

Attachment 6: Planning Commission Resolution 2024-392



PLANNING COMMISSION RESOLUTION 2024-392

A RESOLUTION RECOMMENDING THAT THE CITY COUNCIL APPROVE AN ANNEXATION OF 0.7 ACRES INTO THE CITY OF NEWBERG AND CHANGE THE ZONING FROM YAMHILL COUNTY ZONING TO CITY OF NEWBERG MEDIUM DENSITY RESIDENTIAL (R-2) ZONING

RECITALS

1. Daniel Danicic submitted an application to annex 0.7 acres of property into the City of Newberg pursuant to ORS 222.125 and apply City zoning, amending the zoning from the Yamhill County LDR-9000 zone to City of Newberg R-2 zone.
2. The property already has a City of Newberg Comprehensive Plan designation of MDR which corresponds with the R-2 zoning district.
3. The Planning Commission agenda item (ANX23-0001 – Annexation of 918 S Wynooski Street) noticed and scheduled for April 11, 2024 was continued to the May 9, 2024 Planning Commission meeting.
4. The Newberg Planning Commission held a hearing on May 9, 2024, to consider the application. The Commission considered testimony and deliberated.
5. The Newberg Planning Commission finds that the application meets the applicable Newberg Development Code criteria as shown in the findings in Exhibit “B”.
6. State law changed with the passage and adoption of Oregon Senate Bill 1573 (2016), which added language to ORS 222.111 that preempts Newberg’s requirement that annexations go to a public vote, and instead directs the legislative body of a city to annex properties without a public vote when the properties meet certain requirements, including: being within the urban growth boundary; conforming to the Comprehensive plan of the City; contiguous to city limits; and meeting the City’s adopted Development Code criteria for annexation. This property meets those criteria.

The Newberg Planning Commission resolves as follows:

1. The Planning Commission recommends that the City Council annex the property shown and described in Exhibit “A” along with a zone change to R-2. Exhibit "A" is hereby adopted and by this reference incorporated.
2. This recommendation is based on the findings shown in Exhibit “B”, the findings that the property meets ORS 222.125 and ORS 222.111 criteria as set forth in Recital No. 6 above, and the conditions of approval shown in Exhibit “C”. Exhibits "B" and “C” are hereby adopted and by this reference incorporated.

Adopted by the Newberg Planning Commission this May 9, 2024.



Planning Commission Chair

ATTEST:


