

## Community Development Department

P.O. Box 970 ▪ 414 E First Street ▪ Newberg, Oregon 97132  
503-537-1240 ▪ Fax 503-537-1272 ▪ [www.newbergoregon.gov](http://www.newbergoregon.gov)

### NOTICE OF DECISION

#### Stream Corridor mitigation – Villa Road culverts – MISC-16-009

June 27, 2016

Jason Wuertz  
City of Newberg  
PO Box 970  
Newberg, OR 97132

The Newberg Community Development Director has approved the proposed stream corridor mitigation application MISC-16-009 for the Villa Road culvert replacement project, located just south of the railroad tracks, subject to the conditions listed in the attached report. The decision will become effective on July 12, 2016 unless an appeal is filed.

You may appeal this decision to the Newberg Planning Commission within 14 calendar days of this decision in accordance with Newberg Development Code 15.100.170. All appeals must be in writing on a form provided by the Planning Division. Anyone wishing to appeal must submit the written appeal form together with the required fee of \$440 to the Planning Division within 14 days of the date of this decision.

**The deadline for filing an appeal is 4:30 pm on July 11, 2016.**

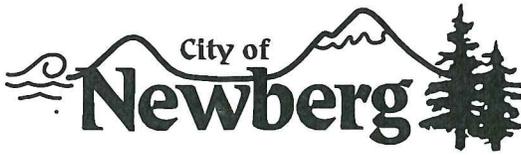
At the conclusion of the appeal period, please remove all notices from the site.

If you have any questions; please contact me at 503-537-1215 or [steve.olson@newbergoregon.gov](mailto:steve.olson@newbergoregon.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read "Steve Olson".

Steve Olson, Senior Planner



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### DECISION AND FINDINGS

#### Stream Corridor mitigation – Villa Road culverts – MISC-16-009

FILE NO: MISC-16-009

REQUEST: Approval of a stream corridor mitigation plan for a culvert replacement project

LOCATION: Villa Road right-of-way, between Carol Ann Drive and the railroad trestle

APPLICANT: City of Newberg Public Works Department

OWNER: City of Newberg

ZONE: R-1 with Stream Corridor overlay zone

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Section I: Application Information

Section II: Findings

Section III: Conditions

Attachments:

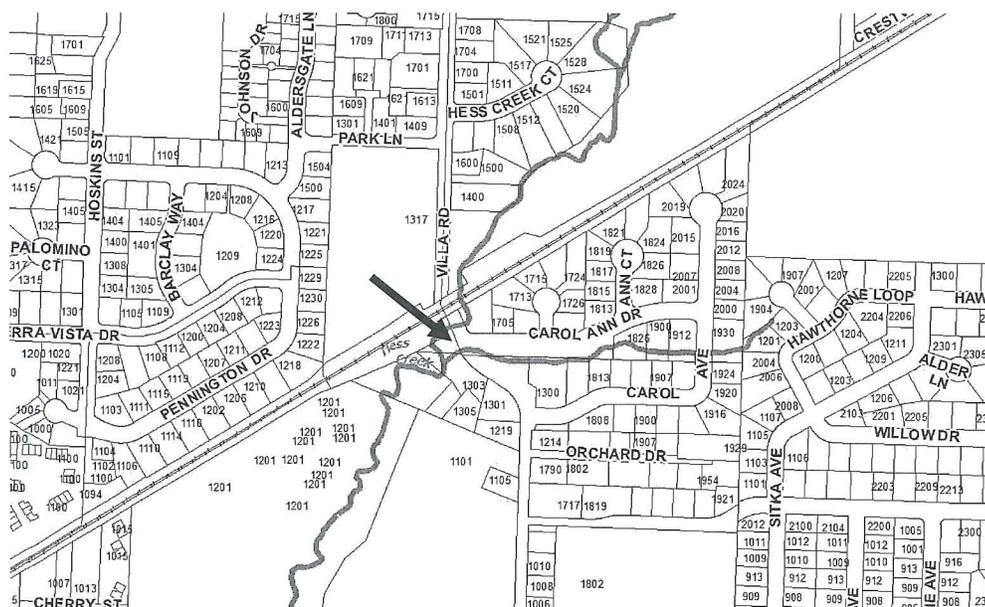
1. Aerial Photo
2. Site Plan
3. Public Comments Received
4. Application (by reference)

