffic Study Improvements. *If a traffic study is required, improvements identified in the traffic study shall be implemented as required by the director.*

15.220.030(B)(14) Traffic Study.

A traffic study shall be submitted for any project that generates in excess of 40 trips per p.m. peak hour. This requirement may be waived by the director when a determination is made that a previous traffic study adequately addresses the proposal and/or when off-site and frontage improvements have already been completed which adequately mitigate any traffic impacts and/or the proposed use is not in a location which is adjacent to an intersection which is functioning at a poor level of service. A traffic study may be required by the director for projects below 40 trips per p.m. peak hour where the use is located immediately adjacent to an intersection functioning at a poor level of service. The traffic study shall be conducted according to the City of Newberg design standards. [Ord. 2619, 5-16-05; Ord. 2451, 12-2-96. Code 2001 § 151.192.]

Finding: The proposed development is classified as a General Office Building ITE code 710 for the purposes of traffic impact assessment. The P.M Peak Hour Vehicle Trips is identified as 1.49 per 1000 square feet. The proposed building is 6,004 square feet. This calculates to approximately 9 trips. This is less than 40 trips per p.m. peak hour. A traffic study is not required.

The criterion is not applicable.

10. Alternative Circulation, Roadway Frontage Improvements and Utility Improvements

15.430.010 Underground utility installation.

A. All new utility lines, including but not limited to electric, communication, natural gas, and cable television transmission lines, shall be placed underground. This does not include surface-mounted transformers, connections boxes, meter cabinets, service cabinets, temporary facilities during construction, and high-capacity electric lines operating at 50,000 volts or above.

B. Existing utility lines shall be placed underground when they are relocated, or when an addition or remodel requiring a Type II design review is proposed, or when a developed area is annexed to the city.

C. The director may make exceptions to the requirement to underground utilities based on one or more of the following criteria:

- 1. The cost of undergrounding the utility is extraordinarily expensive.*
- 2. There are physical factors that make undergrounding extraordinarily difficult.*
- 3. Existing utility facilities in the area are primarily overhead and are unlikely to be changed.*

Finding: There are existing overhead utilities along N Main Street and E First Street. They will not be relocated, therefore, per 15.430.010B they do not need to be relocated underground. The applicant will be required to underground any new service connections to the site, and if any poles or lines associated with the utilities along the property frontages are relocated, they will be required to be placed underground.

The criterion is met.

15.505 Public Improvements Standards

15.505.020 Applicability.

The provision and utilization of public facilities and services within the City of Newberg shall apply to all land developments in accordance with this chapter. No development shall be approved unless the following improvements are provided for prior to occupancy or operation, unless future provision is assured in accordance with NMC 15.505.030(E).

A. Public Works Design and Construction Standards. The design and construction of all improvements within existing and proposed rights-of-way and easements, all improvements to be maintained by the city, and all improvements for which city approval is required shall comply with the requirements of the most recently adopted Newberg public works design and construction standards.

B. Street Improvements. All projects subject to a Type II design review, partition, or subdivision approval must construct street improvements necessary to serve the development.

Finding: The applicant's narrative describes replacement of sidewalks on N Main and E 1st.

The criterion will be met if all improvements necessary to serve the development meet City standards and are completed. See conditions in Section 15.505.030.

C. Water. All developments, lots, and parcels within the City of Newberg shall be served by the municipal water system as specified in Chapter 13.15 NMC.

Finding: Preliminary plans do not show new connections to the City's water line. This is a remodel. To verify that adequate fire flow exists, the applicant is required to provide a fire flow test results with building permit submittal.

The criterion will be met with adherence to the aforementioned condition of approval.

D. Wastewater. All developments, lots, and parcels within the City of Newberg shall be served by the municipal wastewater system as specified in Chapter 13.10 NMC.

Finding: Preliminary plans do not show new connections to the city wastewater system. This is a remodel.

The criterion is not applicable.

E. Stormwater. All developments, lots, and parcels within the City of Newberg shall manage stormwater runoff as specified in Chapters 13.20 and 13.25 NMC.

Finding: Responses to provisions of NMC 13.20 and 13.25 are provided below.

13.25.010 Interpretation.

A. The provisions of this code shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare.

B. Conflict with Public Provisions.

1. Public Provisions. The regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. Where any provision of this code imposes restriction different from those imposed by any other provision of this code or any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher standards shall control.

2. Private Provisions. This code is not intended to abrogate any easement, covenant, or any other private agreement or restriction; provided, that where the provisions of this code are more restrictive or impose higher standards or regulations than such easement, covenant or other private agreement or restriction, the requirements of this code shall govern. Where the provisions of the easement, covenant, or private agreement or restriction impose duties and obligations more restrictive or of a higher standard than this code, and such private provisions are not inconsistent with this code or determinations thereunder, then such private provisions shall be operative and supplemental to this code and determinations made thereunder.

Finding: The applicant has entered into a Prospective Buyer Agreement with Oregon Department of Environmental Quality. That agreement resulted in a Consent Judgement and Easement and Equitable Servitude (ESS) document, both of which were submitted as part of the application. Because the applicant has not provided documentation that the proposed development project is in compliance with the Consent Judgement or ESS, the applicant is required to comply with the requirements set forth in both the Consent Judgement and the Easement and Equitable Servitude documents. The applicant will also be required to provide the City with documentation from DEQ that DEQ received notification of the proposed development and that the Owner is taking all appropriate actions with regard to the soil and groundwater contamination.

The criterion will be met with adherence to the aforementioned condition of approval.

13.25.050 Exemptions.

E. Activities that do not disturb more than 500 square feet of land are exempt from these regulations; provided, that they:

2. Do not discharge stormwater off site that exceeds the water quality limits imposed by the City of Newberg's Willamette River TMDL Implementation Plan, DEQ, or U.S. Environmental Protection Agency.

Finding: This proposed development does not create new impervious area. It is, however, a site with soil and groundwater contamination. As such, it does have the potential to discharge stormwater offsite that exceeds water quality limits imposed by the City's TMDL Implementation Plan, DEQ, or US Environmental Protection Agency. The proposed development is, therefore, not exempt from the requirements of this code.

The criterion is not applicable.

13.25.030 Purpose and intent.

A. The purpose of these regulations is to protect, maintain, and enhance public health, public safety, and public welfare by establishing minimum requirements and procedures to control sources of windborne and waterborne erosion and the effects associated with sediment that results from erosion. The application of this code and provisions expressed herein are minimum requirements.

B. The intent is to:

- 1. Minimize soil erosion;*
- 2. Minimize flooding, sedimentation, and erosion of local watercourses;*
- 3. Ensure proper maintenance and inspection of erosion and sediment controls;*
- 4. Ensure proper storage of construction materials and staging and proper storage of debris on site; and*
- 5. Minimize effects of projects on downstream stormwater facilities and watercourses.*

Finding: The proposed development includes new sidewalks, driveway aprons, and pavement. The applicant will need an erosion control permit. Prior to any ground disturbance the applicant shall have an erosion control permit issued by the City of Newberg. Please see conditions in 13.25.060 below.

The criterion will be met with adherence to the aforementioned condition of approval.

13.25.060 Erosion and sediment controls.

A. Approval of erosion and sediment controls for a project does not, by itself, transfer responsibility from the responsible party to the city.

B. The city shall be notified when the project starts as defined by this code.

F. Additional erosion and sediment controls may be required by the city if the site:

- 4. Is identified by the city as having easily erodible soil, current severe erosion, or could affect adjacent properties or watercourses due to stormwater quality, flooding, erosion, or sedimentation;*
- 5. Is identified by the city to potentially generate stormwater that would create a violation of DEQ water quality standards;*
- 6. Is active between October 1st and April 30th; or*
- 7. Has any other condition specified in the ESC manual or design standards manual as warranting special consideration.*

Finding: This development is proposed at a site with soil and groundwater contamination. Runoff from the site could affect adjacent properties or water courses due to stormwater quality as well as potentially create a violation of DEQ water quality standards. Because this development is proposed at a site with soil and groundwater contamination and construction plans addressing runoff that could potentially create a violation of DEQ water quality standards have not been submitted, an erosion control plan which mitigates these risks shall be designed by an engineer licensed in the State of Oregon and submitted and approved prior to any ground disturbance at the site and the applicant/owner is to provide documentation of DEQ approval of any construction activities that result in construction dewatering.

The criterion will be met with adherence to the aforementioned condition of approval and conditions in findings for NMC 15.505.050.

F. Utility Easements. Utility easements shall be provided as necessary and required by the review body to provide needed facilities for present or future development of the area.

Finding: The applicant's preliminary plans do not show any easements on the property. No easements are required.

The criterion is not applicable.

G. City Approval of Public Improvements Required. No building permit may be issued until all required public facility improvements are in place and approved by the director, or are otherwise bonded for in a manner approved by the review authority, in conformance with the provisions of this code and the Newberg Public Works Design and Construction Standards.

Finding: The applicant has indicated driveway approach and sidewalk improvements within the public right of way. Because the applicant has not provided construction plans or applied for a public improvement permit, the applicant will be required to submit construction plans in conformance with City of Newberg Public Works Design and Construction Standards and apply for a public improvement permit for proposed public improvements.

The criterion will be met with adherence to the aforementioned condition of approval ***15.505.030 Street standards.***

A. Purpose. The purpose of this section is to:

- 1. Provide for safe, efficient, and convenient multi-modal transportation within the City of Newberg.***
- 2. Provide adequate access to all proposed and anticipated developments in the City of Newberg. For purposes of this section, "adequate access" means direct routes of travel between destinations; such destinations may include residential neighborhoods, parks, schools, shopping areas, and employment centers.***
- 3. Provide adequate area in all public rights-of-way for sidewalks, wastewater and water lines, stormwater facilities, natural gas lines, power lines, and other utilities commonly and appropriately placed in such rights-of-way. For purposes of this section, "adequate area" means space sufficient to provide all required public services to standards defined in this code and in the Newberg public works design and construction standards.***

B. Applicability. The provisions of this section apply to:

1. *The creation, dedication, and/or construction of all public streets, bike facilities, or pedestrian facilities in all subdivisions, partitions, or other developments in the City of Newberg.*
2. *The extension or widening of existing public street rights-of-way, easements, or street improvements including those which may be proposed by an individual or the city, or which may be required by the city in association with other development approvals.*
3. *The construction or modification of any utilities, pedestrian facilities, or bike facilities in public rights-of-way or easements.*
4. *The designation of planter strips. Street trees are required subject to Chapter 15.420 NMC.*
5. *Developments outside the city that tie into or take access from city streets.*

C. Layout of Streets, Alleys, Bikeways, and Walkways. *Streets, alleys, bikeways, and walkways shall be laid out and constructed as shown in the Newberg transportation system plan. In areas where the transportation system plan or future street plans do not show specific transportation improvements, roads and streets shall be laid out so as to conform to previously approved subdivisions, partitions, and other developments for adjoining properties, unless it is found in the public interest to modify these patterns. Transportation improvements shall conform to the standards within the Newberg Municipal Code, the Newberg public works design and construction standards, the Newberg transportation system plan, and other adopted city plans.*

D. Construction of New Streets. *Where new streets are necessary to serve a new development, subdivision, or partition, right-of-way dedication and full street improvements shall be required. Three-quarter streets may be approved in lieu of full street improvements when the city finds it to be practical to require the completion of the other one-quarter street improvement when the adjoining property is developed; in such cases, three-quarter street improvements may be allowed by the city only where all of the following criteria are met:*

1. *The land abutting the opposite side of the new street is undeveloped and not part of the new development; and*
2. *The adjoining land abutting the opposite side of the street is within the city limits and the urban growth boundary.*

Finding: The applicant is not proposing construction of new streets.

These criteria are not applicable.

E. Improvements to Existing Streets.

1. *All projects subject to partition, subdivision, or Type II design review approval shall dedicate right-of-way sufficient to improve the street to the width specified in subsection (G) of this section.*

Finding: E First Street is a major arterial. Full build out of that street classification cross section, per the City of Newberg Transportation System Plan, requires 98 Feet. The existing ROW is only 60-feet.

This street is under the jurisdiction of ODOT. The applicant spoke with Casey Knecht, a representative of ODOT, and was told they would not be requiring any right-of-way dedication.

This criterion does not apply.

2. All projects subject to partition, subdivision, or Type II design review approval must construct a minimum of a three-quarter street improvement to all existing streets adjacent to, within, or necessary to serve the development. The director may waive or modify this requirement where the applicant demonstrates that the condition of existing streets to serve the development meets city standards and is in satisfactory condition to handle the projected traffic loads from the development. Where a development has frontage on both sides of an existing street, full street improvements are required.

Finding: N Main and E First Streets are both improved. The sidewalks along both frontages are in poor condition. The applicant will be required to replace the sidewalks on N Main Street and E First Street according to city standards.

The criterion will be met if the aforementioned conditions of approval are adhered to.

3. In lieu of the street improvement requirements outlined in NMC 15.505.040(B), the review authority may elect to accept from the applicant monies to be placed in a fund dedicated to the future reconstruction of the subject street(s). The amount of money deposited with the city shall be 100 percent of the estimated cost of the required street improvements (including any associated utility improvements), and 10 percent of the estimated cost for inflation. Cost estimates used for this purpose shall be based on preliminary design of the constructed street provided by the applicant's engineer and shall be approved by the director.

Finding: The applicant's property is not located on a street scheduled for near-term future reconstruction and therefore a fee in lieu for improvements is not applicable.

This criterion does not apply.

7. Sidewalks. Sidewalks shall be provided on both sides of all public streets. Minimum width is five feet.

Finding: The submitted plans show a proposed Type 'B' curb side sidewalk. Type 'B' sidewalks do not have planters. The Type 'B' sidewalks must be a minimum of 6-feet wide.

The criterion will be met with adherence to the aforementioned condition of approval.

8. Planter Strips. Except where infeasible, a planter strip shall be provided between the sidewalk and the curb line, with a minimum width of five feet. This strip shall be landscaped in accordance with the standards in NMC 15.420.020. Curb-side sidewalks

may be allowed on limited residential streets. Where curb-side sidewalks are allowed, the following shall be provided:

a. Additional reinforcement is done to the sidewalk section at corners.

b. Sidewalk width is six feet.

Finding: The submitted plans do not show planter strips between the sidewalk and the curb line. The site has soil and groundwater contamination. Planter strips may increase the flows of stormwater from the site underground where the potential to impact the existing soil and groundwater exists. To minimize this risk planter strips will not be required. With no planter strips the curb-side sidewalks shall be a minimum of 6 -feet wide. Because the applicant has not submitted final construction plans, construction plans showing sidewalk width of 6- feet minimum shall be submitted with permit applications.

The criterion will be met if the aforementioned conditions of approval are adhered to.

F. Improvements Relating to Impacts. Improvements required as a condition of development approval shall be roughly proportional to the impact of the development on public facilities and services. The review body must make findings in the development approval that indicate how the required improvements are roughly proportional to the impact. Development may not occur until required transportation facilities are in place or guaranteed, in conformance with the provisions of this code. If required transportation facilities cannot be put in place or be guaranteed, then the review body shall deny the requested land use application.

Finding: There are no improvements relating to impacts identified as part of this proposed action.

This criterion does not apply.

R. Vehicular Access Standards.

1. Purpose. The purpose of these standards is to manage vehicle access to maintain traffic flow, safety, roadway capacity, and efficiency. They help to maintain an adequate level of service consistent with the functional classification of the street. Major roadways, including arterials and collectors, serve as the primary system for moving people and goods within and through the city. Access is limited and managed on these roads to promote efficient through movement. Local streets and alleys provide access to individual properties. Access is managed on these roads to maintain safe maneuvering of vehicles in and out of properties and to allow safe through movements. If vehicular access and circulation are not properly designed, these roadways will be unable to accommodate the needs of development and serve their transportation function.

2. Access Spacing Standards. Public street intersection and driveway spacing shall follow the standards in Table 15.505.R below. The Oregon Department of Transportation (ODOT) has jurisdiction of some roadways within the Newberg city limits, and ODOT access standards will apply on those roadways.

Table 15.505.R. Access Spacing Standards

<i>Roadway Functional Classification</i>	<i>Area¹</i>	<i>Minimum Public Street Intersection Spacing (Feet)²</i>	<i>Driveway Setback from Intersecting Street³</i>
<i>Expressway</i>	<i>All</i>	<i>Refer to ODOT Access Spacing Standards</i>	<i>NA</i>
<i>Major arterial</i>	<i>Urban CBD</i>	<i>Refer to ODOT Access Spacing Standards</i>	
<i>Minor arterial</i>	<i>Urban CBD</i>	<i>500 200</i>	<i>150 100</i>
<i>Major collector</i>	<i>All</i>	<i>400</i>	<i>150</i>
<i>Minor collector</i>	<i>All</i>	<i>300</i>	<i>100</i>

¹ “Urban” refers to intersections inside the city urban growth boundary outside the central business district (C-3 zone).

“CBD” refers to intersections within the central business district (C-3 zone).

“All” refers to all intersections within the Newberg urban growth boundary.

² Measured centerline to centerline.

³ The setback is based on the higher classification of the intersecting streets. Measured from the curb line of the intersecting street to the beginning of the driveway, excluding flares. If the driveway setback listed above would preclude a lot from having at least one driveway, including shared driveways or driveways on adjoining streets, one driveway is allowed as far from the intersection as possible.

3. Properties with Multiple Frontages. Where a property has frontage on more than one street, access shall be limited to the street with the lesser classification.

Finding: The applicant’s development has frontage on N Main Street, which is a minor arterial, and E First, which is a major arterial. The development will take access from N Main Street which is the lower classification.

This criterion is met.

4. Driveways. More than one driveway is permitted on a lot accessed from either a minor collector or local street as long as there is at least 40 feet of lot frontage separating each driveway approach. More than one driveway is permitted on a lot accessed from a major collector as long as there is at least 100 feet of lot frontage separating each driveway approach.

Finding: The development will take access from arterial streets.

This criterion does not apply.

5. Alley Access. *Where a property has frontage on an alley and the only other frontages are on collector or arterial streets, access shall be taken from the alley only. The review body may allow creation of an alley for access to lots that do not otherwise have frontage on a public street provided all of the following are met:*

- a. The review body finds that creating a public street frontage is not feasible.*
- b. The alley access is for no more than six dwellings and no more than six lots.*
- c. The alley has through access to streets on both ends.*
- d. One additional parking space over those otherwise required is provided for each dwelling. Where feasible, this shall be provided as a public use parking space adjacent to the alley.*

Finding: The proposed development is a remodel of an existing building. The back of the building faces the alley.

This criterion does not apply.

6. Closure of Existing Accesses. *Existing accesses that are not used as part of development or redevelopment of a property shall be closed and replaced with curbing, sidewalks, and landscaping, as appropriate.*

Finding: The applicant is proposing closure of an existing access on N Main Street. The plans show closure of this access and sidewalks and curbing replacing it.

This criterion is met.

7. Shared Driveways.

- a. The number of driveways onto arterial streets shall be minimized by the use of shared driveways with adjoining lots where feasible. The city shall require shared driveways as a condition of land division or site design review, as applicable, for traffic safety and access management purposes. Where there is an abutting developable property, a shared driveway shall be provided as appropriate. When shared driveways are required, they shall be stubbed to adjacent developable parcels to indicate future extension. "Stub" means that a driveway temporarily ends at the property line, but may be accessed or extended in the future as the adjacent parcel develops. "Developable" means that a parcel is either vacant or it is likely to receive additional development (i.e., due to infill or redevelopment potential).*
- b. Access easements (i.e., for the benefit of affected properties) and maintenance agreements shall be recorded for all shared driveways, including pathways, at the time of final plat approval or as a condition of site development approval.*
- c. No more than four lots may access one shared driveway.*
- d. Shared driveways shall be posted as no parking fire lanes where required by the fire marshal.*

e. Where three lots or three dwellings share one driveway, one additional parking space over those otherwise required shall be provided for each dwelling. Where feasible, this shall be provided as a common use parking space adjacent to the driveway.

Finding: The applicant is not proposing a shared driveway.

These criteria do not apply.

8. Frontage Streets and Alleys. The review body for a partition, subdivision, or design review may require construction of a frontage street to provide access to properties fronting an arterial or collector street.

Finding: The applicant's project is not proposing frontage streets or alleys.

This criterion does not apply.

9. ODOT or Yamhill County Right-of-Way. Where a property abuts an ODOT or Yamhill County right-of-way, the applicant for any development project shall obtain an access permit from ODOT or Yamhill County.

Finding: The applicant's project has ODOT Right-of-Way on the east and south side of the development (i.e., N Main and E First Streets). The applicant's narrative describes communication with ODOT and details the access permits needed:

1. The proposed northern driveway on Main Street will require an application for State Highway Approach.
2. The existing southern driveway on Main Street will be reduced in size. This will require an Application for Upgrade to Existing State Highway Approach.
3. The existing alley access on W First Street will be reduced in size. This will require an Application for Upgrade to Existing State Highway Approach. The City of Newberg is the owner of this alley right-of-way.

Because the applicant has not submitted access permits from ODOT, the applicant will be required to submit access permits to ODOT prior to applying for a City of Newberg public improvement permit and the issuance of building permits.

The criterion will be met if the aforementioned condition of approval is adhered to.

10. Exceptions. The director may allow exceptions to the access standards above in any of the following circumstances:

- a. Where existing and planned future development patterns or physical constraints, such as topography, parcel configuration, and similar conditions, prevent access in accordance with the above standards.*
- b. Where the proposal is to relocate an existing access for existing development, where the relocated access is closer to conformance with the standards above and does not increase the type or volume of access.*

c. Where the proposed access results in safer access, less congestion, a better level of service, and more functional circulation, both on street and on site, than access otherwise allowed under these standards.

11. Where an exception is approved, the access shall be as safe and functional as practical in the particular circumstance. The director may require that the applicant submit a traffic study by a registered engineer to show the proposed access meets these criteria.

Finding: The applicant is not proposing any exceptions. This criterion is not applicable.

S. Public Walkways.

1. Projects subject to Type II design review, partition, or subdivision approval may be required to provide public walkways where necessary for public safety and convenience, or where necessary to meet the standards of this code. Public walkways are meant to connect cul-de-sacs to adjacent areas, to pass through oddly shaped or unusually long blocks, to provide for networks of public paths according to adopted plans, or to provide access to schools, parks or other community destinations or public areas. Where practical, public walkway easements and locations may also be used to accommodate public utilities.

2. Public walkways shall be located within a public access easement that is a minimum of 15 feet in width.

3. A walk strip, not less than 10 feet in width, shall be paved in the center of all public walkway easements. Such paving shall conform to specifications in the Newberg public works design and construction standards.

4. Public walkways shall be designed to meet the Americans with Disabilities Act requirements.

5. Public walkways connecting one right-of-way to another shall be designed to provide as short and straight of a route as practical.

6. The developer of the public walkway may be required to provide a homeowners' association or similar entity to maintain the public walkway and associated improvements.

7. Lighting may be required for public walkways in excess of 250 feet in length.

8. The review body may modify these requirements where it finds that topographic, preexisting development, or similar constraints exist.

Finding: The applicant is not proposing public walkways. These criteria are not applicable.

T. Street Trees. Street trees shall be provided for all projects subject to Type II design review, partition, or subdivision. Street trees shall be installed in accordance with the provisions of NMC 15.420.010(B)(4).

Finding: N Main Street is a minor arterial. Only one tree is proposed, so spacing requirements are not applicable. E First Street is a major arterial. Two Magnolia Virginiana trees spaced approximately 50 feet apart are proposed. The proposed trees do not meet the species requirements in the downtown area. Permitted trees are Eastern Redbud "Forest Pansy", Glorybower Tree, Korean Dogwood, Norwegian Sunset Maple, Fasigate European Hornbeam, or Columnar Sargent Cherry. The Landscape Plan shall be

revised to identify one of the permitted trees of Eastern Redbud “Forest Pansy”, Glorybower Tree, Korean Dogwood, Norwegian Sunset Maple, Fasigate European Hornbeam, or Columnar Sargent Cherry prior to issuance of building permits.

This criterion will be met with the adherence to the aforementioned condition of approval.

U. Street Lights. All developments shall include underground electric service, light standards, wiring and lamps for street lights according to the specifications and standards of the Newberg public works design and construction standards. The developer shall install all such facilities and make the necessary arrangements with the serving electric utility as approved by the city. Upon the city’s acceptance of the public improvements associated with the development, the street lighting system, exclusive of utility-owned service lines, shall be and become property of the city unless otherwise designated by the city through agreement with a private utility.