Planning Commission Secretary

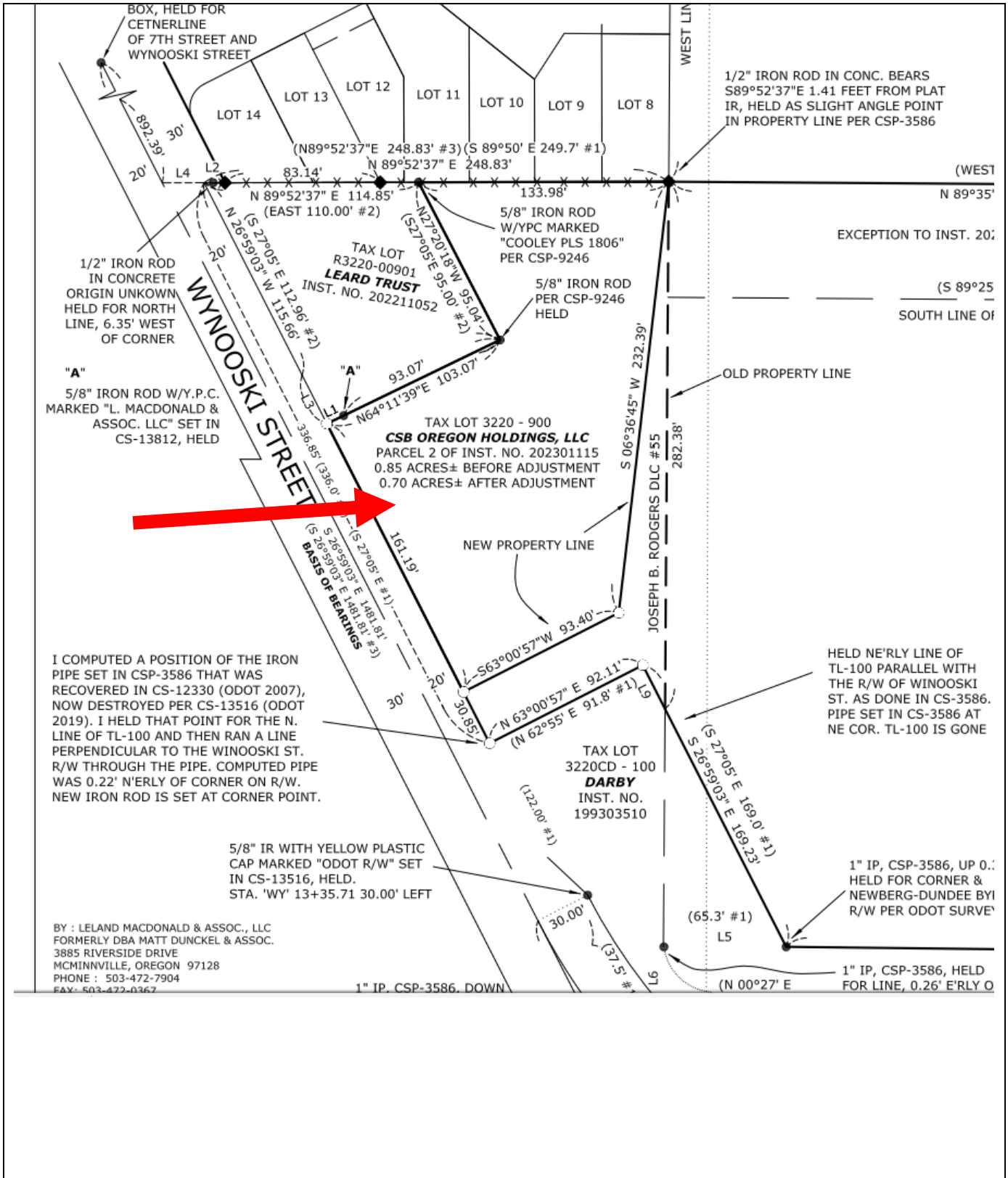
EXHIBIT “A” TO PLANNING COMMISSION RESOLUTION NO. 2024-392
LEGAL DESCRIPTION AND MAP – CITY OF NEWBERG
Type III Annexation
918 S Wynooski Street (File No. ANX23-0001)

EXHIBIT "A"
Legal Description

For APN/Parcel ID(s): 55530
For Tax Map ID(s): R3220 00900

A tract of land located in Section 20, Township 3 South, Range 2 West of the Willamette Meridian, in a portion of the Joseph B. Rogers Donation Land Claim No. 55, Yamhill County, Oregon, said tract being more particularly described as follows:

BEGINNING at an iron rod marking the southeast corner of Lot 8 of NOVA GRACE Subdivision, recorded January 8, 2018 in Volume 15, Page 40 in the records of the Yamhill County Surveyor, Yamhill County, Oregon, said rod being a point on the east line of said Rogers Claim; thence South 06°36'45" West 232.39 feet to an iron rod; thence South 63°00'57" West 93.40 feet to an iron rod on the northeasterly margin of Wynooski Street at a point that is 20.00 feet from the centerline thereof, when measured at right angles thereto; thence along said street margin North 26°59'03" West 161.19 feet to a iron rod marking the most southerly corner of that tract of land described in deed to Sandra Massey, Successor Trustee under the Leard Living Trust, by agreement dated September 15, 2003, recorded on August 10, 2022, as Instrument No. 202211052, Deed Record of Yamhill County, Oregon; thence North 64°11'39" East 103.07 feet to an iron rod marking the most easterly corner of said LEARD TRUST tract; thence North 27°20'18" West 95.04 feet to a iron rod marking the most northerly corner of said LEARD TRUST tract and being a point on the south line of Lot 11 of said NOVA GRACE Subdivision; thence along the south line of said subdivision North 89° 52'37" East 133.98 feet to the POINT OF BEGINNING.



This map/plat is being furnished as an aid in locating the herein described Land in relation to adjoining streets, natural boundaries and other land, and is not a survey of the land depicted. Except to the extent a policy of title insurance is expressly modified by endorsement, if any, the Company does not insure dimensions, distances, location of easements, acreage or other matters shown thereon.

EXHIBIT “B” TO PLANNING COMMISSION RESOLUTION NO. 2024-392
FINDINGS
Type III Annexation
918 S Wynooski Street (File No. ANX23-0001)

The Newberg Municipal Code (NMC) criteria and development standards are written in *italic bold* font and the findings are written in regular font. The NMC criteria will be presented first, followed by the findings of fact.

