

Nova Grace Subdivision

Amended Subdivision Application
(Narrative portion and engineering report only)

March 31, 2016

Development Application – Nova Grace Subdivision

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DATA SHEET

Property Owner	Darby Family trust 900 Wynooski St. Newberg, OR 97132
Applicant	Del Boca Vista, LLC PO Box 486 Newberg, OR 97132 Phone: 971-706-2058
Property Description	3220CA-0900 900 Wynooski St. Newberg, OR 97132
Zoning:	R-2 Single Family Residential
Lot Size:	1.99 ac
Area Within Stream Corridor:	18,608 sf
Proposal:	14-Lot Subdivision
Minimum Lot Size per Code:	3,000sf
Proposed Lots sizes:	2,420sf to 11,017sf
Average Lot Size:	3,189 sf
Target Density:	9 units per acre
Proposed Density:	7.04 units/acre (Including stream corridor area)

PROJECT OVERVIEW

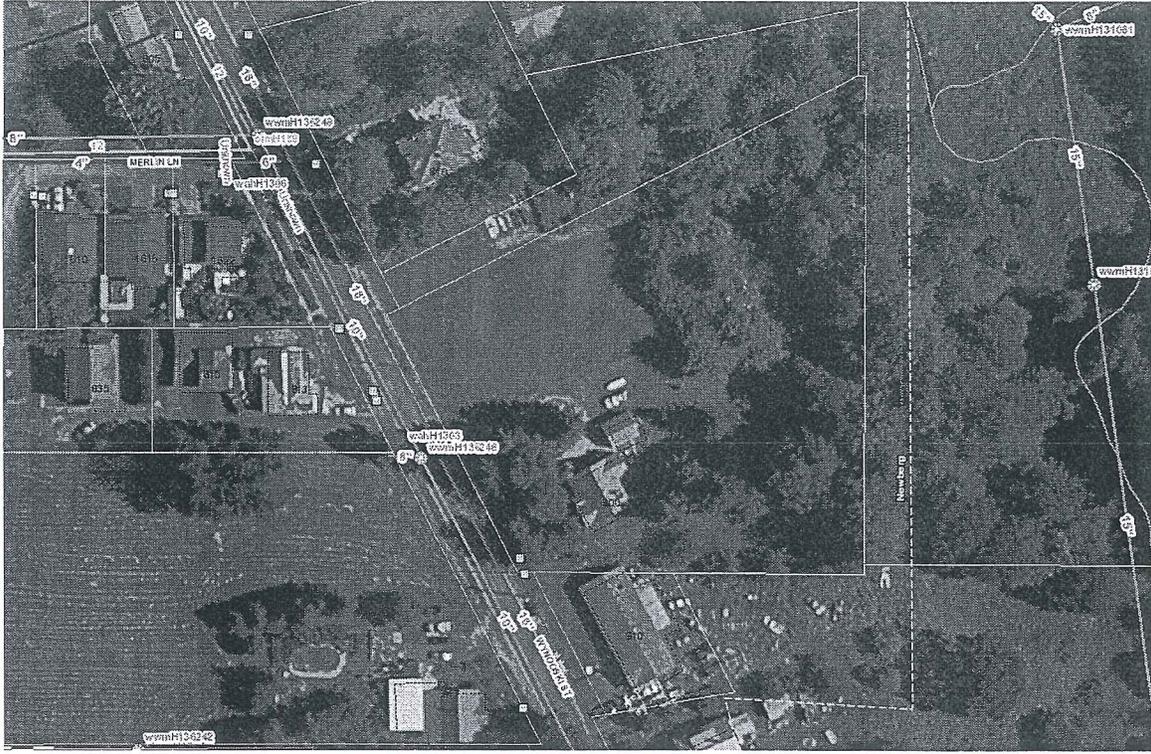
Del Boca Vista, LLC is proposing a 14-lot subdivision on for detached single-family residential development. This subdivision will occur on tax lot 3320CA-0900 whose site address is 900 Wynooski Street Newberg, OR 97132.

While the site is 1.99 acres in size, a delineated stream corridor overlays 18,608 sf which is not available for development.

The City of Newberg development code requires a Type 3 application due to the stream corridor overlay on the eastern portion of the site and request for variance. No lot development is proposed within the stream corridor. There will be a need to provide erosion control measures within the stream corridor to address the stormwater outfall.

The property currently has one single-family residence located on it which will be removed as part of the development. Access to the new lots will be by public road extension from Wynooski Street ending in a cul-de-sac meeting Public Works standards. A variance as to building height is also being requested in conjunction with this application due to the lot size limitations created by the stream corridor overlay.

PUBLIC SERVICES



Sanitary Sewer

A 10-inch PVC sanitary sewer exists in Wynooski St. There is an existing manhole with an 8-inch lateral extending 5 feet southerly to the proposed development site. This will be used to serve the proposed subdivision. All of the proposed lots will be served by gravity to the public sanitary sewer.

Water Supply

Municipal water is available to the site by an 18-inch line in Wynooski St. A waterline extension will be made from this line into the proposed subdivision. There is no logical extension for future development, so this will be a dead-end line.

Storm Drainage

The site falls easterly with surface water flowing away from Wynooski St. towards Hess Creek. The proposed subdivision will have two methods of treating stormwater: a public facility for the ROW impervious area and a private system on each of the 14 lots. Two catch basins at the site frontage on Wynooski Street and one in the proposed Darby Court will route ROW stormwater to a LIDA facility on Tract A. With the approval of the final plat, Tract A will be conveyed to the City. After the initial 2-year bonding period, the operation and maintenance will fall to the city per Engineering Design Standards 4.6.7.

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Transportation

Wynooski St. is classified as a Major Collector in the Transportation System Plan. Ten feet of lot frontage along Wynooski St. will be dedicated as public right-of-way to allow for the full development of Wynooski St. A cul-de-sac is proposed to provide access to the subdivision.

SUBDIVISION CRITERIA

1. FUTURE USE

Approval does not impede the future best use of the property under the same ownership as the full extent of the property is being developed to its maximum extent practicable. All of the property outside of the stream corridor will be fully developed and no developed improvements will be made within the corridor.

Adjoining land will not be adversely affected. Properties to the north and south have direct access to public right away (Wynooski St.). The property to the east (TL 3220CA-1000) is almost entirely within the stream corridor with two exceptions.

A small portion of area on its east boundary could not be accessed by this development due to the intermediate stream corridor. The portion of the lot is outside of city limits. It does have access to public right of way via an existing access easement.

A small area at the southwest corner of this lot is outside of the stream corridor and within the city limits. However, this area is insufficient to develop as setback requirements and other code criteria preclude building a structure.

This property is owned by the same trust as the proposed subdivision and are aware of its limitations and how the proposed subdivision affects its future use. They are in support of the proposed application.

2. APPLICABLE SUBDIVISION CRITERIA

15.342 STREAM CORRIDOR OVERLAY SUB DISTRICT

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.]

RESPONSE: No new structures are proposed for within the stream corridor. There will be a need to reduce the erosion potential of the public stormwater system discharge from the proposed development. The anticipated solution will include rip-rap or other non-structural measures placed within the stream corridor.

15.342.030 General information.

The delineated stream corridor overlay subdistrict is described by boundary lines delineated on the City of Newberg zoning map indicated with an SC symbol...

RESPONSE: The location of the stream corridor as shown on the proposed development plans was determined by digitizing from the City of Newberg GIS mapping system.

15.342.040 Activities exempt from these regulations

RESPONSE: No exempt activities are proposed.

15.342.050 Activities requiring a Type I process.

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15.342.060 Restoration standards for Type I process.

RESPONSE: Neither of these provisions apply.

15.342.070 Activities requiring a Type II process.

The installation, construction or relocation of the following improvements shall be processed as a Type II decision. The proposal shall be accompanied by a plan as identified in NMC 15.342.080 and conform to the mitigation standards contained in NMC 15.342.090.

J. Stream corridor enhancement activities which are reasonably expected to enhance stream corridor resource values and generally follow the restoration standards in NMC 15.342.060. [Ord. 2451, 12-2-96. Code 2001 § 151.471.]

RESPONSE: These provisions do not apply.

15.342.080 Plan Submittal Requirements for Type II activities

15.342.090 Mitigation requirements for Type II activities.

RESPONSE: These provisions will be met with the submission of subdivision plans.

15.342.100 Type III process for exceptions and variances.

RESPONSE: No exceptions or variance for improvements within the stream corridor are requested, so these code provisions do not apply.

15.342.120 Density Transfer

RESPONSE: No density transfer is requested.

15.342.130 Procedure for adjusting and amending the delineated stream corridor

RESPONSE: No stream corridor adjustments are requested.

15.342.140 Stream corridor impact report and review criteria

RESPONSE: Not applicable

15.405 LOT REQUIREMENTS

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:

1. In the R-1 district, each lot or development site shall have a minimum area of 5,000 square feet or as may be established by a subdistrict. The average size of lots in a subdivision intended for single-family development shall not exceed 10,000 square feet.
2. In the R-2, R-3, and RP districts, each lot or development site shall have a minimum area of 3,000 square feet or as may be established by a subdistrict. In the R-2 and R-P districts, the average size of lots in a subdivision intended for single-family development shall not exceed 5,000 square feet.
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.
4. In the M-1, M-2 and M-3 districts, each lot or development site shall have a minimum area of 20,000 square feet.
5. Institutional districts shall have a minimum size of five contiguous acres in order to create a large enough campus to support institutional uses; however, additions to the district may be made in increments of any size.
6. Within the commercial zoning district(s) of the riverfront overlay subdistrict, there is no minimum lot size required, provided the other standards of this code can be met.

B. Lot or Development Site Area per Dwelling Unit.

1. In the R-1 district, there shall be a minimum of 5,000 square feet per dwelling unit.
2. In the R-2, AR, and R-P districts, there shall be a minimum of 3,000 square feet of lot or development site area per dwelling unit. In the R-2 and R-P districts, lots or development sites in excess of 15,000 square feet used for multiple single-family, duplex or multifamily dwellings shall be developed at a minimum of one dwelling per 5,000 square feet lot area.
3. In the R-3 district, there shall be a minimum of 1,500 square feet of lot or development site area per dwelling unit. Lots or development sites in excess of 15,000 square feet used for multiple single-family, duplex or multifamily dwellings shall be developed at a minimum of one dwelling per 2,500 square feet lot area.

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C. In calculating lot area for this section, lot area does not include land within public or private streets. In calculating lot area for maximum lot area/minimum density requirements, lot area does not include land within stream corridors, land reserved for public parks or open spaces, commons buildings, land for preservation of natural, scenic, or historic resources, land on slopes exceeding 15 percent or for avoidance of identified natural hazards, land in shared access easements, public walkways, or entirely used for utilities, land held in reserve in accordance with a future development plan, or land for uses not appurtenant to the residence.

D. Lot size averaging is allowed for any subdivision. Some lots may be under the minimum lot size required in the zone where the subdivision is located, as long as the average size of all lots is at least the minimum lot size.

RESPONSE:

Lot Number	Gross Lot Size	Portion within Stream Corridor	Net Lot Area
1	3,330		3,330
2	3,518		3,518
3	11,017	7,067	3,950
4	5,645	3,636	2,009
5	5,525	3,360	2,165
6	7,931	4,241	3,690
7	6,321	304	6,017
8	2,859		2,859
9	2,665		2,665
10	2,420		2,420
11	3,961		3,961
12	2,850		2,850
13	2,610		2,610
14	2,603		2,603
Total			44,647
Average			3,189

The table above demonstrates that the proposed lot areas meet the code standard when taking into account the portions of the lots within the stream corridor and lot size averaging.

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15.405.030 Lot dimensions and frontage.

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.

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.

D. Frontage.

1. No lot or development site shall have less than the following lot frontage standards:

b. Each lot in an R-2 and R-3 zone shall have a minimum width of 30 feet at the front building line.

RESPONSE: The proposed lot configuration meets all of the provisions of this code section for depth to width ratio, area, and minimum frontage at front building line.

15.405.040 Lot coverage and parking coverage requirements.

B. Residential uses in residential zones shall meet the following maximum lot coverage and parking coverage standards. See the definitions in NMC 15.05.030 and Appendix A, Figure 4.

1. Maximum Lot Coverage.

b. R-2 and RP: 50 percent.

2. Maximum Parking Coverage. R-1, R-2, R-3, and RP: 30 percent.

3. Combined Maximum Lot and Parking Coverage.

a. R-1, R-2 and RP: 60 percent.

RESPONSE: The development of the individual lots will meet this criterion.

15.410 YARD SETBACK REQUIREMENTS

15.410.020 Front yard setback.

15.410.030 Interior yard setback.

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

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

15.410.060 Vision clearance setback.

15.410.070 Yard exceptions and permitted intrusions into required yard setbacks.

RESPONSE: These provisions will be met with the submission of subdivision plans.

15.415 BUILDING AND SITE DESIGN STANDARDS

15.415.010 Main buildings and uses as accessory buildings.

15.415.020 Building height limitation.

15.415.030 Building height exemptions.

15.415.040 Public access required.

15.415.050 Rules and exceptions governing single-family attached dwellings.

15.415.060 Home occupation.

RESPONSE: These provisions will be met with the submission of subdivision plans. Please see variance request with regard to 15.415.020 on Page 19 of this response.

15.420 LANDSCAPING AND OUTDOOR AREAS

RESPONSE: These provisions will be met with the submission of subdivision plans.

Chapter 15.425 EXTERIOR LIGHTING

RESPONSE: These provisions will be met with the submission of subdivision plans.

15.430 UNDERGROUND UTILITY INSTALLATION

Sections:

15.430.010 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.

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.

RESPONSE: These provisions will be met with the submission of subdivision plans.

Chapter 15.435 SIGNS

RESPONSE: No signs are proposed for this development.

Chapter 15.440 OFF-STREET PARKING, BICYCLE PARKING, AND PRIVATE WALKWAYS

RESPONSE: No off-street parking, bicycle parking or private walkways are proposed for this development.

15.505 STREET AND TRANSPORTATION IMPROVEMENTS DESIGN STANDARDS

15.505.020 Layout of streets, alleys, bikeways, and walkways.

A. Streets, alleys, bikeways, and walkways shall be laid out and constructed as shown in the Newberg transportation system plan or in adopted future street plans.

B. 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 subdivisions, partitions, and developments previously approved for adjoining property as to width, general direction and in other aspects, unless it is found in the public interest to modify these patterns. In addition, transportation improvements shall conform to the standards within this code.

RESPONSE: Not applicable.

15.505.030 Construction of new streets and alleys.

The land divider or developer shall grade and pave all streets and alleys in the subdivision, partition or development to the width specified in NMC 15.505.060, and provide for drainage of all such streets and alleys, construct curbs and gutters within the subdivision, partition or development in accordance with specifications adopted by the city council under NMC 15.510.030. Such improvements shall be constructed to specifications of the city under the supervision and direction of the director. It shall be the responsibility of the land divider or developer to provide street signs.

RESPONSE: These provisions will be met with the submission of subdivision plans.

15.505.040 Improvements to existing streets.

A subdivision, partition or development requiring a Type II design review abutting or adjacent to an existing road of inadequate width shall dedicate additional right-of-way to and improve the street to the width specified in NMC 15.505.060.

RESPONSE: A 10-foot dedication along Wynooski Street frontage will be provided to allow for a full 30-foot right-of-way width from centerline.

15.505.060 Street width and design standards.

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A. Design Standards. All streets shall conform with the standards contained in Table 15.505.060. Where a range of values is listed, the director shall determine the width based on a consideration of the total street section width needed, existing street widths, and existing development patterns. Preference shall be given to the higher value. Where values may be modified by the director, the overall width shall be determined using the standards under subsections (B) through (I) of this section.

RESPONSE: These provisions will be met with the submission of subdivision plans.