Finding: The applicant’s preliminary plans show one new streetlight. Because a lighting analysis has not been provided, the applicant will be required to show via a lighting analysis that the existing street lighting and the proposed one additional light meets City standards or provide additional street lighting along the property frontage that is compliant with the City’s Public Works Design and Construction Standards.

The criterion will be met if the aforementioned condition of approval is adhered to.

V. Transit Improvements. Development proposals for sites that include or are adjacent to existing or planned transit facilities, as shown in the Newberg transportation system plan or adopted local or regional transit plan, shall be required to provide any of the following, as applicable and required by the review authority:

- 1. Reasonably direct pedestrian connections between the transit facility and building entrances of the site. For the purpose of this section, “reasonably direct” means a route that does not deviate unnecessarily from a straight line or a route that does not involve a significant amount of out-of-direction travel for users.*
- 2. A transit passenger landing pad accessible to disabled persons.*
- 3. An easement of dedication for a passenger shelter or bench if such facility is in an adopted plan.*
- 4. Lighting at the transit facility.*

Finding: The applicant is not proposing transit improvements and the site is not adjacent to existing or planned transit facilities.

These criteria do not apply.

15.505.040 Public utility standards.

A. Purpose. *The purpose of this section is to provide adequate services and facilities appropriate to the scale and type of development.*

B. Applicability. *This section applies to all development where installation, extension or improvement of water, wastewater, or private utilities is required to serve the development or use of the subject property.*

C. General Standards.

1. The design and construction of all improvements within existing and proposed rights-of-way and easements, all improvements to be maintained by the city, and all improvements for which city approval is required shall conform to the Newberg public works design and construction standards and require a public improvements permit.

2. The location, design, installation and maintenance of all utility lines and facilities shall be carried out with minimum feasible disturbances of soil and site. Installation of all proposed public and private utilities shall be coordinated by the developer and be approved by the city to ensure the orderly extension of such utilities within public right-of-way and easements.

D. Standards for Water Improvements. *All development that has a need for water service shall install the facilities pursuant to the requirements of the city and all of the following standards. Installation of such facilities shall be coordinated with the extension or improvement of necessary wastewater and stormwater facilities, as applicable.*

1. All developments shall be required to be linked to existing water facilities adequately sized to serve their intended area by the construction of water distribution lines, reservoirs and pumping stations which connect to such water service facilities. All necessary easements required for the construction of these facilities shall be obtained by the developer and granted to the city pursuant to the requirements of the city.

2. Specific location, size and capacity of such facilities will be subject to the approval of the director with reference to the applicable water master plan. All water facilities shall conform with city pressure zones and shall be looped where necessary to provide adequate pressure and fire flows during peak demand at every point within the system in the development to which the water facilities will be connected. Installation costs shall remain entirely the developer's responsibility.

3. The design of the water facilities shall take into account provisions for the future extension beyond the development to serve adjacent properties, which, in 4. Design, construction and material standards shall be as specified by the director for the construction of such public water facilities in the city. The judgment of the city, cannot be feasibly served otherwise.

Finding: The development is a remodel. No new water service connections are proposed but it is not clear in the application that there is adequate fire flow. To verify that adequate fire flow exists, the applicant is required to provide a fire flow test results with building permit submittal

The criterion will be met if the aforementioned condition of approval is adhered to.

E. Standards for Wastewater Improvements. *All development that has a need for wastewater services shall install the facilities pursuant to the requirements of the city and all of the following standards. Installation of such facilities shall be coordinated with the extension or improvement of necessary water services and stormwater facilities, as applicable.*

1. *All septic tank systems and on-site sewage systems are prohibited. Existing septic systems must be abandoned or removed in accordance with Yamhill County standards.*
2. *All properties shall be provided with gravity service to the city wastewater system, except for lots that have unique topographic or other natural features that make gravity wastewater extension impractical as determined by the director. Where gravity service is impractical, the developer shall provide all necessary pumps/lift stations and other improvements, as determined by the director.*
3. *All developments shall be required to be linked to existing wastewater collection facilities adequately sized to serve their intended area by the construction of wastewater lines which connect to existing adequately sized wastewater facilities. All necessary easements required for the construction of these facilities shall be obtained by the developer and granted to the city pursuant to the requirements of the city.*
4. *Specific location, size and capacity of wastewater facilities will be subject to the approval of the director with reference to the applicable wastewater master plan. All wastewater facilities shall be sized to provide adequate capacity during peak flows from the entire area potentially served by such facilities. Installation costs shall remain entirely the developer's responsibility.*
5. *Temporary wastewater service facilities, including pumping stations, will be permitted only if the director approves the temporary facilities, and the developer provides for all facilities that are necessary for transition to permanent facilities.*
6. *The design of the wastewater facilities shall take into account provisions for the future extension beyond the development to serve upstream properties, which, in the judgment of the city, cannot be feasibly served otherwise.*
7. *Design, construction and material standards shall be as specified by the director for the construction of such wastewater facilities in the city.*

Finding: There is no indication of a septic tank on the property.

This criterion does not apply.

F. Easements. Easements for public and private utilities shall be provided as deemed necessary by the city, special districts, and utility companies. Easements for special purpose uses shall be of a width deemed appropriate by the responsible agency. Such easements shall be recorded on easement forms approved by the city and designated on the final plat of all subdivisions and partitions. Minimum required easement width and locations are as provided in the Newberg public works design and construction standards.

Finding: The applicant's preliminary drawings show no utility easements. No easements are required.

The criterion is not applicable.

15.505.050 Stormwater system standards.

A. Purpose. The purpose of this section is to provide for the drainage of surface water from all development; to minimize erosion; and to reduce degradation of water quality due to sediments and pollutants in stormwater runoff.

B. Applicability. *The provisions of this section apply to all developments subject to site development review or land division review and to the reconstruction or expansion of such developments that increases the flow or changes the point of discharge to the city stormwater system. Additionally, the provisions of this section shall apply to all drainage facilities that impact any public storm drain system, public right-of-way or public easement, including but not limited to off-street parking and loading areas.*

C. General Requirement. *All stormwater runoff shall be conveyed to a public storm wastewater or natural drainage channel having adequate capacity to carry the flow without overflowing or otherwise causing damage to public and/or private property. The developer shall pay all costs associated with designing and constructing the facilities necessary to meet this requirement.*

Finding: Because this development is proposed at a site with soil and groundwater contamination and the applicant has not provided construction plans or a final stormwater report, the applicant will be required to provide detailed construction plans and a final stormwater report that address requirements outlined in the Public Works Design and Construction Standards in accordance with NMC 13.25 Stormwater Management and thereby mitigates the risk of impacting the existing soil and groundwater contamination.

The criterion will be met if the aforementioned condition of approval is adhered to.

D. Plan for Stormwater and Erosion Control. *No construction of any facilities in a development included in subsection (B) of this section shall be permitted until an engineer registered in the State of Oregon prepares a stormwater report and erosion control plan for the project. This plan shall contain at a minimum:*

- 1. The methods to be used to minimize the amount of runoff, sedimentation, and pollution created from the development both during and after construction.***
- 2. Plans for the construction of stormwater facilities and any other facilities that depict line sizes, profiles, construction specifications, and other such information as is necessary for the city to review the adequacy of the stormwater plans.***
- 3. Design calculations shall be submitted for all drainage facilities. These drainage calculations shall be included in the stormwater report and shall be stamped by a licensed professional engineer in the State of Oregon. Peak design discharges shall be computed based upon the design criteria outlined in the public works design and construction standards for the city.***

Finding: Because this development is proposed at a site with soil and groundwater contamination and the applicant has not provided construction plans, an erosion control plan or a final stormwater report, the applicant will be required to provide a stormwater management and erosion control plan that addresses the site during construction as well as after completion, and is prepared by an engineer licensed in the State of Oregon shall be submitted and approved prior to any ground disturbing activities.

The criterion will be met if the aforementioned condition of approval is adhered to.

E. Development Standards. *Development subject to this section shall be planned, designed, constructed, and maintained in compliance with the Newberg public works design and construction standards.*

Finding: This development is proposed at a site with soil and groundwater contamination. Because the applicant has not provided construction plans, an erosion control plan or a final stormwater report or stormwater management plan that addresses the soil and groundwater contamination, the applicant will be required to provide construction plans, a stormwater management plan and erosion control plan that addresses the site during construction as well as after completion that is in compliance with City of Newberg public works design and construction standards.

The criterion will be met if the aforementioned condition of approval is adhered to.

CONCLUSION: Approve the application based on the above mentioned findings which indicate that the project meets the criteria required within the Newberg Development Code. The development will be subject to completion of the attached conditions.

Section III: Conditions – File DR221-0004
Design Review – Want CPA

A. THE FOLLOWING MUST BE COMPLETED BEFORE THE CITY WILL ISSUE A BUILDING PERMIT:

1. **Permit Submittal:** Submit a building permit application and two (2) complete working drawing sets of the proposed project. Show all the features of the plan approved through design review.
2. **Conditions of Approval:** Either write or otherwise permanently affix the conditions of approval contained within this report onto the first page of the plans submitted for building permit review.
3. **Design Compatibility:**
 - a. The applicant must submit trash or refuse storage area screening, and screening materials that comply with NMC 15.220.030(12) that indicates the refuse storage will be constricted of brick, concrete block or other similar products as approved by the director prior to issuance of building permits.
 - b. The applicant will need to confirm all awnings will be at least 8 feet above ground level prior to issuance of building permits.
 - c. The applicant will need to submit plans confirming windows on the east and south windows will be clear or low-e glazed prior to issuance of building permits.
4. **Parking and On-Site Circulation:**
 - a. The applicant will need to submit a plan that meet the minimum dimensions of NMC 15.440.070 prior to issuance of building permits.
5. **Bicycle Parking:**
 - a. The applicant shall submit a plan showing the location of the one required bicycle parking space to comply with NMC 15.440.100 prior to issuance of building permits.
 - b. The applicant shall submit the location and design detail of the proposed bike parking facility to comply with NMC 15.440.110A.1. prior to issuance of building permits.
6. **Private Walkways:**
 - a. The applicant will be required to ensure all private walkways meet the applicable building code and ADA requirements.
7. **Public Access:**
 - a. The applicant must obtain applicable ODOT permits for access onto N Main Street and E First Street prior to issuance of building permits.
 - b. The applicant shall submit to the Oregon Department of Transportation for the following permits:
 - Application for State Highway Approach for the north driveway on N Main Street (Hwy 151, MP 11.47).

- Application for Upgrade to Existing State Highway Approach to reduce the size of: southern driveway on N Main Street (Hwy 151, MP 11.49) and alley access from E First Street (Hwy 091, MP 23.73).
8. **Vision Clearance:**
 - a. The applicant shall ensure that landscape material planted in vision clearance areas complies with 15.410.060.
 9. **Landscaping:**
 - a. The applicant will need to choose a secondary plant material group (shrubs or tree) to incorporate into the landscape buffer along the north property line.
 - b. The Landscape Plan shall be revised to identify one of the permitted trees of Eastern Redbud “Forest Pansy”, Glorybower Tree, Korean Dogwood, Norwegian Sunset Maple, Fasigate European Hornbeam, or Columnar Sargent Cherry prior to issuance of building permits.
 - c. The applicant shall continuously maintain all landscape areas in accordance with NMC 15.420.010B.6.
 - d. The applicant shall continuously maintain all landscape areas in in the public right-of-way accordance with NMC 15.420.020C and submit a revised drawing prior to issuance of a building permit.
 - e. If the applicant does not install the required landscaping prior to the issuance of occupancy permits then, per Section 15.420.010(C), a security equal to 110 percent the cost of the landscaping is required.
 10. **Exterior Lighting:**
 - a. The applicant shall provide lighting information in compliance with NMC 15.425.020A.1.-3. Prior to issuance of building permits.
 11. **Signs:**
 - a. A separate sign review application will be required in order to approve signs.
 12. **Utilities:**
 - a. The applicant will be required to underground any new service connections to the site, and if any poles or lines associated with the utilities along the property frontages are relocated, they will be required to be placed underground.
 - b. The applicant will need to submit for required permits as noted in the findings on public improvements.
 - c. To verify that adequate fire flow exists, the applicant is required to provide a fire flow test results with building permit submittal.
 13. **Permits:**
 - a. The applicant is required to comply with the requirements set forth in both the Consent Judgement and the Easement and Equitable Servitude documents. The applicant will also be required to provide the City with documentation from DEQ that DEQ received notification of the proposed development and that the Owner is taking all appropriate actions with regard to the soil and groundwater contamination.

- b. Prior to any ground disturbance the applicant shall have an erosion control permit issued by the City of Newberg.
 - c. An erosion control plan which mitigates these risks shall be designed by an engineer licensed in the State of Oregon and submitted and approved prior to any ground disturbance at the site and the applicant/owner is to provide documentation of DEQ approval of any construction activities that result in construction dewatering.
 - d. The applicant will be required to submit access permits to ODOT prior to applying for a City of Newberg public improvement permit and the issuance of building permits.
 - e. The applicant will be required to submit construction plans in conformance with City of Newberg Public Works Design and Construction Standards and apply for a public improvement permit for proposed public improvements.
14. **Sidewalks:**
- a. The applicant will be required to replace the sidewalks on N Main Street and E First Street according to city standards.
 - b. Construction plans showing sidewalk width of 6- feet minimum shall be submitted with permit applications.
15. **Lighting**
- a. The applicant will be required to show via a lighting analysis that the existing street lighting and the proposed one additional light meets City standards or provide additional street lighting along the property frontage that is compliant with the City's Public Works Design and Construction Standards.
16. **Water:**
- a. To verify that adequate fire flow exists, the applicant is required to provide fire flow test results with building permit submittals.
17. **Stormwater:**
- a. The applicant will be required to provide detailed construction plans and a final stormwater report that address requirements outlined in the Public Works Design and Construction Standards in accordance with NMC 13.25 Stormwater Management and thereby mitigates the risk of impacting the existing soil and groundwater contamination.
 - b. The applicant will be required to provide a stormwater management and erosion control plan that addresses the site during construction as well as after completion and is prepared by an engineer licensed in the State of Oregon and that shall be submitted and approved prior to the any ground disturbing activities.
 - c. The applicant will be required to provide construction plans, a stormwater management plan and erosion control plan that addresses the site during construction as well as after completion that is in compliance with City of Newberg public works design and construction standards.

B. THE FOLLOWING MUST BE ACCOMPLISHED PRIOR TO OCCUPANCY

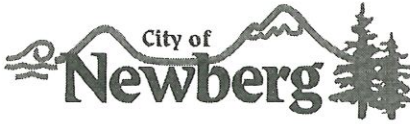
- 1. **Fire Department Requirements:** This project is subject to compliance with all Fire

- Department (TVF&R) standards relating to access and fire protection.
2. **Design Review Conditions:** Contact the Planning Division (503-537-1240) to verify that all design review conditions have been completed.
 3. **Site Inspection:** Contact the Building Division (503-537-1240) for Building, Mechanical, and Plumbing final inspections. Contact the Fire Department (503-537-1260) for Fire Safety final inspections. Contact Yamhill County (503-538-7302) for electrical final inspections. Contact the Planning Division (503-537-1240) for landscaping final inspections.

C. DEVELOPMENT NOTES

1. Systems development charges (SDCs) will be collected when building permits are issued. For questions regarding SDCs please contact the Engineering Division.

Attachment 1: Application Material



TYPE II APPLICATION (LAND USE) -- 2021

File #: MISC 221-0001

TYPES – PLEASE CHECK ONE:

- Design review
- Tentative Plan for Partition
- Tentative Plan for Subdivision
- Type II Major Modification
- Variance
- Other: (Explain) _____

APPLICANT INFORMATION:

APPLICANT: Brian Williamson
 ADDRESS: 105 Parkview Drive, Newberg, OR 97132
 EMAIL ADDRESS: brian@wantcpa.com
 PHONE: 503-538-5023 MOBILE: 503-572-1250 FAX: 503-538-0859
 OWNER (if different from above): Balding Buffalo LLC PHONE: _____
 ADDRESS: 22007 SW Scholls Sherwood Rd., Sherwood, OR 97140
 ENGINEER/SURVEYOR: _____ PHONE: _____
 ADDRESS: _____

GENERAL INFORMATION:

PROJECT NAME: Want CPA PROJECT LOCATION: 105 N Main St., Newberg, OR
 PROJECT VALUATION: \$300,000
 PROJECT DESCRIPTION/USE: Refurbish property to use as a CPA office
 MAP/TAX LOT NO. (i.e. 3200AB-400): 3219AB05400 and 05500 ZONE: C3 SITE SIZE: 0.38 SQ. FT. ACRE
 COMP PLAN DESIGNATION: _____ TOPOGRAPHY: _____
 CURRENT USE: Anvil Academy, ITE Trip Code 879 Arts and Craft Store (onsite educational classes)
 SURROUNDING USES:
 NORTH: Convenience Store SOUTH: Welding Shop
 EAST: Coffee Shop WEST: Restaurant

SPECIFIC PROJECT CRITERIA AND REQUIREMENTS ARE ATTACHED

General Checklist: Fees Public Notice Information Current Title Report Written Criteria Response Owner Signature

For detailed checklists, applicable criteria for the written criteria response, and number of copies per application type, turn to:

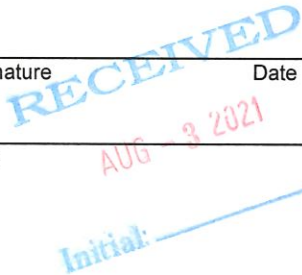
Design Reviewp. 12
 Partition Tentative Platp. 14
 Subdivision Tentative Platp. 17
 Variance Checklistp. 20

The above statements and information herein contained are in all respects true, complete, and correct to the best of my knowledge and belief. Tentative plans must substantially conform to all standards, regulations, and procedures officially adopted by the City of Newberg. All owners must sign the application or submit letters of consent. Incomplete or missing information may delay the approval process.

Brian Williamson 8/2/21
 Applicant Signature Date
 Brian Williamson
 Print Name

 Owner Signature Date

 Print Name



Attachments: General Information, Fee Schedule, Criteria, Checklists

Project Narrative

July 13, 2021

City of Newberg
Community Development
P.O. Box 970
Newberg, OR 97132

RE: 105 N Main Street, Newberg OR 97132

Want & Emery, CPA's who owns the building at 105 N Main Street in Newberg, would like to renovate the building to meet their needs. Because the improvements will exceed 25 percent of the assessed valuation of the existing structure, it has been determined that a Type II Design review will be required. A pre-application conference was held on 5/19/21 with the City reference number PRE21-0014. The applicable criteria was identified by the City staff. Following is our response to that criterion.

1. Design Compatibility.

The proposed improvements will be compatible with the current zoning and the Old Mill District that is in the beginning stages of development for the area. The steps of the multi-tiered parapet will be reduced to a more aesthetically pleasing proportion and a new metal trellis/tower will be constructed to identify the main entry which will be located at the corner of the two major road frontages. It is belief that the colors and materials that have been chosen will fit within the property zoning with the use of red brick and gray painted corrugated metal panels, along with some painted fiber cement board & batt at the tower. Bronzed aluminum storefront windows will be placed to break up the façade. New landscape areas will be provided at the Main Street frontage. The existing crumbling sidewalk will be replaced with new accessible sidewalks and curbs. As part of this project, streetlights will be added to meet the City's current standards. The exterior of the building will be lighted as well, providing a pleasant view of the building façade in the nighttime hours.

2. Parking and On-Site Circulation.

Since this property is within the downtown jurisdiction, off-street parking is not required. To meet the needs of the proposed building occupant, 15 parking spaces are provided, including 1 handicap accessible space. The parking spaces will be constructed in accordance with City standards. The existing site has numerous driveway access points from N Main Street. One of the access points will be removed and one narrowed. A second access is proposed at N Main Street that is a one-way in and is farther away from the intersection of N Main and 1st Street. The access from 1st Street will be reduced in width to be the same width as the Alley.

3. Setbacks and General Requirements.

This project does not include expansion of the existing building so the setbacks, coverage, vision clearance and yard requirement will not change.

4. Landscape Requirements.

The property is located within the C3 Central Business District. Development in the C-3 (central business district) zoning district is exempt from the 15 percent landscape area requirement of this section. Although landscaping is not required in this zone, landscape will be provided to help transition between the building facades and streets. By providing landscape adjacent to the street, a process of 'traffic calming' can help to make a street a place for people rather than just a transport corridor.

5. Signs.

We are proposing signage for the business placed on two sides of the trellis/tower and on the north-east facade as indicated in the building elevations. Each sign will be approximately 28 square feet in area and will be mounted approximately 15-feet above grade. The width of each sign will be approximately 11-feet. The façades are approximately 80-feet; therefore, each sign may be up to 80 square feet. Based on NMC 15.435.070 major attached signs are allowed in the C-3 zone. They shall not exceed 25-feet of the building frontage of that face and shall not exceed one square foot for each foot of building frontage. At least 40 square feet of signage will be allowed. In C-3 the maximum height is 18-feet above the sidewalk.

6. Manufactured Dwellings, Mobile Home and RV Parks. This item is not applicable.

7. Zoning District Compliance.

Based on NMC 15.305.020 Zoning use table local business office is a permitted use within the C-3 zone.

8. Sub district Compliance. This property is not within a Sub-district.

9. Alternative Circulation, Roadway Frontage Improvements and Utility Improvements.

In preparation for our response to this criterion and as recommended by the City staff, we contacted Casey Knecht, P.E. at ODOT for further information on requirements for the adjacent streets and access. N Main and 1st Street are classified as Highway over City street. Casey indicated that a dedication of property will not be required. The following State applications will be required.

- Hwy 151, MP 11.47 - The new northern driveway on Main Street will require an Application for State Highway Approach.
- Hwy 151, MP 11.48 - The existing center driveway on Main Street will be removed and replaced with curb/gutter/sidewalk. No separate application for this work.
- Hwy 151, MP 11.49 - The existing southern driveway on Main Street will be reduced in size. This will require an Application for Upgrade to Existing State Highway Approach.
- Hwy 091, MP 23.73 - The existing alley access on 1st Street will be reduced in size. This will require an Application for Upgrade to Existing State Highway Approach. The property owner for this application will be the City of Newberg, and you or the applicant will be the designated agent.

Furthermore, Brett Musick from the City stated that the sidewalk along the entire 1st Street (Highway 99W) frontage of this site is in poor condition and needs to be replaced to meet current ADA requirements. Along the N Main Street (Highway 240) frontage all but a handful of sidewalk panels are in poor condition and need to be replaced to meet current ADA requirements. A few panels might be ok; however, they appear to be in the proposed driveway location. Preliminary plans should anticipate replacement of sidewalks along both

frontages. We intend to replace the sidewalk and make modification to the access points per ODOT and the City of Newberg standards.

10. Traffic Study Improvements.

It was determined in the pre-application conference that a traffic study would not be required for this development.

11. Additional requirements for development in the C-3 zoning district.

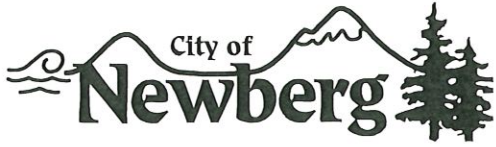
Based on NMC 15.220.080 an applicant for redevelopment within the C-3 zone district, which is subject to the site design review process, must demonstrate that seven of 10 of the following site and building design elements have been incorporated into the design of the project. Exceptions to these additional development requirements may be granted if the requirements would result in construction that is out of character with surrounding development. Applicants for redevelopment of a designated landmark will not be subject to these additional requirements.

- A. Elements of the Façade.
 - a. Windows - The windows, except for transoms, are primarily vertical.
 - b. Awnings - The proposed design includes well over 25% of the street frontage along N Main Street, which is the dominant street frontage.
- B. Façade Articulation.
 - a. Emphasize Entrances - Entrances are emphasized by awnings.
 - b. Maximum Horizontal Façade Plane - The articulation of various materials and vertical height differences break up the façade in accordance with the standard.
- C. Windows.
 - a. Depth of Windows - The windows will be recessed at least one and one-half inches from the general plane of the façade to create a shadow line and depth.
 - b. Percentage of Glazing
 - i. Primary façade min 50% of glazing. The glazing to horizontal distance of building percentage along N Main is 58%.
 - ii. Other facades facing public street min 30% of glazing - The 1st Street façade has 49% including garage doors. The north and west elevations are not readily visible by the public.
 - c. Window Glazing Material.
- D. Façade Materials.
 - a. Dominant Material - single dominant material with additional accents. - The dominant material is corrugated metal with accents of brick and fiber-cement board and batt.
 - b. Allowed Wall Materials - the proposed materials will meet the requirements.
 - c. Change in Materials - the proposed materials will meet the requirements.