Findings of fact with underlined font indicate subsequent inclusion into Conditions of Approval.

A. FINDINGS FOR LAND USE PROCESSES AND PROCEDURES (NMC DIVISION 15.100)

Chapter 15.100 LAND USE PROCESSES AND PROCEDURES

15.100.050 Type III procedure – Quasi-judicial hearing.
[...]

B. Type III actions include, but are not limited to:

[..]

9. Annexation: This action is a recommendation to the city council.

Finding: Because this application is for a proposed annexation, it is processed as a Type III action including a recommendation of the Newberg Planning Commission to City Council, and a final decision by the City Council.

C. Planning Commission Decisions and Recommendation Actions.

1. Planning Commission Decision. Development actions shall be decided by the planning commission for those land use actions that require a Type III procedure and do not require the adoption of an ordinance. The decision shall be made after public notice and a public hearing is held in accordance with the requirements of NMC 15.100.090 et seq. A Type III decision may be appealed to the city council by a Type III affected party in accordance with NMC 15.100.160 et seq.

2. Planning Commission Recommendation to City Council. Land use actions that would require the adoption of an ordinance shall be referred to the city council by the planning commission together with the record and a recommendation. The recommendation shall be made after public notice and a public hearing is held in accordance with the requirements of NMC 15.100.090 et seq.

Finding: Because the proposed annexation requires the adoption of an ordinance by the Newberg City Council, the Planning Commission decision shall be referred to the City Council together with the record and a recommendation.

[...]

E. The applicant shall provide notice pursuant to NMC 15.100.200 et seq.

Finding: The Applicant submitted an affidavit that the required notice was mailed on February 19, 2024, and posted on the site on February 20, 2024. The City posted notice in four public places and in a newspaper of record on March 28, 2024.

Because the Applicant provided notice pursuant to NMC 15.100.200 et seq., this criterion is met.

B. FINDINGS FOR LAND USE APPLICATIONS (NMC DIVISION 15.200)

Chapter 15.250 ANNEXATIONS

15.250.020 Conditions for annexation.

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

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

Finding: As shown on Attachment 2, the subject property is located within the Newberg Urban Growth Boundary.

Because the subject property is located within the Newberg Urban Growth Boundary, this criterion is met.

B. The subject site must be contiguous to the existing city limits. [Ord. 2745 § 1 (Exh. A), 7-18-11; Ord. 2451, 12-2-96. Code 2001 § 151.261.]

Finding: As shown on Attachment 2, the subject property is contiguous to the existing city limits along its north and west boundaries.

Because the subject property is contiguous to the existing city limits, this criterion is met.

15.250.030 Quasi-judicial annexation criteria.

Quasi-judicial annexation applications are those filed pursuant to the application of property owners and exclude legislative annexations. The following criteria shall apply to all quasi-judicial annexation requests:

A. The proposed use for the site complies with the Newberg comprehensive plan and with the designation on the Newberg comprehensive plan map. If a redesignation of the plan map is requested concurrent with annexation, the uses allowed under the proposed designation must comply with the Newberg comprehensive plan.

Finding: The Newberg Comprehensive Plan designation of the subject property is MDR (Medium Density Residential) and the current use is a single-family dwelling. The Newberg Comprehensive Plan indicates that typical housing types within the MDR designation include single-family housing on small lots. Per NMC 15.250.080(B), the appropriate zoning classification for the MDR Comprehensive Plan classification is R-2 or R-4. The Applicant proposes assigning the R-2 (Medium Density Residential) zoning district designation to the subject property.

Because the existing use and proposed zoning designation for the site complies with the Newberg Comprehensive Plan and with the designation on the Newberg Comprehensive Plan map, this criterion is met.

1. Where large LDR or MDR designated parcels or groups of parcels are to be annexed, the applicant(s) shall concurrently apply for a comprehensive plan map amendment to include some HDR-designated/R-3 zoned lands, consistent with the policy of distributing R-3 multifamily housing throughout the community. Such zoning shall be applied to portions of the property that are most suitable for high density development.

For the purposes of this policy, “large” is defined as an area greater than 15 net acres, after subtracting for land in stream corridor overlays. “Some” is defined as 10 percent of the net size of the application.

Finding: The subject property proposed to be annexed is approximately 0.7 acres in size.