B. Motor Vehicle Travel Lanes. Collector and arterial streets shall have a minimum width of 12 feet. Where circumstances warrant, the director may allow a reduction of this width to 11 feet.

RESPONSE: These provisions will be met with the submission of subdivision plans.

C. Bike Lanes. Striped bike lanes shall be a minimum of five feet wide. Where circumstances warrant, the director may allow a reduction of this width to four feet. Bike lanes shall be provided where shown in the Newberg transportation system plan.

RESPONSE: Not applicable.

D. Parking Lanes. Where on-street parking is allowed on collector and arterial streets, the parking lane shall be a minimum of eight feet wide. Where circumstances warrant, the director may allow a reduction of this width to seven feet.

RESPONSE: These provisions will be met with the submission of subdivision plans.

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

RESPONSE: These provisions will be met with the submission of subdivision plans.

H. Planter Strips. Except where infeasible, a planter strip shall be provided between the sidewalk and the curb line. 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 where possible:

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1. Additional reinforcement is done to the sidewalk section at corners.
2. Sidewalk width is six feet.

RESPONSE: Not applicable

15.505.090 Intersections of streets.

A. Angles. Streets shall intersect one another at an angle as near to the right angle as is practicable considering topography of the area and previous adjacent layout; where not so practicable, the right-of-way and street paving within the acute angle shall have a minimum of 30 feet centerline radius where such angle is not less than 75 degrees. In the case of streets intersecting at an angle of less than 75 degrees, then of such minimum as the director may determine in accordance with the purpose of this code.

B. Offsets. Intersections shall be so designed that no offset dangerous to the traveling public is created as a result of staggering of intersections, and in no case shall there be an offset of less than 100 feet centerline to centerline.

C. New or improved intersection construction shall incorporate the minimum intersection curb return radii requirements shown in the following table:

Minimum Curb Return Radii (Feet)	Edge of Pavement/Curb
	Lowest Street Classification of Two Intersection Streets
	Local residential street
15 feet	

RESPONSE: These provisions will be met with the submission of subdivision plans.

15.505.110 Future extension of streets.

Where the subdivision or partition is adjacent to land likely to be divided in the future, streets shall continue through to the boundary lines of the area under the same ownership of which the subdivision or partition is a part, where the director determines that such continuation is necessary to provide for the orderly division of such adjacent land or the transportation and access needs of the community

RESPONSE: Not applicable.

15.505.120 Cul-de-sacs.

A. Cul-de-sacs shall only be permitted when one or more of the circumstances listed in this section exist. When cul-de-sacs are justified, public walkway connections

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shall be provided to connect with another street, greenway, school, or similar destination unless one or more of the circumstances listed in this section exist.

1. Physical or topographic conditions make a street or walkway connection impracticable. These conditions include but are not limited to controlled access streets, railroads, steep slopes, wetlands, or water bodies where a connection could not be reasonably made.
2. Buildings or other existing development on adjacent lands physically preclude a connection now or in the future considering the potential for redevelopment.
3. Where streets or accessways would violate provisions of leases, easements, or similar restrictions.
4. Where the streets or accessways abut the urban growth boundary and rural resource land in farm or forest use, except where the adjoining land is designated as an urban reserve area.

B. There shall be no cul-de-sacs more than 400 feet long (measured from the centerline of the intersection to the radius point of the bulb) or serving more than 18 single-family dwellings.

C. Each cul-de-sac shall have a circular end with a minimum diameter of 90 feet, curb-to-curb, within a 103-foot minimum diameter right-of-way. For residential uses, a 35-foot radius may be allowed if the street has no parking, a mountable curb, attached sidewalks, and sprinkler systems in every building along the street.

RESPONSE: These provisions will be met with the submission of subdivision plans.

15.505.130 Street names and street signs.

Streets that are in alignment with existing named streets shall bear the names of such existing streets. Names for streets that are not in alignment with existing streets are subject to approval by the director and the fire chief and shall not unnecessarily duplicate or resemble the name of any existing or platted street in the city. It shall be the responsibility of the land divider to provide street signs.

RESPONSE: These provisions will be met with the submission of subdivision plans.

15.505.140 Grades and curves.

Unless otherwise approved by the director because topographical conditions will not reasonably permit, grades shall not exceed six percent on arterials, 10 percent on collector streets, or 12 percent on all other streets. Centerline radii on curves shall not be less than 300 feet on arterials, or 230 feet on all other streets.

RESPONSE: These provisions will be met with the submission of subdivision plans.

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15.505.200 Vehicular access standards.

A. 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.

B. Access Spacing Standards. Public street intersection and driveway spacing shall follow the table below...

RESPONSE: These provisions will be met with the submission of subdivision plans.

F. Shared Driveways.

1. 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. 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).

RESPONSE: Not applicable.

2. 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.

RESPONSE: These provisions will be met with the submission of subdivision plans.

3. No more than three lots may access one shared driveway.

RESPONSE: These provisions will be met with the submission of subdivision plans.

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4. Shared driveways shall be posted as no parking fire lanes where required by the fire marshal.

RESPONSE: These provisions will be met with the submission of subdivision plans.

5. 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.

RESPONSE: Not applicable.

15.505.210 Sidewalks.

Sidewalks shall be located and constructed in accordance with the provisions of NMC 15.510.030. Minimum width is five feet.

RESPONSE: These provisions will be met with the submission of subdivision plans.

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VARIANCE REQUEST

- 1) Height of residential structure

15.415.020 Building height limitation.

This section of the development code lists the design standards for the standard residential main building height. In the R-2 district, no main building shall exceed 30 feet in height. The proposed subdivision with this variance request will create 14 homes that are approximately 33 feet in height. To accompany the subdivision application, a variance is requested from the standard design requirement due to the site constraints that impact the property as more fully described below.

15.215.040 Type II variance criteria.

The Type II procedure shall be used to process a variance request. The hearing body shall grant the variance if the following criteria are satisfied:

A. That strict or literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of this code.

RESPONSE: The proposed development plan for this subdivision maximizes the density goal for the parcel size of 1.99 acres but is constricted as to the usable acreage of 3.93 acres due to the stream corridor which comprises 18,608 sf of the property. Without the variance, it would be impracticable to develop the property according to the R-2 density standards. The density goal for this zoning cannot be met without creating lots that are more narrow which then require a taller residential structure.

B. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property which do not apply generally to other properties classified in the same zoning district.

RESPONSE: The property contains a stream corridor that comprises approximately 38% of the total property thus creating extraordinary circumstances justifying the need for a variance in order to effectuate the development of the property according to R-2 standards.

C. That strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges enjoyed by the owners of other properties classified in the same zoning district.

RESPONSE: A strict enforcement of the code would create an impossibility for the applicant to maximize the development rights of the R-2 zone due to the location of the stream corridor on the property. Other property owners in R-2 zones have the opportunity

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to develop according to the density standards that are made impossible for this property without a variance due to the location and size of the stream corridor.

D. That the granting of the variance will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same zoning district.

RESPONSE: Other properties in the R-2 zoning district are afforded the same opportunity to maximize density according to the code standards for this zone and granting this variance does not constitute a special privilege for the applicant but rather equalizes the development rights such that they are consistent with all R-2 zoned properties.

E. That the granting of the variance will not be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the vicinity. [Ord. 2451, 12-2-96. Code 2001 § 151.163.]

RESPONSE: The variance allowing for an additional three feet in height for the main residential structures does not have a significant impact on adjacent property owners. The impacts that do exist are limited to on-site residences and are minimal insofar as the homes are located on a cul-de-sac and flag lot in a design that maximizes the acreage for development purposes while still limiting any impacts that an additional three feet in height may potentially have. With regard to adjacent property owners, the properties to the south are afforded setbacks that are more than required by the code for the R-2 zone and the properties to the north are buffered by an access road that runs the entire length of the northern property line. Wyooski Road is located to the west and the stream corridor is located to the east. An additional three foot building height allowance would not be detrimental to the properties in the vicinity.

Summary

The Applicant has presented evidence to demonstrate with all applicable approval criteria for the requested variance and respectfully requests approval of the variance application.

NOVA GRACE SUBDIVISION APPLICATON

Supplemental Engineering Information

On 2/22/16, Newberg Planning Division forwarded the following request for information from the Engineering Division in order to consider the application complete:

3. *Engineering comments: The applicant needs to provide -*

1. *A stormwater report including detailed calculations for the design of its stormwater facilities. According to PW Design and Construction Standards Section 4.9.1, they cannot use the SIM form for sizing.*
2. *An O&M plan for the stormwater facilities*
3. *A maintenance agreement for the stormwater facilities.*
4. *Information on how they will comply with our ADA/Pedestrian/Bike Route Improvement Plan*

Response:

1. Detailed Calculations and Stormwater Report
 - a. Per the email from Engineering on 3/1/16:
"In the meeting, there was no agreement for using the SIM form for sizing and you were asked to use engineering design calculations. Given the misstatement in the email, however, you may use it for preliminary approval for this project only. In the future, SIM forms cannot be used for preliminary approval for any stormwater facilities unless they meet the PW Design and Construction Standards criteria for SIM form use."
 - b. Stormwater Report
Per section 4.1(IV) A revised draft/preliminary stormwater report is attached for the Planning Application.
2. An O&M plan for the stormwater facilities
Draft O&M plans for public and private stormwater facilities are attached. These will be modified as needed during the Public Improvements Development approval phase once the final stormwater system design is approved by the city.
3. A maintenance agreement for the stormwater facilities.
Per design standard 4.6.7 II, the developer will enter into an agreement with the city to perform maintenance of the public stormwater facility located in Tract A for a period of two years. This agreement will be supported by a performance bond in a form acceptable to the city and executed prior to final plat approval.
4. Information on how they will comply with our ADA/Pedestrian/Bike Route Improvement Plan
Per the ADA/Pedestrian/Bike Route Improvement Plan, Wynooski Street is classified as a Major Collector. The proposed subdivision design dedicates 10 feet of frontage along Wynooski Street for a total of 30 feet of half-street frontage width. This will accommodate a 12-ft travel lane, 5-ft bike lane, and 13-ft for setback sidewalk and planter strip, which will be reflected in the final design for the Public Improvements Development application.

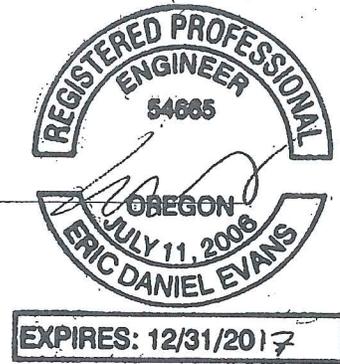
Draft/Preliminary Stormwater Report

EMERIO *Design*

CIVIL ENGINEERS & PLANNERS

TECHNICAL MEMORANDUM

Date: March 24, 2016 (Revised)
To: City of Newberg Engineering Staff
From: Eric Evans, PE – Emerio Design
Subject: Nova Grace Subdivision Stormwater Analysis



This letter and its attachments are to serve as addendum to LIDA Sizing Form.

Proposed Project Description:

As seen in the attached site map, the proposed 14-lot subdivision will be constructed on a site area of 80,278 SF, approximately 200 feet southeast of Merlin Lane along Wynooski Street on tax lot 3 2 20CA 900. The upstream basin and flow path of stormwater runoff is delineated on the site map. No existing stormwater facilities or conveyance exists at the project site location or adjacent to the property (see site map for proposed stormwater improvements).

Proposed Treatment & Conveyance:

The proposed subdivision will have two methods of treating stormwater: a public facility for the ROW impervious area and a private system for each of the 14 lots (see attached LIDA Forms for sizing). Two catch basins at the site frontage on Wynooski Street and one catch basin in proposed Darby Court will route ROW stormwater to a LIDA facility on Tract A. Treated stormwater will leave Tract A and outfall to Hess Creek. Conveyance calculations will be provided at final engineering.

Public Facility

Impervious ROW Area 18100 SF X .06 = 1086 SF = Required Planter Area

Private Facilities

Impervious Lot Area 2877 SF X .06 = 173 SF = Required Planter Area per lot

Downstream Analysis:

The stormwater system will route project flows toward the east and into Hess Creek. Further analysis including calculations, a basin map, and downstream impact investigation will be conducted upon final engineering.

Operations and Maintenance:

The proposed LIDA stormwater facility and the stormwater planters for each lot will require O&M plans that will be provided at final engineering.

Engineering Conclusions:

The proposed design satisfies the conveyance and pollution reduction standards required by the 2014 City of Newberg Design Standards Manual. Pollution reduction is accomplished by the treatment of on-site stormwater by LIDA flow-through planters.

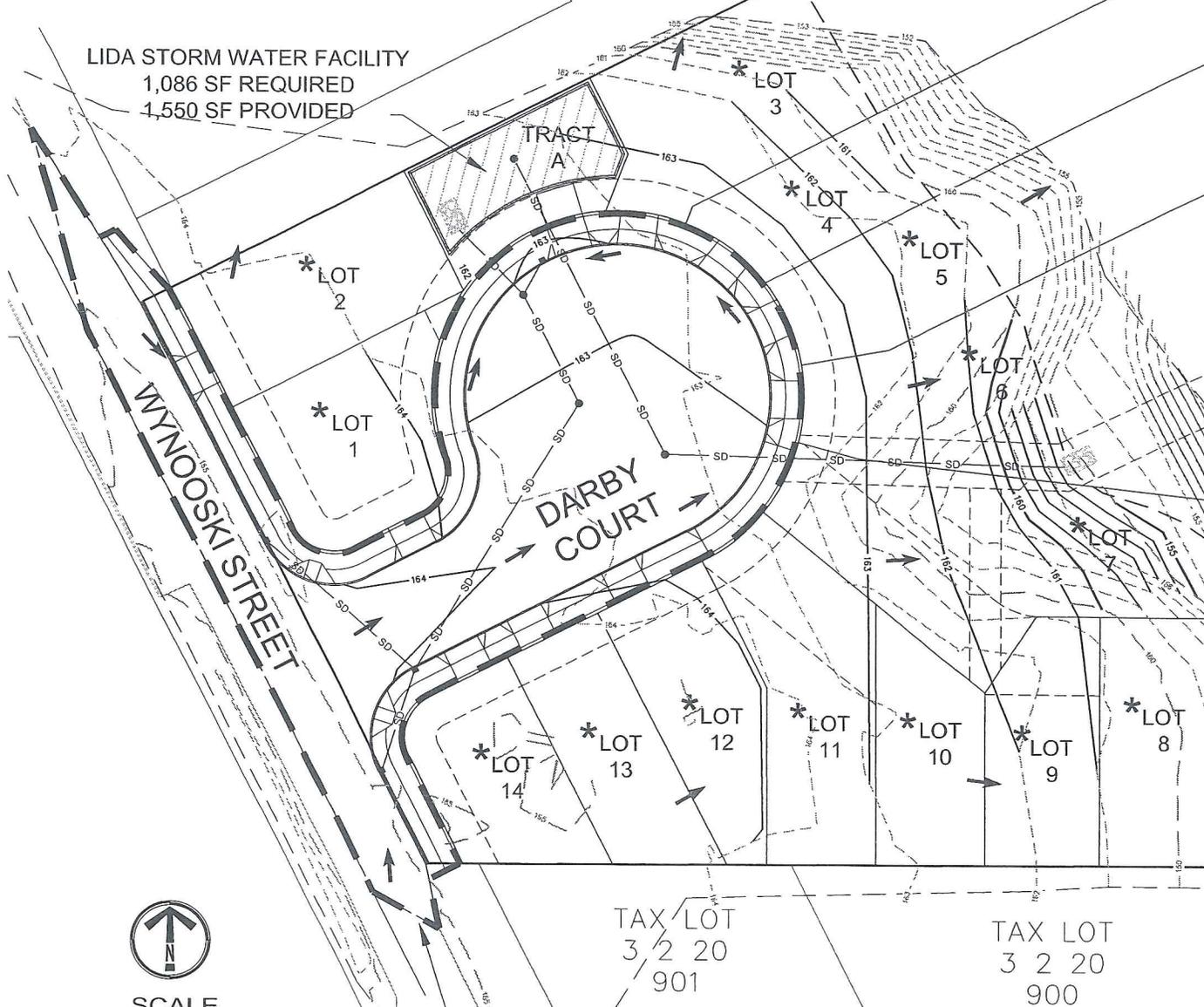
List of Attachments:

2014 City of Newberg LIDA Sizing Form
Site Map (Appendix A)

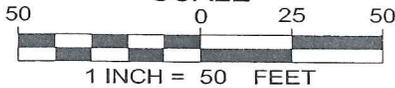
* A LIDA STORM WATER PLANTER WILL BE INSTALLED ON EACH LOT FOR THE TREATMENT & DETENTION OF PRIVATE STORM DRAINAGE

TAX LOT
3 2 20CA
800

LIDA STORM WATER FACILITY
1,086 SF REQUIRED
1,550 SF PROVIDED



SCALE



TAX LOT
3 2 20
901

TAX LOT
3 2 20
900

18,100 SF PUBLIC
IMPERVIOUS SURFACE
 $18,100 \times .06 =$

1,086 SF TREATMENT REQUIRED

PROJECT NO. 416-001
ORIG. DATE: 03-22-16
DRAWN BY:
SHEET No.