## Section I: Application Information

**A. DESCRIPTION OF APPLICATION:** The City of Newberg Public Works Dept. will be making improvements to Villa Road where it crosses Hess Creek. There is a city Stream Corridor overlay zone along Hess Creek. The Stream Corridor overlay limits development in the stream corridor and requires that the area impacted by construction be restored and landscaped, so the Public Works Dept. has submitted an application to show how it will restore the stream corridor and landscape the impacted area. The application shows the area impacted by construction, and has a proposed landscaping restoration/mitigation plan. The transportation improvement project will include the replacement of the two existing culverts with appropriately sized fish passage culverts, and associated roadway work. This application does not approve any work on private property – all of the right-of-way purchases need to be complete before the mitigation work begins.

### **B. SITE INFORMATION:**

1. Location: Villa Road right-of-way between Carol Ann Drive and the railroad trestle.



2. Topography: At the bottom of a stream corridor, with banks rising to the north and the south.
3. Current Land Uses: Stream corridor, with two culverts running under Villa Road.
4. Natural Features: Some mature trees, grass and shrubs.
5. Adjacent Land Uses:
  - a. North: railroad line
  - b. East: single family residential
  - c. South: single family residential

d. West: vacant, zone for single family residential

6. Access and Transportation: The site is in the Villa Road right-of-way. There are two existing culverts under Villa Road, which are being replaced as part of a Villa Road improvement project.

**C. PROCESS:** The stream corridor mitigation application is a Type II application and follows the procedures in Newberg Development Code 15.100.030. Following a 14 day public comment period, the Community Development Director makes a decision on the application based on the criteria listed in the attached findings. The Director's decision is final unless appealed. Important dates related to this application are as follows:

1. 6/1/16: The Community Development Director deemed the application complete.
2. 6/1/16: The applicant mailed notice to the property owners within 500 feet of the site.
3. 6/1/16: The applicant posted notice on the site.
4. 6/16/16: The 14-day public comment period ended.
5. 6/27/16: The Director issued a decision on the application.

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

1. Oregon Department of State Lands: (summarized – the full comment is in Attachment 3) *Wetland delineation no. WD2015-0515 has been approved, and DSL permit no. APP58811 has been authorized. For questions about permit requirements, contact Mike De Blasi at DSL.*

**E. PUBLIC COMMENTS:** As of the writing of this report, the city has not received any written public comments.

**Section II: Findings –File MISC-16-009**  
**Stream Corridor mitigation plan – Villa Road culvert project**

**A. Stream Corridor Criteria That Apply - Newberg Development Code 15.342.090:**

**15.342.090 Mitigation requirements for Type II activities.**

*The following mitigation requirements apply to Type II activities. The plans required pursuant to NMC 15.342.080 shall be submitted indicating the following mitigation requirements will be met.*

*A. Disturbed areas, other than authorized improvements, shall be regraded and contoured to appear natural. All fill material shall be native soil. Native soil may include soil associations commonly found within the vicinity, as identified from USDA Soil Conservation Service, Soil Survey of Yamhill Area, Oregon.*

*B. Replanting shall be required using a combination of trees, shrubs and grass. Species shall be selected from the Newberg native plant list. Planting shall be as follows:*

- 1. At least eight species of plants shall be used.*
- 2. At least two species must be trees and two species must be shrubs.*
- 3. No more than 50 percent of any seed mix used can be grass.*
- 4. A minimum of one tree and three shrubs shall be used for every 500 square feet of planting area.*
- 5. Areas to be replanted must be completed at the time of final inspection or completion of the work, except as otherwise allowed by this code.*
- 6. Existing vegetation that can be saved and replanted is encouraged, although not required.*

*C. Removed trees over six inches in diameter, as measured at breast height, shall be replaced as follows:*

- 1. Trees from six to 18 inches in diameter shall be replaced with a minimum of three new trees for every tree removed.*
- 2. Trees over 18 inches but less than 30 inches shall be replaced with a minimum of five trees for every tree removed.*
- 3. Trees over 30 inches shall be replaced with a minimum of eight trees for every tree removed.*
- 4. All trees replaced pursuant to this section shall have an average caliper measurement of a minimum of one inch. Additional trees of any size caliper may be used to further enhance the mitigation site.*