Because the subject property is less than 15 net acres, it is not a large LDR or MDR designated parcel. This criterion is not applicable.

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

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

Finding: The Applicant is requesting annexation into the City of Newberg in order to connect to City wastewater sewer service due to the circumstance of a failing on-site septic system. There is a 10-inch public wastewater main in S Wyooski Street. There is also an 8-inch public wastewater collection line running across the Applicant’s property at 918 S Wyooski Road. Upon annexation, the Applicant will be allowed to connect to the City wastewater sewer system. There is no clear indication of an easement granting the City access to this line across the Applicant’s property for maintenance and repair. The Applicant shall provide the City of Newberg with a recorded 20-foot public utility easement benefitting the City and centered on the existing public wastewater collection line prior to connection. Final plans showing the recorded public utility easement for the public wastewater collection line across 918 S Wyooski will be required with the public improvement permit application.

The Public Works Maintenance Division has indicated that the proposed service lateral must connect into the wastewater main in S Wyooski Street. Final plans which meet the City Newberg Public Works Design and Construction Standards for public wastewater service connection are required with the application for a public improvement permit.

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

2. Roads with an adequate design capacity for the proposed use and projected future uses. Where construction of the road is not deemed necessary within the three-year time period, the city shall note requirements such as dedication of right-of-way, waiver of

remonstrance against assessment for road improvement costs, or participation in other traffic improvement costs, for application at the appropriate level of the planning process. The city shall also consider public costs for improvement and the ability of the city to provide for those costs.

Finding: The property has frontage along S Wyooski Street. Future development of this property will necessitate roadway frontage improvements to City standards. Wyooski Street is classified as a major collector.

Roadway	Functional Classification	Existing Right-of-way	Existing Pavement Width	Minimum Right-of-way	Minimum Pavement Width	Typical Cross-Section (per Transportation System Plan)
Wyooski Street	Major Collector (57-feet to 80-feet)	50-feet		60-feet For typical section per TSP. 68 -feet if parking allowed one side.	36-feet	<ul style="list-style-type: none"> • 1-foot from back of walk to right-of-way** • 5-foot sidewalk • 5.5-foot planter* • 0.5-foot curb • 6-foot bike lane • 12-foot travel lane • 12-foot travel lane • 6-foot bike lane • 0.5-foot curb • 5.5-foot planter* • 5-foot sidewalk • 1-foot from back of walk to right of way**
In*5-foot minimum inclusive of the curb per NMC 15.505.030(G)(8) **Per PWDCS 5.14						

The Applicant will be required to dedicate additional right-of-way along their property frontage to provide for 30-feet of right-of-way from the roadway centerline along the property frontage prior to connection to the City wastewater system. The map and legal description of the Application Materials include the subject property and right-of-way dedication. The dedication will be required to be recorded prior to connection to the public wastewater collection line. Final plans showing the recorded dedication described in the Application Materials (Exhibit “A” and “B” of Application Materials Attachment E) shall be submitted with the public improvement permit application.

Further, the Applicant shall sign and record with Yamhill County a non-remonstrance agreement with the City of Newberg for the required improvements along the property frontages of S Wyooski Street including but not limited to a 12-foot travel lane, 6-foot bike

lane, 0.5-foot curb, 5.5-foot planter strip, 5-foot sidewalk, 1-foot from back of walk to right-of-way, street trees, street lighting, and any necessary public water, wastewater, or stormwater improvements prior to application for connecting to the City's wastewater system. At such a point in time that the City decides it is ready for these improvements to be made, the property owner shall at their own cost implement these improvements as a condition of the annexation.

Transportation Planning Rule: Annexation of the property complies with the State Transportation Planning Rule (TPR) (Oregon Administrative Rule [OAR] 660-012-0060) because it meets the requirements for an amendment to a zoning map that does not significantly affect an existing or planned transportation facility as permitted by Section 9 of the TPR. The proposed zoning of R-2 is consistent with the Comprehensive Plan Map designation of MDR. Further, there is no additional development permitted on this site until all public utility connections are available. The City of Newberg has an acknowledged TSP with includes this site as planned future urbanizable land within the UGB.

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

C. Findings documenting the availability of police, fire, parks, and school facilities and services shall be made to allow for conclusionary findings either for or against the proposed annexation. The adequacy of these services shall be considered in relation to annexation proposals.