IMPERVIOUS AREA MAP

NOVA GRACE SUBDIVISION

TAX LOT 3 2 20CA 900
CITY OF NEWBERG, OREGON

EMERIO
Design

6107 SW MURRAY BLVD. SUITE 147
BEAVERTON, OREGON 97008
TEL: (503) 515-5528
FAX: (503) 639-9592
www.emeriodesign.com

City of Newberg LIDA Sizing Form

(Include this form with plan submittal)

Project Title: Nova Grace Subdivision

Project Address: _____

Project Taxlot/ Taxmap#: 3 2 20CA 900

Project Location: _____

Contact Name/Title/Company: _____

Phone/e-mail: _____

STEP 1: Determine Impervious Area Requiring Treatment

Total Gross Site Area (acres): 80278 Pre. Dev. Impervious Area (ft): 0 (X)

Proposed Net New Impervious Area (ft): 18,100 (PA) Post Dev. Impervious Area (ft): 18,100 (Y)

(PA) = (Y) - (X)

STEP 2: Deduct Impervious Area LIDA Credits

Porous Pavement (sq. ft.): 0 (P)

Green Roof (sq. ft.): 0 (G)

Other Credits as approved (sq. ft.): 0 (O)

Total Credits (sq. ft.): 0 (C)

(C) = (P) + (G) + (O)

Impervious Area Requiring Treatment (sq. ft.): 18,100 (IA)

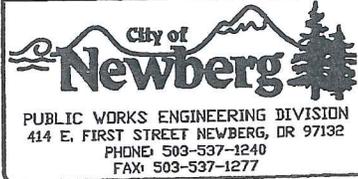
(IA) = (PA) - (C)

STEP 3: Size LIDA Facilities for Remaining Impervious Area

	Impervious Area Treated (sq. ft.)	SF, Sizing Factor	LIDA Facility Size (sq. ft.)
Infiltration Planters/ Rain Garden		0.045	
Flow-through Planter	18,100	0.060	1086
Public Flow-through Planter		0.060	

1550 SF Provided,
standard met

Total Impervious Area Treated (sq. ft.) 18,100 MUST BE EQUAL TO (IA)



REVISIONS:

LIDA SIZING FORM

SCALE:	N.T.S.
DATE:	MARCH 2014
APPROVED BY:	JAY H.
STANDARD DRAWING:	451

City of Newberg LIDA Sizing Form

(Include this form with plan submittal)

Project Title: Nova Grace Subdivision

Project Address: _____

Project Taxlot/ Taxmap#: 3 2 20CA 900

Project Location: _____

Contact Name/Title/Company: _____

Phone/e-mail: _____

STEP 1: Determine Impervious Area Requiring Treatment

Total Gross Site Area (acres): 80 278 Pre. Dev. Impervious Area (ft): 0 (X)

Proposed Net New Impervious Area (ft): 2877 (PA) Post Dev. Impervious Area (ft): 2877 (Y)
 (PA)= (Y) - (X)

STEP 2: Deduct Impervious Area LIDA Credits

Porous Pavement (sq. ft.): 0 (P)

Green Roof (sq. ft): 0 (G)

Other Credits as approved (sq. ft.): 0 (O)

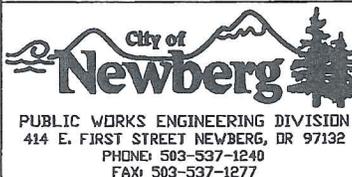
Total Credits (sq. ft.): 0 (C)
 (C)= (P)+(G)+(O)

Impervious Area Requiring Treatment (sq. ft.): 2877 (IA)
 (IA)= (PA) - (C)

STEP 3: Size LIDA Facilities for Remaining Impervious Area

	Impervious Area Treated (sq. ft.)	SF, Sizing Factor	LIDA Facility Size (sq. ft.)
Infiltration Planters/ Rain Garden		0.045	
Flow-through Planter	2877	0.060	173
Public Flow-through Planter		0.060	

Total Impervious Area Treated (sq. ft.) 2877 MUST BE EQUAL TO (IA)



REVISIONS:

LIDA SIZING FORM

SCALE: N.T.S.
DATE: MARCH 2014
APPROVED BY: JAY H.
STANDARD DRAWING 451

Draft O&M Plan for Public Stormwater Facility

Table 2: Maintenance of Stormwater Ponds

Stormwater ponds should retain water and slowly release by either infiltration or outflow.

Maintenance Component	Defect or Problem	Condition When Maintenance is Needed	Recommended Maintenance to Correct Problem
General	Follow applicable Guidance from Table 1 AND applicable guidance from this table.		
	Vegetation growth in dry ponds (mowing and brushing)	Vegetation growth restricts access, limits sight distance, obstructs water flow, or interferes with maintenance activity. Collected water should drain.	Dry ponds need vegetation on the bottom and sides. Vegetation management typically occurs around and within the facility. Mow access, berms, bottom, and side-slopes as noted in the District Integrated Vegetation Management (IVM) Plan. (typically annually) Heavy equipment is allowed on dry pond bottoms unless access restrictions are listed in the O&M Manual.
	Vegetation growth in wet ponds (mowing and brushing) NOTE: Wet ponds are not typical.	Vegetation growth restricts access, limits sight distance, obstructs water flow, or interferes with maintenance activity. Water may be stored year-round without draining.	Wet ponds need vegetation on the bottom and sides. Vegetation management typically occurs around the facility. Mow access and berms as noted in the District Integrated Vegetation Management (IVM) Plan. Ponds bottoms are intended to capture and store water. Vegetation removal from pond bottoms is infrequent.
	Sediment accumulation in pre-treatment features (e.g. forebays, basins, or fully exposed impermeable liners) NOTE: Exposed liners are not typical.	Sediment affects flow. Sediment jeopardizes infrastructure.	Remove sediment from ponds and pipe ends as needed to ensure adequate drainage into treatment pond (grassy or wet pond). Use methods that minimize disturbance to surrounding vegetation. Heavy equipment is allowed on dry pond bottoms unless access restrictions are listed in the O&M Manual. Sediment may contain oil and other pollutants, especially in areas with high ADT. Refer to the ODOT Maintenance Environmental Management System (EMS) Manual for the disposal of contaminated sediment. Note: Pollutant concentrations may increase if sediment is not routinely removed.

Table 2: Maintenance of Stormwater Ponds

Stormwater ponds should retain water and slowly release by either infiltration or outflow.

Maintenance Component	Defect or Problem	Condition When Maintenance is Needed	Recommended Maintenance to Correct Problem
Storage areas	Sediment accumulation along bottom of grassy ponds	<p>Sediment inhibits the flow of water through the grass (>12 inches deep).</p> <p>Sediment inhibits grass growth.</p>	<p>Where practical use a Vactor® truck to remove sediment from grassy areas. When Vactoring® is not practical, follow ditch cleaning practices.</p> <p>Restore slope and geometry to design standards, if necessary.</p> <p>Reseed grass cover where needed.</p> <p>Stormwater should infiltrate or flow toward outlet once inflow has ceased.</p> <p>Refer to the general section of this table for side-slope mowing and other routine maintenance actions.</p>
	<p>Sediment accumulation in wet ponds or channels.</p> <p>NOTE: Currently there is limited use of wet ponds to treat stormwater.</p>	<p>Capacity has noticeably decreased (examples below)</p> <ul style="list-style-type: none"> • low and medium flows go through the bypass, • the ordinary high water level has increased, • flooding occurs when the outflows are not blocked, • pond bottom is level with outlets. 	<p>Remove sediment build-up from pipe ends as needed to ensure flow. Use methods that minimize disturbance to surrounding vegetation.</p> <p>Remove sediment to restore designed shape and depth.</p> <p>In high ADT areas, pond dredging may be required every 5 to 10 years to restore the capacity.</p> <p>Cease sediment removal when riprap or liner is encountered.</p> <p>Reseed if necessary to control erosion.</p>
	Erosion	Side slopes show evidence of erosion greater than 4 inches deep and the potential for continued erosion is evident.	<p>Promptly address erosion that causes immediate problems (e.g. damage to highway or highway structure)</p> <p>Schedule non-urgent repairs with routine work.</p> <p>Stabilize slope using appropriate erosion control and repair methods.</p> <p>Repair the cause of the erosion where possible.</p> <p>If necessary, contact the ODOT Erosion Control Coordinator to evaluate the condition.</p>

Table 2: Maintenance of Stormwater Ponds

Stormwater ponds should retain water and slowly release by either infiltration or outflow.

Maintenance Component	Defect or Problem	Condition When Maintenance is Needed	Recommended Maintenance to Correct Problem
Storage areas	Beaver dams	Dam inhibits function or jeopardizes the infrastructure.	Dispose of dam debris offsite or outside of the riparian area. Coordinate the removal or relocation of beaver with Oregon Department of Fish and Wildlife (ODFW). Consider installing deterrents where appropriate.
	Flooding	Water is flowing over or is approaching the top of the pond	Check storm drain pipes and structures for blockage. Ensure valves are open. Remove obstructions to restore flow. Evaluate and remove excessive sediment from pond storage areas. Contact the Region Hydraulic Engineer to evaluate the source of flooding or provide design modifications.
Treatment Components	Poor vegetation coverage	Vegetation (grass) is sparse or eroded patches occur in more than 10 percent of pond bottom.	Repair and reseed as appropriate to restore coverage. Install erosion control measures as needed. Trim overhanging limbs and remove brushy vegetation that limit grass growth (provide too much shade).
	Missing or eroded amended soil mix	Bare soil is observed over 10 percent of the amended area.	Identify and resolve erosion problem Add amended soil. Contact a Region Hydraulics Engineer for required material specifications.
	Amended soil mix along pond bottom is clogged	Standing water is observed for seven (7) consecutive days or longer from May through October.	Remove and replace amended soil mix. Contact a Region Hydraulics Engineer for required material specifications. Replace or repair damaged underlying drainage geotextile, impermeable liner, drain piping, and granular drain backfill material when applicable.
	Granular drain backfill material for underdrain pipe plugged	Amended soil mix has been replaced and standing water is still observed for seven (7) consecutive days or longer from May through October.	Remove and replace granular drain backfill material. Contact a Region Hydraulics Engineer for required material specifications. Install new drainage geotextile over new granular drain backfill material. Replace amended soil mix.

Table 2: Maintenance of Stormwater Ponds

Stormwater ponds should retain water and slowly release by either infiltration or outflow.

Maintenance Component	Defect or Problem	Condition When Maintenance is Needed	Recommended Maintenance to Correct Problem
Treatment Components	Impermeable liner damage NOTE: Liners (if installed) are typically below the grass surface and may not be visible.	Liner is damaged (e.g. during sediment removal or by motoring public). Liner is damaged when condition allows potential contamination to be released to the subsurface.	Repair or replace the liner with similar material. In many cases, rigid plastic liners may be repaired by welding a similar material over the damaged portion or using a non-toxic, waterproof epoxy. If necessary, contact a Region Hydraulics Engineer for technical assistance regarding permanent repair.
Berms and Dikes	Settlement	Any part of the berm has settled 4 inches or lower. Note: Settlement may indicate potential problems with the facility.	Repair berm to design height with similar materials. Contact a Region Hydraulics and Geotechnical Engineer as needed to evaluate the source of the settlement and determine repair options.
	Flow-through	Water is flowing through the pond berm.	Correct cause of flow through (e.g. eliminate burrowing rodents) Install erosion control measures where appropriate. Repair berm with similar materials. If necessary, contact a Region Geotechnical Engineer to evaluate the condition.
	Sloughing	Ongoing erosion is observed with potential for erosion to continue.	Where possible correct the cause of the erosion. Install or replace energy dissipaters where appropriate. Install erosion control measures where appropriate Repair berm with similar materials. If necessary, contact the ODOT Erosion Control Coordinator to evaluate the condition.

Table 2: Maintenance of Stormwater Ponds

Stormwater ponds should retain water and slowly release by either infiltration or outflow.

Maintenance Component	Defect or Problem	Condition When Maintenance is Needed	Recommended Maintenance to Correct Problem
<p>Structures and piping</p> <p>Includes</p> <ul style="list-style-type: none"> • flow splitters • vaults • inlets • bypasses • valves • catch basins • gates 	<p>Damaged or missing components</p>	<p>Flow control assembly is not working properly (e.g. loose, bent, unattached, etc.).</p>	<p>Repair or replace valves, gates, orifices and pipes as necessary with similar components.</p> <p>Divert flows when needed.</p>
	<p>Obstruction or blockage</p>	<p>Water does not flow in, through, or out of the structure or piping.</p>	<p>If valves are part of the flow control assembly, verify the valves are open. Refer to the O&M for the location of control valves.</p> <p>Remove obstructions to restore flow (e.g. remove trash, debris, sediment, or vegetation as necessary).</p> <p>Jet rodders may be used to clean piping unless specifically prohibited in the O&M plan.</p>
<p>Outfalls</p>	<p>Insufficient rock armoring at outlets</p> <ul style="list-style-type: none"> • along channel side slopes and bottom • pipe outlet • along the length of spillway 	<p>Minimal layer of rock exists</p> <p>Rock missing along armored area</p> <p>Flow channelization or high flows exposed native soil around the rock armored area</p>	<p>Install erosion control measures</p> <p>Repair or replace rock armoring to original design standard</p> <p>Repair, re-grade, and reseed eroded areas adjacent to rock armoring.</p> <p>Contact a Region Hydraulics Engineer for technical assistance if rock armoring problems continue or a highway structure is at risk</p>

Draft O&M Plan for Private Onsite Rain Gardens

Routine Maintenance for Rain Gardens

Routine Maintenance Activities for Rain Gardensⁱ

Congratulations on your new rain garden! Now that your garden is in place, there are a few tasks you will need to keep up with to ensure that your garden will continue to function properly. Most importantly, be sure that your plants are able to get established. This means that the plants will need to be watered during hot, dry spells, especially during the first two years.

The schedule below includes the most important maintenance activities. Each rain garden is site-specific and there may be maintenance activities outlined within that do not apply to your particular garden. In the case that an activity does not apply to your garden, please disregard. For more detailed instructions, see the following pages.