Sincerely,



David Brittell
Principal Architect



Community Development Department

P.O. Box 970 ▪ 414 E First Street ▪ Newberg, Oregon 97132
503-537-1240. Fax 503-537-1272 www.newbergoregon.gov

WE WANT YOUR COMMENTS ON A PROPOSED NEW DEVELOPMENT IN YOUR NEIGHBORHOOD

A property owner in your neighborhood submitted an application to the City of Newberg to construct an office for a Certified Professional Accounting firm. You are invited to take part in the City's review of this project by sending in your written comments. For more details about giving comments, please see the back of this sheet.

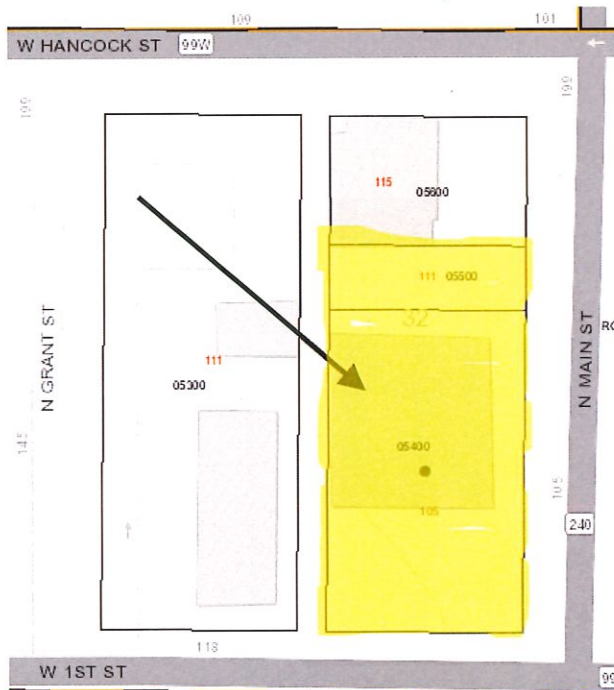
The development would include updating the exterior and the interior of the existing building at 105 N. Main St. in Newberg, but keeping the same building footprint. The landscaping will also be updated while retaining 15 surface parking spaces and three parking spaces in an enclosed garage.

APPLICANT: **Brian Williamson**
TELEPHONE: **503-538-5023**

PROPERTY OWNER: **Balding Buffalo LLC**

LOCATION: **105 N. Main St., Newberg, OR 97132**

TAX LOT NUMBER: **3219AB-05400, 3219AB-05500**



We are mailing you information about this project because you own land within 500 feet of the proposed new project. We invite you to send any written comments for or against the proposal within 14 days from the date this notice is mailed.

If you mail your comments to the City, please put the following information on the outside of the envelope:

Written Comments: File No.XX **(City staff will give you the file number for
City of Newberg your project at the time of application)**
Community Development Department
PO Box 970
Newberg, OR 97132

You can look over all the information about this project or drop comments off at Newberg City Hall, 414 E. First Street. You can also buy copies of the information for a cost of 25 cents a page. If you have any questions about the project, you can call the Newberg Planning Division at 503-537-1240.

All written comments must be turned in by 4:30 p.m. on **enter date two weeks from date you mailed notice**. Any issue which might be raised in an appeal of this case to the Land Use Board of Appeals (LUBA) must be submitted to the City in writing before this date. You must include enough detail to enable the decision maker an opportunity to respond. The applicable criteria used to make a decision on this application for design review approval are found in Newberg Development Code 15.220.050(B).

The Community Development Director will make a decision at the end of a 14-day comment period. If you send in written comments about this project, you will be sent information about any decision made by the City relating to this project.

Date Mailed: ***Date notice is mailed***

**CITY OF NEWBERG
SAMPLE POSTED NOTICE**

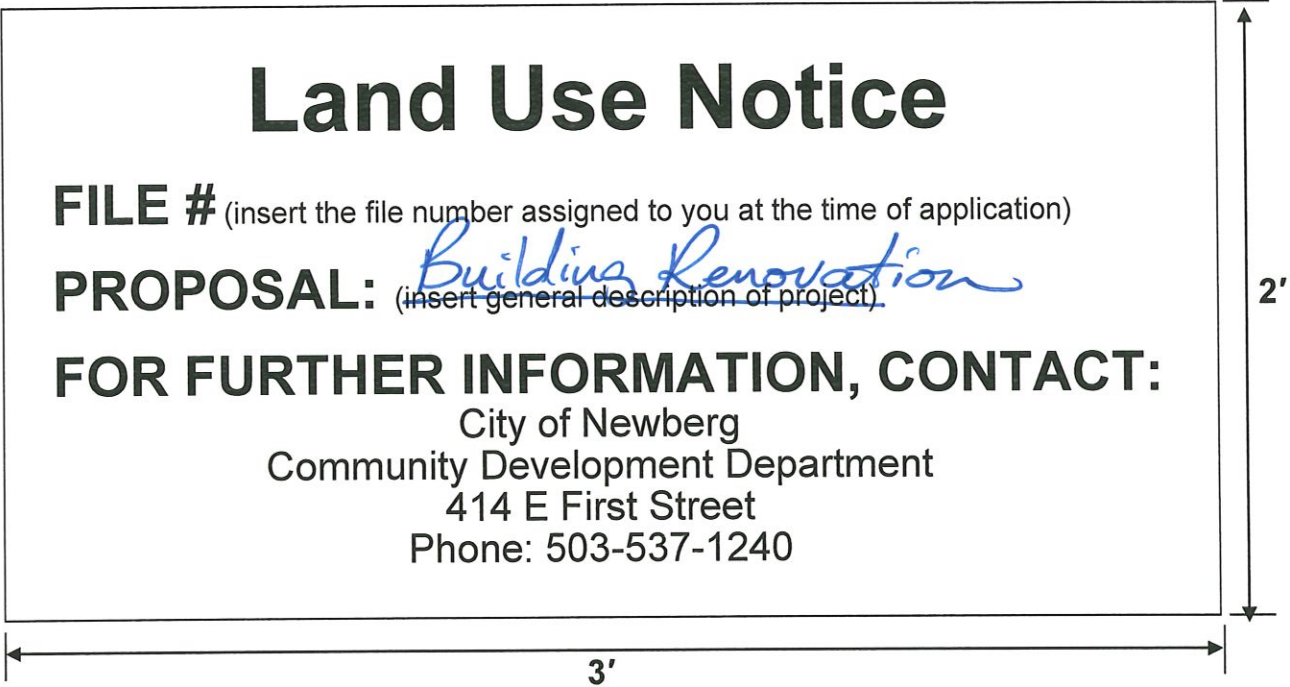
Land Use Notice

FILE # (insert the file number assigned to you at the time of application)

PROPOSAL: *Building Renovation*
(insert general description of project)

FOR FURTHER INFORMATION, CONTACT:

City of Newberg
Community Development Department
414 E First Street
Phone: 503-537-1240



Notice must be white with black letters, and must be landscape orientation, as shown above. The notice must be lettered using block printing or a "sans-serif" font, such as Arial.

TAXID	Owner Name	Mailing Address	Mail City	Mail State	Mail Zip	Site Address	Site City	Site State	Site Zip
R3219AB 06300	Leathers Limited Partnership	255 Depot St	Fairview	OR	97024	203 E 1st St	Newberg	OR	97132
R3218DC 08400	Lip Properties Llc	Po Box 1060	Newberg	OR	97132	305 N Main St	Newberg	OR	97132
R3219AB 11500	Richard & Barbara Oviatt	300 W Sherman St	Newberg	OR	97132	101 S Main St	Newberg	OR	97132
R3219AB 01400	Deborah & Wade Currie	206 E Sheridan St	Newberg	OR	97132	206 E Sheridan St	Newberg	OR	97132
R3219AB 01500	Phillip & Carrie Simmons	10790 NE Worden Hill Rd	Dundee	OR	97115	200 E Sheridan St	Newberg	OR	97132
R3219AB 05300	Wenwen & Yanguang Zheng	23705 SW Everest Ct	Sherwood	OR	97140	111 W 1st St	Newberg	OR	97132
R3219AB 06700	Lip Properties Llc	Po Box 1060	Newberg	OR	97132	115 N Washington St	Newberg	OR	97132
R3219AB 15100	International Church Of The Foursquare Gospel	115 W 3rd St	Newberg	OR	97132	209 S Main St	Newberg	OR	97132
R3219AB 06500	First Street Properties Llc	201 N Meridian St	Newberg	OR	97132	211 E 1st St	Newberg	OR	97132
R3219AB 06000	Larry & Lealice Sause	21755 NE Sunnycrest Rd	Newberg	OR	97132	111 E 1st St	Newberg	OR	97132
R3219AB 05500	J L Investment Llc	23995 N Highway 99w	Newberg	OR	97132	111 N Main St	Newberg	OR	97132
R3219AB 02000	Martin Tucker	209 N Garfield St	Newberg	OR	97132	211 N Garfield St	Newberg	OR	97132
R3219AB 03900	Yamhill County & Yamhill County Courthouse	434 NE Evans St	Mcminnville	OR	97128	No Site Address	Newberg	OR	97132
R3219AB 12800	William & Margi Womack	304 W 1st St	Newberg	OR	97132	304 W 1st St	Newberg	OR	97132
R3219AB 01300	Carolann & William Polian	10062 Resmar Ct	La Mesa	CA	91941	210 E Sheridan St	Newberg	OR	97132
R3219AB NONTL	County Non-Taxlot					No Site Address			
R3219AB 12200	Rick Murray	33995 NE Corral Creek Rd	Newberg	OR	97132	202 W 1st St	Newberg	OR	97132
R3219AB 14201	Patricia Storey	11980 SW 119th Ave	Portland	OR	97223	210 W 2nd St	Newberg	OR	97132
R3219AB 14900	Todd & Catherine Spencer	201 S Main St	Newberg	OR	97132	201 S Main St	Newberg	OR	97132
R3219AB 15600	Gary & Svitiana McAuley	Po Box 1532	Sherwood	OR	97140	200 S Main St	Newberg	OR	97132
R3219AB 02800	Sosa Investments Llc	3011 Silvertown Rd NE	Salem	OR	97301	209 N Main St	Newberg	OR	97132
R3219AB 15500	Nathan Erb & Monica Felix	204 S Main St	Newberg	OR	97132	204 S Main St	Newberg	OR	97132
R3219AB 05400	Balding Buffalo Llc	22007 SW Scholls Sherwood Rd	Sherwood	OR	97140	105 N Main St	Newberg	OR	97132
R3219AB 01800	Nes Building One Llc	18230 SE Richey Rd	Gresham	OR	97080	201 N Washington St	Newberg	OR	97132
R3219AB 10301	Leonard Johnson	19460 NE Williamson Rd	Newberg	OR	97132	208 E 1st St	Newberg	OR	97132
R3219AB 01900	Travis Sprecher	327 SE Jackson St	Willamina	OR	97396	114 E Sheridan St	Newberg	OR	97132
R3219AB 12000	Jessica Bagley-Rouff & Allen Rouff	201 S College St	Newberg	OR	97132	111 S Grant St	Newberg	OR	97132
R3219AB 10900	Elise Yarnell	112 S Main St	Newberg	OR	97132	112 S Main St	Newberg	OR	97132
R3219AB 05800	Hancock & Main Llc	114 N Main St	Newberg	OR	97132	108 N Main St	Newberg	OR	97132
R3219AB 03200	J L Investments Llc	23995 N Highway 99w	Newberg	OR	97132	No Site Address	Newberg	OR	97132
R3219AB 02200	Martin & Sallie Tucker	32051 NE Corral Creek Rd	Newberg	OR	97132	113 E Hancock St	Newberg	OR	97132
R3219AB 03900	Lip Properties Llc	Po Box 1060	Newberg	OR	97132	215 W Hancock St	Newberg	OR	97132
R3219AB 03100	E & J Investments Llc	810 SW View Crest Dr	Dundee	OR	97115	111 W Hancock St	Newberg	OR	97132
R3219AB 05600	Hang Lee	15435 SW Petrel Ln	Beaverton	OR	97007	115 N Main St	Newberg	OR	97132
R3219AB 06200	Hancock Commons Llc	201 N Meridian St STE B	Newberg	OR	97132	200 E Hancock St	Newberg	OR	97132
R3219AB 14800	Russell & Mary Thomas	110 W 2nd St	Newberg	OR	97132	110 W 2nd St	Newberg	OR	97132
R3219AB 15900	Jay & Amelia Ouellette	33720 NE Kramien Rd	Newberg	OR	97132	200 E 2nd St STE 101	Newberg	OR	97132
R3219AB 06100	Nfc Properties Llc	32700 NE Lesley Rd	Newberg	OR	97132	114 E Hancock St	Newberg	OR	97132
R3219AB 10000	Leonard Johnson	19460 NE Williamson Rd	Newberg	OR	97132	207 E 2nd St	Newberg	OR	97132
R3219AB 05900	Happy Panda Holdings Llc	1926 W Burnside St UNIT 1601	Portland	OR	97209	101 E 1st St	Newberg	OR	97132
R3219AB 01700	Nabor & Maria Pereda	615 N Meridian St	Newberg	OR	97132	205 E Hancock St	Newberg	OR	97132
R3219AB 10400	Leonard Johnson	19460 NE Williamson Rd	Newberg	OR	97132	204 E 1st St	Newberg	OR	97132
R3219AB 04101	David & Lisa Bailiff	300 W Sheridan St	Newberg	OR	97132	300 W Sheridan St	Newberg	OR	97132
R3219AB 12500	Imperio Investments Llc	1103 N Springbrook Rd UNIT 30	Newberg	OR	97132	110 S Lincoln St	Newberg	OR	97132
R3219AB 01600	Martin & Sallie Tucker	2122 SE Harrison St	Portland	OR	97214	201 E Hancock St	Newberg	OR	97132
R3219AB 10800	Snyder Inheritance Trust & Fbo Snyder Linda S	23950 NE Larkins Rd	Newberg	OR	97132	110 S Main St	Newberg	OR	97132
R3219AB 14600	International Church Of The Foursquare Gospel	115 W 3rd St	Newberg	OR	97132	115 W 3rd St	Newberg	OR	97132
R3219AB 12400	Jamos & Amanda Velarde	212 W 1st St	Newberg	OR	97132	212 W 1st St	Newberg	OR	97132
R3219AB 12700	Terry & Jody Hall	300 W 1st St	Newberg	OR	97132	300 W 1st St	Newberg	OR	97132
R3219AB 05000	Fitzroy Llc	1480 Cader Ln STE A	Petaluma	CA	94954	214 W Hancock St	Newberg	OR	97132
R3219AB 03300	Thomas Boucher	Po Box 1270	Veneta	OR	97487	108 W Sheridan St	Newberg	OR	97132
R3219AB 14200	William & Pamela Broxterman	218 W 2nd St	Newberg	OR	97132	218 W 2nd St	Newberg	OR	97132
R3219AB 11400	Richard & Barbara Oviatt	300 W Sherman St	Newberg	OR	97132	103 S Main St	Newberg	OR	97132
R3219AB 14300	Leah Lockwood	Po Box 3010	Newberg	OR	97132	200 W 2nd St	Newberg	OR	97132
R3219AB 15000	Fair Donald E & Lenora E Fair Family Trust	205 S Main St	Newberg	OR	97132	205 S Main St	Newberg	OR	97132
R3219AB 06800	Nohemi Castro & Martinez Lopez	34700 S Meridian Rd	Woodburn	OR	97071	204 E Hancock St	Newberg	OR	97132
R3219AB 02300	Storey Investment Llc	30998 SW Orchard Dr	Wilsonville	OR	97070	200 N Main St	Newberg	OR	97132
R3219AB RAILS	Railroad					No Site Address			
R3219AB 05100	Fitzroy Llc	1480 Cader Ln STE A	Petaluma	CA	94954	206 W Hancock St	Newberg	OR	97132
R3219AB 06600	Dakota Plains Llc	Po Box 261	Newberg	OR	97132	215 E 1st St	Newberg	OR	97132
R3219AB 04800	Yasar & Figen Uzun	7851 SW Barnard Dr	Beaverton	OR	97007	211 W 1st St	Newberg	OR	97132
R3219AB 10300	Leonard Johnson	19460 NE Williamson Rd	Newberg	OR	97132	206 E 1st St	Newberg	OR	97132
R3219AB 11900	James & Diane Reichenbach	201 W 2nd St	Newberg	OR	97132	201 W 2nd St	Newberg	OR	97132
R3219AB 04900	Fitzroy Llc	1480 Cader Ln STE A	Petaluma	CA	94954	W Hancock St	Newberg	OR	97132
R3219AB 11000	Adam & Ruben Perez	4205 NE Riverside Loop	Mcminnville	OR	97128	113 S Main St	Newberg	OR	97132
R3219AB 11600	Richard & Barbara Oviatt	300 W Sherman St	Newberg	OR	97132	108 W 1st St	Newberg	OR	97132
R3219AB 03700	Lip Properties Llc	Po Box 1060	Newberg	OR	97132	211 W Hancock St	Newberg	OR	97132
R3219AB 12100	Nadine McClain	107 S Grant St	Newberg	OR	97132	107 S Grant St	Newberg	OR	97132
R3219AB 03400	Stephen & Cora Waldrup	403 N Main St	Newberg	OR	97132	N Grant St	Newberg	OR	97132
R3219AB 11300	Richard & Barbara Oviatt	300 W Sherman St	Newberg	OR	97132	105 S Main St	Newberg	OR	97132
R3218DC 08800	James & Kathy Rarick	115 E Sheridan St	Newberg	OR	97132	115 E Sheridan St	Newberg	OR	97132
R3219AB 03600	Lip Properties Llc	Po Box 1060	Newberg	OR	97132	207 W Hancock St	Newberg	OR	97132
R3218DC 08700	Ramona Mangelsdorf	113 E Sheridan St	Newberg	OR	97132	113 E Sheridan St	Newberg	OR	97132
R3219AB 02700	1023 Llc & Cooper Properties Llc	19430 SW Lebeau Rd	Sherwood	OR	97140	215 N Main St	Newberg	OR	97132
R3219AB 15700	Nikolas Stanek & Jasmine Moore	108 E 2nd St	Newberg	OR	97132	108 E 2nd St	Newberg	OR	97132
R3219AB 04001	Jack & Angela May	2220 N Thorne St	Newberg	OR	97132	204 N Harrison St	Newberg	OR	97132
R3219AB 11100	Fox Nancy Fox Nancy Revocable Living Trust	20805 NE Highway 240	Newberg	OR	97132	111 S Main St	Newberg	OR	97132
R3219AB 02100	Martin & Sallie Tucker	209 N Garfield St	Newberg	OR	97132	209 N Garfield St	Newberg	OR	97132
R3219AB 10600	Bauer David & Patricia Bauer Family Trust	33030 NE Corral Creek Rd	Newberg	OR	97132	112 E 1st St	Newberg	OR	97132
R3219AB 02500	Thomas & Linda Vondrachek	208 N Main St	Newberg	OR	97132	208 N Main St	Newberg	OR	97132
R3219AB 12600	Wolhaupter Judith A (Trustee For) Hayes Richard Family Trust	Po Box 10	Armitry	OR	97101	215 W 2nd St	Newberg	OR	97132
R3219AB 11800	Richard & Barbara Oviatt	300 W Sherman St	Newberg	OR	97132	120 S Grant St	Newberg	OR	97132
R3219AB 12300	Kris Utz	307 W 2nd St	Newberg	OR	97132	210 W 1st St	Newberg	OR	97132
R3219AB 11700	Erhardt & Evelyn Steinborn	Po Box 938	Sherwood	OR	97140	116 W 1st St	Newberg	OR	97132
R3219AB 03800	Lip Properties Llc	Po Box 1060	Newberg	OR	97132	213 W Hancock St	Newberg	OR	97132
R3219AB 03500	Lip Properties Llc	Po Box 1060	Newberg	OR	97132	201 N Grant St	Newberg	OR	97132
R3219AB 02600	Soong Chang	1069 Otto Ridge Ct	Henderson	NV	89052	214 N Main St	Newberg	OR	97132
R3219AB 10200	Jules & Joan Drabkin	307 NE 7th St	Mcminnville	OR	97128	212 E 1st St	Newberg	OR	97132
R3219AB 10100	Mark Case	Po Box 1047	Newberg	OR	97132	115 S Washington St	Newberg	OR	97132
R3219AB 04700	Gp Management Llc	15171 Bangy Rd # 113	Lake Oswego	OR	97035	301 W 1st St	Newberg	OR	97132

R3219AB 06001	Halls Heating And Air Conditioning Inc	21755 NE Sunnycrest Rd	Newberg	OR	97132	109 N Garfield St	Newberg	OR	97132
R3219AB 13200	Ramona Wisler	115 S Lincoln St	Newberg	OR	97132	115 S Lincoln St	Newberg	OR	97132
R3219AB 06400	James Family Investments Lic	20280 SW Seely Ln	Sherwood	OR	97140	209 E 1st St	Newberg	OR	97132
R3219AB 11200	Adam & Ruben Perez	4205 NE Riverside Loop	Mcminnville	OR	97128	107 S Main St	Newberg	OR	97132
R3218DC 08600	Lip Properties	Po Box 1060	Newberg	OR	97132	306 N Main St	Newberg	OR	97132
R3219AB 15400	Patrick & Rebekah Ferrington	210 S Main St	Newberg	OR	97132	210 S Main St	Newberg	OR	97132
R3219AB 04500	Gp Management Lic	15171 Bangy Rd # 113	Lake Oswego	OR	97035	300 W Hancock St	Newberg	OR	97132
R3219AB 14700	International Church Of The Foursquare Gospel	115 W 3rd St	Newberg	OR	97132	200 S Grant St	Newberg	OR	97132
R3219AB 05700	Hancock & Main Lic	114 N Main St	Newberg	OR	97132	114 N Main St	Newberg	OR	97132
R3219AB 02901	Sosa Investments Lic	3011 Silvertown Rd NE	Salem	OR	97301	No Site Address	Newberg	OR	97132
R3219AB 02900	Raymundo & Lourdes Sosa	810 SW View Crest Dr	Dundee	OR	97115	205 N Main St	Newberg	OR	97132
R3219AB 14301	Sigmund Custom Homes Lic	500 E Hancock St	Newberg	OR	97132	200 W 2nd St	Newberg	OR	97132
R3219AB 15800	L Thomas	114 E 2nd St	Newberg	OR	97132	114 E 2nd St	Newberg	OR	97132
R3218DC RAILS	Railroad					No Site Address			

