

## PLANNING COMMISSION AGENDA

June 9, 2011

7 p.m. Regular Meeting

Newberg Public Safety Building

401 E. Third Street

### I. ROLL CALL

### II. OPEN MEETING

### III. CONSENT CALENDAR (items are considered routine and are not discussed unless requested by the commissioners)

1. Approval of May 12, 2011 Planning Commission Meeting Minutes

### IV. COMMUNICATIONS FROM THE FLOOR (5 minute maximum per person)

1. For items not listed on the agenda

### V. LEGISLATIVE PUBLIC HEARINGS (complete registration form to give testimony - 5 minute maximum per person, unless otherwise set by majority motion of the Planning Commission. No new public hearings after 10 p.m. except by majority vote of the Planning Commissioners.)

1. **APPLICANT: City of Newberg**  
**REQUEST: Amend the Newberg Development Code requirements for signs in the Civic Corridor zoning overlay.**  
**LOCATION: Civic Corridor overlay zone**  
**FILE NO.: DCA-10-001** **RESOLUTION NO.: 2011-289**  
**CRITERIA: 15.302.030(C)**

2. **APPLICANT: City of Newberg**  
**REQUEST: Amend the Newberg Development Code pertaining to batch annexation procedures.**  
**LOCATION: Citywide**  
**FILE NO.: DCA-11-002** **RESOLUTION NO.: 2011-291**  
**CRITERIA: 15.302.030(C)**

### VI. NEW BUSINESS:

1. **REQUEST: Consider initiating a Development Code Amendment to increase the maximum lot coverage allowed in the R-1 zone from 30% to 40%.**  
**FILE NO.: DCA-11-005** **RESOLUTION NO.: 2011-292**

### VII. ITEMS FROM STAFF

1. Update on Council items; other reports, letters or correspondence
2. Next Planning Commission Meeting: July 14, 2011

### VIII. ITEMS FROM COMMISSIONERS

### IX. ADJOURN

FOR QUESTIONS PLEASE STOP BY, OR CALL 537-1240, PLANNING & BUILDING DEPT. - P.O. BOX 970 - 414 E. FIRST STREET

#### **ACCOMMODATION OF PHYSICAL IMPAIRMENTS:**

*In order to accommodate persons with physical impairments, please notify the City Recorder's office of any special physical accommodations you may need as far in advance of the meeting as possible and no later than 48 hours prior to the meeting. To request these arrangements, please contact the city recorder at (503) 537-1283. For TTY service please call (503) 554-7793.*

**PLANNING COMMISSION MINUTES**

**May 12, 2011**

**7 p.m. Regular Meeting**

**Newberg Public Safety Building**

**401 E. Third Street**

TO BE APPROVED AT THE JUNE 9, 2011 PLANNING COMMISSION MEETING

**I. ROLL CALL:**

Present:	Philip Smith, Chair	Thomas Barnes, Vice Chair
	Lon Wall	Cathy Stuhr
	Art Smith	Allyn Edwards
	Gary Bliss	Kale Rogers, Student PC

Staff Present: Barton Brierley, Building & Planning Director  
Luke Pelz, Assistant Planner  
Annette DePaz, City Surveyor

**II. OPEN MEETING:**

Chair Smith opened the meeting at 7:00 p.m. and asked for roll call.

**III. CONSENT CALENDAR:**

Chair Smith entertained a motion to accept the minutes of the April 14, 2011 meeting.

<b>MOTION #1: Lon Wall/Art Smith</b> approve the minutes from the Planning Commission Meeting of April 14, 2011. (7 Yes/ 0 No/ 0 Absent) Motion carried.
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**IV. COMMUNICATIONS FROM THE FLOOR:**

Chair Smith offered an opportunity for non-agenda items.

Doug Lanz, Managing Partner for the Terrace Heights Subdivision and Northwest Classic Custom Homes, asked the Planning Commission to look at the lot requirements in Newberg. Due to the 30% lot coverage regulations, it limits the size of a ranch home to 1800 square feet. The biggest complaint he is receiving from potential buyers who are mostly at retirement age, is the inability to build a big enough home. They want a home in the 2200 -2400 square foot range. Mr. Lanz is asking for 35% coverage instead. They could build a home within the 2400 foot range at that percentage. It would help the local community with the purchase of 27 more lots.

Chair Smith said these changes normally come from City Council or staff but he believes in the opportunity for the public to drive code changes. He suggested Mr. Lanz speak with staff in developing the code language and encouraged Mr. Lanz to testify at the time such a code is brought before the Planning Commission. Commissioner Stuhr suggested staff research what other cities are doing in regard to this.