Activity	Schedule
<ul style="list-style-type: none">• Water to promote plant growth and survival, especially during the first two years and during dry spells.• Inspect site following rainfall events. Add/replace vegetation in any eroded areas.	As Needed (Following Construction)
<ul style="list-style-type: none">• Prune and weed swale to maintain appearance.• Remove accumulated trash and debris.• Replace mulch as needed.	Regularly (Monthly)
<ul style="list-style-type: none">• Inspect inflow area for sediment accumulation. Remove any accumulated sediment or debris.• Inspect site for erosion as well as sediment and mulch which have been moved around in the garden. Add/replace vegetation in any eroded areas.• Inspect rain garden for dead or dying vegetation. Replace vegetation as needed.• Test planting bed for pH. If the pH is below 5.2, limestone should be applied. If the pH is above 8.0, iron sulfate and sulfur should be applied.	Annually (Semi-Annually During First Year)
<ul style="list-style-type: none">• Remove and replace mulch.	Every 2 to 3 Years

Routine Maintenance for Rain Gardens

1. Plant Care

1.1 TRIMMING, PRUNING, AND THINNING

Trimming and pruning of excess vegetation will occasionally be necessary. Dead, dying, diseased, or hazardous branches should be trimmed and removed as they occur. Trees and shrubs may also be pruned for shape or to maximize fruit production. Trees, shrubs, and flowers may be pinched, pruned, thinned or dead-headed during the growing season to encourage more flowering, a bushier plant, or a fresh set of leaves. Pruning of trees should occur over the winter, but definitely before bud-break (usually by mid-March). Pruning of flowering shrubs should be performed immediately after the plants have finished blooming. For specific pruning instructions and disease identification for your plants, consult the Maryland Cooperative Extension's Home and Garden Information Center at 800-342-2507 or www.hgic.umd.edu.

1.2 MOWING

Do not mow your rain garden unless it is planted in turf grass. By design, plants in rain gardens are meant to flourish throughout the growing season. The lush vegetation is an important component of the rain garden, as it aids in the capture of nutrients and infiltration of water. When mowing near rain gardens, either use a mulching blade, or point the mower away from the rain gardens. Fresh grass clippings are high in nitrogen and should not be applied to rain gardens, as they will compromise the facility's pollutant reduction effectiveness.

1.3 WEEDING

As with a regular garden, your rain garden will require more frequent and aggressive weeding during the first few years, until your desired plants become fully established. Weeding should be limited to invasive and exotic species, which can overwhelm the desired plant community. Weeding should occur once a week during the summer and at least once a month during the remainder of the growing season. Non-chemical methods (hand pulling and hoeing) are preferable. Chemical herbicides should be avoided. For updated information on invasive species consult the Maryland Invasive Species Council at <http://www.mdinvasivesp.org>.

1.4 WATERING

Regular watering is most critical during the first few weeks after planting and very important during hot, dry spells in the first two years after planting. During the first two years, plants should be watered whenever the top four inches of soil is dry. After the first two years, once plants are established, watering should only be necessary during drought conditions. When irrigating, water deeply, ensuring that water reached below the mulch layer and into the soil a minimum of every three to six days.

To conserve water, reduce the potential for immediate evaporation, disease and fungal infestation, and improve the potential for infiltration, watering should be performed from in the early morning, roughly from 5:00 to 7:00am.

A general rule of thumb when monitoring plant success is: if plants wilt during the day but recover in the evening, watering is not necessary. If plants do not recover in the evening, then watering is likely to be necessary. Another rule of thumb is to stick a pencil or screwdriver about four inches into the soil. If the soil is moist at that depth, watering is not needed.

In addition, although plantings have been selected for their ability to withstand both dry and wet conditions, care should be taken to not over-water. Signs of stress associated with over-watering include: wilting of leaves or petals, yellowing of leaves, ringed spots on leaves, and soft or rotting plant base.

Routine Maintenance for Rain Gardens

1.5 FERTILIZING

Rain gardens are designed to absorb excess nutrients. Therefore, it is unlikely that soil fertilization will be necessary. Excess fertilization compromises the facility's pollutant reduction effectiveness, leads to weak plant growth, promotes disease and pest outbreaks, and inhibits soil life. If soil fertility is in doubt, call the Maryland Cooperative Extension Home and Garden Information Center at 800-342-2507 or access their website at www.hgic.umd.edu for information on soil testing. If fertilization is necessary, only organic fertilizers should be used.

1.6 PEST MANAGEMENT

Trees, shrubs and herbaceous plants should be monitored regularly for pests and disease. For identification of specific pests and diseases, and for treatment recommendations, consult the Maryland Cooperative Extension's Home and Garden Information Center at 800-342-2507 or <http://www.hgic.umd.edu>. It is important to keep in mind that insects and soil microorganisms perform a vital role in maintaining soil structure. Therefore, the use of pesticides should be avoided so as not to harm beneficial organisms. An alternative to pesticide use is to adopt an Integrated Pest Management (IPM) approach. This involves reducing pests to acceptable levels using a combination of biological, physical, mechanical, cultural, and chemical controls. For more information, consult University of Maryland's IPM website at <http://www.mdipm.umd.edu/>.

1.7 PLANT REPLACEMENT

When replacing a plant, place the new plant in the same location as the old plant, or as near as possible to the old location. The exception to this recommendation is if plant mortality is due to initial improper placement (i.e., in an area that is too wet or too dry) or if diseased/infected plant material was used and there is risk of persistence of the disease or fungus in the soil. The best time to plant is in early to mid-fall or early to mid-spring. Trees can be planted as long as the soil temperature remains above 32°F at a depth of six inches. Plants should be put in the ground as soon as possible after purchase to ensure the best chance of survival. Trim established plants as needed to make sure they don't shade out new plantings.

2. Infiltration Maintenance

2.1 PONDING AND DRAINAGE PROBLEMSⁱⁱ

Rain gardens are designed to have water standing for up to 24 hours at a time. If this water period is routinely exceeded, the facility may not be functioning properly. Contact the contractor that installed the rain garden or contact Blue Water Baltimore at 410-254-1577.

2.2 TRASH AND DEBRIS REMOVAL

Runoff flowing into rain gardens may carry trash and debris, which should be removed weekly to ensure that inlets do not become blocked and to keep the area from becoming unsightly. Inspect rain garden area after rainstorms to ensure drainage paths are free from blockages. When appropriate, curb cuts in parking areas will need to periodically be cleared of accumulated sediment and debris.

2.3 COMPOSTING

Note that composted material should NOT be applied to rain gardens.

Routine Maintenance for Rain Gardens

2.4 MULCHING

Mulch has many benefits: it reduces competition by grass roots with tree and plant roots; controls weeds; prevents and reduces soil compaction; preserves soil moisture; and discourages potentially injurious practices like mowing and string trimming near tree trunks or woody stems. Rain gardens areas should receive a protective layer of mulch over root areas, similar to that provided by leaf litter in a natural forest. Mulch layers should not exceed two to three inches in depth around trees, shrubs, and perennials. Avoid blocking inflow entrance points with mounded mulch or raised plantings. To avoid bark rot and subsequent infestation by pests, mulch should not be mounded around the base of plants. The use of aged mulch is recommended and should consist of the shredded type rather than the chip type, to minimize floating. The mulch materials placed in the facility will decompose and blend with the soil medium over time. Once a full groundcover is established or if plant material is very dense, mulching may not be necessary.

The following materials may be used as mulch in rain gardens:

- Shredded hardwood mulch (recommended)
- Chipped hardwood mulch

The following materials should NOT be used as mulch in rain gardens:

- Fresh grass clippings
- Animal waste
- Compost

2.5 PET WASTE REMOVAL

Always clean up pet waste from your lawn and rain garden to reduce this source of pollution. Studies show that pet waste is a leading source of disease, causing harmful bacteria to end up in our waterways, making them unsafe for human recreational use.

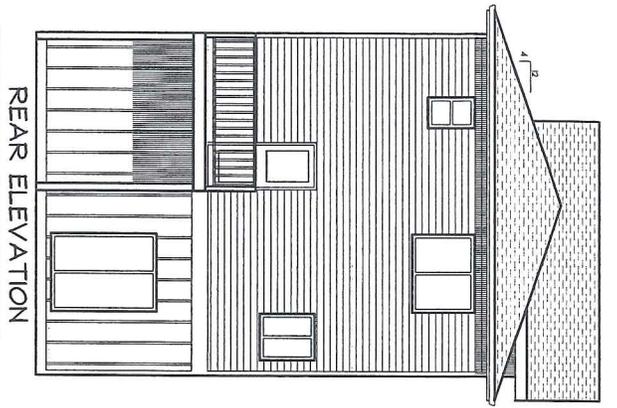
2.6 SNOW REMOVAL

Plowed or shoveled snow piles should not block inlet structures or be placed in rain garden; however fallen snow need not be removed.

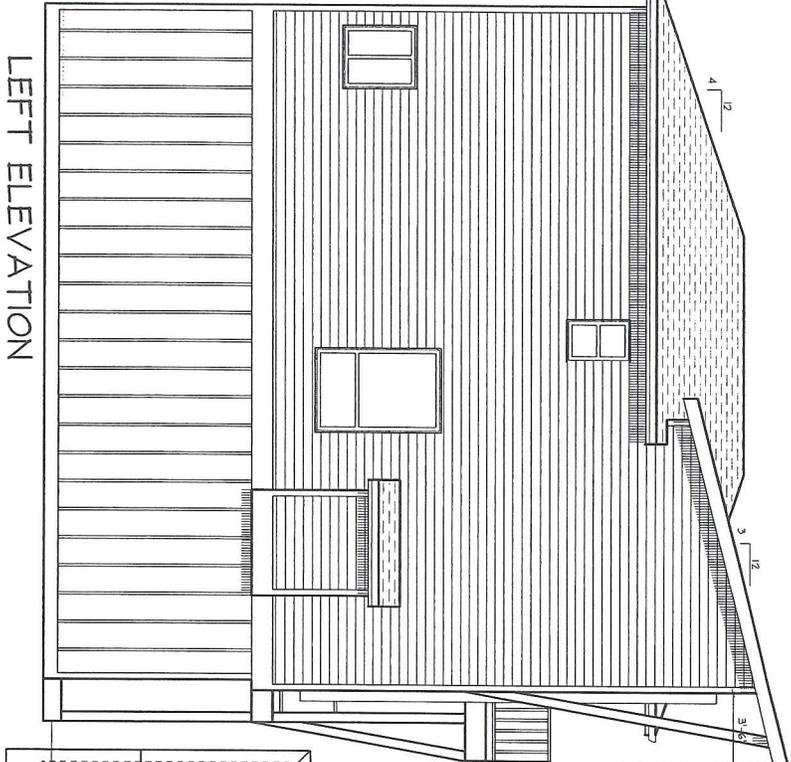
2.7 DE-ICING

Ice removal is NOT necessary in rain gardens. Treatment for ice buildup nearby rain gardens may be necessary for safety, however consider the impact that de-icing products will have on the environment before using them. Standard de-icing agents can be incredibly harmful to plant and aquatic life. Environmentally-friendly ice control agents are available that have been shown to have fewer adverse effects on pavement, infrastructure, vehicles, and plants. For example, calcium magnesium acetate (CMA) can be used as an alternative to salt in environmentally sensitive areas. Although CMA is environmentally-friendly, it is effective only to 21°F and has a higher cost than conventional chemicals. Another example is Ice Ban, which is made from agricultural residues and is considered to be environmentally friendly. Abrasives such as sand and gravel are frequently used alone or in conjunction with salt to provide traction on slippery surfaces. Avoid using large amounts of sand and gravel near rain gardens, since they may reduce the infiltration capacity of your rain garden.

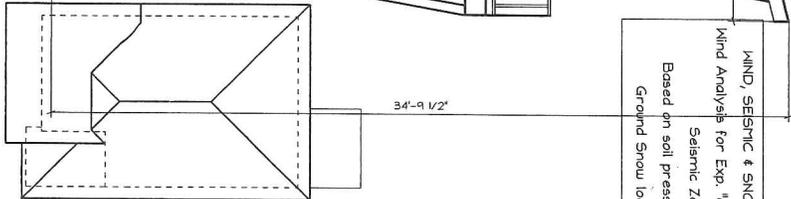
ⁱ This modified rain garden maintenance schedule was taken from the Prince George's County, Maryland Bioretention Manual.



REAR ELEVATION



LEFT ELEVATION

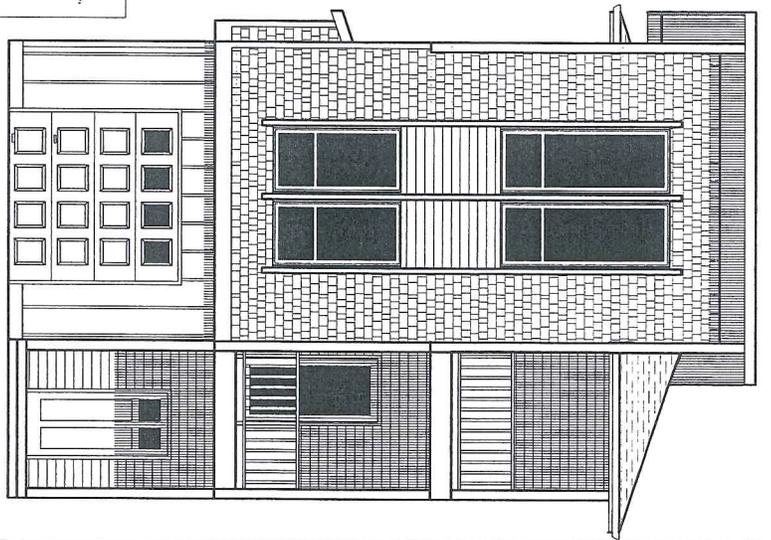


WIND, SEISMIC & SNOW DESIGN LOADS
 Wind Analysis for Exp. "C", 10 mph 3 sec gust.
 Seismic Zone (DI)
 Based on soil pressure of 1500 psf.
 Ground Snow load of 50 psf.