Finding: The Applicant's materials indicate that the subject property is developed and located within the Tualatin Valley Fire and Rescue, Chehalem Park and Recreation, and Newberg School District, and that police service is available from the Newberg-Dundee Police Department. The City sends the application information to the aforementioned agencies, among others, for comments prior to the staff report. There are no comments to suggest that City services could not support the addition of the approximately 0.7 acres of land to the city limits.

Other private service providers, including garbage, telephone, postal and internet services, and facilities required to serve future development of the subject property will be determined the City at the time of development permit review and approval.

It should be noted that the City of Newberg does not do future planning for the Parks District or the School District. However, the City coordinates with those agencies on a regular basis regarding future planning efforts. This type of coordination is typically done at the time of annexation and urban growth boundary expansions, when properties are added to serve the future 20-year urbanizable area, or areas where the city limits is expected to expand to meet growth needs.

Because the availability of police, fire, parks, and school facilities and services has been indicated, this criterion is met.

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

Finding: Because the Applicant submitted adequate information to allow the City to make findings that demonstrate compliance with the applicable criteria, this criterion is met.

E. The city council may annex properties where urban services are not and cannot practically be made available within the three-year time frame noted in subsection (B) of this section, but where annexation is needed to address a health hazard, to annex an island, to address wastewater or water connection issues for existing development, to address specific legal or contract issues, to annex property where the timing and provision of adequate services in relation to development is or will be addressed through legislatively adopted specific area plans or similar plans, or to address similar situations. In these cases, absent a specific legal or contractual constraint, the city council shall apply an interim zone, such as a limited-use overlay, that would limit development of the property until such time as the services become available. [Ord. 2826 § 1 (Exh. A), 5-7-18; Ord. 2745 § 1 (Exh. A), 7-18-11; Ord. 2640, 2-21-06; Ord. 2451, 12-2-96. Code 2001 § 151.262.]

Finding: The subject property is currently developed and within the City's urban growth boundary. Further improvements and extension of additional city services are addressed elsewhere in this staff report.

Because adequate urban services are found to be available within the three-year time frame, this criterion is not applicable.

15.250.040 Quasi-judicial annexation procedures.

All quasi-judicial annexation requests approved by the city council shall be referred to the voters in accordance with the requirements of this code and ORS Chapter 222.

Finding: The passage and adoption of Oregon Senate Bill 1573 (2016) added language to ORS 222.111 that preempts Newberg's requirement that annexations go to a public vote, and instead directs the legislative body of a city to annex property without a public vote when the property meets certain requirements, including:

- Being within the urban growth boundary;
- Subject to the Comprehensive Plan of the City;
- Contiguous to city limits; and
- Meeting the city's adopted Development Code criteria for annexation.

As discussed elsewhere in this staff report, the subject property is located within the City of Newberg's Urban Growth Boundary, contiguous to City limits, and meets the City's adopted Development Code criteria for annexation. As shown on Attachment 2, the subject property is subject to the Comprehensive Plan of the City.

Because the proposed annexation meets these criteria, the legislative body may annex the property without a public vote. The criterion is not applicable.

15.250.050 Application requirements for quasi-judicial annexations.

Applications for quasi-judicial annexations shall be made on forms provided by the planning division and include the following material:

A. Written consent to the annexation signed by the requisite number of affected property owners, electors, or both to conduct an election within the area to be annexed, as provided by state law. The consent shall include a waiver stating that the owner will not file any demand against the city under Measure 49, approved November 6, 2007, that amended ORS Chapters 195 and 197.

Finding: A land use application form was signed by the owner of the subject property and is provided in Attachment 4. An Annexation Consent Form was submitted by the Applicant and provided in Attachment 4. The Applicant submitted a Waiver of Expiration of Annexation Consent in their Application Materials as a Measure 49 Waiver (Application Materials Attachment C). On April 11, 2024, the Applicant submitted a signed Measure 49 waiver, executed by the City Recorder on April 16, 2024, and City Attorney on April 24, 2024.

Because a land use application form, annexation consent form, and Measure 49 waiver were submitted by the Applicant, this criterion is met.

B. Legal description of the property to be annexed and a boundary survey certified by a registered engineer or surveyor.

Finding: A legal description and boundary survey certified by a registered engineer or surveyor was submitted by the Applicant and is provided in Attachment 4.

Because a legal description and boundary survey certified by a registered engineer or surveyor was submitted by the Applicant, this criterion is met.