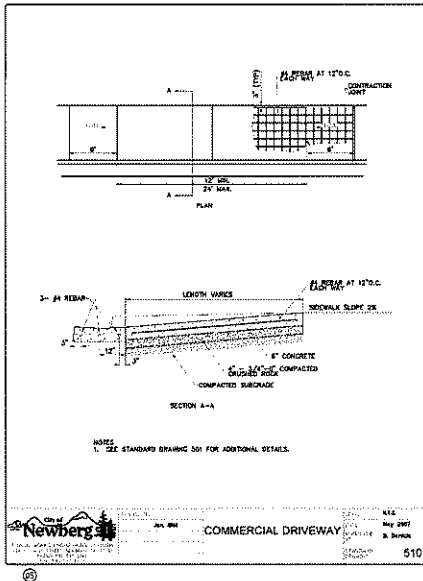
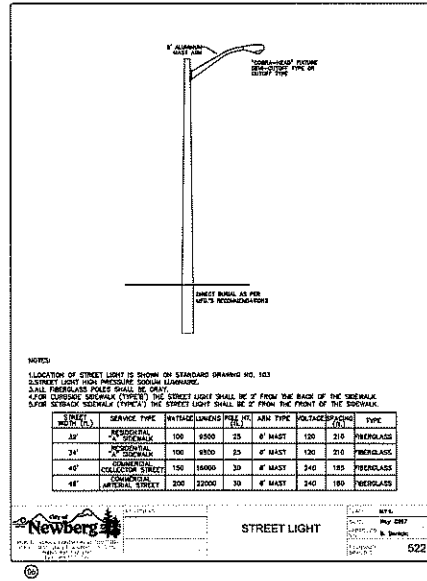
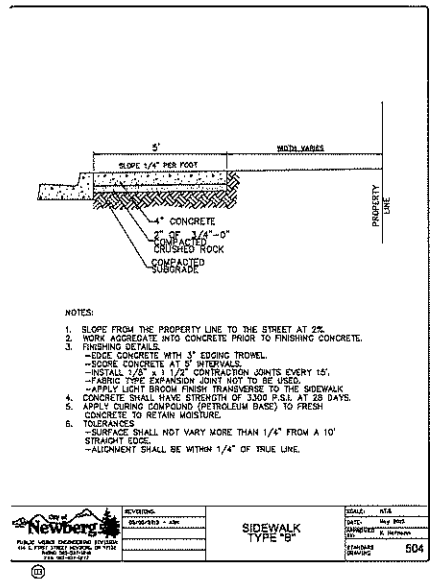
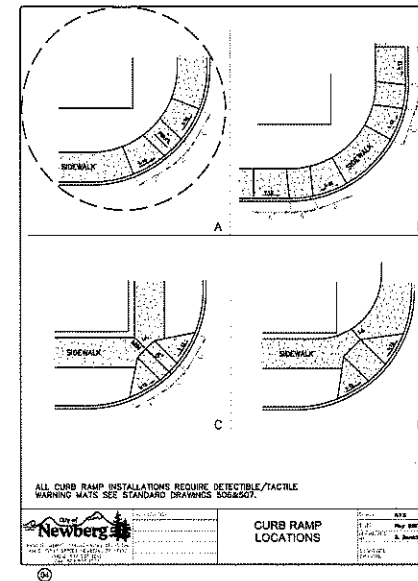
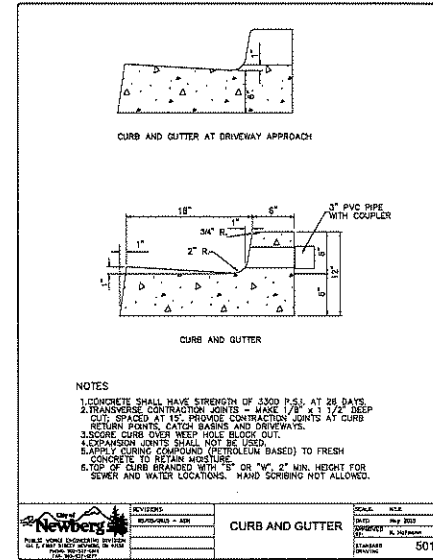
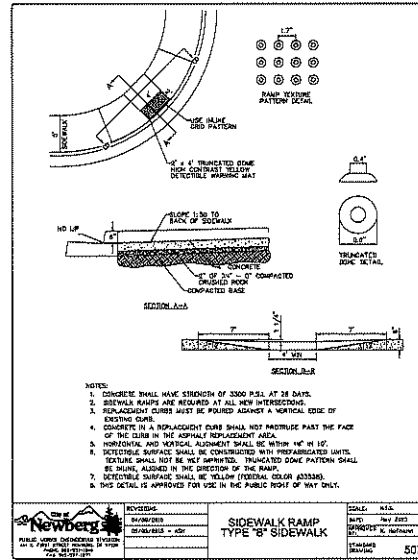
DATE	DESCRIPTION
7/23/21	SUBMITTED FOR TREE-CUT DEMONSTRATION

JOB NUMBER:
2109

SHEET:

A0.2

SITE DETAILS



NOTES

- LOCATION OF STREET LIGHT IS SHOWN ON STANDARD DRAWING NO. 103
- STREET LIGHT HIGH PRESSURE SODIUM SIGNAGE
- ALL FINISHES SHALL BE AS SHOWN
- FOR CURB AND GUTTER (TYPE "B") THE STREET LIGHT SHALL BE 2' FROM THE BACK OF THE SIDEWALK
- CURB AND GUTTER (TYPE "B") THE STREET LIGHT SHALL BE 2' FROM THE FRONT OF THE SIDEWALK

WIDTH (FEET)	SEWER TYPE	ENTRANCE LENGTH (FEET)	PIPE (IN)	MIN TYPE	VOLTAGE (V)	TYPE
24"	PERFORATED	100	6000	25"	4"	PERFORATED
36"	PERFORATED	100	6000	25"	4"	PERFORATED
48"	PERFORATED	100	6000	30"	4"	PERFORATED
60"	PERFORATED	200	22000	30"	4"	PERFORATED

REVISIONS

NO.	DESCRIPTION
1	REVISED - ADD

SCALE: N.T.S.
DATE: MAY 2021
DRAWN BY: A. BROWN
CHECKED BY: J. BROWN
DATE: MAY 2021

NEWBERG ARCHITECTURE, INC.
105 N. MAIN STREET
NEWBERG, OREGON 97156
TEL: 503.538.2109

NOTES

- SEE STANDARD DRAWING 301 FOR ADDITIONAL DETAILS.

REVISIONS

NO.	DESCRIPTION
1	REVISED - ADD

SCALE: N.T.S.
DATE: MAY 2021
DRAWN BY: A. BROWN
CHECKED BY: J. BROWN
DATE: MAY 2021

NEWBERG ARCHITECTURE, INC.
105 N. MAIN STREET
NEWBERG, OREGON 97156
TEL: 503.538.2109

NOTES

- ALL CURB RAMP INSTALLATIONS REQUIRE DETECTIBLE/TACTILE WARNING MATS SEE STANDARD DRAWINGS 508&507.

REVISIONS

NO.	DESCRIPTION
1	REVISED - ADD

SCALE: N.T.S.
DATE: MAY 2021
DRAWN BY: A. BROWN
CHECKED BY: J. BROWN
DATE: MAY 2021

NEWBERG ARCHITECTURE, INC.
105 N. MAIN STREET
NEWBERG, OREGON 97156
TEL: 503.538.2109

NOTES

- SLOPE FROM THE PROPERTY LINE TO THE STREET AT 2%.
- WORK AGGREGATE INTO CONCRETE PRIOR TO FINISHING CONCRETE.
- FINISHING DETAILS:
 - EDGE CONCRETE WITH 3" EDGING TROWEL
 - SCORE CONCRETE AT 2' INTERVALS
 - INSTALL 2/8" x 1/2" CONTRACTION JOINTS EVERY 15'
 - FABRIC TYPE EXPANSION JOINT NOT TO BE USED
 - APPLY LIGHT BROOM FINISH TRANSVERSE TO THE SIDEWALK
- CONCRETE SHALL HAVE STRENGTH OF 3000 P.S.I. AT 28 DAYS.
- APPLY CURING COMPOUND (PETROLEUM BASED) TO FRESH CONCRETE TO RETAIN MOISTURE.
- TOLERANCES:
 - SURFACE SHALL NOT VARY MORE THAN 1/4" FROM A 10' STRAIGHT EDGE.
 - ALIGNMENT SHALL BE WITHIN 1/4" OF TRUE LINE.

REVISIONS

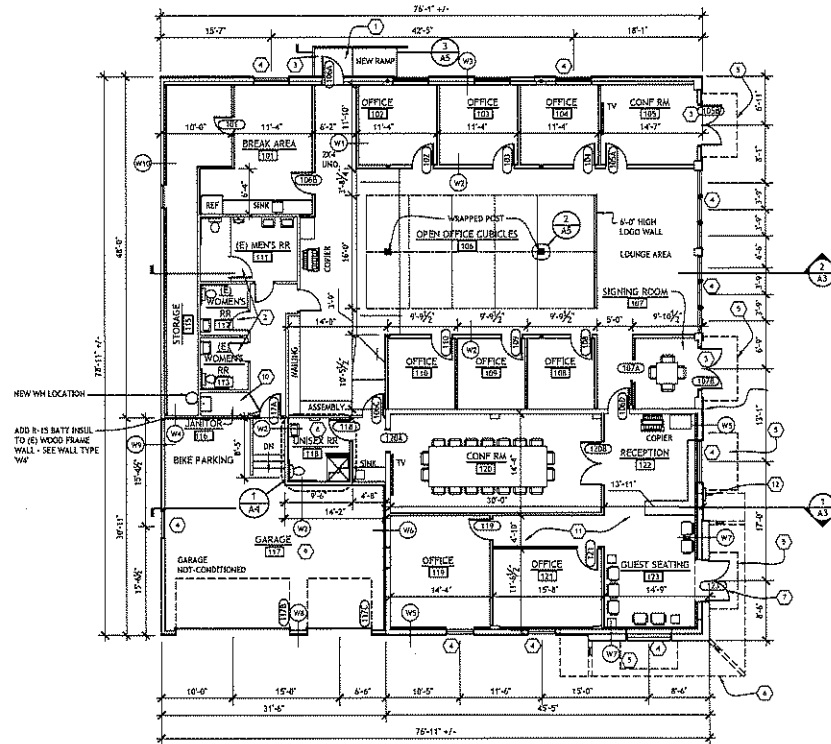
NO.	DESCRIPTION
1	REVISED - ADD

SCALE: N.T.S.
DATE: MAY 2021
DRAWN BY: A. BROWN
CHECKED BY: J. BROWN
DATE: MAY 2021

NEWBERG ARCHITECTURE, INC.
105 N. MAIN STREET
NEWBERG, OREGON 97156
TEL: 503.538.2109

Improvement to - 105 N Main Street
Want & Emery CPA's
Newberg Oregon

PRELIMINARY
NOT FOR CONSTRUCTION



NEW WH LOCATION
ADD IN-10 BATTI SHELL TO (E) WOOD FRAME WALL - SEE WALL TYPE W10

- FLOOR PLAN KEYNOTES:**
1. PROVIDE NEW RAMP FOR ACCESSIBILITY
 2. PROVIDE NEW FINISHES AT (E) RECEPTIONS
 3. REPLACE (E) DOORS WITH NEW DOOR
 4. PROVIDE NEW WINDOW - SEE SCHEDULE ON ELEVATION SHEET
 5. PROVIDE NEW METAL CANOPIES
 6. PROVIDE ROOF HEIGHT TRELLIS W/ STEEL I-BEAM SUPPORT (ALSO SEE EXTERIOR ELEVATION)
 7. REPLACE (E) WINDOW WITH NEW DOOR
 8. PROVIDE NEW RESTROOM W/ SHOWER
 9. DEMO EXISTING BUILDING HERE AND CREATE A NEW GARAGE AS SHOWN
 10. HAVE WATER HEATER AND ADD A HOP SINK
 11. FLOOR TO BE RAISED AT SOUTH PORTION OF BUILDING TO BE FLOOR W/ NORTH FLOOR
 12. (E) ELEC PANEL & WTR

FLOOR PLAN
1/8" = 1'-0"

LEGEND:

 (E) CONSTRUCTION TO REMAIN
 (N) CONSTRUCTION

FLOOR PLAN GENERAL NOTES:
 1. SEE SHEET A-4 FOR WALL, FLOOR, CEILING TYPES.

DATE	DESCRIPTION

JOB NUMBER:
2109

SHEET:
A1
FLOOR PLAN & SCHEDULES

Improvement to - 105 N Main Street
Want & Emery CPA's
Newberg Oregon

PRELIMINARY
NOT FOR CONSTRUCTION

DESCRIPTION:
SUBMITTED FOR TYPE II - CITY DESIGN REVIEW

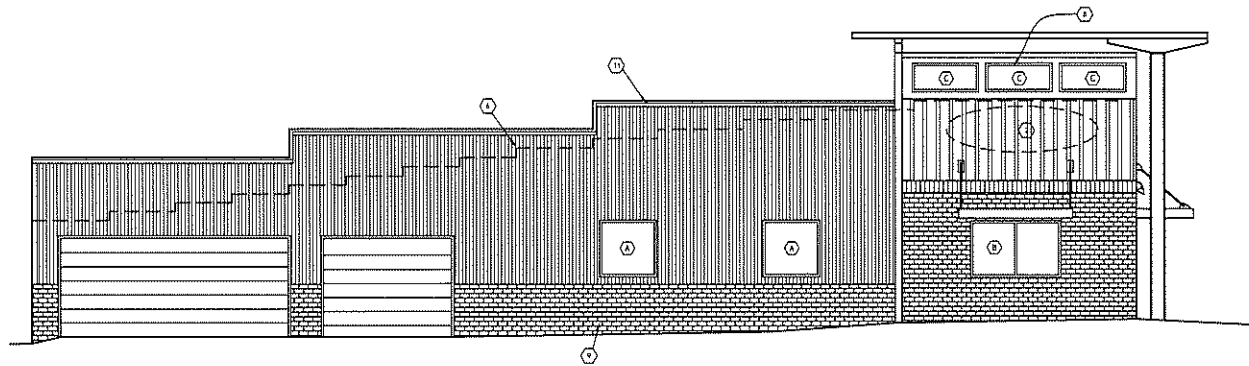
DATE: 7/25/21
JOB NUMBER:
2109

SHEET:

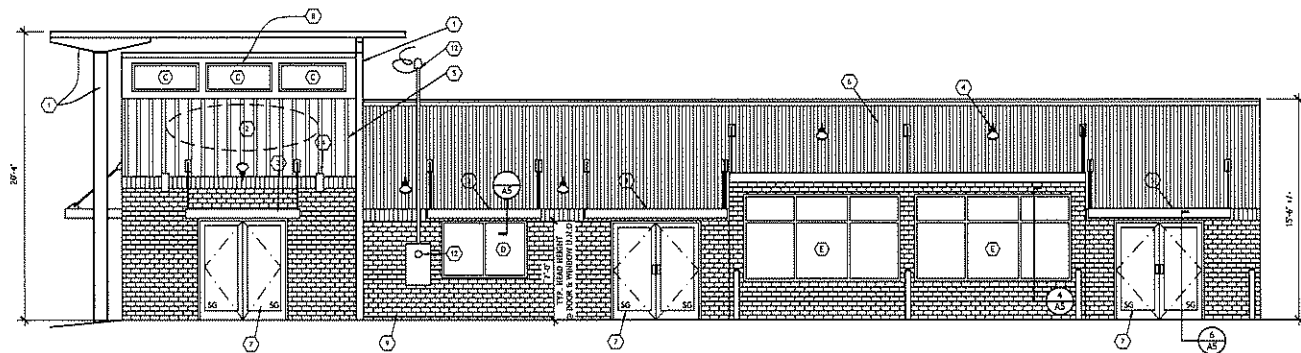
A2.1

ELEVATIONS

- ELEVATION KEYNOTES: (1)
1. METAL ROOF PURLINS - SEE STRUCT
 2. SIGN AND LIGHTING BY OWNER
 3. METAL BRACKETS W/ SURFACE MOUNT SOFFIT LIGHTS
 4. WALL LIGHTS (UP & DOWN AT TRILLES)
 5. 1/2" WIDE BOARD AND BATT SOING - PAINT DARK GRAY
 6. CORRUGATED METAL SIDING - LIGHT GRAY
 7. NEW STOREFRONT
 8. NON-INSULATED TRANSLUCENT TRANSOM WINDOWS
 9. RACE BRICK (CLASSIC DATED) WITH 2" RIGID INSUL BACKING
 10. RAMP WITH GALV PIPE RAIL - SEE DETAIL 2/AS
 11. EXTEND PALAPPE WALLS AS SHOWN
 12. DUSTING OVERHEAD ELECTRIC SERVICE R METER



1 SOUTH ELEVATION
1/4" = 1'-0"



2 EAST ELEVATION
1/4" = 1'-0"

Improvement to - 105 N Main Street
Want & Emery CPAs
Newberg Oregon

PRELIMINARY
NOT FOR CONSTRUCTION

DESCRIPTION
DRAWING FOR TIE-IN OFF DESIGN REVIEW

DATE
7/25/14

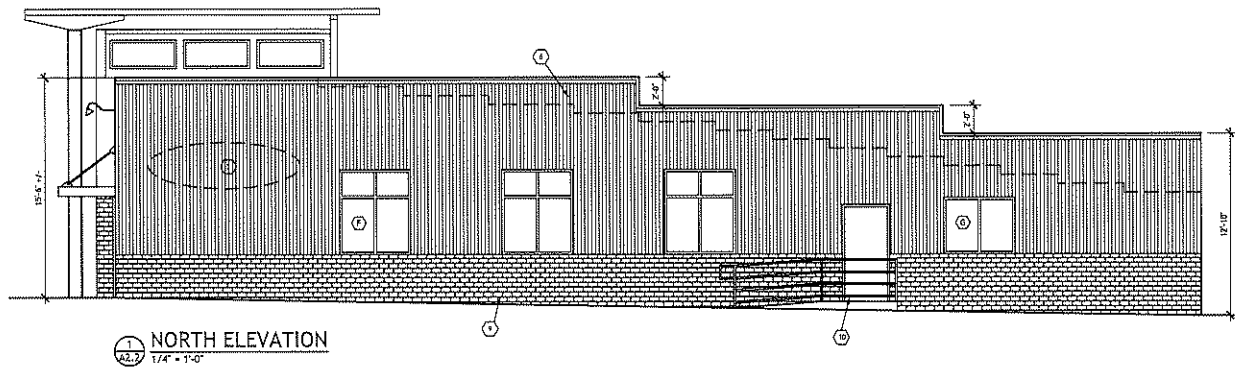
JOB NUMBER:
2109

SHEET:

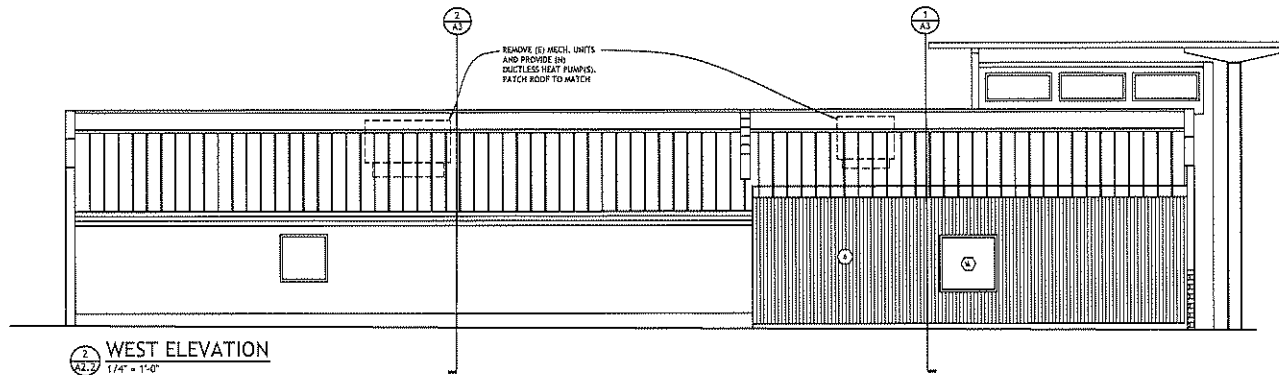
A2.2

ELEVATIONS

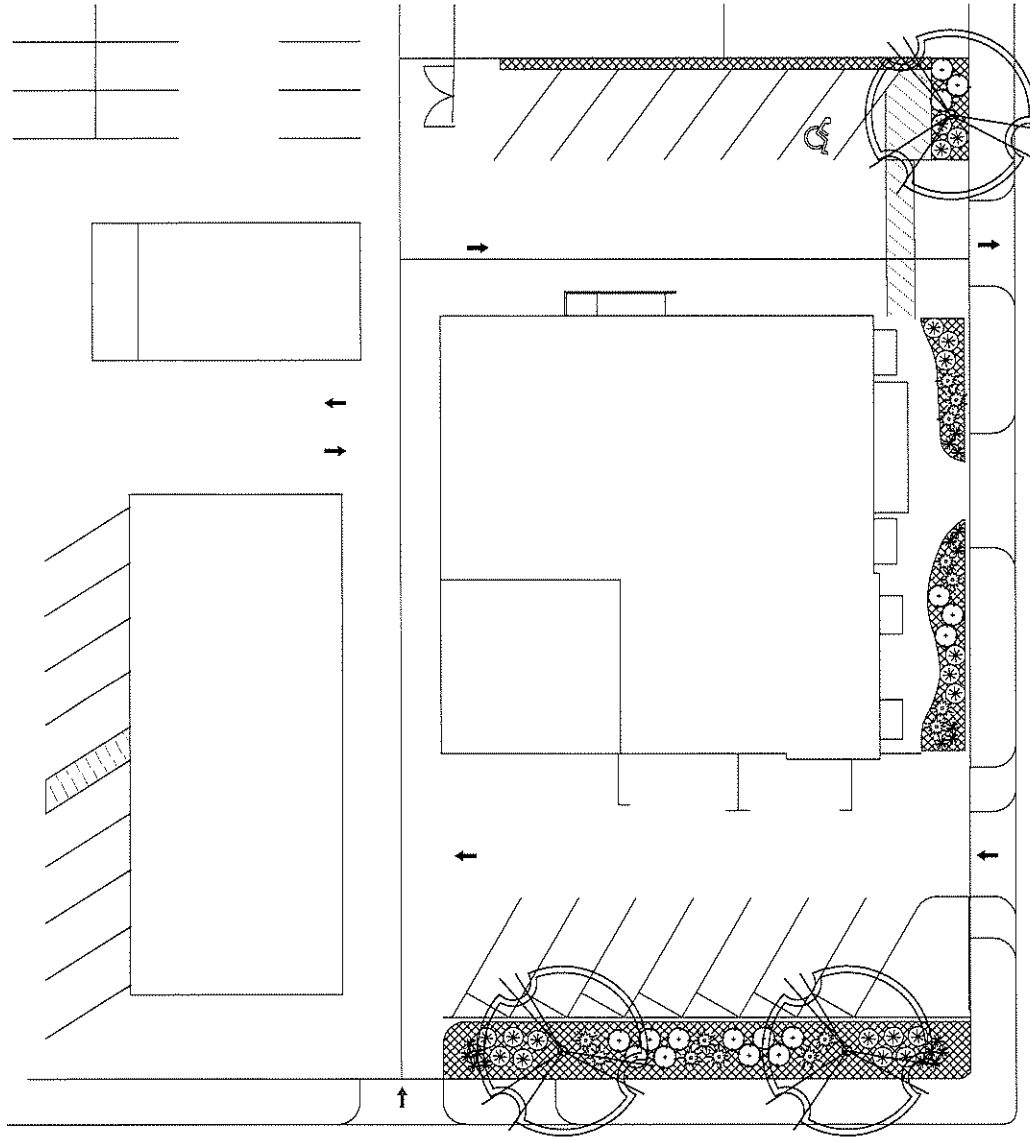
- ELEVATION REMARKS: (1-12)
1. METAL ROOF TRELLIS - SEE STRUCT
 2. SIGN AND LIGHTING BY OWNER
 3. METAL FINISHINGS W/ SURFACE MOUNT SOFFIT LIGHTS
 4. WALL LIGHTS UP & DOWN AT TRELLIS
 5. 12" WIDE BOARD AND BATT SIDING - PAINT DARK GRAY
 6. CORRUGATED METAL SIDING - LIGHT GRAY
 7. NEW STOREFRONT
 8. HIGH-INSULATED TRANSLUCENT TRANSLUX WINDOWS
 9. FACE BRICK (CLASSIC 1920) WITH 2" HIGH INSUL BACKING
 10. RAMP WITH GALLY PIPE RAIL - SEE DETAIL 3/A5
 11. EXTEND PARAPET WALLS AS SHOWN
 12. EXISTING OVERHEAD ELECTRIC SERVICE & METER



1 NORTH ELEVATION
A2.2
1/4" = 1'-0"



2 WEST ELEVATION
A2.2
1/4" = 1'-0"

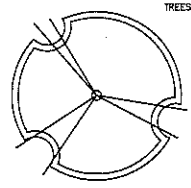


E 1ST STREET

N MAIN STREET

PLANT LEGEND:

SYMBOL	QTY.	LATIN NAME / Common Name	SIZE	SPACING
--------	------	--------------------------	------	---------



TREES				
3		MAGNOLIA VIRGINIANA 'JIM WILSON' Jim Wilson Sweet Bay Magnolia	2 inch cal.	As Shown

SHRUBS				
14		CALLISTEMON 'LITTLE JOHN' Little John Dwarf Bottle Brush	5 gal.	3' o.c.
19		PINUS MUGO 'PUMILIO' Dwarf Mugo Pine	5 gal.	3' o.c.
18		CISTUS X HYBRIDUS White Rockrose	5 gal.	4' o.c.

GROUNDCOVER				
123		ARCTOSTAPHYLOS UVA-URSI Kalmikowick	1 gal.	3' o.c. Triangular
19		HELICTOTRICHON SEMPERVIRENS Blue Oat Grass	1 gal.	2' o.c.