BSMT LEVEL LIVING AREA : 342 SQ FT
 MAIN LEVEL LIVING AREA : 579 SQ FT
 2ND FLOOR LIVING AREA : 574 SQ FT
 TOTAL LIVING AREA : 1495 SQ FT

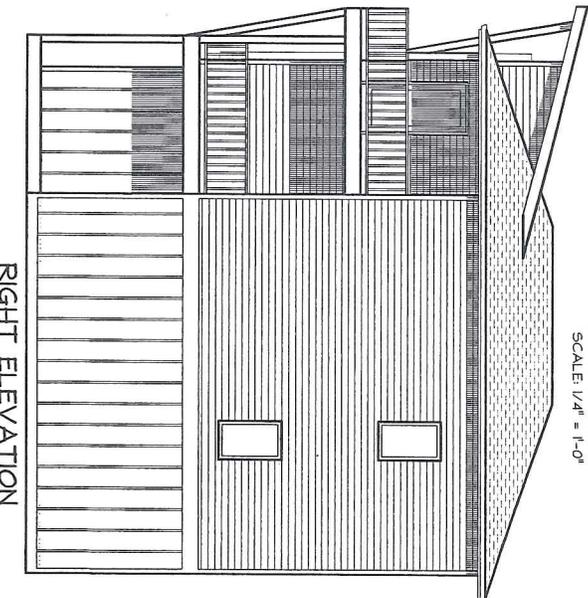
GLAZING CALCULATION:

1ST FLOOR	GLAZING SQ FT : 3335 SQ FT
	WALL SQ FT : 792.97 SQ FT
	% : 40%
2ND FLOOR	GLAZING SQ FT : 91 SQ FT
	WALL SQ FT : 123.37 SQ FT
	% : 7.30%
3RD FLOOR	GLAZING SQ FT : 66 SQ FT
	WALL SQ FT : 983.89 SQ FT
	% : 5.97%
TOTAL	GLAZING SQ FT : 19035 SQ FT
	WALL SQ FT : 3184.20 SQ FT
	% : 5.98%



FRONT ELEVATION

SCALE 1/4" = 1'-0"



RIGHT ELEVATION

PLAN NO.
 CELILO3

SHEET : 1
 OF : 5

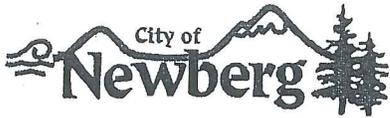
ELEVATIONS

Greg Larson
 DRAFTING & DESIGN
 805 Liberty St NE #4
 Salem, Oregon 97301
 Phone: (503) 364-8577
 Fax: (503) 364-3256
 E-MAIL: homedezyme@aol.com

DATE

GLL

Exhibit A



TYPE III APPLICATION - 2015
(QUASI-JUDICIAL REVIEW)

File #: _____

TYPES - PLEASE CHECK ONE:

- Annexation
Comprehensive Plan Amendment (site specific)
Zoning Amendment (site specific)
Historic Landmark Modification/alteration

- Conditional Use Permit
Type III Major Modification
Planned Unit Development
Other: (Explain) Subdivision Type III

APPLICANT INFORMATION:

APPLICANT: Del Boca Vista, LLC - Daniel Danicic
ADDRESS: PO Box 486 Newberg OR 97132
EMAIL ADDRESS: dan@dbvcorp.com
PHONE: 971-706-2058 MOBILE: 503-476-7702 FAX: N/A
OWNER (if different from above): The Darby Family Trust
ADDRESS: 900 Wynooski St. Newberg OR 97132
ENGINEER/SURVEYOR: EMERIO Design PHONE: 503-746-8812
ADDRESS: 8285 SW Nimbus Ave #180 Beaverton, OR 97008

GENERAL INFORMATION:

PROJECT NAME: Nova Grace Subdivision PROJECT LOCATION: 900 Wynooski St Newberg, OR 97132
PROJECT DESCRIPTION/USE: 14 Lot Residential Subdivision
MAP/TAX LOT NO. (i.e. 3200AB-400): 3220CA-00900 ZONE: R2 SITE SIZE: SQ. FT. ACRE
COMP PLAN DESIGNATION: MDR TOPOGRAPHY: Mostly flat with steep slopes within stream corridor
CURRENT USE: Single Family House
SURROUNDING USES:
NORTH: R2 Vacant Lot SOUTH: R2 Single Family Lot
EAST: P Undeveloped WEST: R2 Single Family

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:

Annexationp. 15
Comprehensive Plan / Zoning Map Amendment (site specific)p. 19
Conditional Use Permitp. 21
Historic Landmark Modification/Alterationp. 23
Planned Unit Developmentp.26

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.

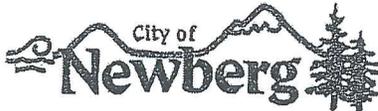
[Signature] 11-12-15
Applicant Signature Date

Daniel Danicic
Print Name

[Signature] 11-12-15
Owner Signature Date

The Darby Family Trust
Joseph R. DARBY
Print Name

Attachments: General Information, Fee Schedule, Noticing Procedures, Planning Commission Schedule, Criteria, Checklists



TYPE II APPLICATION (LAND USE) -- 2016

File #: _____

TYPES - PLEASE CHECK ONE:

- Design review
- Tentative Plan for Partition
- Tentative Plan for Subdivision

- Type II Major Modification
- Variance Building Height 15.415.020
- Other: (Explain) _____

APPLICANT INFORMATION:

APPLICANT: Del Boca Vista LLC
 ADDRESS: PO Box 486 Newberg OR 97132
 EMAIL ADDRESS: dancdbvcorp.com
 PHONE: 971-706-2058 MOBILE: 503-476-7702 FAX: _____
 OWNER (if different from above): The Darby Family Trust PHONE: _____
 ADDRESS: 900 Wynnoski St. Newberg OR 97132
 ENGINEER/SURVEYOR: Emerio Design PHONE: 503-746-8812
 ADDRESS: 8285 SW Nimbus Ave #180 Beaverton OR 97008

GENERAL INFORMATION:

PROJECT NAME: Nova Grace Subdivision PROJECT LOCATION: 900 Wynnoski St.
 PROJECT DESCRIPTION/USE: 14 lot residential subdivision
 MAP/TAX LOT NO. (i.e. 3200AB-400): 3220CA-00900 ZONE: R-2 SITE SIZE: 6.33 SQ. FT. ACRE
 COMP PLAN DESIGNATION: MDR TOPOGRAPHY: Mostly flat w/ steep slopes in stream
 CURRENT USE: Single Family House corridor
 SURROUNDING USES:
 NORTH: R-2 Vacant lot SOUTH: R-2 Single Family
 EAST: P Undeveloped WEST: R-2 Single Family

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 Review	p. 12
Partition Tentative Plat	p. 14
Subdivision Tentative Plat	p. 17
Variance Checklist	p. 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.

[Signature] 2/9/16
 Applicant Signature Date
Daniel Danicic
 Print Name

The Darby Family Trust [Signature] 2-9-16
 Owner Signature Date
The Darby Family Trust Joseph R. Darby
 Print Name

Attachments: General Information, Fee Schedule, Criteria, Checklists

Exhibit B

AFTER RECORDING, RETURN TO:
DEL BOCA VISTA LLC
PO Box 486
Newberg, Oregon 97132

**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
NOVA GRACE**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR NOVA GRACE (“Declaration”) is made this ___th day of ____, 2016 by Del Boca Vista LLC, an Oregon limited liability company, as the Declarant.

RECITALS

A. WHEREAS, the Declarant is the owner, or controls, of all that certain property and improvements thereon located in the City of Newberg, Yamhill County, State of Oregon, referred to as the Plat of NOVA GRACE, recorded _____, 2016, as Document No. 2016-_____, consisting of Lots 1 through 14 and certain easements noted on the Plat (“Nova Grace” or the “Real Property”);

B. WHEREAS, the Declarant desires to impose these mutually beneficial covenants, conditions, restrictions, easements, assessments and liens on the Real Property under a general plan of residential development for the benefit of all of the Owners and the Lots within Nova Grace;

C. NOW, THEREFORE, the Declarant declares that the Real Property shall be held, transferred, sold, conveyed, and occupied subject to the following covenants, conditions, restrictions, easements, charges, and liens, or as noted herein, which shall run with the land and shall be binding upon all parties having or acquiring any right, title, or interest in the Real Property or any part thereof and shall inure to the benefit of each Lot Owner. The Declarant is not committing itself to take any action other than as expressly provided herein by adoption of the covenants, conditions, and restrictions set forth in this Declaration. Anyone acquiring one or more Lots will have the advantage of any further development, but shall not have any legal right to insist that there be development except as expressly provided herein.

NOW, THEREFORE, the Declarant subjects the Real Property, together with any and all real property and improvements which may be added to the Real Property pursuant to the provisions of this Declaration, to the covenants, conditions, and restrictions set forth below.

COVENANTS CONDITIONS AND RESTRICTIONS

SECTION 1. INTRODUCTION

1.1 General Declaration. The covenants, conditions, and restrictions set forth in this Declaration shall run with and bind the Real Property, each Lot, and other division, if any, of the Real Property, the Owners, the Occupants and all other Persons acquiring any interest in the Real Property or any portion thereof, and the heirs, successors, and assigns of the Owners, the Occupants and such other Persons. These conditions, covenants, and restrictions shall inure to the benefit of and be burdens upon Declarant and upon all Owners, Occupants, future Owners and future Occupants.

SECTION 2. DEFINED TERMS

Throughout this Declaration, the following terms, when capitalized, shall have the following meanings:

2.1 “Building Structure” shall mean any building constructed on a Lot, including without limitation, a Home or an Improvement, whether attached to or detached from another Building Structure.

2.2 “City” shall mean the City of Newberg, Oregon.

2.3 “Code” shall mean the Development Code of the City of Newberg, Oregon.

2.4 “Declarant” shall mean Del Boca Vista LLC, its successors and assigns, and any Person succeeding to the responsibility of Declarant pursuant to a designation by Del Boca Vista LLC or by any successor Declarant of such Person as a successor Declarant in a supplemental declaration recorded in the Yamhill County Records. Declarant shall not refer to any other subsequent purchaser of a Lot or Home.

2.5 “Declaration” or “Declaration” shall mean this Declaration of Covenants, Conditions, and Restrictions for Nova Grace, as it may be further amended from time to time.

2.6 “Developer” shall mean any Person engaged in the development of any Lot for the purpose of selling or leasing the Improvements ultimately constructed on such Lot.

2.7 “General Plan of Development” shall mean the Declarant’s general plan of development for the Real Property as approved by appropriate governmental agencies, as may be amended from time to time, including the Real Property and all phases thereof.

2.8 “Home” or “Homes” shall mean and refer to any portion of a structure situated on a Lot designed and intended for use and occupancy as a residence by a single family or household.

2.9 “Improvement” shall mean any improvement now or hereafter placed or constructed in, under, or upon the Real Property, including without limitation any building, swimming pool, spa, road, driveway, parking area, fence, screening wall or barrier, retaining wall, stairs, deck, landscaping and sign. An Improvement shall not be a Home.

2.10 “Lot” or “Parcel” means any of the fourteen (14) parcels of land designated on the Plat as a lot for residential use or any parcel of land designated as a lot for residential use on any replat of the Real Project.

2.11 “Lot Easement Area” shall mean and refer to those portions of any Lot subject to any easement benefiting the Owners, Occupants, future Owners and future Occupants. The term

"Lot Easement Area" shall not refer to any portions of any Lot encumbered by an easement to any other party, including without limitation, any governmental agency.

2.12 "Mortgagee" shall mean the holder of a mortgage on any portion of the Real Property and shall also have the meaning set forth in ORS 86.010 *et. seq.*, and shall include beneficiaries of deeds of trusts and vendors under land sale contracts.

2.13 "Occupant" shall mean and refer to occupant of a Home, who shall be the Owner, lessee or any other person authorized by the Owner to occupy the premises.

2.14 "Owner" shall mean and refer to the Owner of record, including Declarant, whether or not more persons or entities, of the fee simple title to any Lot or a purchaser in possession of any Lot under a land sale contract. The foregoing does not include persons or entities that hold an interest in any Lot merely as security for the performance of an obligation.

2.15 "Other Common Areas" means those other parcels, if any, included within the Property which are, from time to time, designated by Declarant as common areas of Nova Grace, such as entry monuments and structures and median strips. Such areas may be conveyed to the Owners, dedicated to the public, or owned by Persons other than Declarant and subject to easements in favor of the Owners.

2.16 "Parcel" or "Lot" means any of the Fourteen (14) parcels of land designated on the Plat as a lot for residential use or any parcel of land designated as a lot for residential use on any replat of the Real Project.

2.17 "Person" means any individual, Owners, Occupants, future Owners and future Occupants, corporation, partnership, or other legal entity.

2.18 "Plat" means the final plat of the Real Property as recorded in the Yamhill County Records and any amendments thereto.

2.19 "Real Property" means the real property in City of Newberg, Yamhill County, Oregon legally described on the Plat as NOVA GRACE.

2.20 "Declaration" or "Declaration" shall mean this Declaration of Covenants, Conditions, and Restrictions for Nova Grace, as it may be further amended from time to time.

SECTION 3. OWNERSHIP AND EASEMENTS

3.1 Non-Severability. Each of the easements reserved or granted herein shall be deemed to be established upon the recordation of this Declaration and the Plat, and shall forever be deemed to be covenants running with the land for the use and benefit of the Owners and their Lots

and shall be superior to all other encumbrances applied against or in favor of any portion of Nova Grace.

3.2 Ownership of Lots. Title to each Lot in Nova Grace shall be conveyed in fee to an Owner. If more than one person and/or entity owns an undivided interest in the same Lot, such person and/or entities shall constitute one Owner

3.3 Easements. Individual deeds to Lots may, but shall not be required to, set forth the easement specified in this Declaration of Covenants, Conditions and Restrictions.

3.5.1 Easements on Plat. The Lots are subject to the easements and rights-of-way shown, or noted, on the plat of Nova Grace. These may include easements for public pedestrian and/or bicycle access, sanitary sewer easements, storm drainage, access and public utility easements. The ingress/egress, utility and drainage easements are set forth on the Plat of Nova Grace.

3.5.2 Additional Easement. Notwithstanding anything expressed or implied to the contrary, this Declaration shall be subject to all easements granted by Declarant for the installation and maintenance of landscaping utilities and drainage facilities necessary for the development of Nova Grace. No structure, planting or other material shall be placed or permitted to remain within any easement area which may damage or interfere with the installation or maintenance of utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each Lot and all improvements thereon shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority, utility company or one or more of the Owner's is responsible. In addition, an easement is specifically reserved to the Owners of the Lot, and the Owners, as their interests may exist, for access to, and right of repair or service to utility and/or drainage lines and facilities which exist on each Lot for common use of Owners in said structure.

3.5.3 Owner's Easements. There are hereby reserved to the Owners and their duly authorized agents and representatives such easements as are necessary to perform the duties and obligations of the Owners set forth in this Declaration for the maintenance of the landscaping, drainage, roadway and utilities as described in this Declaration.

3.5.4 Drainage Lines. Each Owner shall maintain the drainage lines for gutters and downspouts on the Owner's Lot from the Homes to the point of intersection with the publicly owned storm drain facility. The Owners hereby reserves a maintenance easement for said drainage lines pursuant to Sections 3.5.5 and 3.5.6 as set forth in this Declaration.

3.5.5 Maintenance Easement. An easement is hereby reserved in favor of the Owners and their successors and assigns, contractors, agents and employees over, across, and under each Lot, the exterior portions of the dwelling units on each Lot, the landscaped areas, the

planter strips and any other areas of the Real Property necessary or appropriate for the purposes of accomplishing the maintenance, repair, and replacement of Improvements.

3.5.6 Utility Easements. The Owners shall have the right to grant nonexclusive easements and rights of way over the Lots for the purpose of installing, maintaining, repairing, and replacing public utility lines, services, and facilities reasonably necessary to serve any of the Real Property.

3.5.10 Maintenance Obligations/Owner Restrictions. Except as specifically noted in this Declaration, the Owner, at his/her expense, shall maintain, repair and replace the improvements and utility installations in any Lot Easement Area and shall hold the other Owners, Occupants, future Owners and future Occupants harmless from any such costs.

SECTION 4. PROPERTY USE AND RESTRICTIONS

4.1 Improvements Permitted. No Improvement shall be erected or permitted to remain on any Lot except Improvements consisting of or containing one Home and Improvements normally accessory thereto and as permitted herein. No mobile home or pre-fabricated home shall be erected or permitted to remain on any Lot. Homes on all Lots shall have at least One Thousand Four Hundred (1,400) square feet of finished living space, but not including any attached garage area or open porches. Homes on all Lots shall have an attached private garage of sufficient size to store a minimum of one (1) vehicle.

4.1.1 An Owner is not required to commence construction of a Home or Improvement on any Lot, provided that the Owner continuously maintains the Lot in a clean, manicured, safe and presentable condition.

4.1.2 The completion of construction of any Home or Improvement including exterior decoration shall occur within three hundred and sixty-five (365) days from the date of initial commencement of the construction of the Home or Improvement. During this period of construction time, the following shall occur:

(a) All Lots shall be kept in a neat and orderly condition, free of brushes, vines, weeds and other debris.

(b) All grass on the Lot shall be cut or mowed at sufficient regular intervals to prevent the creation of a nuisance or fire hazard.

(c) All contractors and builders shall keep the job site orderly and in clean condition and shall periodically, during the course of construction, remove all construction waste materials. In the event of hardship due to inclement weather conditions, this provision may be extended by the Declarant or the Declarant's designee for a reasonable period of time.

4.1.3 Setbacks. Minimum setbacks on all Lots in Nova Grace shall be governed by the applicable City of Newberg zoning regulations and ordinances.