C. Vicinity map and map of the area to be annexed including adjacent city territory.

A vicinity map and map of the area was submitted by the Applicant and is provided in Attachment 4.

Because a vicinity map and map of the area were submitted by the Applicant, this criterion is met.

D. General land use plan indicating types and intensities of proposed development, transportation corridors (including pedestrian and vehicular corridors), watercourses, significant natural features, open space, significant stands of mature trees, wildlife travel corridors, and adjoining development.

Finding: The Applicant has indicated that the proposed annexation does not change the current developed density of the adjacent lands, and that there are no significant natural features, open space, significant stands of mature trees, wildlife corridors, or watercourses on the subject property. Approximately 550 square feet of the southeastern portion of the subject property is within the City's Stream Corridor Overlay Subdistrict. The Applicant has indicated that they understand that should there be redevelopment of the property after annexation, the stream corridor impact will need to be addressed.

Because the subject property is currently developed and no additional development with impacts to the general land use and adjoining development is proposed at this time, this criterion is met.

E. Statement of overall development concept and methods by which physical and related social environment of the site, surrounding area, and community will be enhanced.

Finding: The Applicant provided the following development concept statement: “The applicant is not proposing further development on the site. The annexation request is driven solely by the need for sanitary sewer service. The property currently has a connection to city water.”

Because the Applicant provided a statement of the overall development concept and methods by which the physical environment of the site will be enhanced through connection to the City’s wastewater sewer system, this criterion is met.

F. Annexation fees, as set by city council resolution.

Finding: Applicable annexation fees were paid by the Applicant on December 14, 2023.

Because annexation fees, as set by City Council resolution, have been paid, this criterion is met.

G. Statement outlining method and source of financing to provide additional public facilities.

Finding: The subject property is currently developed and no additional public facilities will be required. As discussed elsewhere in this staff report, as a condition of approval the Applicant will be required to sign and record with Yamhill County a non-remonstrance agreement with the City of Newberg for the required improvements along S Wynooksi Street.

Because no additional public facilities are currently required and the Applicant will be required to sign and record a non-remonstrance agreement with the City, this criterion is met.

H. Comprehensive narrative of potential positive and negative physical, aesthetic, and related social effects of the proposed development on the community as a whole and on the smaller subcommunity or neighborhood of which it will become a part and proposed actions to mitigate such effects.

Finding: The Applicant provided the following narrative of potential positive and negative effects of the proposed annexation:

“The proposed annexation/zone change will have a positive impact on the economy of the City of Newberg. The annexation will allow the city to add a utility customer and receive increased property tax revenues. This annexation application does not include future development of the property as such there will not be any negative physical, aesthetic, or related social effects on the community.”

Because the Applicant provided a narrative of potential effects, the subject property is currently developed, and the Applicant has indicated that there is no additional development with this annexation application, the criterion is met.

I. Concurrent with application for annexation, the property may be assigned one of the following methods for development plan review:

- 1. A planned unit development approved through a Type III procedure.***
- 2. A development agreement approved by the city council.***

3. A contract annexation as provided for in the state statutes. Development plans must be approved and an annexation contract must be signed by the city council in order to use the contract annexation process. [Ord. 2745 § 1 (Exh. A), 7-18-11; Ord. 2693 § 1 (Exh. A(4)), 3-3-08; Ord. 2612, 12-6-04; Ord. 2451, 12-2-96. Code 2001 § 151.264.]

Cross-reference: See ORS 222.111 for annexation eligibility and ORS 222.010 – 222.750, pertaining to annexation procedures.

Finding: The Applicant has requested this annexation to connect an existing developed property to the City’s wastewater sewer system. Any future development on the subject property will undergo the appropriate land use review process for the type of proposed development.

Because there is no additional development proposed with this proposed annexation, concurrent development plan review is not required. This criterion is not applicable.

15.250.080 Comprehensive plan and zoning designations.

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

Finding: The Comprehensive Plan map designation of the subject property is Medium Density Residential (MDR). The Applicant has not requested a redesignation of the Comprehensive Plan map concurrent with the proposed annexation.

Because a redesignation of the Comprehensive Plan map is not proposed, this criterion is not applicable.