## V. QUASI-JUDICIAL PUBLIC HEARINGS:

**APPELLANT:** Shawn Irwin  
**APPLICANT:** Habitat for Humanity  
**REQUEST:** Appeal of the decision to approve a two-lot partition and a variance to allow one of the lots to take primary access from an existing alley.  
**LOCATION:** 803 E. 9<sup>th</sup> Street                      **TAX LOT:** 3219DA-2700  
**FILE NO. PAR-11-001 & VAR-11-001/APLG**      **RESOLUTION NO.:** 2011-290  
**CRITERIA:** 15.235.040, 15.215.040

### **Opening of the Hearing:**

Chair Smith opened the hearing and asked the Commissioners for any abstentions, conflicts of interest, and objections to jurisdiction. Chair Smith stated he has a potential conflict due to the fact he contributes money to Habitat for Humanity on a regular basis but believes he can judge this appeal fairly. Commissioner Bliss also contributes to Habitat for Humanity in Washington County and works for Willamette West in developing lots. He has volunteered on a fundraiser at the local Habitat for Humanity. He will have a potential conflict but will be unbiased in his decision making on this hearing. Kale Rogers is the son of Rick Rogers, of Habitat for Humanity, thus will not be able to ask questions during this hearing. Chair Smith read ORS §197.763.

Luke Pelz, Assistant Planner, presented the staff report and reviewed the decision criteria (see official meeting packet for details).

### **Staff Recommendation:**

Staff recommends approval of Resolution 2011-290 with the findings and conditions of approval as shown in Exhibits “A” and “B”, affirming the Planning Director’s decision to approve the decision and deny the appeal.

### **Public Testimony:**

Chair Smith opened the public testimony and stated due to this being an appeal, the opponents will testify first.

### **Opponents:**

Shawn Irwin stated he is not against Habitat for Humanity, affordable housing or change. His appeal is about an accumulation of problems. His understanding is the code assumes the alley is 20 feet wide, but at the east end it is only 12 feet and gravel; half of the alleyway is not up to standard. On a personal note, his bedroom has a setback of 5 feet off the gravel alleyway. The affordable housing plan does not deal with community or livability, which is what he is afraid the neighborhood will lose. There are currently no fences, which shows a sense of community, but he is afraid that will change, as well. Safety is broader than reaching a location with a fire truck. The alleyway is a semi-private space. People are very aware of what goes on in the alleyway. The principal review criteria and quality of design will be affected. Developments should respect existing mature trees and at least 4 have been lost. In the broad spectrum, putting together many compromises affects community, safety, interaction, and does not offset greater density. If the

project is to be done, then it is important to do it right and create a home and not just another house. Mr. Irwin asked for denial of the appeal.

Gerald Stock has lived on 9<sup>th</sup> Street for 13 years and has experienced traffic problems and vehicles blocking his back yard. It is already a very populated area without adding another home or traffic. Mr. Stock stated he has had a high water table in his back yard and flooding and if the alley is paved, drainage will be more of a problem. He does agree with affordable housing but there are some houses available now that could be purchased instead.

**Proponents:**

Rick Rogers, Habitat for Humanity, stated that this was a foreclosure property purchased through a grant from the Neighborhood Stabilization Program. They are hoping to build a 2-bedroom, 1 bath, 900 square feet home on one level to house a single mother and her 12 year old son. The change in the design from a 2-story to 1-story came after speaking to the neighbors. Habitat for Humanity does not want to cause problems for neighbors since they rely on the community to provide for those that are in need, but there is an obligation to the donors and when faced with an opportunity to stretch their resources, Habitat needs to take those opportunities whenever possible. They pride themselves on the design of the homes they have built, which have been an asset in many locations. An existing structure was demolished due to an unsafe electrical hazard, which improved the neighborhood. He disagrees that an R-2 community built to R-2 standards cannot have community due to higher density. It was a painful decision to cut down the trees but the one large tree was threatening the building in the front and the back; others were pulling up the pavement. Livability is very important to Habitat for the neighborhood. Mr. Rogers is aware of the drainage problems and their Civil Engineer says it can be improved. Also, "No Parking" signs will be placed and enforced; the house will have head-in parking instead of parallel parking. Right now there is access to the back of the lots for all the homeowners. Habitat is asking for this home to be approved, which will help meet the density requirements that are needed.

Jared E. Jones is the President of the Board of Directors and volunteer for Habitat for Humanity. This is a great project and opportunity funded by two grants from the Neighborhood Stabilization Program and from the Lutheran Financial Organization. He urged denial of the appeal.