4.2 Occupancy and Diligent Construction. No Home or Improvement shall be occupied in any manner while under the course of construction or until such Home or Improvement complies with all governmental standards for occupancy or intended use. All construction activity of any type or kind within Nova Grace and upon any Lot or any area or portion thereof shall be prosecuted diligently and continuously from the time of commencement until full completion. All exterior and visible portions of all Homes, Improvements, fences, walls or other structures placed on any Lot, in any area in or part of Nova Grace shall be constructed of new and high-grade materials and components. This provision shall not prohibit or restrict the erection, installation, movement and use of temporary trailers or structures, provided such trailers or structures exclusively incidental to the sale of Lots and construction and sale of Home upon any Lot or in any area or portion of Nova Grace, provided such trailers or structures have been approved in writing by the Declarant.

4.3 Residential Use. Except as provided in this Section 4.3, Lots shall be used solely for single-family residential purposes. Without limiting the generality of the foregoing, no trade, craft, business, profession, commercial, or similar activity of any kind shall be conducted on any Lot, nor shall any goods, equipment, vehicles, materials, or supplies used in connection with any trade, service, or business be kept or stored on any such Lot. Nothing in this Section 4.3 shall be deemed to prohibit or limit (i) activities relating to the sale or rental of Homes, (ii) the right of Declarant or any Developer to construct Homes on any Lot or to store construction materials and equipment on any such Lot in the normal course of construction, or (iii) the right of any Owner to maintain a personal professional library, handle business or professional telephone calls, or confer with business or professional associates, clients, or customers in such Owner's Home.

4.4 Design and Style of Homes and Improvements. Homes and Improvements and all other structures, including any additions or alterations thereto, shall be constructed and maintained utilizing only high-quality materials and workmanship and shall be of such character, style and designed so as to be in harmony with the other Home and Improvements located in Nova Grace. All Homes and Improvements and all other structures, including any additions or alterations thereto, shall comply in all respects with the terms and provisions of this Declaration and all applicable building codes, ordinances and regulations, including, but not limited to, the Uniform Building Code and the applicable building codes and ordinance of Yamhill County and the State of Oregon.

4.5 Landscaping. The front yard and any side yards that are visible from any street or right of way of the Lot upon which a Home or Improvement has been constructed shall be fully and completely landscaped with underground irrigation and the planting of cultivated grass laws and various shrubs no more than one hundred and eighty (180) days after substantial completion of the Home or Improvement. Maintenance and upkeep of all landscaping on a Lot is the Owner's sole

responsibility. The Lot Owner must obtain any and all required permits and authorizations before the installation of such landscaping and/or irrigation systems.

4.5.1. Except as otherwise provided herein, said completed landscaping on Lots shall be installed by Owners no later than twelve (12) months after substantial completion of the Home or Improvement. All landscaping maintenance on Lots shall be maintained in good condition, including watering, weeding, pruning, fertilization, mowing and other forms of typical maintenance. Owners are strongly encouraged to use sod for the planting of any lawns that will constitute the front yards, back yards and side yards of any Lot. At all times after substantial completion of the construction of a Home on a Lot and before the installation of landscaping, all back and side yards must be maintained so as not to be offensive in appearance nor cause or present any sort of hazardous, dangerous or unsightly condition.

4.5.2 The Owners shall also be responsible for the landscaping and maintenance of the side street yards for any Lot that is also a corner Lot.

4.5.3 Watering, trimming and all maintenance associated with the street trees required by the City of Newberg which are planted along certain streets of Nova Grace are the responsibility of the Owners.

4.5.4 Declarant reserves the right to install and maintain landscape improvements on Lots for sales and marketing purposes, and hereby reserves a landscape easement on the front yards of said Lots and the street side yards for this purpose. Declarant is not obligated to provide any landscaping in said areas noted in this Section.

4.6 Maintenance. Each Owner and Occupant shall be solely responsible for the maintenance of their Homes. Required maintenance and repair shall include without limitation (i) maintenance of all parking areas and private drives in a clean and safe condition, including cleaning and repairing as often as is necessary; (ii) cleaning, maintenance, and relamping of any external lighting fixtures; (iii) maintenance of exteriors of buildings in an attractive and neat condition at all times; and (iv) maintenance of the landscaping in front of the Home, and outside of side and rear yard fences.

4.7 Limitations on Use

4.7.1 Offensive Activities. No noxious or offensive activity shall be permitted carried on in any Lot in Nova Grace, nor shall anything be done or placed or maintained upon any Lot which interferes with or jeopardizes enjoyment of, or becomes an annoyance or nuisance to any Owner, or detracts from the value of any Lot in Nova Grace as a high-class residential neighborhood.

4.7.2 Animals. No large animals, livestock, or poultry of any kind shall be raised, kept, or permitted on any Lot or in any part of the affected Property. Any permitted

domestic-type, household animals (such as dogs, cats, etc.) which are kept on the affected Property must not create any type of nuisance or noxious activity (including noise). No animals shall be allowed to become a nuisance to any residence within Nova Grace. Any and all animals permitted under this Subsection shall not be kept, bred or raised from commercial purposes or be maintained in unreasonable numbers.

4.7.3 Parking. Each Lot shall provide adequate room for the parking of private vehicles, and all such private vehicles shall not be allowed to be parked in any portion of the Property so that such vehicle(s) becomes a sight nuisance from any portion of the streets which may act as access to the entire Property. No private vehicle parking shall be allowed on any street or right-of-way, except as may be necessary in connection with construction activities or as may be required to perform other obligations required under this Declaration. No Owners shall permit or allow any vehicle which is inoperable to remain parked or stored upon any Lot or upon any street for a period of time in excess of forty-eight (48) hours. No Owners shall permit or allow any vehicle which is inoperable to remain parked or stored upon a Common Area for any period of time. In addition, the parking or storage of boats, trailers, recreational vehicles, trucks, campers, motorcycles, and similar equipment or personal property shall not be allowed on any Lot, or any street adjacent thereto, except within an enclosed garage or screened area which prevents the vehicle or equipment therein from being seen from any other Lot, the Common Areas, or any street within the Real Property.

4.7.3.1 No personal property, including, but not limited to trailers, recreational vehicles, boats, camper units or tents shall be placed, stored, kept, parked or maintained on any Lot, or on any portion of Nova Grace for any period of time in excess of fourteen (14) days in any one calendar year, except that such personal property owned by an Owner may be kept or maintained in such a manner that is completely enclosed from the public view.

4.7.4 Antennas and Satellite Dishes. No television antennas or radio aerials shall be permitted on any Lot, Home or any part or area of the Property. Small-size satellite receivers and dishes shall be permitted on a Lot, Home or any part of area of the Property only if such small-size satellite receiver(s) or dish(es) are screened from the view of any street or are placed on the roof of any Home or Improvement. All utilities shall be installed underground, as no overhead wires or services drops for the distribution of electricity or any other telecommunication purposes, nor any poles, towers, or other supporting structures shall be erected, placed or maintained on any Lots. Clotheslines shall be screened so as not to be viewed from any street.

4.7.5 Rubbish and Trash. No Lot or any part of the Property shall be used as a dumping site or repository for trash, rubbish, refuse, garbage, or any other form of waste of any kind. All garbage and other waste shall be kept in appropriate sanitary containers for proper disposal or recycling and out of public view, and shall not cause or be a form of nuisance to any Owner. Yard rakings, dirt, and other material resulting from landscaping work shall not be dumped onto streets, the Common Areas or any Lot. Trimmings, cuttings and like debris may be composted by an Owner on the Owner's Lot, provided that such trimmings, cutting and like debris are

maintained in a singular location on the Lot not visible from any street and so as not to become an annoyance or nuisance to any other Owner in the Property. Each Owner is responsible for trash disposal on the Owner's Lot, and shall only place individual trash containers in the public street (not alleyways) within 12 hours of the scheduled trash collection time and such Owners shall remove the individual trash containers from the public street and from public view within 12 hours after collection.

4.7.6 Temporary Structures. No structure of a temporary character, campers, recreational vehicles, trailer, tent, shack, garage, barn, or other outbuilding shall be permitted or used in Nova Grace at any time as a residence either temporarily or permanently. Declarant or its designee reserves the right to locate a temporary construction office within the Property while Homes are being constructed.

4.7.7 Signs. No sign or other advertising device of any kind shall be created, displayed, erected or constructed upon or placed within or on any Lot to the public view, except one professionally-made sign measuring not more than eighteen (18) inches by twenty-four (24) inches advertising the Lot for sale. This restriction shall not prohibit the temporary placement of political signs, garage sale signs, for rent signs, or a sign for a City of Newberg permitted home-based business on any Lot by the Owner thereof, or placement of a professionally-made signs by Declarant that complies with applicable sign ordinances, provided any such signs shall not measure more than eighteen (18) inches by twenty-four (24) inches. This restriction shall also not apply to signs used by Declarant, builders, realtors or agents during construction and sales of Homes on Lots.

4.7.8 Fences. No fence, either sight or non-sight obscuring, in excess of three (3) feet in height may be located between the building line and the front yard sidewalk, and in the case of a corner Lot, the building line and sidewalk abutting the side yard. The maximum height of any fence located on the remainder of the Lot shall be six (6) feet and must be constructed of cedar wood and be a "good neighbor" construction type with similar material and style to other fences existing within Nova Grace at the time the construction is commenced by the Owner.

4.7.9 Driveways to be Paved. All driveways on Lots shall be paved with asphalt or concrete from the street or access right-of-way to the Home or Improvement, and paving must be completed by no later than substantial completion of the Home or Improvement on the Lot. Dirt or gravel driveways shall only be temporarily permitted during construction of the Home or Improvement and must be paved by no later than substantial completion of the Home or Improvement on the Lot.

4.7.10 Business and Trade. No trade, craft, business, profession, commercial activity, or similar type activity of any kind or nature shall be permitted or conducted on any Lot, not shall any goods, equipment, vehicles, materials or supplies used in connection with any trade, craft, business, profession, commercial activity, or similar type activity be kept or stored on any Lot (unless allowed and permitted by the City of Newberg), excepting therefrom the right of any

homebuilder, contractor, and the Declarant and the Homes and Improvements on the Lots, and to store construction equipment and materials on said Lots in the normal course of construction of said infrastructure, Homes and/or model homes for the purposes of sales in Nova Grace. Furthermore, during the course of construction of a Home or Improvement, the Owner and/or the Owner's Contractor shall be authorized to store construction materials and equipment on the said Lot in the normal course of construction, subject to the provisions of Section 4.1.

SECTION 5. GENERAL PROVISIONS

5.1 Duration. These covenants, conditions, and restrictions shall run with and bind, benefit, and burden in perpetuity the Real Property, all Owners and Occupants, and the lessees, invitees, and guests of all Owners and Occupants.

5.2 Severability. In the event any provision of this Declaration is determined to be invalid or unenforceable, that determination shall not affect the validity or enforceability of any other provision or of the same provision to a different situation.

5.3 Amendment. This Declaration may be amended at any time and from time to time by Declarant to comply with the requirements of the Federal Housing Administration, the United States Department of Veterans' Affairs, the Farmer's Home Administration of the United States, the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Mortgage Loan Corporation, any department, bureau, board, commission or agency of the United States or the State of Oregon or any corporation wholly-owned, directly or indirectly, by the United States or the State of Oregon that insures, guarantees or provides financing for a planned community or lots in a planned community. Thereafter, this Declaration, subject to this Section 6.3, may be amended only upon the affirmative vote of eighty-five percent (85%) or more of the Owners, with each Owner having one vote for each Lot owned. For purposes of this Section 6.3, if there is more than one Owner of any Lot, such Owners shall together be considered a single Owner with respect to such Lot. In no event shall an amendment under this section create, limit or diminish the Special Declarant Rights specified in Section 6.12 hereof without Declarant's written consent, or change the boundaries of any Lot or any uses to which any Lot is restricted unless the Owners of the affected Lots unanimously consent to the amendment. When the Owners adopt an amendment to this Declaration, the Owners shall record the amendment in the real property records of Yamhill County. Any such amendment shall be effective only upon recordation. Amendments to this Declaration shall be executed, recorded and certified on behalf of the Owners by any duly acknowledged representative of the Owners designated for that purpose.

5.4 Enforcement. Each Owner shall have the right to enforce all of the covenants, conditions, restrictions, reservations, easements, liens, and charges now or hereinafter imposed pursuant to any provision of this Declaration by any appropriate proceeding at law or in equity. Any remedies specifically provided herein are nonexclusive and cumulative and are in addition to all other remedies available to the Owners at law or in equity. In the event that suit or action is instituted to enforce any provision of this Declaration, the prevailing party shall be entitled to

recover from the losing party the prevailing party's reasonable attorneys' fees and costs incurred in connection with such suit or action, including those incurred in connection with any appeal or review proceeding

5.5 Mortgage Protection. Except upon the written approval of Mortgagees holding Mortgages of Lots which have at least eighty-five percent (85%) of the votes of Lots which are subject to Mortgages, no amendments may be made to this Declaration which add to or amend any material provision of the Declaration which establish, provide for, govern or regulate any of the following:

5.5.1 Termination of this Declaration or any amendment thereto shall require the consent of not less than eighty-five percent (85%) of the Mortgagees holding an interest in Lots. Any such termination of this Declaration shall be carried out by the Owners pursuant to the provisions of this Declaration, and only after a vote of the Owners as required by this Declaration.

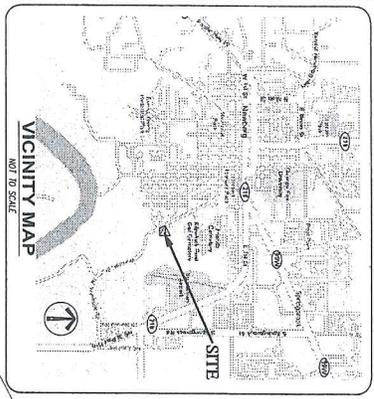
5.5.2 The provisions of Section 6.5 are intended to only be a limitation on the rights of Owners to amend the Declaration, and any such amendments to the Declaration shall be made only upon full compliance with the provisions of such relating to the procedure and percentage of votes required for such amendment.

5.5.3 Any Mortgagee who receives a written request to approve an amendment to the Declaration or any other action to be taken, shall be deemed to have given such approval unless such Mortgagee's written request to such action is delivered to the requesting Owners within thirty (30) days after the written request.