**Finding:** The project area is 30,000 square feet, although the disturbed area is smaller than that. The applicant's mitigation plan shows that the disturbed stream corridor area will be regraded to appear natural. The type of fill is not clearly specified. All fill in the stream corridor area is required to be native soil. The replanting plan shows that at least eight species of plants will be used, with three types of trees and multiple shrubs and grasses. A minimum of one tree and three shrubs will be used for every 500 square feet of planting area. A total of three trees with a diameter from six to eighteen inches will be removed; nine new trees will be planted to replace these trees, with a minimum diameter of at least 1 caliper inch.

*D. All disturbed areas, other than authorized improvements, shall be replanted to achieve 90 percent cover in one year. The director may require a bond or other form of security instrument to insure completion of the restoration plan. The director shall authorize the release of the bond or other security instrument when, after one year, the restoration site has achieved the purposes and standards of this section.*

*E. All disturbed areas shall be protected with erosion control devices prior to construction activity. The erosion control devices shall remain in place until 90 percent cover is achieved.*

*F. Except as provided below, all restoration work must occur within the SC overlay subdistrict and be on the same property. The director may authorize work to be performed on properties within the general vicinity or adjacent to the overlay subdistrict; provided, that the applicant demonstrates that this will provide greater overall benefit to the stream corridor areas.*

**Finding:** The applicant's erosion control plan shows that all disturbed areas will be protected during construction. The applicant's mitigation plan shows that 90% cover is expected within one year. The erosion control devices shall remain in place until 90% planting cover is achieved. All of the stream corridor mitigation work is within the stream corridor overlay area, although there will be additional planting done outside the stream corridor area.

**B. CONCLUSION:** Based on the above mentioned findings, the project meets the criteria required within the Newberg Development Code, subject to completion of the attached conditions.