**Rebuttal:**

Shawn Irwin stated this is an infill project and special considerations need to apply. Placing fences at the back of all the houses along the alleyway is not considered community. The alley width will be continually problematic. Chair Smith stated the project does not mandate putting up fences.

Chair Smith closed the public hearing at 8:50 p.m. and asked staff if any late correspondence had been received.

**Final Comments from Staff:**

Luke Pelz stated one letter was received from Charlie Harris, Community and Shelter Assistance Corporation (CASA), dated May 10, 2011. Copies of the letter were handed out to the Planning Commission and Mr. Pelz read the letter aloud to the Commission and audience members.

Chair Smith recessed for a five-minute break at 8:52 p.m.

**MOTION #2: Wall/Art Smith** moved to approve Planning Commission Resolution No. 2011-290.

**Deliberation:**

Commissioner Bliss understands the concerns of the neighbors, but the City of Newberg has found it necessary to meet the goals of affordable housing and in doing so finding areas in which the lots are in essence under developed in R-2. The applicant meets those criteria. As for access to public ways, the Fire Marshall has reviewed it and found that an all weather surface in a 20 foot area meets the need. Staff has provided conditions of approval. The one area of concern is in drainage and he suggested amending to a more specific language addressing the drainage; making sure it is away from abutting properties and directed toward a public right-away or public system.

Commissioner Wall stated his criteria for supporting this original staff decision is because they were not approving unreasonable conditions but rules have now changed substantially. He does not want to punish Habitat for Humanity by costing them more money to re-file under the new rules.

Commissioner Barnes stated as he reads the conditions of approval regarding drainage, moving the water away from abutting houses is a good thing. He questions where the fire hydrants will be located and where will the water be drawn from.

Commissioner Edwards agrees with the Mission Statement of the City to improve and make things better. After listening to the arguments, Habitat for Humanity is willing to pave the entire alleyway which is an improvement and provides greater access for neighbors. Some may subdivide in the future with the new code, but this application is an improvement to the neighborhood as well as the elimination of the standing water problems.

Commissioner Stuhr volunteered on the Affordable Housing Committee which is very important to her. It is clear these lots are zoned R-2 and essentially under developed, but she is torn. She is not convinced if this application came back it would pass. This does not qualify as an alley right now; does not meet the definition of an alley. Parking on the alleyway would be an issue for everyone as would parking on 9<sup>th</sup> Street. She supports infill and affordable housing, but this may be a situation where it does not work. Commissioner Stuhr drove down this alleyway this afternoon and stated this is everyone's backyard. The house on the east side where the alley is 12 feet wide is very narrow and concerns her. She is afraid this will do more harm than good to the neighbors for the benefit of infill.

Commissioner Art Smith appreciates the representation from the neighborhood. His experience with Habitat for Humanity is that they have always helped in each area where they have built. One area of concern was drainage but if it makes it better, he supports it. Regarding the fences, he likes open neighborhoods, but the assumption that fences will be put up is not a reason to vote against this proposal.

Chair Smith stated this is a policy matter. Stormwater can be resolved and improved; the house is small and will not impact the neighborhood much. He supports infill properties as well as

affordable housing, however the alley is very poorly designed to have through access on both ends and cannot be fixed. A well designed alley has to be fully 20 feet wide all the way through.

**MOTION #3: Bliss/Wall** moved to amend the motion to add a modification to cond. 1-.b.-v. concerning surface waters on impervious areas; shall be directed or collected to a public right away. (7 Yes/ 0 No/ 0 Absent) Motion carried.

**MOTION #4: Wall/Art Smith** moved that the entire length of the alley be paved; 12 feet wide throughout. (6 Yes/ 1 No [Bliss] 0 Absent) Motion carried 6 – 1

**MOTION #5: Edwards/Wall** moved to have one-way traffic on the alleyway from west to east (2 Yes [Edwards, Wall] / 5 No [Barnes, Bliss, P. Smith, Stuhr, A. Smith]/ 0 Absent) Motion failed.

**VOTE ON MOTION #2 (To approve the resolution as amended):** (5 Yes/ 2 No [P. Smith, Stuhr]/ 0 Absent) Motion carried 5 – 2

## VI. LEGISLATIVE PUBLIC HEARINGS:

**APPLICANT:** City of Newberg  
**REQUEST:** Amend the Newberg Development Code pertaining to technical specifications and signature requirements for tentative and final partition and subdivision plats.  
**LOCATION:** Citywide  
**FILE NO:** DCA-11-004 **RESOLUTION NO.:** 2011-288  
**CRITERIA:** 15.302.030(C)

Annette DePaz, City Surveyor delivered the staff report regarding 2011 Code Amendment pertaining to technical and signature requirements for Tentative and Final Plats.