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

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

<i>Comprehensive Plan Classification</i>	<i>Appropriate Zoning Classification</i>
<i>IND</i>	<i>M-1, M-2, M-3, M-4, or AI as determined by the director</i>
<i>PQ</i>	<i>Any zoning classification</i>
<i>P</i>	<i>CF</i>

Finding: The Comprehensive Plan map designation of the subject property is Medium Density Residential (MDR). Per NMC 15.250.080(B), the appropriate zoning classification is either R-2 or R-4. The Applicant has requested that the subject property be classified into the R-2 zoning district. Per NMC 15.302.032(B) and (D), the purpose of the R-2 Medium Density Residential District is to provide a wide range of dwelling types and styles and the purpose of the R-4 Manufactured Dwelling District is to provide locations reserved for manufactured homes, manufactured dwelling parks, mobile home parks, manufactured home subdivisions, and related uses. Because the subject property is developed with an existing single-family dwelling, the R-2 Medium Density Residential District is a more appropriate zoning classification.

Because the Applicant has requested that the subject property of the proposed annexation be classified with an appropriate zoning classification for the MDR Comprehensive Plan classification, this criterion is met.

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

Finding: The Applicant has not requested a zoning classification other than described in NMC 15.250.080(B).

Because the zoning classification requested by the Applicant is consistent with the appropriate zoning classifications in NMC 15.250.080(B), this criterion is not applicable.

D. In the event that the annexation request is denied, the zone change request shall also be denied. [Ord. 2883 § 1 (Exh. A § 1), 6-7-21; Ord. 2747 § 1 (Exh. A § 6), 9-6-11; Ord. 2720 § 1(9), 11-2-09; Ord. 2451, 12-2-96. Code 2001 § 151.267.]

Finding: The Applicant has not requested zone change request concurrent to this application.

Because a zone change request has not been submitted with the proposed annexation, this criterion is not applicable.

15.250.090 Coordination.

Annexation requests shall be coordinated with affected public and private agencies, including, but not limited to, Yamhill County, Chehalem Park and Recreation District, Newberg School District, Northwest Natural Gas, Portland General Electric, and, where appropriate, various state agencies. Coordination shall be made by referral of annexation request to these bodies sufficiently in advance of final city action to allow for reviews and recommendations to be

incorporated into the city records. [Ord. 2745 § 1 (Exh. A), 7-18-11; Ord. 2451, 12-2-96. Code 2001 § 151.268.]

Finding: Upon determination that the application for the proposed annexation was complete, the City referred the application materials to affected public and private agencies on February 15, 2024. This referral included Yamhill County, Chehalem Park and Recreation District, Newberg School District, Northwest Natural Gas, Portland General Electric, the Oregon Department of Transportation, the Oregon Department of Aviation, Tualatin Valley Fire and Rescue, Sportsman Airpark, and other utility providers. Comments received are incorporated into this staff report and addressed in findings where applicable.

Because a referral review of the proposed annexation request was provided by the City to affected public and private agencies sufficiently in advance of final city action to allow for reviews and recommendations to be incorporated into City records, this criterion is met.

C. FINDINGS FOR ZONING DISTRICTS (NMC DIVISION 15.300)

Chapter 15.340 AIRPORT OVERLAY (AO) SUBDISTRICT

15.340.010 Purpose.

A. In order to carry out the provisions of this airport overlay subdistrict, there are created and established certain zones which include all of the land lying beneath the airport imaginary surfaces as they apply to Sportsman Airpark in Yamhill County. Such zones are shown on the current airport overlay zone map and the displaced threshold approach surface map, prepared by the Newberg engineering department (see Appendix B, Maps 2 and 3).

B. Further, this overlay zone is intended to prevent the establishment of air space obstructions in airport approaches and surrounding areas through height restrictions and other land use controls as deemed essential to protect the health, safety and welfare of the people of the City of Newberg and Yamhill County. [Ord. 2451, 12-2-96. Code 2001 § 151.450.]

Finding: The subject property is within the Horizontal Zone imaginary surface of Sportsman Airpark as described in NMC 15.340.010(A) and on NMC Title 15 Development Code's Appendix B (Maps 2 and 3). Therefore, any future development will be subject to the procedures and limitations of the Airport Overlay Subdistrict.

In accordance with FAR Part 77.9 and OAR 738-070-0060, future development at this site may be required to undergo aeronautical evaluations by the Federal Aviation Administration (FAA) and Oregon Department of Aviation (ODAV). The aeronautical evaluations are initiated by the Applicant providing separate notices to both the FAA and ODAV to determine if the proposal poses an obstruction to aviation safety. The Applicant should receive aeronautical determination letters from the FAA and ODAV prior to approval of any building permits.