GENERAL NOTES:
 1. Contractor is to verify all plant quantities.
 2. Adjust plantings in the field as necessary.
 3. Project is to be irrigated by an automatic underground system, which will provide full coverage for all plants installed. System is to be design/ build by Landscape Contractor. Guarantee system for a minimum one year. Show drip systems as alternate bid only.
 4. All plants are to be fully foliated, well branched and true to form.
 5. Contractor is to notify Landscape Architect or Owner's Representative of any site changes or unforeseen conditions that may be detrimental to plant health, or cause future problems to any structural elements of the project.

LANDSCAPE PLAN

SCALE 1" = 10'-0"



NO.	DATE	REVISIONS



REGISTERED
LARRY W. OTTEN
 LANDSCAPE ARCHITECT
 3933 South Kelly Avenue, Suite B - Portland, OR 97229
 Phone: (503) 972-0311 - www.woatentia.com

IMPROVEMENT TO 105 N MAIN ST
WANT + EMERY CPAs
 NEWBERG, OR
 LANDSCAPE PLAN

DATE	7/16/2001
SCALE	NOTED
DRWN	CHECK'D
BY	BY
SHEET NO.	DI

L10
1 OF 1

OUTLINE SPECIFICATIONS PLANTING AND SEEDING.

GENERAL: All plants shall conform to all applicable standards of the latest edition of the "American Association of Nurserymen Standards", A.N.S.I. 200.1 - 1973. Most or exceed the regulations and laws of Federal, State, and County regulations, regarding the inspection of plant materials, certified as free from hazardous insects, diseases, and noxious weeds, and certified fit for sale in Oregon.

The apparent absence of the Specifications and Plans as to any detail, or the apparent omission from them of a detailed description concerning any point, shall be regarded as meaning that only the best general practice is to prevail and that only material and workmanship of first quality are to be used. All interpretations of these Specifications shall be made upon the basis above stated.

Landscape contractor shall perform a site visit prior to bidding to view existing conditions.

PERFORMANCE QUALITY ASSURANCE: Use adequate numbers of skilled workmen who are thoroughly trained and experienced in the necessary horticultural practices and who are completely familiar with the specified requirements and methods needed for the proper performance of the work of this section.

NOTIFICATION: Give Landscape Architect minimum of 2 days advance notice of times for inspections. Inspections of growing site does not preclude Landscape Architect's right of rejection of deficient materials of project site. Each plant failing to meet the above mentioned "Standards" or otherwise failing to meet the specified requirements as set forth shall be rejected and removed immediately from the premises by the Contractor and at his expense, and replaced with satisfactory plants or trees conforming to the specified requirements.

SUBSTITUTIONS: Only as approved by the Landscape Architect or the Owner's Representative.

GUARANTEE AND REPLACEMENT: All plant material shall be guaranteed from final acceptance for one full growing season or one year, whichever is longer. During this period the Contractor shall replace any plant material that is not in good condition and producing new growth (except that material damaged by severe weather conditions, due to Owner's negligence, normally unforeseen peculiarities of the planting site, or lost due to vandalism). Guarantee to replace, at no cost to Owner, unacceptable plant materials with plants of same variety, age, size and quality as plant originally specified. Conditions of guarantee on replacement plant shall be same as for original plant.

Landscape Contractor shall keep on site for Owner's Representative's inspection, all receipts for soil amendment and topsoil deliveries.

PROTECTION: Protect existing roads, sidewalks, and curbs, landscaping, and other features remaining as final work. Verify location of underground utilities prior to doing work. Repair and make good any damage to service lines, existing features, etc. caused by landscaping installation.

PLANT QUALITY ASSURANCE: Deliver direct from nursery. Maintain and protect roots of plant material from drying or other possible injury. Store plants in shade and protect them from weather immediately upon delivery, if not to be planted within four hours.

Nursery stock shall be healthy, well branched and rooted, formed true to variety and species, full foliaged, free of disease, injury, defects, insects, weeds, and weed roots. Trees shall have straight trunks, symmetrical tips, and have an intact angle leader. Any trees with double leaders will be rejected upon inspection. All plants: True to name, with one of each bundle or lot topped with the common and botanical name and size of the plants in accordance with standards of practice of the American Association of Nurserymen, and shall conform to the Standardized Stock Name, 1984 Edition.

Container grown stock: Small container-grown plants, furnished in removable containers, shall be well rooted to ensure healthy growth. Grow container plants in containers a minimum of one size prior to delivery, with roots filling container but not root bound. Bare root stock: Roots well-branched and fibrous. Bulbed and burtopped (B&B): Ball shall be of natural size to ensure healthy growth. Ball shall be firm and the burtop sound. No loose or matted ball will be acceptable.

TOPSOIL AND FINAL GRADES: Landscape Contractor is to supply and place 12" of topsoil in planting beds. Landscape Contractor is to verify with the General Contractor if the on-site topsoil is or is not conducive to proper plant growth. The topsoil shall be a sandy loam, free of all weeds and debris (limited to lawn or plant growth). Furnish soil analysis by a qualified soil testing laboratory stating percentages of organic matter, gradation of sand, silt and clay content, cation exchange capacity, cationic nutrient materials, pH, and plant nutrient content of the topsoil. Report suitability of topsoil for plant growth and recommended quantities of nitrogen, phosphorus and potash nutrients and soil amendments (including compost) to be added to produce satisfactory topsoil. If stockpiled topsoil on site is not conducive to proper plant growth, the Landscape Contractor shall report the required amount.

Landscaping shall include finished grades and even distribution of topsoil to meet planting requirements. Grades and slopes shall be as indicated. Planting bed grades shall be approximately 2" below adjacent walks, paving, finished grade lines, etc., to allow for bark application. Finish grading shall remove all depressions or low areas to provide positive drainage throughout the area.

PLANTING SPECIFICATIONS.

HERBICIDES: Prior to soil preparation, all areas showing any undesirable weed or grass growth shall be treated with Round-up in strict accordance with the manufacturer's instructions.

SOIL PREPARATION: Work all areas by retilling to a minimum depth of 8". Remove all stones (over 1 1/2" size), sticks, mortar, large clumps of vegetation, roots, debris, or extraneous matter turned up in working. Soil shall be of a homogeneous fine texture. Level, smooth and lightly compact areas to plus or minus .10 of required grades. In groundcover areas add 2" of compost (or as approved) and till in to the top 6" of soil.

PLANTING HOLE: Lay out all plant locations and excavate all soils from planting holes to 2 1/2 times the root ball or root system width. Loosen soil below bottom of plant hole. Dispose of any subsoil or debris from excavation. Check drainage of planting hole with water, and adjust any area showing drainage problems.

SOIL MIX: Prepare soil mix in each planting hole by mixing:
2 part native topsoil (no subsoil)
1 part compost (as approved)

Thoroughly mix in planting hole and add fertilizers at the following rates:
Small shrubs - 1/8 lb./ plant
Shrubs - 1/3 to 1/2 lb./ plant
Trees - 1/3 to 1 lb./ plant

FERTILIZER: For trees and shrubs use Commercial Fertilizer "A" Inorganic (5-4-3) with micro-nutrients and SDK slow releasing nitrogen.

PLANTING TREES AND SHRUBS: Plant upright and face to give best appearance or relationship to adjacent plants and structures. Place 6" minimum, lightly compacted layer of prepared planting soil under root system. Loosen and remove wire binding and burtop from top 1/2 of root balls. Cut off cleanly all broken or frayed roots, and spread roots out. Stagger Plants in rows. Backfill planting hole with soil mix while working each layer to eliminate voids.

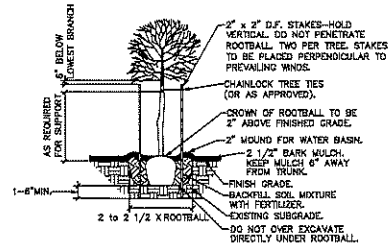
When approximately 2/3 full, water thoroughly, then allow water to soak away. Place remaining backfill and dish surface around plant to hold water. Final grade should keep root ball slightly above surrounding grade, not to exceed 1". Water again until no more water is absorbed. Initial watering by irrigation system is not allowed.

STAKING OF TREES: Stake or guy all trees. Stakes shall be 2" X 2" (nom.) quality tree stakes with point. They shall be of Douglas Fir, clear and sturdy. Stake to be minimum 2/3 the height of the tree, not to exceed 8'-0". Drive stakes firmly 1'-6" below the planting hole. Tree ties for deciduous trees shall be "Chainlock" (or better). For Evergreen trees use "Oro-Strut" Tree Ties (or a reinforced rubber hose and guy wires) with guy wires of a minimum 2 strand twisted 12 ga. wire. Staking and guying shall be loose enough to allow movement of tree while holding tree upright.

MULCHING OF PLANTINGS: Mulch planting areas with dark, aged, medium grain fir or hemlock bark (aged at least 5 months) to a depth of 2" in ground cover areas and 2 1/2" in shrub beds. Apply evenly, not higher than grade of plant as it come from the nursery, and rake to a smooth finish. Water thoroughly, then hose down planting area with fine spray to wash leaves of plants.

GENERAL MAINTENANCE: Protect and maintain work described in these specifications against all defects of materials and workmanship, through final acceptance. Replace plants not in normal healthy condition of the end of this period. Water, weede, cultivate, mulch, reset plants to proper grade or upright position, remove dead wood and do necessary standard maintenance operations. Irrigate when necessary to avoid drying out of plant materials, and to promote healthy growth.

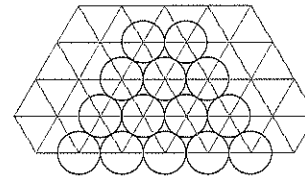
CLEAN-UP: At completion of each division of work all extra material, supplies, equipment, etc. shall be removed from the site. All walks, paving, or other surfaces shall be swept clean, mulch areas shall have debris removed and any soil cleaned from surfaces. All areas of the project shall be kept clean, orderly and complete.



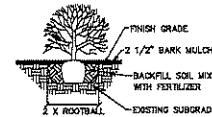
NOTE: ANY PROPOSED CHANGES TO OUR SPECIFICATION OR DETAIL SHOULD BE APPROVED BY THE LANDSCAPE ARCHITECT. LIKEWISE, IN ACCORDANCE WITH BEST PRACTICES OF LOCAL LANDSCAPE INSTALLATION, SHOULD THE LANDSCAPE CONTRACTOR FIND A PREFERRED ALTERNATE METHOD, THE LANDSCAPE ARCHITECT MAY BE SO ADMISED.

GENERAL DECIDUOUS TREE PLANTING DETAIL
NOT TO SCALE

NOTE: PLANT GROUNDCOVERS ACCORDING TO "SHRUB PLANTING DETAIL," THIS SHEET.



GROUNDCOVER LAYOUT DETAIL
NOT TO SCALE



SHRUB PLANTING DETAIL
NOT TO SCALE

NO.	DATE	REVISIONS



OITEN + ASSOCIATES
LANDSCAPE ARCHITECTURE
3933 South Kelly Avenue, Suite B - Portland, OR 97239
Phone: (503) 972-0311 - www.oiten.com

IMPROVEMENT TO 105 N MAIN ST
WANT + EMERY CPA&E
NEWBERG, OR
LANDSCAPE PLAN

DATE	7/15/2021	
SCALE	NTS	
DRAWN BY	DH	DECOND
CHECKED BY	DH	DH
SHEET NO	L20	
	2 OF 2	



First American

First American Title Insurance Company

775 NE Evans Street
McMinnville, OR 97128
Phn - (503)376-7363
Fax - (866)800-7294

YAMHILL COUNTY TITLE UNIT

FAX (866)800-7294

Title Officer: Larry Ball
(503)376-7363
lball@firstam.com

LOT BOOK SERVICE

Brian Williamson

Order No.: 1032-3674369
August 02, 2021

Attn:
Phone No.: - Fax No.:
Email:

Re:

Fee: \$300.00

We have searched our Tract Indices as to the following described property:

The land referred to in this report is described in Exhibit A attached hereto.

and as of July 29, 2021 at 8:00 a.m.

We find that the last deed of record runs to

Balding Buffalo LLC

We find the following apparent encumbrances within ten (10) years prior to the effective date hereof:

1. Taxes for the fiscal year 2021-2022 a lien due, but not yet payable.
2. The rights of the public in and to that portion of the premises herein described lying within the limits of streets, roads and highways.
3. Easement and Equitable Servitudes, including terms and provisions thereof.
Recorded: November 04, 2020 as Instrument No. 202019847, Deed and Mortgage Records

4. Consent to Judgment, Yamhill County Circuit Court for the State of Oregon in case 21CV18954 and the terms and conditions thereof:

Between: State of Oregon, by and through its Department of Environmental Quality

And: Balding Buffalo, LLC

Recording Information: May 19, 2021 as Instrument No. 202110257, Deed and Mortgage Records

We have also searched our General Index for Judgments and State and Federal Liens against the Grantee(s) named above and find:

NONE

We find the following unpaid taxes and city liens:

THIS IS NOT a title report since no examination has been made of the title to the above described property. Our search for apparent encumbrances was limited to our Tract Indices, and therefore above listings do not include additional matters which might have been disclosed by an examination of the record title. We assume no liability in connection with this Lot Book Service and will not be responsible for errors or omissions therein. The charge for this service will not include supplemental reports, rechecks or other services.

Exhibit "A"

Real property in the County of Yamhill, State of Oregon, described as follows:

PARCEL 1:

LOTS 1 AND 2 AND THE SOUTH HALF OF LOT 3, BLOCK 12, HURLEY AND LARGE'S ADDITION TO NEWBERG, IN YAMHILL COUNTY, OREGON.

PARCEL 2:

THE NORTH HALF OF LOT 3, BLOCK 12, HURLEY AND LARGE'S ADDITION TO NEWBERG IN YAMHILL COUNTY, OREGON.



First American

First American Title Insurance Company
775 NE Evans Street
McMinnville, OR 97128

Illegal Restrictive Covenants

Please be advised that any provision contained in this document, or in a document that is attached, linked, or referenced in this document, that under applicable law illegally discriminates against a class of individuals based upon personal characteristics such as race, color, religion, sex, sexual orientation, gender identity, familial status, disability, national origin, or any other legally protected class, is illegal and unenforceable by law.



After recording return to:
Balding Buffalo LLC
22007 SW Scholls Sherwood Rd.
Sherwood, OR 97140

Until a change is requested all tax
statements shall be sent to the
following address:
Balding Buffalo LLC
22007 SW Scholls Sherwood Rd.
Sherwood, OR 97140

File No.: 1032-3674369 (kd)
Date: February 05, 2021

THIS SPACE RESERVED FOR RECORDER'S USE

Yamhill County Official Records **202110217**
DMR-DDMR
Stn=3 SUTTONS **05/19/2021 10:06:00 AM**
3Pgs \$15.00 \$11.00 \$5.00 \$60.00 **\$91.00**

I, Brian Van Bergen, County Clerk for Yamhill County, Oregon, certify
that the instrument identified herein was recorded in the Clerk
records.

Brian Van Bergen - County Clerk

3674369
FIRST AMERICAN

STATUTORY WARRANTY DEED

J.L. Investment, LLC, an Oregon Limited Liability Company, Grantor, conveys and warrants to **Balding Buffalo LLC**, Grantee, the following described real property free of liens and encumbrances, except as specifically set forth herein:

See Legal Description attached hereto as Exhibit A and by this reference incorporated herein.

Subject to:

1. Covenants, conditions, restrictions and/or easements, if any, affecting title, which may appear in the public record, including those shown on any recorded plat or survey.

The true consideration for this conveyance is **\$500,000.00**. (Here comply with requirements of ORS 93.030)

APN: 48898

Statutory Warranty Deed
- continued

File No.: 1032-3674369 (kd)

EXHIBIT A

LEGAL DESCRIPTION: Real property in the County of Yamhill, State of Oregon, described as follows:

PARCEL 1:

LOTS 1 AND 2 AND THE SOUTH HALF OF LOT 3, BLOCK 12, HURLEY AND LARGE'S ADDITION TO NEWBERG, IN YAMHILL COUNTY, OREGON.

PARCEL 2:

THE NORTH HALF OF LOT 3, BLOCK 12, HURLEY AND LARGE'S ADDITION TO NEWBERG IN YAMHILL COUNTY, OREGON.

Yamhill County Official Records

202110257

CCL-JCCL

Str=3 SUTTONS

41Pgs \$205.00 \$11.00

05/19/2021 12:33:00 PM

\$216.00

I, Brian Van Bergen, County Clerk for Yamhill County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.

Brian Van Bergen - County Clerk


RECORDING REQUESTED BY:
First American Title Insurance Company

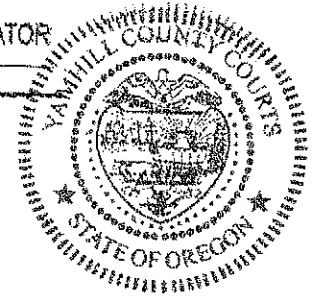
AND WHEN RECORDING MAIL TO:
James C Brown & Associates, P. C
P.O. Box 31
P.O. Box 31

Escrow No. 1032-3674369 (kd)

CONSENT JUDGMENT

ACCOMMODATION RECORDING ONLY; DOCUMENT NOT REVIEWED.

CERTIFIED TO BE A TRUE
COPY OF THE ORIGINAL
TRIAL COURT ADMINISTRATOR
BY 



IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF YAMHILL

STATE OF OREGON, ex rel.
RICHARD WHITMAN, DIRECTOR
DEPARTMENT OF ENVIRONMENTAL
QUALITY,

Plaintiff,

v.

BALDING BUFFALO, LLC,

Defendant.

Case No. 21CV18954

CONSENT JUDGMENT
General Judgment

ORS 20.140 - State fees deferred at filing

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1 1. Purpose

2 This Consent Judgment is filed simultaneously with and for the purpose of resolving the
3 underlying complaint by the State of Oregon. Plaintiff State of Oregon *ex rel.* the Director of the
4 Department of Environmental Quality (“DEQ”) and BALDING BUFFALO, LLC (“Defendant”)
5 (collectively, the “Parties”) desire to resolve this action without litigation and have agreed to entry
6 of the Consent Judgment without admission or adjudication of any issue of fact or law. The
7 mutual objectives of the Parties are: (a) to protect public health, safety, and welfare and the
8 environment in accordance with ORS 465.200 through 465.410, and regulations promulgated
9 thereto, and (b) to facilitate productive reuse of property; and (c) to provide Defendant with
10 protection from potential liabilities in accordance with applicable law.

11 2. Stipulations and Findings

12 A. Defendant stipulates:

- 13 (1) To entry of this Consent Judgment;
14 (2) To perform and comply with all provisions of this Consent Judgment; and
15 (3) To not litigate, in any proceeding brought by DEQ to enforce this Consent
16 Judgment or to assess penalties for noncompliance with this Consent Judgment, any issue other
17 than Defendant’s compliance with this Consent Judgment.

18 B. DEQ and Defendant stipulate:

- 19 (1) For the purposes of this Consent Judgment, the “Facility,” as defined in ORS
20 465.200(13), means: (a) the Property; and (b) the full extent of existing known or unknown
21 contamination by hazardous substances of any media on, above, or below the Property, or that has
22 migrated, might have migrated, or hereafter migrates to anywhere from the Property.
23 (2) For the purposes of this Consent Judgment, “Matters Addressed” means all
24 investigation, removal, and remedial actions taken or to be taken and all remedial action costs
25 incurred or to be incurred at or in connection with a release of hazardous substances at the Facility.
26 (3) For the purposes of this Consent Judgment, “Existing Hazardous Substance

1 Releases” means: (a) any release of hazardous substances, as defined in ORS 465.200, at the
2 Facility existing as of the date of Defendant’s acquisition of ownership or operation of the
3 Property; (b) any spill or release of oil or hazardous material, as defined in ORS 466.605, at the
4 Facility existing as of the date of Defendant’s acquisition of ownership or operation of the
5 Property; and (c) the entry of oil into the waters of the state, as defined in ORS 468B.300, from the
6 Facility before the date of Defendant’s acquisition of ownership or operation of the Property.

7 C. DEQ finds, and Defendant neither admits nor denies:

8 (1) BALDING BUFFALO, LLC, is an Oregon limited liability corporation.

9 (2) The property proposed for acquisition by Defendant, currently owned by
10 J.L. Investments, LLC, is an approximately 0.38 acre site located at 105 N Main Street, Newberg,
11 Yamhill County, Oregon, in Section 19 NE, Township 3S, Range 2W, Tax Lots 5400 & 5500, of
12 the Willamette Meridian (the “Property”). The location of the Property is illustrated generally in
13 the Vicinity Map, Exhibit A to this Consent Judgment. The legal description of the Property is set
14 forth in Exhibit B to this Consent Judgment. All attachments are incorporated into this Consent
15 Judgment by this reference.

16 (3) The Property was used for residential and commercial purposes since the 1890s
17 and up to five buildings were present on the property. Historic uses include residential dwellings,
18 carpentry building, meat store, furniture repair store, bowling alley, auto repair services and a
19 service station. In approximately 1951, the current building was constructed. During the ensuing
20 70 years, the current building has housed numerous businesses including: a battery service store, a
21 plumbing building, woodworking academy, winery, trailer rental facility, steel fabrication and
22 welding supplies store.

23 (4) These historic uses resulted in impacts to soil and groundwater primarily at the
24 southern end of Tax Lot 5400. Contamination from off-site sources has also migrated to the
25 property. Lead contamination is present inside the building at two discrete locations. Gasoline
26 range hydrocarbons are present in the soil at boring location B03, along the southern boundary

1 from the historic service station operations the exceed residential risk-based cleanup levels (RBCs)
2 for vapor intrusion into buildings, as well as residential and occupational leaching to groundwater
3 RBCs. Groundwater from B03 had detections of 1,2-dichloroethane, gasoline range hydrocarbons
4 and arsenic that exceed groundwater-related RBCs for ingestion and inhalation. These
5 contaminants are “hazardous substances” within the meaning of ORS 465.200(16). The presence
6 of hazardous substances at the Property constitutes a “release” of hazardous substances within the
7 meaning of ORS 465.200(22), and makes the Property a “facility” within the meaning of
8 ORS 465.200(13).

9 (5) Pursuant to ORS 465.255(1)(b), Defendant could become liable to DEQ and
10 other persons for releases of hazardous substances at or from the Property by becoming the owner
11 or operator of the Property with actual or constructive knowledge of the releases. On December
12 19, 2019, Defendant applied to DEQ for a “prospective purchaser” agreement under ORS 465.327
13 and agreed to reimburse DEQ’s costs of technical review and preparation. This Consent Judgment
14 is intended to protect Defendant from potential liability for pre-acquisition releases of hazardous
15 substances at or from the Property, in return for Defendant undertaking certain obligations, as
16 described in this Consent Judgment. In determining to propose this Consent Judgment, DEQ
17 considered reasonably anticipated future land uses at the Property and surrounding properties and
18 consulted with Doug Rux, Community Development Director, City of Newberg. This Consent
19 Judgment is entered into pursuant to ORS 465.325 and ORS 465.327.

20 (6) Pursuant to ORS 465.320, on October 1, 2020, DEQ published notice of a
21 proposed remedial action and provided opportunity for public comment. Comments received on
22 the proposed remedial action were considered by DEQ, as shown in the administrative record.

23 (7) On March 1, 2021, DEQ published notice of this proposed Consent Judgment
24 and provided opportunity for public comment in accordance with ORS 465.320(1) and
25 465.325(4)(d). The comment period ended April 2, 2021. No public comments were received.

26 (8) Consistent with ORS 465.327(1):

- 1 (a) Defendant is a “person” within the meaning of ORS 465.200(21);
2 (b) Defendant is not currently liable under ORS 465.255, 466.640, or
3 468B.310 for the Existing Hazardous Substance Releases;
4 (c) Removal or remedial action is necessary at the Property to protect human
5 health or the environment;
6 (d) Defendant’s ownership and operation of the Property will not cause,
7 contribute to, or exacerbate existing contamination, increase health risks, or interfere with remedial
8 measures at the Property; and
9 (e) A substantial public benefit will result from this Consent Judgment.
10 (9) Based on the administrative record, the Director of DEQ determines that: (a)
11 the release from liability set forth in Subsection 5.B satisfies the criteria set forth in
12 ORS 465.327(1); (b) the covenant not to sue set forth in Subsection 5.D satisfies the criteria set
13 forth in ORS 465.325(7)(a) and (d); and (c) this Consent Judgment and Defendant’s commitments
14 under this Consent Judgment will expedite removal or remedial action, minimize litigation, be
15 consistent with rules adopted under ORS 465.400, and be in the public interest.