### Land Division Process:

- Applicant submits tentative plan to Planning
- Planning reviews plan for conformance with city code and refers proposed plan to other agencies, city departments, and the public for comments
- Planning approves tentative plan with conditions of approval
- Applicant completes required conditions of approval and submits final plat
- Planning verifies conditions of approval have been met and refers verification to collaborating agencies and city departments
- Planning Director and City Recorder sign off on plat and Applicant takes plat for recording at County

### Tentative Plan Review:

- Applicant submits tentative plan to Planning
- Tentative plan is not reviewed for survey standards by City Surveyor or County Surveyor
- State and County law does not address technical requirements for city tentative plans

- Tentative plan requirements reflect some final plat requirements
- Tentative plan requirements are more extensive in content than final plat requirements

**Final Plat Review:**

- Planning verifies conditions of approval have been met and refers verification to collaborating agencies and city departments
- Public Works Department verifies completion of public improvement related conditions
- City Surveyor coordinates Public Works Department verification
  - Substantial completion of public improvements
  - Payment of financial obligations relating to public works
  - Performance/Maintenance agreements
  - Performance/Maintenance bonds
  - As-builts
  - City plat requirements

**City Final Plat Requirements:**

- City Surveyor Verifies
  - Information required by city code shown on plat
    - Area in square feet
    - Watercourses shown
    - Tie to “city” coordinate system
    - Some city requirements are also required by state and/or county
- Information required by conditions of approval shown on plat
  - Easements
  - Maintenance agreements
  - ROW Dedications
  - Provides a “face of plat” preliminary review of standard plat requirements

**Additional Plat Review:**

- County Surveyor Verifies
  - Plat complies with state survey statutes
    - Mathematical analysis (closure)
    - Field monument placement
    - City signatures on plat
    - Drafting material, sheet size, ink complies with County archiving requirements
- City Recorder Does NOT Verify
  - All liens on the property have been paid
    - Conditions of approval have been met
    - Plat complies with city, county, or state plat requirements

\*\*City Recorder does not archive city copy of final plat.

**Proposed Changes Don't:**

- Change development requirements or restrictions for land divisions

- Eliminate or add city requirements for information shown on plan or plat
- Increase or decrease the number of signatures required on the final plat
- Change actual role of the City Surveyor, the County Surveyor, the Planning Director, or the City Recorder in the plat review process.
- Change city application requirements, application fees, or administrative procedures currently in practice

**Proposed Changes Do:**

1. Adjust city requirements for information shown on the plat to reflect current industry standards for survey practices
2. Modify final plat signature requirements to reflect actual roles in the review process
3. Clarify or adjust submittal requirements to reflect administrative procedures currently in practice
4. Correct misused terminology, minor grammar problems, and unclear provisions
5. Eliminate or reduce unnecessary requirements which are not enforced in current practice or which pertain to County Surveyor role
6. Update existing requirements to conform with state statutes

**1. Current Survey Practices:**

- a) Vertical Datum
- b) Coordinate System ties
- c) Water course measurement and mapping
- d) Label easement beneficiary
- e) Note agreements to be recorded in conjunction with the plat

**2. Signature Requirements:**

- a) Remove City Recorder lien certification
- b) Remove City Surveyor survey law compliance certification
- c) Add City Surveyor public improvement and dedication acceptance
- d) Accommodate County signature requirements

- **City Signature – Dedications:**

ORS 92.014 Approval of city or county required for specified divisions of land.

- (2) Notwithstanding ORS 92.175, an instrument dedicating land to public use may not be accepted for recording in this state unless the instrument bears the approval of the city or county authorized by law to accept the dedication.

ORS 92.175 Methods by which certain land may be provided for public purposes.

- (1) Land for property dedicated for public purposes may be provided to the city or county having jurisdiction over the land by any of the following methods:
  - (a) By dedication on the land subdivision plat;
  - (b) By dedication on the partition plat, provided that the city or county indicates acceptance of the dedication on the face of the plat; or

- (c) By a separate dedication or donation document on the form provided by the city or county having jurisdiction over the area of land to be dedicated.
- (2) Notwithstanding subsection (1) of this section, utility easements in partition and condominium plats may be granted for public, private and other regulated utility purposes without an acceptance from the governing body having jurisdiction.