Upon adherence to the aforementioned condition of approval, this criterion is applicable.

Chapter 15.342 STREAM CORRIDOR OVERLAY (SC) SUBDISTRICT

15.342.020 Where these regulations apply.

The regulations of this chapter apply to the portion of any lot or development site which is within an SC overlay subdistrict. Unless specifically exempted by NMC 15.342.040, these regulations apply to the following:

A. New structures, additions, accessory structures, decks, addition of concrete or other impervious surfaces;

B. Any action requiring a development permit by this code;

C. Changing of topography by filling or grading;

D. Installation or expansion of utilities including but not limited to phone, cable TV, electrical, wastewater, storm drain, water or other utilities;

E. Installation of pathways, bridges, or other physical improvements which alter the lands within the stream corridor overlay subdistrict. [Ord. 2451, 12-2-96. Code 2001 § 151.466.]

Finding: Approximately 500 square feet of the southeast portion of the subject property is within the Stream Corridor Overlay Subdistrict. Any future development or redevelopment may be subject to the procedures and limitations of the Stream Corridor Overlay Subdistrict.

Upon adherence to the aforementioned condition of approval, this criterion is applicable.

D. FINDINGS FOR DEVELOPMENT STANDARDS (NMC DIVISION 400)

Chapter 15.430 UNDERGROUND UTILITY INSTALLATION

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.

Finding: The application materials indicate that no new utility services are proposed with the annexation application.

This criterion is not applicable.

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.

Finding: Existing utility lines at the subject property are overhead. As a developed area proposed to be annexed to the city, the existing overhead utility lines on the property shall be placed underground.

Upon adherence to the aforementioned condition of approval the criterion is met.

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

Finding: At the time of writing this staff report, no request has been received from the Applicant for an exception to NMC 15.430(B)'s utility undergrounding requirement. The Applicant may submit a request to the Community Development Director for an exception to the requirement to underground utilities if one or more of the criteria listed in NMC 15.430(B) are applicable to the subject property.

Because a request has not been made to the Community Development Director to exempt the utility undergrounding requirement, this criterion is not applicable.

CONCLUSION:

Based on the above-mentioned findings and adherence to the above-mentioned conditions of approval, the application meets the criteria of the Newberg Development Code for the annexation of the subject property into the City of Newberg and the application of the Comprehensive Plan and zoning designations to the property as noted in this staff report.

EXHIBIT “C” TO PLANNING COMMISSION RESOLUTION NO. 2024-392
CONDITIONS OF APPROVAL
Type III Annexation
918 S Wynooski Street (File No. ANX23-0001)

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

1. Urban Services – Municipal Wastewater and Water Service

- a. The Applicant shall provide the City of Newberg with a recorded 20-foot public utility easement benefitting the City and centered on the existing public wastewater collection line prior to connection. Final plans showing the recorded public utility easement for the public wastewater collection line across 918 S Wynooski will be required with the public improvement permit application.
- b. The Public Works Maintenance Division has indicated that the proposed service lateral must connect into the wastewater main in S Wynooski Street. Final plans which meet the City Newberg Public Works Design and Construction Standards for public wastewater service are required with the application for a public improvement permit.

2. Urban Services – Roads

- a. Final plans showing the recorded dedication described in the Application Materials (Exhibit “A” and “B” of Application Materials Attachment E) shall be submitted with the public improvement permit application.
- b. The Applicant shall sign and record with Yamhill County a non-remonstrance agreement with the City of Newberg for the required improvements along the property frontages of S Wynooski Street including but not limited to a 12-foot travel lane, 6-foot bike lane, 0.5-foot curb, 5.5-foot planter strip, 5-foot sidewalk, 1-foot from back of walk to right-of-way, street trees, street lighting, and any necessary public water, wastewater, or stormwater improvements prior to application for connecting to the City’s wastewater system. At such a point in time that the City decides it is ready for these improvements to be made, the property owner shall at their own cost implement these improvements as a condition of the annexation.

3. Stream Corridor Overlay Subdistrict: Any future development or redevelopment may be subject to the procedures and limitations of the Stream Corridor Overlay Subdistrict.

4. Underground Utilities: The existing overhead utility lines on the property shall be placed underground.