16 3. Work to be Performed

17 A. Remedial Design and Remedial Action

18 Defendant will perform the remedial action for the Site in accordance with the terms and
19 schedules set forth in the DEQ approved Remedial Action Scope of Work (“SOW”) attached to
20 and incorporated by reference into this Consent Judgment as Exhibit D.

21 B. Modification of SOW or Related Work Plans

22 (1) If DEQ determines that modification to the work specified in the SOW and/or in
23 work plans developed pursuant to the SOW is necessary in order to implement or maintain the
24 effectiveness of the remedy set forth in the ROD, DEQ may require that such modification be
25 incorporated in the SOW and/or such work plans; provided, any such modification may be
26 required pursuant to this paragraph only to the extent that the modification is consistent with the

1 scope of the remedy selected in the ROD.

2 (2) Subject to dispute resolution under Subsection 7.M., Defendant will modify the
3 SOW and/or work plans as required by DEQ and implement any work required by the
4 modifications. Before invoking dispute resolution under Subsection 7.M., Defendant and DEQ will
5 make a good-faith effort to resolve any dispute regarding DEQ-requested modifications by
6 informal discussions for no more than 30 days following notice from DEQ of a requested
7 modification.

8 C. Additional Measures

9 Defendant may elect at any time during the term of this Consent Judgment to undertake
10 measures, beyond those required under this Consent Judgment and the SOW, necessary to address
11 the release or threatened release of hazardous substances at the Property. Such additional
12 measures are subject to prior approval by DEQ. DEQ's approval will be granted if DEQ
13 determines that the additional measures are consistent with the remedial action objectives in the
14 ROD and will not threaten human health or the environment.

15 D. Site Restrictions and Periodic Reviews

16 (1) On November 4, 2020, J.L. Investments recorded with the County Clerk,
17 Yamhill County, the Easement and Equitable Servitude attached to this Consent Judgment as
18 Exhibit C. J.L. Investments provided DEQ a file-stamped copy of the Easement and Equitable
19 Servitude. The Easement and Equitable Servitude, which pertains to Tax Lot 5400 contains:
20 Groundwater Use Restrictions and a residential use restriction adjacent to the southern boundary
21 the Property.

22 (2) Property subject to the Easement and Equitable Servitude may be freely
23 alienated at any time after recording, provided the deed or other instrument of conveyance refers to
24 or incorporates the Easement and Equitable Servitude.

25 (3) Any deed, title, or other instrument of conveyance regarding the Property must
26 contain a notice that the Property is the subject of this Consent Judgment. Defendant, in any such

1 deed or conveyance, must also reserve such access (by easement, right-of-way, or otherwise) as
2 might be necessary to carry out Defendant's obligations under this Consent Judgment.

3 (4) At least once every five years, DEQ will review the remedy to ensure that the
4 Property remains protective of public health, safety, and welfare and the environment. Periodic
5 reviews will include evaluation of monitoring data, progress reports, inspection and maintenance
6 reports, land and water uses, compliance with institutional controls, and any other relevant
7 information.

8 4. General Provisions

9 A. Project Managers

10 (1) To the extent possible, all reports, notices, and other communications required
11 under or relating to this Consent Judgment must be directed to:

12 <u>DEQ Project Manager</u>	<u>Defendant Project Manager</u>
13	
14 Bryn Thoms	James C. Brown
15 Department of Environmental Quality	James C Brown & Assoc.
16 Western Region	P.O. Box 31
17 165 East 7th Ave., Suite 100	Marylhurst, OR 97036
18 Eugene, OR 97401-3409	Phone: 503-557-2245
19 Phone: 541-686-7839	Email: jcbrownpc@msn.com
20 Email: Bryn.Thoms@state.or.us	

21 (2) The Project Managers or their respective designees must be available and have the
22 authority to make day-to-day decisions necessary to complete the work described under Section 3.

23 B. Supervising Contractor

24 (1) All aspects of the work to be performed by Defendant pursuant to this Consent
25 Judgment must be performed under the direction and supervision of a qualified employee or
26 contractor having experience in hazardous substance remediation and knowledge of applicable
state and federal laws, regulations, and guidance.

1 (2) Before initiation of remedial design work for the Property, Defendant will notify
2 DEQ in writing of the name, title, and qualifications of any proposed supervising contractor. DEQ
3 may for good cause disapprove the proposed contractor. In the event of such disapproval, DEQ
4 will notify Defendant in writing of the reasons for its disapproval within 14 days of receipt of the
5 initial notice from Defendant. Defendant, within 14 days of receiving DEQ's notice of disapproval,
6 will notify DEQ of the name, title, and qualifications of an alternate supervising contractor, subject
7 to DEQ's right to disapprove under the terms and schedule specified above. DEQ approves Maul
8 Foster Alongi, Inc, as a qualified contractor for Defendant for purposes of this Consent Judgment.

9 (3) If, during the course of work required under this Consent Judgment, Defendant
10 proposes to change its supervising contractor, Defendant will notify DEQ in accordance with the
11 provisions of the preceding paragraph. DEQ may disapprove such contractor, under the terms and
12 schedule specified in the preceding paragraph.

13 C. DEQ Approvals

14 (1) Where DEQ review and approval is required for any plan or activity under this
15 Consent Judgment, Defendant may not proceed to implement the plan or activity prior to DEQ
16 approval. Any DEQ delay in granting or denying approval correspondingly extends the time for
17 completion by Defendant. Prior approval is not required in emergencies, provided Defendant
18 notifies DEQ immediately after the emergency and evaluates the impact of its actions.

19 (2) After review of any plan, report, or other item required to be submitted for DEQ
20 approval under this Consent Judgment, DEQ will: (a) approve the submission in whole or in part;
21 or (b) disapprove the submission in whole or in part, and notify Defendant of its deficiencies
22 and/or request modifications to cure the deficiencies.

23 (3) DEQ approvals, rejections, or identification of deficiencies will be given in
24 writing within the time specified in the SOW or as soon as practicable, and will state DEQ's
25 reasons with reasonable specificity.

26 (4) In the event of DEQ disapproval or request for modification of a submission,

1 Defendant will, within 30 days of receipt of the DEQ notice or such longer time as may be
2 specified in the notice, either correct the deficiencies and resubmit the revised report or other item
3 for approval, or invoke dispute resolution under Subsection 4.M.

4 (5) In the event of two deficient submittals of the same deliverable that are deficient
5 for the same reasons due to Defendant's failure in good faith to cure the original deficiency, DEQ
6 may modify the submission to cure the deficiency.

7 (6) In the event of approval or modification of a submission by DEQ, Defendant
8 will implement the action(s) required by the plan, report, or other item, as so approved or
9 modified.

10 D. Access to Property

11 (1) Defendant will allow DEQ to enter all portions of the Property owned by or
12 under the control of Defendant at all reasonable times for the purpose of overseeing Defendant's
13 performance under this Consent Judgment, including but not limited to: inspecting records relating
14 to work under this Consent Judgment; conducting such tests and taking such samples as DEQ
15 deems necessary, verifying data submitted to DEQ by Defendant; conducting periodic review; and
16 using camera, sound recording, or other recording equipment. DEQ will make available to
17 Defendant, upon Defendant's request, any photographs or recorded or videotaped material taken.

18 (2) Defendant will seek to obtain access to property not owned or controlled by
19 Defendant as necessary to perform the work required in this Consent Judgment, including access
20 by DEQ for purposes described in Paragraph 4.D.(1). DEQ may use its statutory authority to
21 obtain access to property on behalf of Defendant if DEQ determines that access is necessary and
22 that Defendant has exhausted all good faith efforts to obtain access.

23 E. Records

24 (1) In addition to those reports and documents specifically required under this
25 Consent Judgment, Defendant will provide to DEQ, within 10 days of DEQ's written request,
26 copies of Quality Assurance/Quality Control (QA/QC) memoranda and audits, raw data, final

1 plans, task memoranda, field notes (not made by or at the direction of Defendant's attorney), and
2 laboratory analytical reports relating to the work to be performed under this Consent Judgment.

3 (2) Defendant will preserve all records and documents in possession or control of
4 Defendant or its employees, agents, or contractors that relate in any way to activities under this
5 Consent Judgment for at least five years after certification of completion under Section 9. Upon
6 DEQ's request, Defendant will provide to DEQ, or make available for copying by DEQ, copies of
7 non-privileged records. For a period of 10 years after certification of completion, Defendant will
8 provide DEQ 60 days notice before destruction or other disposal of such records or documents.
9 Ten years after certification of completion, Defendant has no further obligation to preserve
10 documents or records.

11 (3) Subject to Paragraph 4.E.(4), Defendant may assert a claim of confidentiality
12 under the Oregon Public Records Law regarding any documents or records submitted to or copied
13 by DEQ pursuant to this Consent Judgment. DEQ will treat documents and records for which a
14 claim of confidentiality has been made in accordance with ORS 192.410 through 192.505. If
15 Defendant does not make a claim of confidentiality at the time the documents or records are
16 submitted to or copied by DEQ, the documents or records may be made available to the public
17 without notice to Defendant.

18 (4) Defendant will identify to DEQ (by addressor-addressee, date, general subject
19 matter, and distribution) any document, record, or item withheld from DEQ on the basis of
20 attorney-client or attorney work product privilege, except to the extent that such identifying
21 information is itself subject to a privilege. Attorney-client or work product privilege may not be
22 asserted with respect to any records required to be submitted under Paragraph 4.E.(1). DEQ
23 reserves its rights under law to obtain documents DEQ asserts are improperly withheld by
24 Defendant.

25 F. Notice and Samples

26 (1) Defendant will make every reasonable effort to notify DEQ of any excavation,

1 drilling, sampling, or other fieldwork to be conducted under this Consent Judgment at least five
2 working days before such activity, but in no event less than 24 hours before such activity. Upon
3 DEQ's verbal request, Defendant will make every reasonable effort to provide a split or duplicate
4 sample to DEQ or allow DEQ to take a split or duplicate of any sample taken by Defendant while
5 performing work under this Consent Judgment. DEQ will provide Defendant with copies of all
6 analytical data from such samples as soon as practicable.

7 (2) If DEQ conducts any sampling or analysis in connection with this Consent
8 Judgment, DEQ will, except in an emergency, make every reasonable effort to notify Defendant of
9 any excavation, drilling, sampling, or other fieldwork at least 72 hours before such activity. Upon
10 Defendant's verbal request, DEQ will make every reasonable effort to provide a split or duplicate
11 sample to Defendant or allow Defendant to take a split or duplicate of any sample taken by DEQ
12 and will provide Defendant with copies of all analytical data for such samples. Defendant will
13 provide DEQ with copies of all analytical data from such samples as soon as practicable.

14 G. Quality Assurance

15 (1) Defendant will conduct all sampling, sample transport, and sample analysis in
16 accordance with the QA/QC provisions approved by DEQ as part of the work plan. All plans
17 prepared and work conducted as part of this Consent Judgment must be consistent with DEQ's
18 *Environmental Cleanup Quality Assurance Policy* (DEQ10-LQ-0063-QAG). Defendant will make
19 every reasonable effort to ensure that each laboratory used by Defendant for analysis performs
20 such analyses in accordance with such provisions.

21 (2) If DEQ conducts sampling or analysis in connection with this Consent
22 Judgment, DEQ will conduct sampling, sample transport, and sample analysis in accordance with
23 the QA/QC provisions of the approved work plan. Upon written request, DEQ will provide
24 Defendant with copies of DEQ's records regarding such sampling, transport, and analysis.

25 H. Progress Reports

26 (1) Subject to ORS 465.315(3), all activities under this Consent Judgment must be

1 performed in accordance with all applicable federal, state, and local laws.

2 (2) All activities under this Consent Judgment must be performed in accordance
3 with any applicable federal, state, and local laws related to archeological objects and sites and their
4 protection. If archeological objects or human remains are discovered during any investigation,
5 removal, or remedial activity at the Property, Defendant will, at a minimum: (a) stop work
6 immediately in the vicinity of the find; (b) provide any notifications required by ORS 97.745 and
7 ORS 358.920; (c) notify the DEQ Project Manager within 24 hours of the discovery; and (d) use
8 best efforts to ensure that Defendant and its employees, contractors, counsel, and consultants keep
9 the discovery confidential, including but not limited to refraining from contacting the media or any
10 third party or otherwise sharing information regarding the discovery with any member of the
11 public. Any project delay caused by the discovery of archeological object or human remains is a
12 Force Majeure under Subsection 4.L.

13 I. Other Applicable Laws

14 (1) DEQ will submit to Defendant a monthly invoice of costs on or after January 1,
15 2020 in connection with development and approval of this Consent Judgment and any activities
16 related to the oversight and periodic review of Defendant's implementation of this Consent
17 Judgment. Each invoice must include a summary of costs billed to date.

18 (2) DEQ oversight costs payable by Defendant include direct and indirect costs.
19 Direct costs include site-specific expenses, DEQ contractor costs, and DEQ legal costs actually and
20 reasonably incurred by DEQ under ORS 465.200 *et seq.* DEQ's direct cost summary must include a
21 Land Quality Division ("LQD") direct labor summary showing the persons charging time, the
22 number of hours, and the nature of work performed. Indirect costs include those general
23 management and support costs of DEQ and of the LQD allocable to DEQ oversight under this
24 Consent Judgment and not charged as direct, site-specific costs. Indirect charges are based on actual
25 costs and applied as a percentage of direct personal services costs. DEQ will maintain work logs,
26 payroll records, receipts, and other documents to document work performed and expenses incurred

1 under this Consent Judgment and, upon request, will provide copies of such records to Defendant.

2 (3) Within 30 days of receipt of DEQ's invoice, Defendant will pay the amount of
3 costs billed by check payable to the "State of Oregon, Hazardous Substance Remedial Action
4 Fund," or invoke dispute resolution under Subsection 4.M. After 30 days, any unpaid amounts that
5 are not the subject of pending dispute resolution, or that have been determined owing after dispute
6 resolution, become a liquidated debt collectible under ORS 293.250 or other applicable law.

7 (4) Defendant will pay simple interest of 9% per annum on the unpaid balance of
8 any DEQ oversight costs, which interest will begin to accrue at the end of the 30-day payment
9 period, unless dispute resolution has been invoked. Interest on any amount disputed under
10 Subsection 4.M will begin to accrue 30 days from final resolution of any such dispute.

11 J. Reimbursement of DEQ Costs

12 (1) If any event occurs that is beyond Defendant's reasonable control and that
13 causes or might cause a delay or deviation in performance of the requirements of this Consent
14 Judgment despite Defendant's reasonable efforts ("Force Majeure"), Defendant will promptly,
15 upon learning of the event, notify DEQ's Project Manager verbally of the cause of the delay or
16 deviation, its anticipated duration, the measures that have been or will be taken to prevent or
17 minimize the delay or deviation, and the timetable by which Defendant proposes to carry out such
18 measures. Defendant will confirm in writing this information within five working days of the
19 verbal notification. Failure to comply with these notice requirements precludes Defendant from
20 asserting Force Majeure for the event and for any additional delay caused by the event.

21 (2) If Defendant demonstrates to DEQ's satisfaction that the delay or deviation has
22 been or will be caused by Force Majeure, DEQ will extend times for performance of related
23 activities under this Consent Judgment as appropriate. Circumstances or events constituting Force
24 Majeure might include but not be limited to acts of God, unforeseen strikes or work stoppages,
25 unanticipated site conditions, fire, explosion, riot, sabotage, war, and delays in receiving a
26 governmental approval or permit. Normal inclement weather, increased cost of performance or

1 changed business or economic circumstances may not be considered Force Majeure.

2 K. Force Majeure

3 (1) Except as provided in Paragraph 4.M.(4), if Defendant disagrees with DEQ
4 regarding any matter relating to this Consent Judgment, Defendant will promptly notify DEQ in
5 writing of its objection. DEQ and Defendant then will make a good-faith effort to resolve the
6 disagreement within 14 days of Defendant's written objection. At the end of the 14-day period,
7 DEQ will provide Defendant with a written statement of its position from DEQ's Western Region
8 Cleanup Manager. If Defendant still disagrees with DEQ's position, then Defendant, within
9 14 days of receipt of DEQ's position from the Region Cleanup Manager, will provide Defendant's
10 position and rationale in writing to DEQ's Western Region Administrator. The Region
11 Administrator may discuss the disputed matter with Defendant and, in any event, will provide
12 Defendant with DEQ's final position in writing as soon as practicable after receipt of Defendant's
13 written position.

14 (2) If Defendant refuses or fails to follow DEQ's final position pursuant to Paragraph
15 4.M.(1), and DEQ seeks to enforce its final position, the Parties, subject to Subsection 2.A. and
16 Section 7, are entitled to such rights, remedies, and defenses as are provided by applicable law.

17 (3) During the pendency of any dispute resolution under this subsection, the time
18 for completion of work or obligations affected by such dispute is extended for a period of time not
19 to exceed the actual time taken to resolve the dispute. Elements of work or obligations not
20 affected by the dispute must be completed in accordance with the applicable schedule.

21 (4) Dispute resolution under this subsection does not apply to DEQ approval or
22 modification of the remedial design/remedial action work plan required under the SOW, which
23 approval or modification is nonetheless subject to Subsection 4.C.

24 L. Dispute Resolution

25 (1) If Defendant fails to comply with this Consent Judgment, DEQ may seek civil
26 penalties under ORS 465.900 and enforcement of this Consent Judgment by this Court. If DEQ

1 seeks enforcement of this Consent Judgment by this Court, DEQ may seek monetary sanctions,
2 such as civil penalties, only if DEQ has not assessed and collected any civil penalties under
3 ORS 465.900 regarding the same violation.

4 (2) Subject to Section 2, Defendant does not admit any liability, violation of law,
5 factual or legal findings, conclusions, or determinations asserted in this Consent Judgment.

6 (3) Nothing in this Consent Judgment is intended to create any cause of action in
7 favor of any person not a party to this Consent Judgment.

8 (4) Subject to Paragraph 2.A.(4) and Section 7, nothing in this Consent Judgment
9 prevents DEQ, the State of Oregon, or Defendant from exercising any rights each might have
10 against any person not a party to this Consent Judgment.

11 (5) If for any reason the Court declines to approve this Consent Judgment in the
12 form presented, this settlement is voidable at the sole discretion of any Party and the terms of the
13 settlement may not be used in evidence in any litigation among or against the Parties.

14 (6) DEQ and Defendant intend for this Consent Judgment to be construed as a
15 judicially-approved settlement by which Defendant has resolved its liability to the State of Oregon,
16 within the meaning of Section 113(f)(2) of the Comprehensive Environmental Response,
17 Compensation and Liability Act (CERCLA), 42 U.S.C. § 9613(f)(2), regarding Matters Addressed,
18 and for Defendant not to be liable for claims for contribution regarding Matters Addressed to the
19 extent provided by Section 113(f)(2) of CERCLA, 42 U.S.C. §§ 9613(f)(2).

20 (7) Unless specified otherwise, the use of the term "days" in this Consent Judgment
21 means calendar days.

22 (8) This Consent Judgment is void and of no effect if Defendant does not complete
23 acquisition of the Property by September 1, 2021.

24 M. Effect of Consent Judgment

25 (1) Defendant will indemnify and hold harmless the State of Oregon and its
26 commissions, agencies, officers, employees, contractors, and agents from and against any and all

1 claims arising from acts or omissions related to this Consent Judgment of Defendant or its officers,
2 employees, contractors, agents, receivers, trustees, or assigns. DEQ may not be considered a party
3 to any contracts made by Defendant or its agents in carrying out activities under this Consent
4 Judgment.

5 (2) To the extent permitted by Article XI, Section 7, of the Oregon Constitution and
6 by the Oregon Tort Claims Act, the State of Oregon will indemnify and hold harmless Defendant
7 and its respective officers, employees, contractors, and agents, and indemnify the foregoing, from
8 and against any and all claims arising from acts or omissions related to this Consent Judgment of
9 the State of Oregon or its commissions, agencies, officers, employees, contractors, or agents
10 (except for acts or omissions constituting approval or disapproval of any activity of Defendant
11 under this Consent Judgment). Defendant may not be considered a party to any contract made by
12 DEQ or its agents in carrying out activities under this Consent Judgment.

13 (3) Before commencing any on-site work under this Consent Judgment, Defendant
14 will obtain and maintain for the duration of this Consent Judgment comprehensive general liability
15 and automobile insurance with limits of \$2 million, combined single limit per occurrence, naming
16 as an additional insured the State of Oregon. Upon DEQ request, Defendant will provide DEQ a
17 copy or other evidence of the insurance. If Defendant demonstrates by evidence satisfactory to
18 DEQ that its contractor(s) or subcontractor(s) maintain equivalent coverage, or coverage for the
19 same risks but in a lesser amount or for a lesser term, Defendant may provide only that portion of
20 the insurance that is not maintained by its contractor(s) or subcontractor(s).

21 N. Indemnification and Insurance

22 This Consent Judgment is binding on the Parties and their respective successors,
23 agents, and assigns. The undersigned representative of each party certifies that he or she is fully
24 authorized to execute and bind such party to this Consent Judgment. No change in ownership,
25 corporate, or partnership status relating to the Property in any way alters Defendant's obligations
26 under this Consent Judgment, unless otherwise approved in writing by DEQ.

1 O. Parties Bound

2 DEQ and Defendant may modify this Consent Judgment by written agreement,
3 subject to approval by this Court. DEQ and Defendant may modify the SOW or a work plan
4 without having to obtain court approval, provided the modification is consistent with the ROD.

5 P. Modification

6 Within 14 days of entry of this Consent Judgment by the Court, Defendant will
7 submit a copy or original of this Consent Judgment (whichever is required by the county) to be
8 recorded in the real property records of Yamhill County, Oregon. Defendant will provide DEQ
9 with written evidence of such recording within seven days of recording.

10 Q. Recording

11 Each Party designates in Exhibit E the name and address of an agent authorized to
12 accept service of process by mail on behalf of the Party with respect to any matter relating to this
13 Consent Judgment. Each Party agrees to accept service in such manner, and waives any other
14 service requirements set forth in the Oregon Rules of Civil Procedure or local rules of this Court.
15 The Parties agree that Defendant need not file an answer to the complaint in this action unless or
16 until the Court expressly declines to approve this Consent Judgment.

17 5. Releases from Liability and Covenant Not to Sue

18 A. Pursuant to ORS 465.327(3), this Consent Judgment is a “prospective purchaser
19 agreement” entered as a judicial consent judgment in accordance with ORS 465.325. Thus, this
20 Consent Judgment contains related but independent liability provisions pursuant to both
21 ORS 465.327 and 465.325. The ORS 465.327 liability provisions are set forth below in
22 Subsections 5.B. and 6.B. The ORS 465.325 liability provisions are set forth below in Subsections
23 5.D., 6.A., and 6.C. In addition to these state law provisions, this Consent Judgment may affect
24 Defendant’s rights and liabilities under federal and other laws, as described in Paragraph 4.N.(6)
25 and Subsection 5.E.

26 B. Pursuant to ORS 465.327, and subject to Subsection 5.C. and the satisfactory

1 performance by Defendant of its obligations under this Consent Judgment, Defendant is not liable
2 to the State of Oregon under ORS 465.200 to 465.545 and 465.900, 466.640, or 468B.310
3 regarding Existing Hazardous Substance Releases. Defendant bears the burden of proving by a
4 preponderance of the evidence that a hazardous substance release (for all hazardous substances,
5 hazardous materials, and oil described in Paragraph 2.B.(3)) existed as of the date of Defendant's
6 acquisition of ownership or operation of the Property.

7 C. The release from liability under Subsection 5.B. does not affect liability of Defendant
8 for claims arising from:

9 (1) A release of hazardous substances, spill or release of oil or hazardous material,
10 or entry of oil into the waters of the state at or from the Property on or after the date of Defendant's
11 acquisition of ownership or operation of the Property;

12 (2) Contribution to or exacerbation, on or after the date of Defendant's acquisition
13 of ownership or operation of the Property, of a release of hazardous substance, spill or release of
14 oil or hazardous material, or entry of oil into the waters of the state at or from the Property;

15 (3) Interference or failure to cooperate, on or after the date of Defendant's
16 acquisition of ownership or operation of the Property, with DEQ or other persons conducting
17 remedial measures under DEQ's oversight at the Property;

18 (4) Failure to exercise due care or take reasonable precautions, on or after the date
19 of Defendant's acquisition of ownership or operation of the Property, with respect to any
20 hazardous substance at the Property;

21 (5) Disposal or management of hazardous substances or solid waste removed from
22 the Property by or on behalf of Defendant;

23 (6) Criminal liability;

24 (7) Violation of federal, state, or local law on or after the date of Defendant's
25 acquisition of ownership or operation of the Property;

26 (8) Any matters as to which the State of Oregon is owed indemnification under

1 Paragraph 4.O.(1); and

2 (9) Claims based on any failure by Defendant to meet any requirements of this
3 Consent Judgment.