**Section III: Conditions –File MISC-16-009**  
**Stream Corridor mitigation plan – Villa Road culvert project**

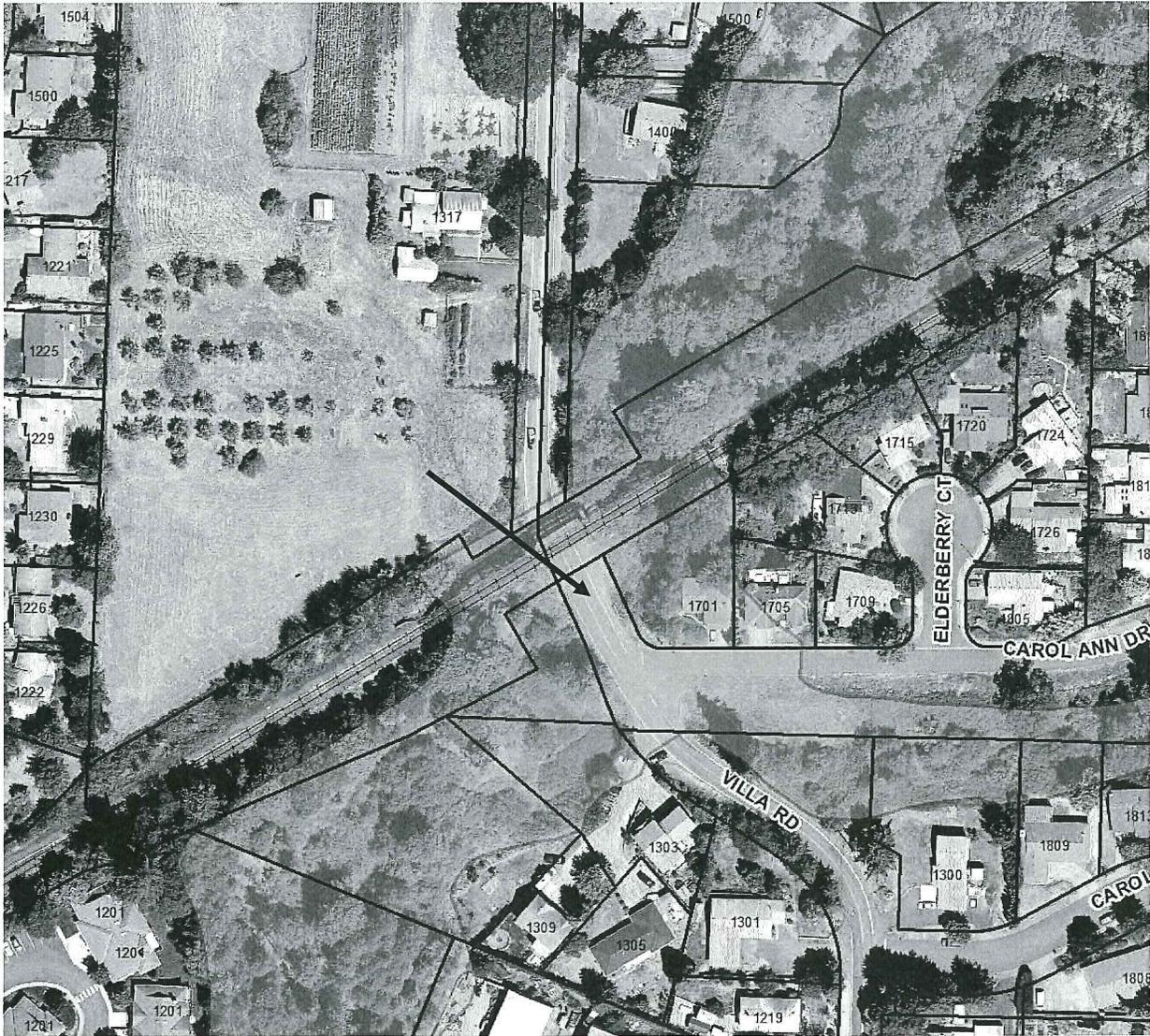
**A. THE FOLLOWING CONDITIONS MUST BE MET DURING CONSTRUCTION:**

1. **Fill:** All fill in the stream corridor area is required to be native soil.
2. **Erosion control:** The erosion control devices shall remain in place until 90% planting cover is achieved.

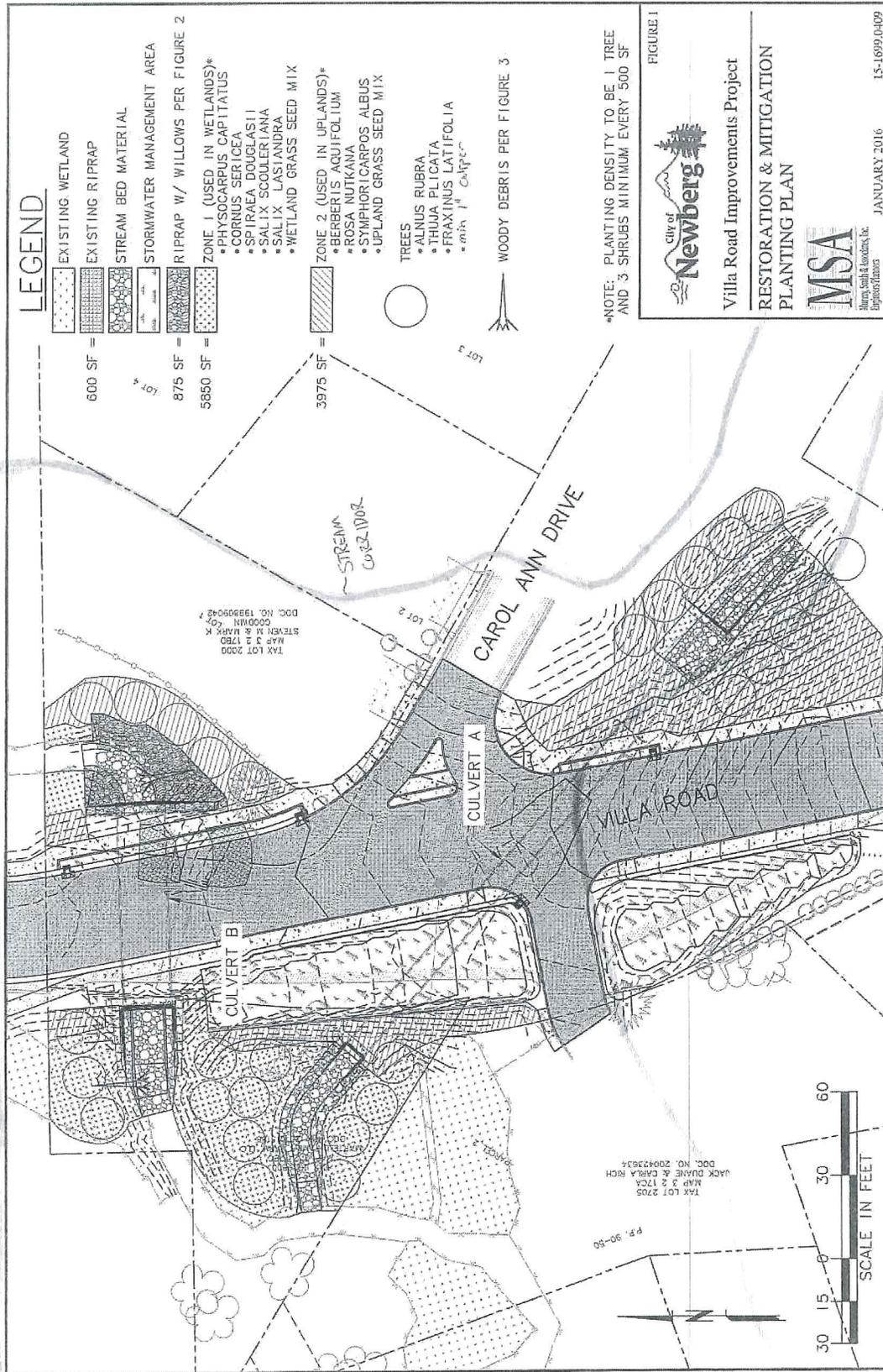
**B. THE FOLLOWING MUST BE ACCOMPLISHED PRIOR TO CLOSING OUT THE STREAM CORRIDOR MITIGATION PLAN**