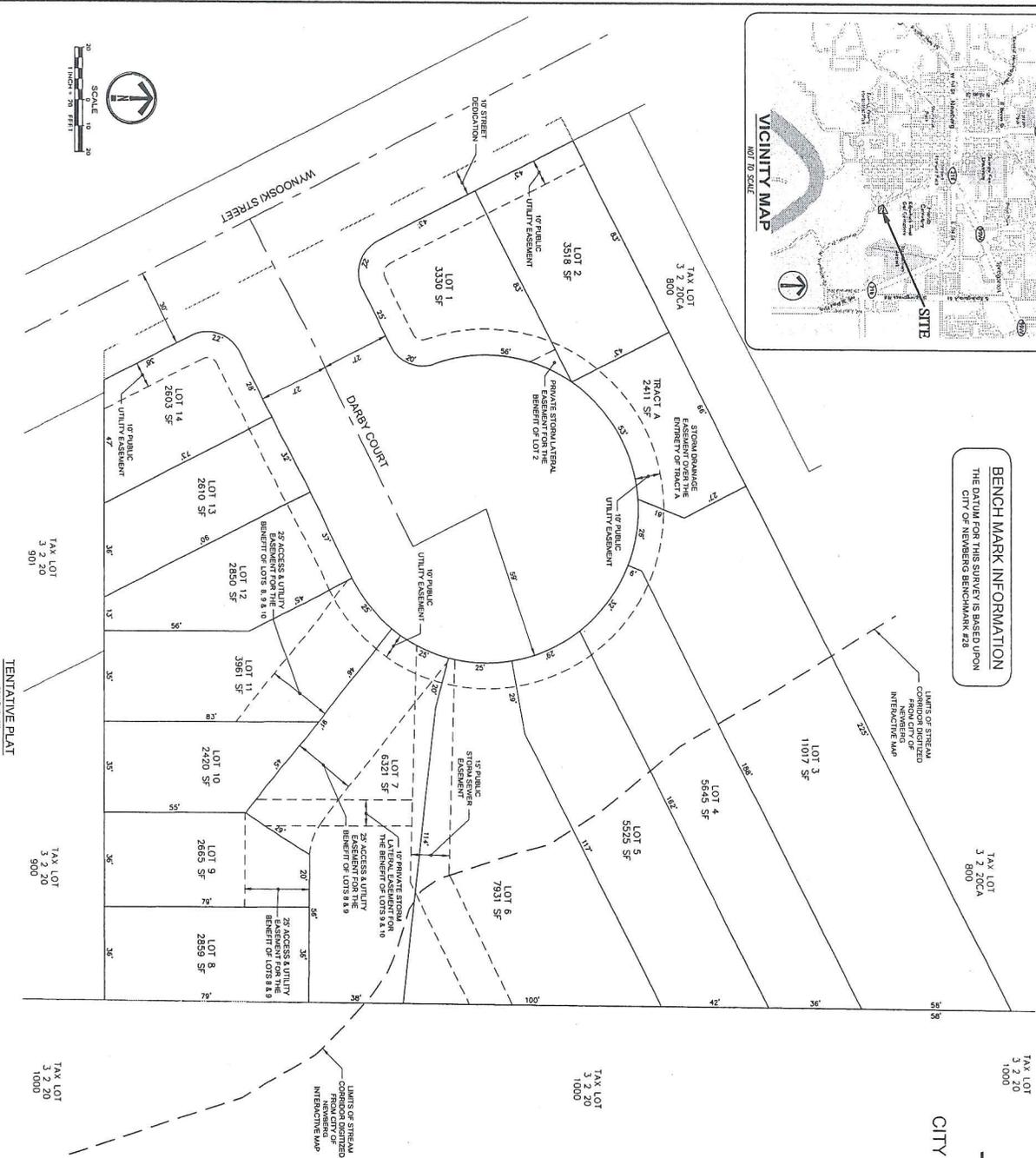
5.6 Non-Waiver. Any failure of any Owner to enforce a covenant, condition, or restriction contained in this Declaration shall not be deemed to constitute a waiver of any Owner's right to enforce that or any other covenant, condition, or restriction contained in this Declaration.

5.7 Declarant Not Liable. Neither Declarant nor Declarant's successors or assigns shall be liable to any Owner or Occupant or to any other Person for its enforcement or failure to enforce any provision of this Declaration. Each Owner and Occupant, by acquiring such Owner's or such Occupant's interest in the Property, agrees not to bring any action or suit against Declarant or any successor or assign of Declarant to recover any such damages or to seek any other relief (including without limitation equitable relief) by reason of any such enforcement or failure to enforce any provision of this Declaration. Each Owner and Occupant shall and does, by taking title to or occupying any portion of the Property, agree to defend, indemnify, and hold harmless Declarant and Declarant's successors and assigns from any claim, loss, damage, cost, or expense (including without limitation reasonable attorneys' fees) arising out of the use, operation, ownership, occupancy, or condition or state of repair of that portion of the Property owned by such Owner or occupied by such Occupant.

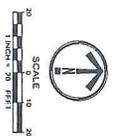
Exhibit C



BENCHMARK INFORMATION
 THE DATUM FOR THIS SURVEY IS BASED UPON
 CITY OF NEWBERG BENCHMARK #28



TENTATIVE PLAT
 SCALE: 1"=20'



NOVA GRACE

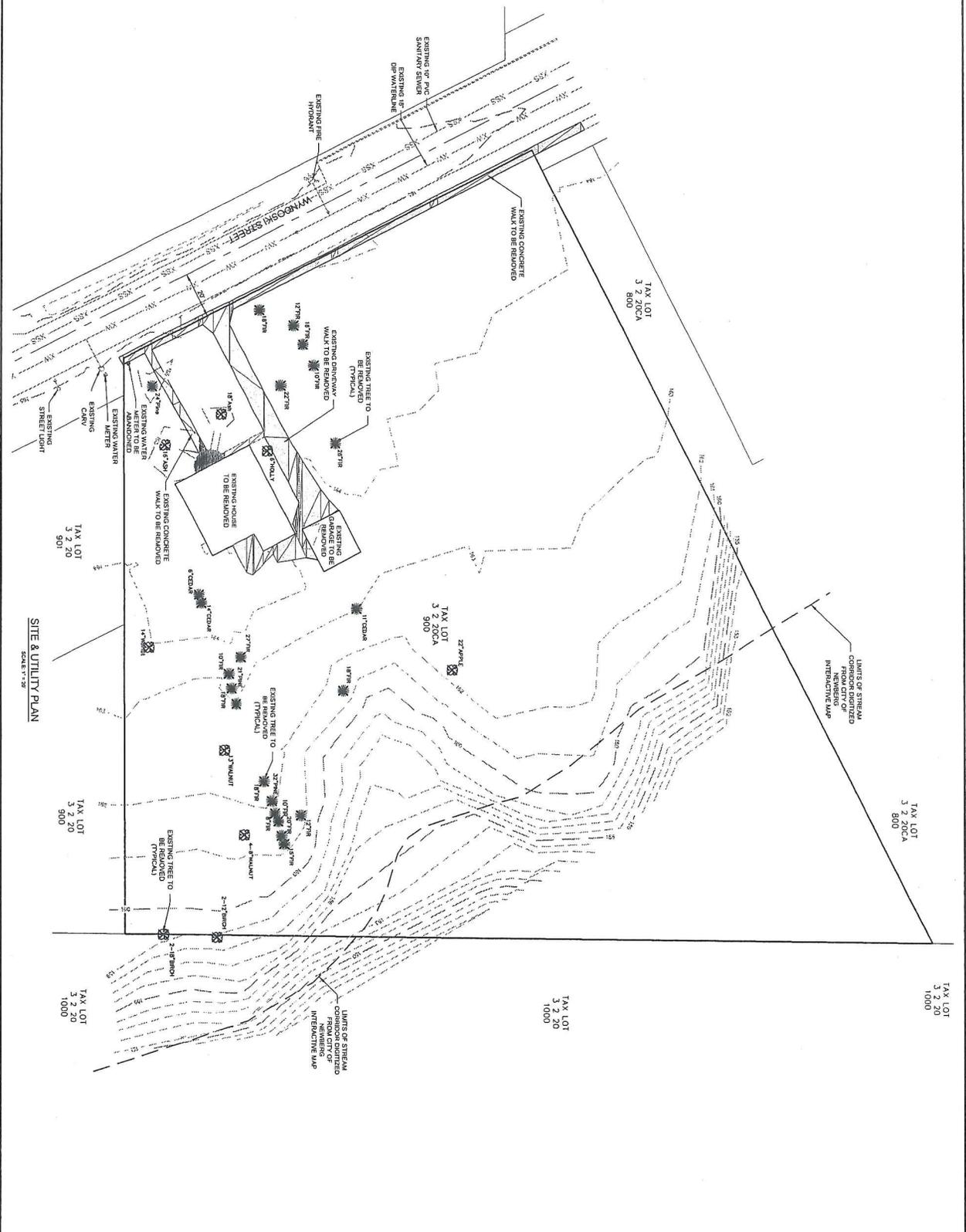
TAX LOT 3 2 20CA 900
 CITY OF NEWBERG, YAMHILL COUNTY, OREGON

SITE INFORMATION
 SITE AREA: 82,307 SF (1.89 AC)
 ZONING: RZ
 TAX MAPS: 25 2ND 20CA 900
 NUMBER OF LOTS: 12

PROJECT CONTACTS
 DEVELOPER: DEL BOCA VISTA
 8225 SW NUBLES AVE., SUITE 180
 NEWBERG, OREGON 97132
 CONTACT: DANIEL DANICIC
 503-476-7702
 ENGINEER: EMERIO DESIGN
 8225 SW NUBLES AVE., SUITE 180
 NEWBERG, OREGON 97108
 CONTACT: DANIEL DANICIC
 (503) 851-1910
 SURVEYOR: LELAND MACDONALD & ASSOC., LLC
 12200 N. WASHINGTON ST., SUITE 200
 MANASHESSA, OREGON 97128
 CONTACT: LEE MACDONALD
 503-472-7504

- DRAWING INDEX**
- 1 COVER SHEET - TENTATIVE PLAT
 - 2 EXISTING CONDITIONS & DEMOLITION PLAN
 - 3 SITE PLAN
 - 4 SITE UTILITY PLAN
 - 5 GRADING & EROSION CONTROL PLAN

	<p>EMERIO Design 8285 SW NUBLES AVENUE, SUITE 180 NEWBERG, OREGON 97108 TEL: (503) 851-1910 FAX: (503) 859-8592 www.emeriodesign.com</p>	<p>REVISIONS</p> <table border="1"> <thead> <tr> <th>NO.</th> <th>DATE</th> <th>DESCRIPTION</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>	NO.	DATE	DESCRIPTION				<p>PLANNING DOCUMENTS</p> <p>COVER SHEET TENTATIVE PLAT</p>	<p>"NOVA GRACE" A 14 LOT SUBDIVISION OF TAX LOT 3 2 20CA 900 CITY OF NEWBERG, OREGON</p>
		NO.	DATE	DESCRIPTION						
<p>1 of 5</p>	<p>5</p>	<p>Plotted: Jun 21, 2016 - 3:15pm, P:\16-001 Wynooski Subdivision\Map\Planning\16-001 (01) Darby Plat.dwg, Layout: (01) Plat</p>	<p>EMERIO PROJECT NO. 416-001</p>							



SITE & UTILITY PLAN
SCALE: 1"=20'

2
SHEET
5

EMERIO
Design

8885 SW HUNTER AVENUE SUITE 180
BEAVERTON, OREGON 97008
TEL: (503) 639-8912
FAX: (503) 639-9222
www.emeriodesign.com

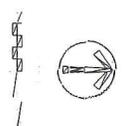
REVISIONS	
NO.	DATE DESCRIPTION

PLANNING DOCUMENTS
EXISTING CONDITIONS
& DEMOLITION PLAN

"NOVA GRACE"
A 14 LOT SUBDIVISION OF
TAX LOT 3 2 20 900
CITY OF NEWBERG, OREGON



AERIAL PLAN
SCALE: 1" = 20'



3 of 5 SHEET

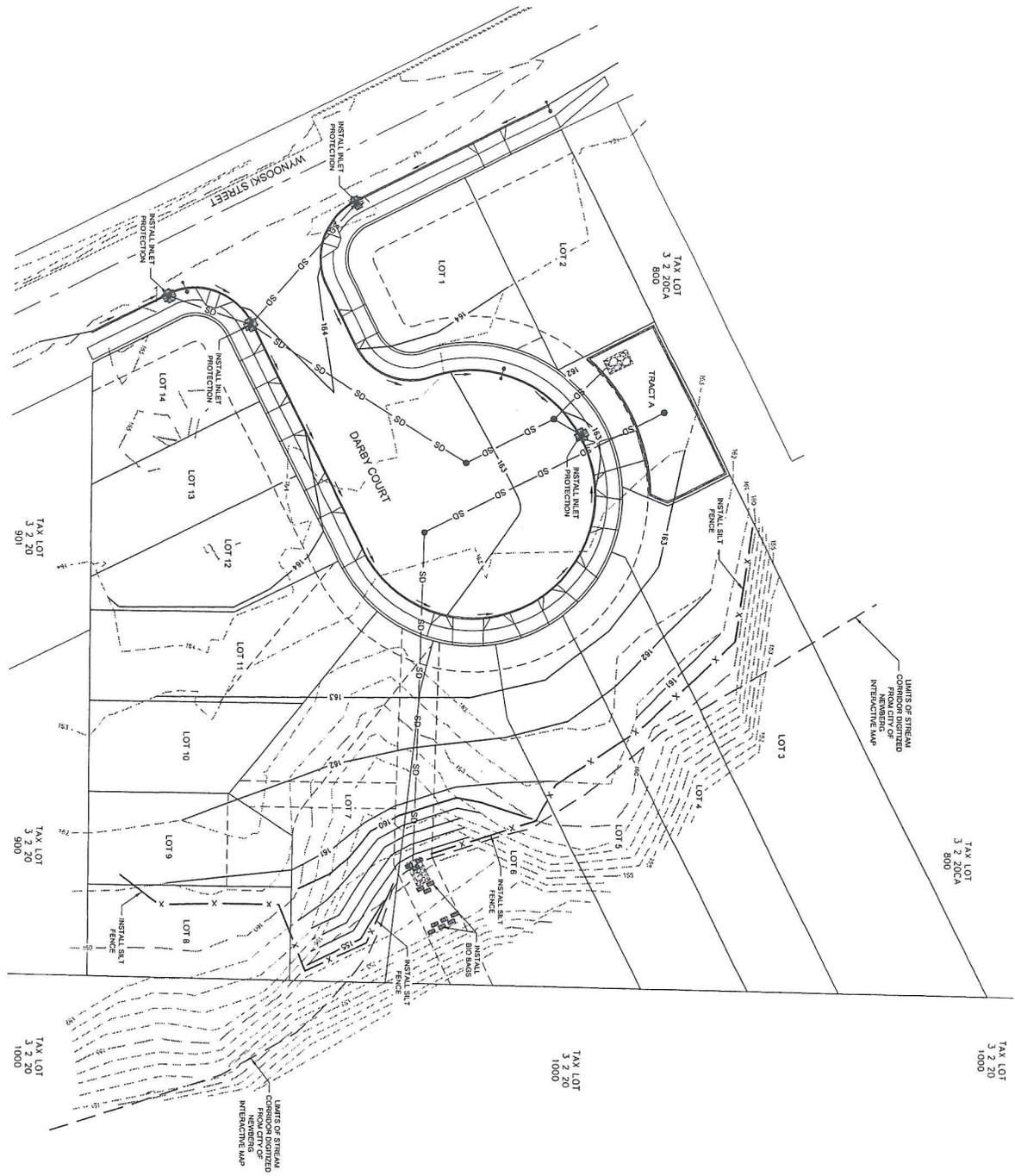
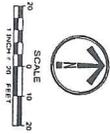
EMERIO
Design

8285 SW HUBBARD AVENUE SUITE 180
NEWBERG, OREGON 97138
TEL: (503) 746-8812
FAX: (503) 638-9392
www.eriorio-design.com

REVISIONS	
NO.	DATE

PLANNING DOCUMENTS
AERIAL PLAN

"NOVA GRACE"
A 14 LOT SUBDIVISION OF
TAX LOT 3 2 20 CA 900
CITY OF NEWBERG, OREGON



GRADING & EROSION CONTROL PLAN
SCALE: 1"=20'

5
5
5

EMERIO
Design

8285 SW HUNTERS AVENUE SUITE 180
BEAVERTON, OREGON 97008
TEL: (503) 746-8812
FAX: (503) 639-3552
www.emiroidesign.com

REVISIONS	
NO.	DESCRIPTION

**PLANNING DOCUMENTS
GRADING &
EROSION CONTROL
PLAN**

"NOVA GRACE"
A 14 LOT SUBDIVISION OF
TAX LOT 3 2 20CA 900
CITY OF NEWBERG, OREGON

Current Title Report



**PUBLIC RECORD REPORT
FOR NEW SUBDIVISION OR LAND PARTITION**

THIS REPORT IS ISSUED BY THE ABOVE-NAMED COMPANY ("THE COMPANY") FOR THE EXCLUSIVE USE OF:

Del Boca Vista LLC
P.O. Box 486
Newberg, OR 97132
Phone: (503)720-8600
Fax:

Date Prepared : October 28, 2015
Effective Date : 8:00 A.M on October 22, 2015
Order No. : 1039-2545795
Reference :

The information contained in this report is furnished by First American Title Insurance Company of Oregon (the "Company") as an information service based on the records and indices maintained by the Company for the county identified below. This report is not title insurance, is not a preliminary title report for title insurance, and is not a commitment for title insurance. No examination has been made of the Company's records, other than as specifically set forth in this report. Liability for any loss arising from errors and/or omissions is limited to the lesser of the fee paid or the actual loss to the Customer, and the Company will have no greater liability by reason of this report. This report is subject to the Definitions, Conditions and Stipulations contained in it.