4 D. Pursuant to ORS 465.325, subject to satisfactory performance by Defendant of its
5 obligations under this Consent Judgment, the State of Oregon covenants not to sue or take any
6 other judicial or administrative action against Defendant under ORS 465.200 to 465.545 and
7 465.900 regarding Matters Addressed, except that the State of Oregon reserves all rights against
8 Defendant with respect to claims and liabilities described in Subsection 5.C.

9 E. Subject to satisfactory performance by Defendant of its obligations under this
10 Consent Judgment, DEQ releases Defendant from liability to DEQ under any federal or state
11 statute, regulation, or common law, including but not limited to the Comprehensive Environmental
12 Response, Compensation and Liability Act (CERCLA), 42 U.S.C. § 9601 *et seq.*, regarding the
13 release or threatened release of hazardous substances addressed in this Consent Judgment, except
14 that DEQ reserves all rights against Defendant with respect to claims and liabilities described in
15 Subsection 5.C.

16 6. Third-Party Actions

17 F. This Consent Judgment is a judicially-approved settlement within the meaning of
18 ORS 465.325(6)(b), pursuant to which Defendant has resolved its liability to the State of Oregon
19 and is not liable for claims for contribution regarding Matters Addressed.

20 G. Subject to the satisfactory performance by Defendant of its obligations under this
21 Consent Judgment, Defendant is not liable to any person under ORS 465.200 to 465.545, 466.640,
22 or 468B.310 regarding Existing Hazardous Substance Releases.

23 H. Subject to Section 7, Defendant may seek contribution in accordance with ORS
24 465.325(6)(c)(B).

25 7. Defendant Waivers

26 I. Defendant waives any claim or cause of action it might have against the State of

1 Oregon regarding Existing Hazardous Substance Releases, provided Defendant reserves all rights
2 concerning the obligations of DEQ under this Consent Judgment.

3 J. Defendant waives any rights it might have under ORS 465.260(7) and 465.325(2) to
4 seek reimbursement from the Hazardous Substance Remedial Action Fund or the Orphan Site
5 Account for costs incurred under this Consent Judgment or related to the Property.

6 8. Benefits and Burdens Run with the Land

7 K. Pursuant to ORS 465.327(5), the benefits and burdens of this Consent Judgment run
8 with the land, provided the releases from liability and covenant not to sue set forth in Section 5
9 limit or otherwise affect the liability only of persons who: (1) are not potentially liable under
10 ORS 465.255, 466.640, or 468B.310 for Existing Hazardous Substance Releases; and (2) expressly
11 assume in writing, and are bound by, the terms of this Consent Judgment applicable to the Property
12 as of the date of their acquisition of ownership or operation.

13 L. Upon transfer of ownership of the Property, or any portion of the Property, from
14 Defendant to another person or entity, Defendant and the new owner will provide written notice to
15 the DEQ Project Manager within 10 days after the transfer. No change in ownership of the
16 Property or the corporate or partnership status of Defendant in any way alters Defendant's
17 obligations under this Consent Judgment, unless otherwise approved in writing by DEQ.

18 9. Certification of Completion

19 M. Upon Defendant's completion of work in accordance with the SOW, Defendant will
20 submit a final closeout report to DEQ signed both by an Oregon-registered professional engineer
21 and Defendant's Project Manager certifying that the remedial action for the Site has been
22 completed in accordance with this Consent Judgment. The report must summarize the work
23 performed and include all necessary supporting documentation.

24 N. DEQ will preliminarily determine whether the remedial action has been performed for
25 the Property and all oversight costs and penalties have been paid in accordance with this Consent
26 Judgment. Upon a preliminary determination that the remedial action for the Property has been

1 satisfactorily performed and all costs and penalties paid, DEQ will provide public notice and
2 opportunity to comment on a proposed certification decision in accordance with ORS 465.320 and
3 465.325(10)(b). After consideration of public comment, and within 90 days after receiving
4 Defendant's closeout report, the Director of DEQ will issue a final certification decision. The
5 certification decision will subsequently be submitted by DEQ to this Court. A certification of
6 completion of the remedial action does not affect Defendant's remaining obligations under this
7 Consent Judgment or for implementation of measures necessary to long- term effectiveness of the
8 remedial action or productive reuse of the Property.

9 10. Continuing Jurisdiction

10 This Court retains jurisdiction over the Parties and the subject matter of this Consent
11 Judgment.

Signed: 5/7/2021 04:45 PM



Circuit Court Judge Jennifer K. Chapman

1 STATE OF OREGON, DEPARTMENT OF ENVIRONMENTAL QUALITY

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4 By: Lydia Emer
Lydia Emer
5 Administrator, Land Quality Division

Date: 05/05/2021

6

7

8 By: _____
Gary Vrooman, OSB No. 075832
Assistant Attorney General
9 Oregon Department of Justice
10 100 SW Market
Portland, OR 97201
11 Attorney for DEQ

Date: _____

12

13 BALDING BUFFALO, LLC

14

15 By: Brian Williamson
Brian Williamson (May 5, 2021 15:43 PDT)
16 Brian Williamson
17 Member

Date: 05/05/2021

18

19 By: James C. Brown
James C. Brown (May 5, 2021 15:44 PDT)
James C. Brown, OSB No. 860202
20 PO Box 31,
Marylhurst, OR 97036
21 Attorney for BALDING BUFFALO, LLC

Date: 05/05/2021

22

23

24

25

26

1 STATE OF OREGON, DEPARTMENT OF ENVIRONMENTAL QUALITY

2

3

4

By: _____
Lydia Emer
Administrator, Land Quality Division

Date: _____

5

6

7

By: /s/ Gary Vrooman
Gary Vrooman, OSB No. 075832
Assistant Attorney General
Oregon Department of Justice
100 SW Market
Portland, OR 97201
Attorney for DEQ

Date: May 7, 2021

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13 BALDING BUFFALO, LLC

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By: _____
Brian Williamson
Member

Date: _____

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By: _____
James C. Brown, OSB No.860202
PO Box 31,
Marylhurst, OR 97036
Attorney for BALDING BUFFALO, LLC

Date: _____

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CERTIFICATE OF COMPLIANCE with UTCR 5.100

The Parties to this to this action have stipulated to and approved of the Consent Judgment pursuant to ORS 465.325 and ORS 465.327.

This proposed order or judgment is ready for judicial signature because:

1. Each opposing party affected by this order or judgment has stipulated to the order or judgment, as shown by each opposing party's signature on the document being submitted.

2. Each opposing party affected by this order or judgment has approved the order or judgment, as shown by signature on the document being submitted or by written confirmation of approval sent to me.

3. I have served a copy of this order or judgment on all parties entitled to service and:

a. No objection has been served on me.

b. I received objections that I could not resolve with the opposing party despite reasonable efforts to do so. I have filed a copy of the objections I received and indicated which objections remain unresolved.

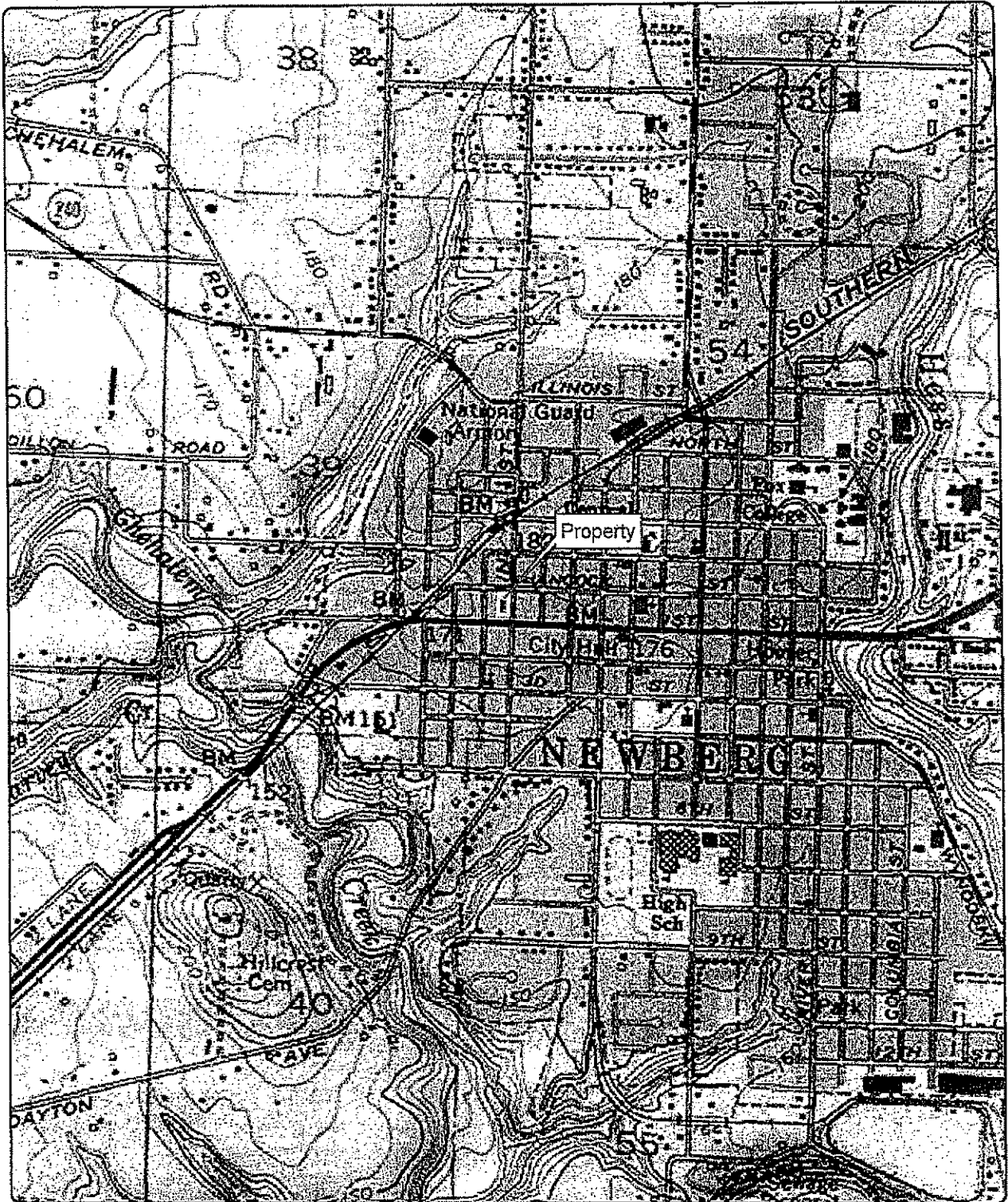
c. After conferring about objections, [role and name of opposing party] agreed to independently file any remaining objection.

4. The relief sought is against an opposing party who has been found in default.

5. An order of default is being requested with this proposed judgment.

6. Service is not required pursuant to subsection (3) of this rule, or by statute, rule, or otherwise.

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Source: US Geological Survey (1990) 7.5-minute topographic quadrangle: Newberg
 Section 19, Township 3 South, Range 2 West
 Property boundary obtained from Yamhill County GIS.

Legend

 Property Boundary (approximate)

**Figure 1-1
Property Location**

105 N- Main Street
Newberg, Oregon

 MAULFOSTER ALONGI
p. 971 544 2139 | www.maulfoster.com

This product is for informational purposes and may not have been prepared for use by other than the intended user. Users of this information should refer to the primary data and information sources to ascertain the utility of the information.



EXHIBIT B
PROPERTY LEGAL DESCRIPTION

Real property at 105 N Main Street, Newberg, in the County of Yamhill, State of Oregon, composed of Tax Lots 5400 and 5500, described as follows:

PARCEL 1:

Lots 1 and 2 and the south half of Lot 3, Block 12, HURLEY AND LARGE'S ADDITION to Newberg, in Yamhill County, Oregon.

PARCEL 2:

North half of Lot 3, Block 12, HURLEY AND LARGE'S ADDITION to Newberg, in Yamhill County, Oregon

Yamhill County Official Records	202019847
DMR-EDMR	11/04/2020 10:35:00 AM
Str=3 SUTTONS	
7Pgs \$35.00 \$11.00 \$5.00 \$60.00	\$111.00
I, Brian Van Bergen, County Clerk for Yamhill County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.	
Brian Van Bergen - County Clerk	

Space above this line for Recorder's use.

After recording, return to:

Grantee
Oregon DEQ
165 E. 7th Avenue, Suite 100
Eugene, OR 97405
Attention: Bryn Thoms

Grantor
J. L. Investments, LLC
23950 NE Larkins Rd.
Newberg, OR 97132
Attn: Jeff Lane

3594710
FIRST AMERICAN TITLE

EASEMENT AND EQUITABLE SERVITUDES

This grant of Easement and acceptance of Equitable Servitudes ("EES") is made on October 9, 2020, between J.L. Investments, LLC ("Grantor") and the State of Oregon, acting by and through the Oregon Department of Environmental Quality ("DEQ" or "Grantee").

RECITALS

A. Grantor is the owner of certain real property located at 105 Main Street, Newberg, Oregon 97132, and consists of Tax Lot 5400 located on Yamhill County Sec 19, T. 3S, R. 2W, WM (hereinafter referred to as the "Property"), the location of which is more particularly described in Attachment A to this EES. The Property is referenced under the name J.L. Investments, LLC, [ECSE #6414] in the files of DEQ's Environmental Cleanup Program at the Western Region office located at 165 E 7th Ave, Eugene, OR 97401-3049, and telephone 541-686-7838. Interested parties may contact the Western Region office to review a detailed description of the risks from contamination remaining at the Property and described in Maul Foster Alongi's November 13, 2019 *Phase I Environmental Site Assessment: 105 Main Street, Newberg, Oregon*.

B. Historic releases of lead inside the building, as well as gasoline range petroleum hydrocarbons in the soil and 1,2-dichloroethane and gasoline range hydrocarbons in the groundwater at the Property resulted in contamination of on-site soil and groundwater by hazardous substances.

C. Grantor acquired the Property pursuant to the terms of a Statutory Bargain And Sale Deed between Grantor and Jeffrey L. Lane and Jacqueline M. Lane on December 8, 2010. On December 19, 2019, Grantor applied for a Prospective Purchaser's Agreement (PPA) with the DEQ, which DEQ intends to enter. The PPA requires institutional controls at the Property and DEQ oversight.

D. The provisions of this Easement and Equitable Servitude are intended to implement the PPA and thereby protect human health and the environment.

E. Nothing in this Easement and Equitable Servitude constitutes an admission by Grantor of any liability for the contamination described in the Easement and Equitable Servitude.

1. DEFINITIONS

- 1.1 "Acceptable risk level" has the meaning set forth in Oregon Revised Statute (ORS) 465.315 and Oregon Administrative Rule (OAR) 340-122-0115.
- 1.2 "Beneficial use" has the meaning set forth in OAR 340-122-0115.
- 1.3 "DEQ" means the Oregon Department of Environmental Quality, and its employees, agents, and authorized representatives. "DEQ" also means any successor, or assign of DEQ under the laws of Oregon, including but not limited to any entity or instrumentality of the State of Oregon authorized to perform any of the functions or to exercise any of the powers currently performed or exercised by DEQ.
- 1.4 "Ecological receptor" has the meaning set forth in OAR 340-122-0115.
- 1.5 "Engineering control" has the meaning set forth in OAR 340-122-0115
- 1.6 "Hazardous substance" has the meaning set forth in ORS 465.200
- 1.7 "Owner" means any person or entity, including Grantor, who at any time owns, occupies, or acquires any right, title, or interest in or to any portion of the Property or a vendee's interest of record to any portion of the Property, including any successor, heir, assign or holder of title or a vendee's interest of record to any portion of the Property, but excluding any entity or person who holds such interest solely for the security for the payment of an obligation and does not possess or control use of the Property.
- 1.8 "Remedial Action" has the meaning set forth in ORS 465.200 and OAR 340-122-0115.

2. GENERAL DECLARATION

2.1 Grantor grants to DEQ an Easement for access and accepts the Equitable Servitudes described in this instrument and, in so doing, declares that the Property is now subject to and must in future be conveyed, transferred, leased, encumbered, occupied, built upon, or otherwise used or improved, in whole or in part, subject to this EES.

2.2 Each condition and restriction set forth in this EES touches and concerns the Property and the equitable servitudes granted in Section 3 and easement granted in Section 4 below, runs with the land for all purposes, is binding upon all current and future owners of the Property as set forth in this EES, and inures to the benefit of the State of Oregon. Grantor further conveys to DEQ the perpetual right to enforce the conditions and restrictions set forth in this EES.

3. EQUITABLE SERVITUDES (REQUIRED ACTIONS AND RESTRICTIONS ON USE)

3.1 **Groundwater Use Restrictions.** Owner may not extract through wells or by other means, or use the groundwater at the Property for consumption or other beneficial use. This prohibition does not apply to extraction of groundwater associated with groundwater treatment or monitoring activities approved by DEQ, or temporary dewatering activities related to construction, development, or the installation of sewer or utilities at the Property. Owner must

conduct a waste determination on any groundwater extracted during such monitoring, treatment, or dewatering activities, and handle, store, and manage wastewater according to applicable laws.

3.2 **Land Use Restrictions.** Residential buildings or uses are prohibited on the Property without prior notice to and approval by DEQ.

4. EASEMENT (RIGHT OF ENTRY)

During reasonable hours and subject to reasonable security requirements, DEQ may enter upon and inspect any portion of the Property to determine whether the requirements of this EES have been or are being complied with. Except when necessary to address an imminent threat to human health or the environment, DEQ will use its best efforts to notify the Owner 72 hours before DEQ entry to the Property. DEQ may enter upon the Property at any time to abate, mitigate, or cure at the expense of the Owner the violation of any condition or restriction contained in this EES, provided DEQ first gives written notice of the violation to Owner describing what is necessary to correct the violation and Owner fails to cure the violation within the time specified in such notice. Any such entry by DEQ to evaluate compliance or to abate, mitigate, or cure a violation may not be deemed a trespass.

5. RELEASE OF RESTRICTIONS

5.1 Owner may request release of any or all of the conditions or restrictions contained in this EES by submitting such request to the DEQ in writing with evidence that the conditions or restrictions are no longer necessary to protect human health and the environment. The decision to release any or all of the conditions or restrictions in this EES will be within the sole discretion of DEQ.

5.2 Upon a determination pursuant to Subsection 5.1, DEQ will, as appropriate, execute and deliver to Owner a release of specific conditions or restrictions, or a release of this EES in its entirety.

6. GENERAL PROVISIONS

6.1 **Notice of Transfer/Change of Use.** Owner must notify DEQ within 10 days after the effective date of any conveyance, grant, gift, or other transfer, in whole or in part, of Owner's interest in or occupancy of the Property. Such notice must include the full name and address of the Party to whom Owner has transferred an interest or right of occupancy. In addition, Owner must notify DEQ a minimum of 10 days before the effective date of any change in use of the Property that might expose human or ecological receptors to hazardous substances. Such notice must include complete details of any planned development activities or change in use. Notwithstanding the foregoing, Owner may not commence any development inconsistent with the conditions or restrictions in Section 3 without prior written approval from DEQ as provided in Subsection 3 of this EES or removal of the condition or restriction as provided in Subsection 5.1. This subsection does not apply to the grant or conveyance of a security interest in the Property.

6.2 **Zoning Changes.** Owner must notify DEQ no less than 30 days before Owner's petitioning for or filing of any document initiating a rezoning of the Property that would change the base zone of the Property under the Yamhill County zoning code or any successor code. As of the date of this EES, the base zone of the Property is General Commercial.

6.3 **Cost Recovery.** Owner will pay DEQ's costs for review and oversight of implementation of and compliance with the provisions in this EES, including but not limited to periodic review and tracking of actions required by this EES. This EES constitutes the binding agreement by the Owner to reimburse DEQ for all such eligible review and oversight costs. DEQ will establish a cost recovery account for tracking and invoicing DEQ project costs. DEQ will provide the Owner with a monthly statement and direct labor summary. DEQ costs will include direct and indirect costs. Direct costs include site-specific expenses and legal costs. Indirect costs are those general management and support costs of the State of Oregon and DEQ allocable to DEQ oversight of this EES and not charged as direct site-specific costs. Indirect charges are based on actual costs and are applied as a percentage of direct personal services costs.

6.4 **Conformance and Reporting.** Owner will immediately notify DEQ of any condition or occurrence at the Property that does not conform with provisions of this EES. Owner will maintain documentation of any dewatering and waste characterization conducted at the Property and should provide the documentation to DEQ upon request. Reports provided to DEQ in response to this notification must include sufficient detail to allow DEQ to determine compliance with EES requirements, and include a photographic log supporting the report's narrative.

6.5 **Reference in Deed.** A reference to this EES, including its location in the public records, must be recited in any deed conveying the Property or any portion of the Property. Each condition and restriction contained in this EES runs with the land so burdened until such time as the condition or restriction is removed by written certification from DEQ, recorded in the deed records of the County in which the Property is located, certifying that the condition or restriction is no longer required to protect human health or the environment.

6.6 **Effect of Recording.** Upon the recording of this EES, all future Owners are conclusively deemed to have consented and agreed to every condition and restriction contained in this EES, whether or not any reference to this EES is contained in an instrument by which such person or entity occupies or acquires an interest in the Property.

6.7 **Enforcement and Remedies.** Upon any violation of any condition or restriction contained in this EES, the State of Oregon, in addition to the remedies described in Section 4, may enforce this EES as provided in the Consent Judgment or seek available legal or equitable remedies to enforce this EES, including civil penalties as set forth in ORS 465.900.

6.8 **IN WITNESS WHEREOF** Grantor and Grantee have executed this Easement and Equitable Servitude as of the date and year first set forth above.

BY SIGNATURE BELOW, THE STATE OF OREGON APPROVES AND ACCEPTS THIS CONVEYANCE PURSUANT TO ORS 93.808.

GRANTOR: J.L. Investments, LLC

By: Jeffrey L. Lane Date: 11/03/20
Jeffrey L. Lane, Member

STATE OF OREGON)
County of Yamhill) ss.

The foregoing instrument is acknowledged before me this 2nd day of October 2020, by Jeffrey Lane of J.L. Investments, LLC, on its behalf.



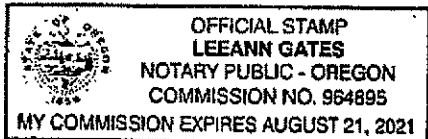
Darlene Morris
NOTARY PUBLIC FOR OREGON
My commission expires: 8-8-2021

GRANTEE: State of Oregon, Department of Environmental Quality

By: Michael E. Kucinski Date: 10/09/2020
Michael E. Kucinski, Manager
Western Region Cleanup and Emergency Response

STATE OF OREGON)
County of Lane) ss.

The foregoing instrument is acknowledged before me this 9th day of October 2020, by Michael E. Kucinski of the Oregon Department of Environmental Quality, on its behalf.



LeeAnn Gates
NOTARY PUBLIC FOR OREGON
My commission expires: August 21, 2021

EXHIBIT A

Legal Description of the Property

Real property in the County of Yamhill, State of Oregon, described as follows:

PARCEL 1:

Lots 1 and 2 and the South half of Lot 3, Block 12, HURLEY AND LARGE'S ADDITION to Newberg, in Yamhill County, Oregon.

EXHIBIT B

**NOTICE OF TRANSFER OF PROPERTY
AND ASSIGNMENT AND ASSUMPTION OF
J.L. Investments, LLC's
RESPONSIBILITIES UNDER
THE EASEMENT AND EQUITABLE SERVITUDES FOR TAX LOT 5400**

TO _____
Oregon Department of Environmental
700 NE Multnomah Street, Suite 600
Portland, OR 97232-4100

This Notice of Transfer of Property and Assignment and Assumption of the 1495 Industrial Way, LLC's Responsibilities Under the EASEMENT AND EQUITABLE SERVITUDE for TAX LOT 5400 ["Notice"] is made by the undersigned and is given pursuant to SECTION 6.1 of the EASEMENT AND EQUITABLE SERVITUDES between the J.L. Investments, LLC and the Oregon Department of Environmental Quality ("DEQ").

The undersigned Seller and Buyer hereby notify DEQ that Buyer will be acquiring the real property described in Attachment A to the EASEMENT AND EQUITABLE SERVITUDES for Tax Lot 5400 the ("Property").