1. **Final Inspection:** Contact the Planning Division (503-537-1240) to request a final inspection of the stream corridor mitigation work.

# Attachment 1: Aerial Photo



# Attachment 2: Site Plan



## Attachment 3: Public Comments



**WETLAND LAND USE NOTIFICATION RESPONSE**  
**OREGON DEPARTMENT OF STATE LANDS**  
 775 Summer Street NE, Suite 100, Salem, OR 97301-1279  
 Phone (503) 986-5200  
[www.oregonstatelands.us](http://www.oregonstatelands.us)

DSL File Number: WN2016-0240

Cities and counties have a responsibility to notify the Department of State Lands (DSL) of certain activities proposed within wetlands mapped on the Statewide Wetlands Inventory. Steve Olson from submitted a WLUN pertaining to local case file #: MISC16-009.

**Activity location:**

township: 03S	range: 02W	section: 17	quarter-quarter section: BD
tax lot(s): 2000 *			
street address: in public right of way near 1701 Carol Ann Dr			
city: Newberg		county: Yamhill	
latitude: 45.30972		longitude: -122.964540	

**Mapped wetland/waterway features:**

- The national wetlands inventory shows a wetland/waterway on the property.
- The county soil survey shows hydric (wet) soils on the property. Hydric soils indicate that there may be wetlands.

**Oregon Removal-Fill requirement (s):**

- A state permit is required for 50 cubic yards or more of removal and/or fill in wetlands, below ordinary high water of streams, within other waters of the state, or below highest measured tide where applicable.

**Your activity:**

- It appears that the proposed project may exceed 50 cubic yards of removal/fill volume in wetland/waters and requires a permit.

**Contacts:**

**Related permits:**

DSL Permit #	Status
APP58811	Authorized

**Related wetland delineations/determinations:**

WD #	Status
WD2015-0515	Approved

- This is a preliminary jurisdictional determination and is advisory only.

Comments: Please refer to WD2015-0515 for all tax lots included in this wetland land use notice. For information on permitting, please contact Mike De Blasi at (503) 509-0460 and refer to permit # 58811.

Response by: *Cherie Stevenson* date: 06/22/2016