REPORT

- A. The Land referred to in this report is located in the County of Yamhill, State of Oregon, and is described as follows:

As fully set forth on Exhibit "A" attached hereto and by this reference made a part hereof.
- B. As of the Effective Date, the tax account and map references pertinent to the Land are as follows:

As fully set forth on Exhibit "A" attached hereto and by this reference made a part hereof.
- C. As of the Effective Date and according to the Public Records, we find title to the land apparently vested in:

As fully set forth on Exhibit "B" attached hereto and by this reference made a part hereof.
- D. As of the Effective Date and according to the Public Records, the Land is subject to the following liens and encumbrances, which are not necessarily shown in the order of priority:

As fully set forth on Exhibit "C" attached hereto and by this reference made a part hereof.

EXHIBIT "A"
(Land Description Map Tax and Account)

Parcel 1:

Part of the Joseph B. Rogers Donation Land Claim No. 55 in Township 3 South, Range 2 West, Willamette Meridian, in Yamhill County, Oregon:

Beginning on the East boundary of said claim South 0° 24' West 36.82 chains from the Northeast corner thereof; thence South 63° West 5.98 chains to the center of Wynooski Street; thence South 27° East along the center of Wynooski Street 2.95 chains to a point on the city limits line, due West of an iron rod set in concrete on the East margin of Wynooski Street; thence East 4.05 chains to an iron rod in concrete on the East line of said claim; thence North 0° 24' East 5.35 chains to the place of beginning.

Parcel 2:

Being a part of the Richard Everest Donation Land Claim in Section 20, Township 3 South, Range 2 West of the Willamette Meridian, in Yamhill County, Oregon, said part of said Claim being particularly described as follows, to-wit:

Beginning at a point on the West line of said Donation Land Claim South 0° 04' West 34.242 chains; West 25.25 chains; South 0° 24' West 3.03 chains; North 89° 36' West 3.47 chains; and South 0° 24' West 0.835 chains from the center of said Donation Land Claim; thence South 0° 24' West 10.20 chains; thence South 89° 25' East 5.586 chains; thence North 10.257 chains; and thence West 5.515 chains to the place of beginning.

EXCEPT that portion of the premises conveyed to John J. Venable and Minnie Mae Venable by Deed recorded June 29, 1945 in Book 129, Page 776, Deed Records of Yamhill County.

Map No.: R3220CA 00900 and R3220 01000
Tax Account No.: 58788 and 55558

EXHIBIT "B"
(Vesting)

Ann M. Darby, Trustee of the Darby Revocable Living Trust dated April 20, 1999

EXHIBIT "C"
(Liens and Encumbrances)

1. Taxes for the year 2015-2016
Tax Amount \$ 1,587.43
Unpaid Balance: \$ 1,587.43, plus interest and penalties, if any
Code No.: 29.0
Map & Tax Lot No.: R3220CA 00900
Property ID No.: 58788
(Affects Parcel 1)
2. Taxes for the year 2015-2016
Tax Amount \$ 1,129.17
Unpaid Balance: \$ 1,129.17, plus interest and penalties, if any.
Code No.: 29.2
Map & Tax Lot No.: R3220 01000
Property ID No.: 55558
(Affects Parcel 2)
3. Taxes for the current fiscal year are reduced by reason of Veterans Exemption. If the exempt status is terminated under the statute prior to July 1, said property will be taxed at 100% of the assessed value.
(Affects Parcel 1)
4. The rights of the public in and to that portion of the premises herein described lying within the limits of streets, roads and highways.
5. Easement, including terms and provisions contained therein:
Recording Information: August 13, 2007 as Instrument No. 200717976
In Favor of: City of Newberg, a municipal corporation
For: Sanitary sewer line

DEFINITIONS, CONDITIONS AND STIPULATIONS

1. **Definitions.** The following terms have the stated meaning when used in this report:
 - (a) "Customer": The person or persons named or shown as the addressee of this report.
 - (b) "Effective Date": The effective date stated in this report.
 - (c) "Land": The land specifically described in this report and improvements affixed thereto which by law constitute real property.
 - (d) "Public Records": Those records which by the laws of the state of Oregon impart constructive notice of matters relating to the Land.

2. **Liability of the Company.**
 - (a) This is not a commitment to issue title insurance and does not constitute a policy of title insurance.
 - (b) The liability of the Company for errors or omissions in this public record report is limited to the amount of the charge paid by the Customer, provided, however, that the Company has no liability in the event of no actual loss to the Customer.
 - (c) No costs (including, without limitation attorney fees and other expenses) of defense, or prosecution of any action, is afforded to the Customer.
 - (d) In any event, the Company assumes no liability for loss or damage by reason of the following:
 - (1) Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records.
 - (2) Any facts, rights, interests or claims which are not shown by the Public Records but which could be ascertained by an inspection of the land or by making inquiry of persons in possession thereof.
 - (3) Easements, liens or encumbrances, or claims thereof, which are not shown by the Public Records.
 - (4) Discrepancies, encroachments, shortage in area, conflicts in boundary lines or any other facts which a survey would disclose.
 - (5) (i) Unpatented mining claims; (ii) reservations or exceptions in patents or in Acts authorizing the issuance thereof, (iii) water rights or claims or title to water.
 - (6) Any right, title, interest, estate or easement in land beyond the lines of the area specifically described or referred to in this report, or in abutting streets, roads, avenues, alleys, lanes, ways or waterways.
 - (7) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use or enjoyment on the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the Public Records at the effective date hereof.
 - (8) Any governmental police power not excluded by 2(d)(7) above, except to the extent that notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the Public Records at the effective date hereof.
 - (9) Defects, liens, encumbrances, adverse claims or other matters created, suffered, assumed, agreed to or actually known by the Customer.

3. **Report Entire Contract.** Any right or action or right of action that the Customer may have or may bring against the Company arising out of the subject matter of this report must be based on the provisions of this report. No provision or condition of this report can be waived or changed except by a writing signed by an authorized officer of the Company. By accepting this form report, the Customer acknowledges and agrees that the Customer has elected to utilize this form of public record report and accepts the limitation of liability of the Company as set forth herein.

4. **Charge.** The charge for this report does not include supplemental reports, updates or other additional services of the Company.

OFFICIAL YAMHILL COUNTY RECORDS
JAN COLEMAN, COUNTY CLERK



\$36.00

200717976

10:52:43 AM 8/13/2007

DMR-EDMR Cnt=1 Stn=3 SUSIE
\$15.00 \$10.00 \$11.00

AFTER RECORDING RETURN TO:
City of Newberg - Engineering Division
PO Box 970 - 414 E. First Street
Newberg, OR 97132

PUBLIC UTILITIES EASEMENT

In consideration of the sum of ~~\$200~~ ^{\$0.00} and other valuable consideration, Ms. Ann M. Darby, Trustee of the Darby Living Trust, herein called Grantor, does hereby convey to the City of Newberg, a municipal corporation, hereinafter called Grantee, a perpetual and permanent easement, for the purposes of constructing, installing, using, repairing, and maintaining a Sanitary Sewer line across the following described real property:

That tract of land described in deed to the Darby Living Trust as recorded in Instrument No. 199908236, Yamhill County Records and further shown on the attached map on Exhibit "B" and more particularly described in Exhibit "A."

TO HAVE AND TO HOLD said easement to said Grantee, for the use and purpose herein above described.

It is further understood that:

1. The Grantor(s) hereby release(s) the City of Newberg, its agents and employees, assigns and successors of any and all liability for damage to the remaining lands resulting from this conveyance and further absolves the Grantee from any damage not controlled by their actions.
2. The rights granted herein shall not be construed to interfere with or restrict use of the premises by Grantor(s), their heirs or assigns, with respect to the construction and maintenance of property improvements along and adjacent to the premises herein described, so long as the same are so constructed as to not impair or interfere with the use and maintenance of access of utilities herein above authorized.
3. The Grantee hereby agrees to restore the easement to its original condition, as close as is practical to do so, upon completion of the construction.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER CHAPTER 1, OREGON LAWS 2005 [BALLOT MEASURE 37 (2004)]. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930 AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER CHAPTER 1, OREGON LAWS 2005 [BALLOT MEASURE 37 (2004)].

IN WITNESS WHEREOF, the parties have executed this document on this 12th day of June, 2007.

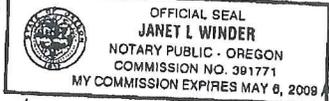
Ann M. Darby
Ms. Ann M. Darby
Trustee, Darby Living Trust

900 Wynooski Street
Address
Newberg, Oregon 97132
City, State, Zip

STATE OF Oregon)
County of Yamhill) s.s.

This instrument was acknowledged before me this 12 day of June, 2007 by Ms. Ann M. Darby.

Janet L. Winder
Notary Public for Oregon
My Commission expires: 5/16/09



CITY OF NEWBERG
ACCEPTED:
Terrence D. Mahr (acting on)
James H. Bennett, City Recorder
Dated: 8/1/07

APPROVED AS TO FORM
Terrence D. Mahr
Terrence D. Mahr, City Attorney
Dated: 8/1/07

FIRST AMERICAN TITLE - C 2069

EXHIBIT "A"

Matt Dunckel & Assoc.
Land Surveyors
3765 Riverside Drive
McMinnville, OR 97128
Phone: 503-472-7904
Fax: 503-472-0367
E-Mail: matt@dunckelassoc.com

Date: 11 June 2007

NEWBERG COMMUNITIES, LLC - Legal Description of Sanitary Sewer Easement in TL 3220-1000

A 15.00 foot wide easement in Section 20, Township 3 South, Range 2 West, Yamhill County, Oregon, the centerline of which is more particularly described as follows:

Beginning on the east line of Parcel 1 of Partition Plat No. 97-61 at a point that is South $00^{\circ}08'03''$ East 180.59 feet from the northeast corner of said Parcel 1; thence South $89^{\circ}51'57''$ West 176.99 feet; thence South $01^{\circ}44'02''$ West 237.15 feet; thence South $04^{\circ}52'46''$ West 126.97 feet; thence North $89^{\circ}43'16''$ West 184.40 feet to the west line of said Parcel 1 and the TRUE POINT OF BEGINNING; thence North $89^{\circ}43'16''$ West 1.77 feet; thence South $52^{\circ}26'42''$ West 83.66 feet; thence South $74^{\circ}42'33''$ West 178.66 feet to the end of said centerline as shown by Exhibit "B".

Everest Street

Exhibit "B"

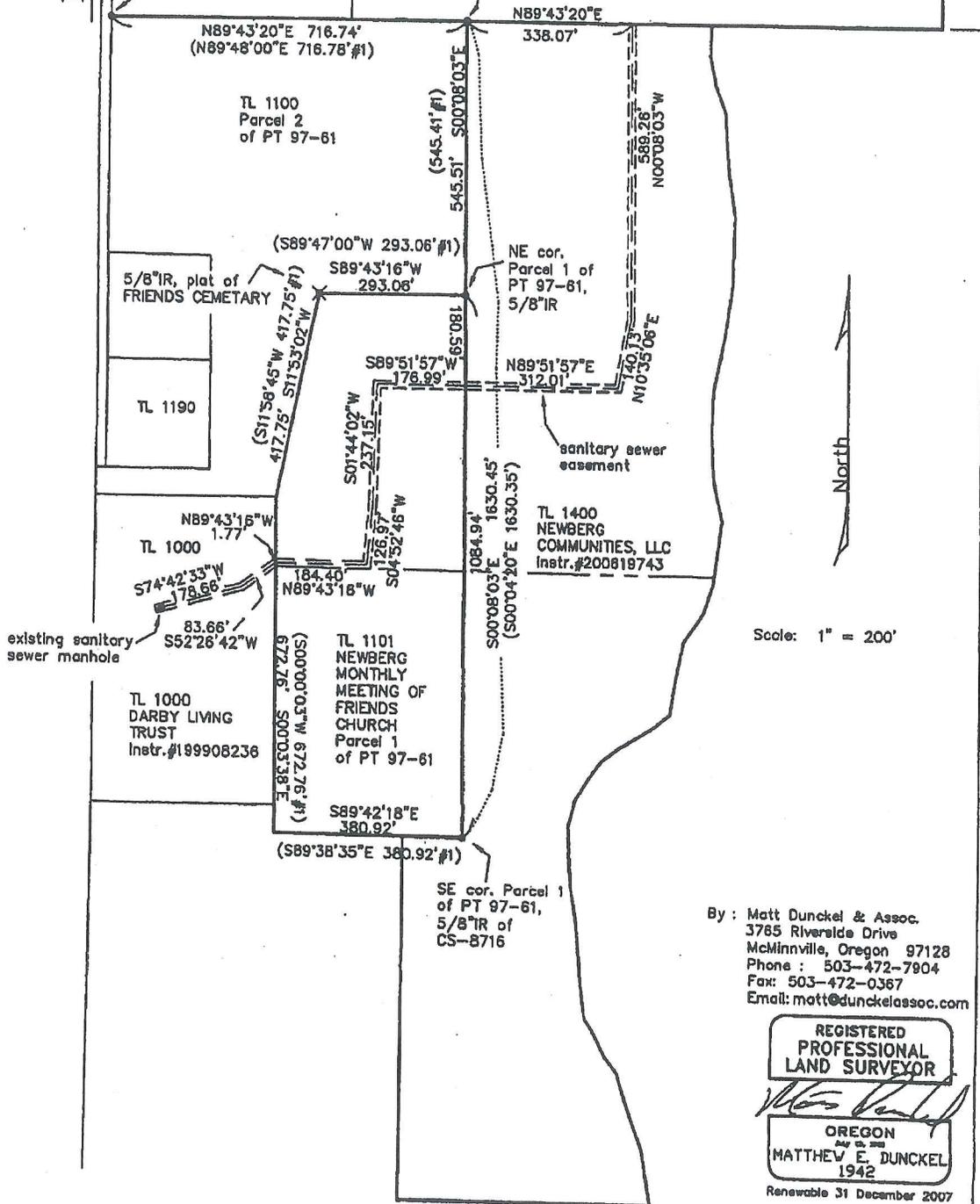
Location: SE 1/4 Section 20, T. 3 S., R. 2 W.,
WM., R. Everest DLC #, FRIENDS' CEMETARY, City
of Newberg, Yamhill County, OR

Tax Map: 3220

Date: 15 July 2007

5/8"IR, in 2"IP, Initial Point
of FRIENDS' CEMETARY

NE cor. FRIENDS' CEMETARY
5/8"IR, CSP-8716 center of
the Everest DLC is N89°48'E
1152.43' & N00°04'E 1562.18'
per plat of FRIENDS' CEMETARY



North

Scale: 1" = 200'

By : Matt Dunckel & Assoc.
3785 Riverside Drive
McMinnville, Oregon 97128
Phone : 503-472-7904
Fax: 503-472-0367
Email: matt@dunckelassoc.com

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Matthew E. Dunckel
OREGON
MAY 15 2007
MATTHEW E. DUNCKEL
1942

Renewable 31 December 2007

5768

3/3



First American



This map is furnished for illustration and to assist in property location. The company assumes no liability for any variation in dimensions by location ascertainable by actual survey