By its signature below, Buyer hereby confirms that it assumes and agrees to be bound by the applicable terms of the *Easement and Equitable Servitudes* for Tax Lot 5400 as of the date of its acquisition of ownership or operation of the Property. As a result of such assumption, Buyer shall assume the burdens and obtain the benefits of the *Consent Judgment*, including but not limited to the release from liability described in Subsection 5. B. of the *General Judgment*. Buyer recognizes that the release from liability set forth in Subsection 5.B. of the *General Judgment* will not limit, release, or affect Buyer's liability if Buyer is potentially liable under ORS 465.255 for a release of hazardous substances at the Property as of the date Buyer acquires ownership or operation of the Property.

This Notice is executed by Seller and Buyer as of the ____ day of _____, 20__.

SELLER:
J.L. INVESTMENTS, LLC

BUYER:

_____, Member

EXHIBIT D

REMEDIAL ACTION SCOPE OF WORK 105 N. MAIN STREET TAX LOT R3219AB 05400, NEWBERG, OREGON

1. INTRODUCTION

Maul Foster & Alongi, Inc. (MFA) conducted lead wipe sampling at the Property in September 2019 to determine whether lead dust was present on floors or walls at concentrations that present a threat to human health, and, if present, to determine if additional cleaning or encapsulation with paint or other media is warranted to protect future occupants from harmful exposure to lead. The scope of the assessment included a lead acid battery drop-off area (Area 1) and a battery maintenance/storage area (Area 2). Lead wipe sampling results in Area 1 warrant cleaning of the floor six feet from the wall to protect future workers who may occupy the building. Because lead wipe sampling results in Area 2 approached the screening value, MFA recommended precautionary cleaning six feet from the wall to protect future workers who may occupy the building.

2. OBJECTIVE

Clean floor surfaces in Areas 1 and 2 to reduce lead concentrations below the surface screening goal of forty micrograms per square foot ($\mu\text{g}/\text{ft}^2$).

3. DESCRIPTION OF REMEDIAL ACTION

Floor cleaning will be conducted consistent with the following protocols:

1. Ensure workers who conduct cleaning are properly informed, trained and equipped to safely manage lead exposure during the cleaning process. Specific protocols will be established and employed.
2. Control access to the building interior during cleaning with the use of warning signs, barrier tape, or other effective methods to prevent unauthorized entry.
3. Establish a worker decontamination area at the building entrance/exit. The area will be large enough to accommodate cleaning of equipment and removing personal protective equipment without spreading contamination beyond the area (as determined by visible accumulations). Workers will wipe and/or high-efficiency particulate air (HEPA) vacuum visible debris from the exterior of re-usable equipment and protective clothing before exiting the work area.
4. Clean the floor in Areas 1 and 2 with a high-efficiency particulate air (HEPA) vacuum and brush attachment.

5. After HEPA vacuuming, use a "two-bucket" system to clean the areas. The first bucket should contain clean rinse water and the second bucket should contain a detergent solution. Dip a sponge or rag into the rinse water and then into the detergent solution, and then wipe the floor. After wiping a small area, rinse the sponge or rag in the first bucket before dipping into the second bucket containing the detergent solution and repeating the process until Areas 1 and 2 are clean. Neither the sponge/rag nor water will require special disposal considerations after the cleaning is complete.
6. As a precautionary measure, apply a protective coating to encapsulate residual lead.
7. Personnel will keep a record to document the cleaning process. The record should include the names of personnel conducting the cleaning, the areas cleaned, the cleaning methods, important observations, and representative photographs.
8. Conduct a post-cleaning assessment to document cleaning effectiveness. The assessment will include:
 - a. A review of cleaning records and an interview with representative cleaning personnel.
 - b. A visual inspection of Area 1 and Area 2. Surfaces with obvious visible residue that can be removed with brushing, wiping and/or HEPA vacuuming should be cleaned before conducting wipe sampling.
 - c. Wipe sampling of representative and randomly selected areas consistent with the protocols from previous wipe sampling. Sampling will include two samples from Area 1 in addition to one blank for quality assurance purposes.
 - d. Once the cleaning and post-cleaning analytical results indicate residual lead concentrations are less than less than forty $\mu\text{g}/\text{ft}^2$ a Closeout Report will be prepared and submitted to DEQ.
9. Apply a protective coating or consider additional cleaning if post-cleaning sampling results exceed the surface screening goal. Repeat the post-cleaning assessment until results demonstrate that surfaces are sufficiently clean and below the lead screening goal of forty $\mu\text{g}/\text{ft}^2$

4. SCHEDULE

Schedule details will be established following property acquisition and reported to DEQ prior to remedial action implementation. The work will be completed within 18 months of the issuance of the Prospective Purchaser Agreement.

5. REMEDIAL ACTION DELIVERABLES

5.1. Remedial Action Work Plan (RAP)

This Consent Judgment Scope of Work outlines the planned remedial action; no additional documentation is warranted.

5.2. Progress Communications

DEQ will be provided a two-week advance notice on the planned remedial action start date.

5.3. Project Completion Report

A Final Closeout Report will be issued to DEQ which will include, as appropriate:

1. A detailed description of the Remedial Action work conducted and certification by a certified industrial hygienist that the work was performed in accordance with approved plans
2. Explanation of any modifications to the approved plans and why these modifications were necessary
3. Sampling and testing results
4. The Report will be signed by an Oregon registered professional engineer and the Defendant's Project Manager certifying the remedial action for the Property has been completed in accordance with the Consent Judgment.

Exhibit E – Service List

For Plaintiff:

Gary Vrooman, OSB No. 075832
Assistant Attorney General
Oregon Department of Justice
100 SW Market St.
Portland, OR 97201-5702

For Defendant:

James C Brown, OSB No. 860202
James C. Brown & Associates, P.C.
PO Box 31
Marylhurst, OR 97036

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CERTIFICATE OF SERVICE

I certify that on May 7, 2021, I served a true copy of the foregoing of COMPLAINT and CONSENT JUDGMENT in BALDING BUFFALO, LLC, upon the party hereto by the method indicated below, and addressed to the following:

James C. Brown
PO Box 31
Marylhurst, OR 97036
Attorney for Balding Buffalo, LLC

Hand Delivery
 Mail Delivery
 Overnight Mail
 E-Mail

/s/ Gary Vrooman

Gary Vrooman, OSB #075832
Assistant Attorney General
Of Attorneys for Plaintiff
Department of Justice
100 SW Market Street
Portland, OR 97201
Phone: 971-673-1878
Fax: 971-673-1886
gary.l.vrooman@doj.state.or.us

Yamhill County Official Records	202019847
DMR-EDMR	
Str=3 SUTTONS	11/04/2020 10:35:00 AM
7Pgs \$35.00 \$11.00 \$5.00 \$60.00	\$111.00
I, Brian Van Bergen, County Clerk for Yamhill County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.	
Brian Van Bergen - County Clerk	

Space above this line for Recorder's use.

After recording, return to:

Grantee
Oregon DEQ
165 E. 7th Avenue, Suite 100
Eugene, OR 97405
Attention: Bryn Thoms

Grantor
J. L. Investments, LLC
23950 NE Larkins Rd.
Newberg, OR 97132
Attn: Jeff Lane

EASEMENT AND EQUITABLE SERVITUDES

This grant of Easement and acceptance of Equitable Servitudes ("EES") is made on October 9, 2020, between J.L. Investments, LLC ("Grantor") and the State of Oregon, acting by and through the Oregon Department of Environmental Quality ("DEQ" or "Grantee").

RECITALS

A. Grantor is the owner of certain real property located at 105 Main Street, Newberg, Oregon 97132, and consists of Tax Lot 5400 located on Yamhill County Sec 19, T. 3S, R. 2W, WM (hereinafter referred to as the "Property"), the location of which is more particularly described in Attachment A to this EES. The Property is referenced under the name J.L. Investments, LLC, [ECSI #6414] in the files of DEQ's Environmental Cleanup Program at the Western Region office located at 165 E 7th Ave, Eugene, OR 97401-3049, and telephone 541-686-7838. Interested parties may contact the Western Region office to review a detailed description of the risks from contamination remaining at the Property and described in Maul Foster Alongi's November 13, 2019 *Phase I Environmental Site Assessment: 105 Main Street, Newberg, Oregon*.

B. Historic releases of lead inside the building, as well as gasoline range petroleum hydrocarbons in the soil and 1,2-dichloroethane and gasoline range hydrocarbons in the groundwater at the Property resulted in contamination of on-site soil and groundwater by hazardous substances.

C. Grantor acquired the Property pursuant to the terms of a Statutory Bargain And Sale Deed between Grantor and Jeffrey L. Lane and Jacqueline M. Lane on December 8, 2010. On December 19, 2019, Grantor applied for a Prospective Purchaser's Agreement (PPA) with the DEQ, which DEQ intends to enter. The PPA requires institutional controls at the Property and DEQ oversight.

D. The provisions of this Easement and Equitable Servitude are intended to implement the PPA and thereby protect human health and the environment.

FIRST AMERICAN TITLE 3594710

E. Nothing in this Easement and Equitable Servitude constitutes an admission by Grantor of any liability for the contamination described in the Easement and Equitable Servitude.

1. DEFINITIONS

- 1.1 "Acceptable risk level" has the meaning set forth in Oregon Revised Statute (ORS) 465.315 and Oregon Administrative Rule (OAR) 340-122-0115.
- 1.2 "Beneficial use" has the meaning set forth in OAR 340-122-0115.
- 1.3 "DEQ" means the Oregon Department of Environmental Quality, and its employees, agents, and authorized representatives. "DEQ" also means any successor, or assign of DEQ under the laws of Oregon, including but not limited to any entity or instrumentality of the State of Oregon authorized to perform any of the functions or to exercise any of the powers currently performed or exercised by DEQ.
- 1.4 "Ecological receptor" has the meaning set forth in OAR 340-122-0115.
- 1.5 "Engineering control" has the meaning set forth in OAR 340-122-0115
- 1.6 "Hazardous substance" has the meaning set forth in ORS 465.200
- 1.7 "Owner" means any person or entity, including Grantor, who at any time owns, occupies, or acquires any right, title, or interest in or to any portion of the Property or a vendee's interest of record to any portion of the Property, including any successor, heir, assign or holder of title or a vendee's interest of record to any portion of the Property, but excluding any entity or person who holds such interest solely for the security for the payment of an obligation and does not possess or control use of the Property.
- 1.8 "Remedial Action" has the meaning set forth in ORS 465.200 and OAR 340-122-0115.

2. GENERAL DECLARATION

2.1 Grantor grants to DEQ an Easement for access and accepts the Equitable Servitudes described in this instrument and, in so doing, declares that the Property is now subject to and must in future be conveyed, transferred, leased, encumbered, occupied, built upon, or otherwise used or improved, in whole or in part, subject to this EES.

2.2 Each condition and restriction set forth in this EES touches and concerns the Property and the equitable servitudes granted in Section 3 and easement granted in Section 4 below, runs with the land for all purposes, is binding upon all current and future owners of the Property as set forth in this EES, and inures to the benefit of the State of Oregon. Grantor further conveys to DEQ the perpetual right to enforce the conditions and restrictions set forth in this EES.

3. EQUITABLE SERVITUDES (REQUIRED ACTIONS AND RESTRICTIONS ON USE)

3.1 **Groundwater Use Restrictions.** Owner may not extract through wells or by other means, or use the groundwater at the Property for consumption or other beneficial use. This prohibition does not apply to extraction of groundwater associated with groundwater treatment or monitoring activities approved by DEQ, or temporary dewatering activities related to construction, development, or the installation of sewer or utilities at the Property. Owner must

conduct a waste determination on any groundwater extracted during such monitoring, treatment, or dewatering activities, and handle, store, and manage wastewater according to applicable laws.

3.2 **Land Use Restrictions.** Residential buildings or uses are prohibited on the Property without prior notice to and approval by DEQ.

4. EASEMENT (RIGHT OF ENTRY)

During reasonable hours and subject to reasonable security requirements, DEQ may enter upon and inspect any portion of the Property to determine whether the requirements of this EES have been or are being complied with. Except when necessary to address an imminent threat to human health or the environment, DEQ will use its best efforts to notify the Owner 72 hours before DEQ entry to the Property. DEQ may enter upon the Property at any time to abate, mitigate, or cure at the expense of the Owner the violation of any condition or restriction contained in this EES, provided DEQ first gives written notice of the violation to Owner describing what is necessary to correct the violation and Owner fails to cure the violation within the time specified in such notice. Any such entry by DEQ to evaluate compliance or to abate, mitigate, or cure a violation may not be deemed a trespass.

5. RELEASE OF RESTRICTIONS

5.1 Owner may request release of any or all of the conditions or restrictions contained in this EES by submitting such request to the DEQ in writing with evidence that the conditions or restrictions are no longer necessary to protect human health and the environment. The decision to release any or all of the conditions or restrictions in this EES will be within the sole discretion of DEQ.

5.2 Upon a determination pursuant to Subsection 5.1, DEQ will, as appropriate, execute and deliver to Owner a release of specific conditions or restrictions, or a release of this EES in its entirety.

6. GENERAL PROVISIONS

6.1 **Notice of Transfer/Change of Use.** Owner must notify DEQ within 10 days after the effective date of any conveyance, grant, gift, or other transfer, in whole or in part, of Owner's interest in or occupancy of the Property. Such notice must include the full name and address of the Party to whom Owner has transferred an interest or right of occupancy. In addition, Owner must notify DEQ a minimum of 10 days before the effective date of any change in use of the Property that might expose human or ecological receptors to hazardous substances. Such notice must include complete details of any planned development activities or change in use. Notwithstanding the foregoing, Owner may not commence any development inconsistent with the conditions or restrictions in Section 3 without prior written approval from DEQ as provided in Subsection 3 of this EES or removal of the condition or restriction as provided in Subsection 5.1. This subsection does not apply to the grant or conveyance of a security interest in the Property.

6.2 **Zoning Changes.** Owner must notify DEQ no less than 30 days before Owner's petitioning for or filing of any document initiating a rezoning of the Property that would change the base zone of the Property under the Yamhill County zoning code or any successor code. As of the date of this EES, the base zone of the Property is General Commercial.

6.3 **Cost Recovery.** Owner will pay DEQ's costs for review and oversight of implementation of and compliance with the provisions in this EES, including but not limited to periodic review and tracking of actions required by this EES. This EES constitutes the binding agreement by the Owner to reimburse DEQ for all such eligible review and oversight costs. DEQ will establish a cost recovery account for tracking and invoicing DEQ project costs. DEQ will provide the Owner with a monthly statement and direct labor summary. DEQ costs will include direct and indirect costs. Direct costs include site-specific expenses and legal costs. Indirect costs are those general management and support costs of the State of Oregon and DEQ allocable to DEQ oversight of this EES and not charged as direct site-specific costs. Indirect charges are based on actual costs and are applied as a percentage of direct personal services costs.

6.4 **Conformance and Reporting.** Owner will immediately notify DEQ of any condition or occurrence at the Property that does not conform with provisions of this EES. Owner will maintain documentation of any dewatering and waste characterization conducted at the Property and should provide the documentation to DEQ upon request. Reports provided to DEQ in response to this notification must include sufficient detail to allow DEQ to determine compliance with EES requirements, and include a photographic log supporting the report's narrative.

6.5 **Reference in Deed.** A reference to this EES, including its location in the public records, must be recited in any deed conveying the Property or any portion of the Property. Each condition and restriction contained in this EES runs with the land so burdened until such time as the condition or restriction is removed by written certification from DEQ, recorded in the deed records of the County in which the Property is located, certifying that the condition or restriction is no longer required to protect human health or the environment.

6.6 **Effect of Recording.** Upon the recording of this EES, all future Owners are conclusively deemed to have consented and agreed to every condition and restriction contained in this EES, whether or not any reference to this EES is contained in an instrument by which such person or entity occupies or acquires an interest in the Property.

6.7 **Enforcement and Remedies.** Upon any violation of any condition or restriction contained in this EES, the State of Oregon, in addition to the remedies described in Section 4, may enforce this EES as provided in the Consent Judgment or seek available legal or equitable remedies to enforce this EES, including civil penalties as set forth in ORS 465.900.

6.8 **IN WITNESS WHEREOF** Grantor and Grantee have executed this Easement and Equitable Servitude as of the date and year first set forth above.

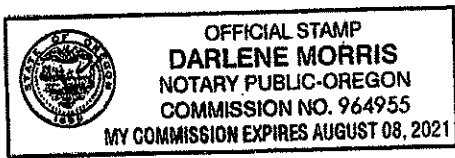
BY SIGNATURE BELOW, THE STATE OF OREGON APPROVES AND ACCEPTS THIS CONVEYANCE PURSUANT TO ORS 93.808.

GRANTOR: J.L. Investments, LLC

By: Jeffrey Lane Date: 11/03/20
Jeffrey L. Lane, Member

STATE OF OREGON)
County of Yamhill) ss.

The foregoing instrument is acknowledged before me this 2nd day of October 2020, by Jeffrey Lane of J.L. Investments, LLC, on its behalf.



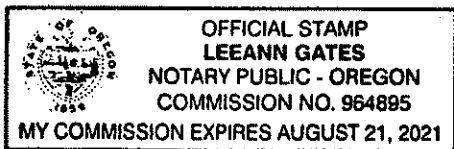
Darlene Morris
NOTARY PUBLIC FOR OREGON
My commission expires: 8-8-2021

GRANTEE: State of Oregon, Department of Environmental Quality

By: Michael E. Kucinski Date: 10/09/2020
Michael E. Kucinski, Manager
Western Region Cleanup and Emergency Response

STATE OF OREGON)
County of Lane) ss.

The foregoing instrument is acknowledged before me this 9th day of October 2020, by Michael E. Kucinski of the Oregon Department of Environmental Quality, on its behalf.



LeeAnn Gates
NOTARY PUBLIC FOR OREGON
My commission expires: August 21, 2021

EXHIBIT A

Legal Description of the Property

Real property in the County of Yamhill, State of Oregon, described as follows:

PARCEL 1:

Lots 1 and 2 and the South half of Lot 3, Block 12, HURLEY AND LARGE'S ADDITION to Newberg, in Yamhill County, Oregon.

EXHIBIT B

**NOTICE OF TRANSFER OF PROPERTY
AND ASSIGNMENT AND ASSUMPTION OF
J.L Investments, LLC's
RESPONSIBILITIES UNDER
THE EASEMENT AND EQUITABLE SERVITUDES FOR TAX LOT 5400**

TO _____

Oregon Department of Environmental
700 NE Multnomah Street, Suite 600
Portland, OR 97232-4100

This Notice of Transfer of Property and Assignment and Assumption of the 1495 Industrial Way, LLC's Responsibilities Under the EASEMENT AND EQUITABLE SERVITUDE for TAX LOT 5400 ["Notice"] is made by the undersigned and is given pursuant to SECTION 6.1 of the EASEMENT AND EQUITABLE SERVITUDES between the J.L. Investments, LLC and the Oregon Department of Environmental Quality ("DEQ").

The undersigned Seller and Buyer hereby notify DEQ that Buyer will be acquiring the real property described in Attachment A to the EASEMENT AND EQUITABLE SERVITUDES for Tax Lot 5400 the ("Property").

By its signature below, Buyer hereby confirms that it assumes and agrees to be bound by the applicable terms of the *Easement and Equitable Servitudes* for Tax Lot 5400 as of the date of its acquisition of ownership or operation of the Property. As a result of such assumption, Buyer shall assume the burdens and obtain the benefits of the *Consent Judgment*, including but not limited to the release from liability described in Subsection 5. B. of the *General Judgment*. Buyer recognizes that the release from liability set forth in Subsection 5.B. of the *General Judgment* will not limit, release, or affect Buyer's liability if Buyer is potentially liable under ORS 465.255 for a release of hazardous substances at the Property as of the date Buyer acquires ownership or operation of the Property.

This Notice is executed by Seller and Buyer as of the ____ day of _____, 20__.

SELLER:

J.L. INVESTMENTS, LLC

_____, Member

BUYER:

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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF YAMHILL

STATE OF OREGON, ex rel.
RICHARD WHITMAN INTERIM
DIRECTOR DEPARTMENT OF
ENVIRONMENTAL QUALITY

Plaintiff,

v.

BALDING BUFFALO, LLC,
Defendant

Case No. 21CV18954

CERTIFICATION OF COMPLETION

1. Findings

A. On May 5, 2021, the Yamhill County Circuit Court entered Consent Judgment No. 21CV18954 (the “Consent Judgment”) between the Oregon Department of Environmental Quality (DEQ) and Defendant. The DEQ Consent Judgment concerns the real property located at 105 N Main Street, Newberg, Yamhill County, Oregon, in Section 19 NE, Township 3S, Range 2W, Tax Lots 5400 & 5500, of the Willamette Meridian (the “Property”). The property’s legal description is: PARCEL 1: Lots 1 and 2 and the south half of Lot 3, Block 12, HURLEY AND LARGE’S ADDITION and PARCEL 2: North half of Lot 3, Block 12, HURLEY AND LARGE’S ADDITION to Newberg, in Yamhill County, Oregon. The Property is owned by Defendant and includes an environmental cleanup site identified as J.L. Investment, LLC, which is listed by DEQ as Environmental Cleanup Site Information (ECSI) No. 6414. Under the terms of the Consent Judgment, Defendant agreed to perform the remedial work specified in the DEQ approved

1 Remedial Scope of Work, Consent Judgement - Exhibit D, and comply with all applicable provisions
2 of the Consent Judgment.

3 B. The work performed by Defendant included the removal of lead contamination from
4 within the existing building, the collected confirmation samples demonstrated the remedial action
5 was conducted adequately and Property does not present a threat to human health or the
6 environment. On November 4, 2020, an Easement And Equitable Servitudes was recorded for the
7 Property, *see* Consent Judgment – Exhibit C, which restricts groundwater uses and residential land
8 use, in order to protect future human health. On November 4, 2020, Maul Foster & Alongi, Inc, the
9 environmental consultant, issued Closeout Report: Residual Lead Remedial Action, 105 N Main St,
10 Tax Lot R3219AB 05400, Newberg, OR, as required by Paragraph 8.A. of the Consent Judgment
11 that DEQ reviewed and approved. The Property was conveyed from J.L. Investments, LLC to
12 Defendant on May 19, 2021.

13 C. On March 1, 2021, DEQ provided public notice and opportunity to comment on a
14 proposed Consent Judgment for a Prospective Purchaser Agreement for the facility in accordance with
15 ORS 465.320 and 465.325(10)(b). The public notice was published on March 1, 2021 in the *Oregon*
16 *Secretary of State's Bulletin* and on March 3, 2021 in the Newberg Graphic newspaper. The public
17 notice was also placed on DEQ's Public Notice webpage. The comment period was closed on
18 April 2, 2021. No comments were received from the public.

19 **2. Conclusions**

20 A. Defendant has satisfactorily completed the requirements set forth in the Consent
21 Judgment by accepting title to the Property.

22 **3. Conditions**

23 A. This Certification of Completion applies only to the satisfactory completion of the work
24 conducted by Balding Buffalo, LLC pursuant to the Consent Judgment.

25 ///

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1 **4. Notice**

2 This order constitutes Certification of Completion under ORS 465.325(10), and may be
3 appealed by any aggrieved person in accordance with ORS 465.325(10)(c).

4

5 **Issued By:**

6 State of Oregon
7 Department of Environmental Quality

State of Oregon
Department of Justice

8 By: *Lydia Emer*
9 Lydia Emer,
Land Quality Division Administrator

By: *Gary Vrooman*
Gary Vrooman, OSB No. 075832
Assistant Attorney General

10 08/24/2021
11 Date

08/26/2021
Date

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1 CERTIFICATE OF SERVICE

2 I certify that on August 26, 2021, I served a true copy of the foregoing of CERTIFICATE
3 OF COMPLETION in BALDING BUFFALO, LLC, upon the party hereto by the method
4 indicated below, and addressed to the following:

5
6 Mr. James C Brown
7 James C Brown & Associates PC
8 PO Box 31
9 Marylhurst, OR 97036

___ Hand Delivery
x Mail Delivery
___ Overnight Mail
___ Telecopy (fax)
___ E-Mail

10
11 *Gary Vrooman*

12 _____
13 Gary Vrooman, OSB #075832
14 Assistant Attorney General
15 Of Attorneys for Plaintiff
16 Department of Justice
17 100 SW Market Street
18 Portland, OR 97201
19 Phone: 971-673-1878
20 Fax: 971-673-1886
21 gary.l.vrooman@doj.state.or.us

Attachment 2: Agency Comments

Attachment 3: Public Comments

None