### 3. Submittals and Processing:

- a) Clarify number of “exact” copies to be submitted
- b) Partition and Subdivision signatures and drafting requirements the same
- c) Age and content of title reports

### 4. Terminology and Clarification:

- a) “Blocks” normally not used

#### **Blocks:**

ORS 92.090 Approval of subdivision plat names; requisites for approval of tentative subdivision or partition plan or plat.

(1) Subdivision plat names shall be subject to the approval of the county surveyor or, in the case where there is no county surveyor, the county assessor. No tentative subdivision plan or subdivision plat of a subdivision shall be approved which bears a name similar to or pronounced the same as the name of any other subdivision in the same county, unless the land platted is contiguous to and platted by the same party that platted the subdivision bearing that name or unless the party files and records the consent of the party that platted the contiguous subdivision bearing that name. All subdivision plats must continue the lot numbers and, if used, the block numbers of the subdivision plat of the same name last filed. On or after January 1, 1992, any subdivision submitted for final approval shall not use block numbers or letters unless such subdivision is a continued phase of a previously recorded subdivision, bearing the same name that has previously used block numbers or letters.

- b) “Parcels”, “Lots”, “Tracts”, Partition Plats (not maps)

#### **Definitions:**

ORS 92.010 **Definitions for ORS 92.010 to 92.192.**

- (4) “Lot” means a single unit of land that is created by a subdivision of land.
- (6) “Parcel” means a single unit of land that is created by a partition of land.
- (8) “Partition plat” includes a final map and other writing containing all the descriptions, locations, specifications, provisions and information concerning a partition.
- (10) “Plat” includes a final subdivision plat, replat or partition plat.

- c) “Common” improvements – Public vs. Private: donation, explanation, maintenance agreements
- d) “Stormwater systems” added to public improvements references
- e) Minor grammar corrections

### 5. Unnecessary Requirements:

- a) Drafting material/ink/size for tentative plans omitted

- b) Drafting material/ink/size for final plats deferred to County Surveyor
- c) Scale specification reduced to multiples of 10
- d) Individual tract or parcel legal descriptions

**6. State Statute Compliance:**

- ORS 92.050 Requirements of survey and plat of subdivision and partition.  
 (3) The survey and plat of the subdivision or partition shall be made by a registered professional land surveyor.
- ORS 672.025 Practice of land surveying without registration prohibited; seal required.  
 (1) No person shall practice land surveying in this state unless the person is registered and has a valid certificate to practice land surveying issued under ORS 672.002 to 672.325.  
 (3) Notwithstanding the provisions of ORS 672.005 (1), a registered professional engineer not also registered as a professional land surveyor shall not establish, reestablish or restore land boundaries, corners or monuments between lands not held in common ownership or intended for conveyance.

**State Statute Compliance (Land Surveying):**

- ORS 672.005  
 (2) “Practice of land surveying” means doing any of the following:
- (a) Providing or offering to provide professional services that apply mathematics, geodesy and other sciences and involve:
  - (A) The making of geometric measurements and gathering of related information pertaining to:
    - (i) The physical or legal features of the earth;
    - (ii) Improvements on the earth; or
    - (iii) The space above or below the earth; or
  - (B) The development of measurements and information described in subparagraph (A) of this paragraph into graphics, data, maps, plans, reports, descriptions, projects or other survey products.
    - (b) Performing geodetic surveys.
    - (c) Establishing, reestablishing or replacing boundaries or geodetic control monuments or reference points.
    - (d) Locating, relocating, establishing, reestablishing or retracing any property lines or boundaries for any tract of land, road right-of-way or easement.
    - (e) Making any survey for the division or subdivision of a tract of land or for the consolidation of tracts of land.
    - (f) Locating and laying out alignments, positions or elevations for the construction of fixed works.
    - (g) Performing or offering to perform any investigation, interpretation or evaluation of, or any consultation or testimony about, any of the services described in paragraphs (a) to (f) of this subsection.
    - (h) Collecting, preparing, manipulating or modifying data related to activities described in paragraphs (a) to (f) of this subsection, other than acting as a scrivener.
    - (i) Performing photogrammetric mapping.
    - (j) Making surveys that involve horizontal or vertical mapping control or geodetic control.

**State Statute Compliance (Engineering):**

ORS 672.005

(1) "Practice of engineering" or "practice of professional engineering" means doing any of the following:

(a) Performing any professional service or creative work requiring engineering education, training and experience.

(b) Applying special knowledge of the mathematical, physical and engineering sciences to such professional services or creative work as consultation, investigation, testimony, evaluation, planning, design and services during construction, manufacture or fabrication for the purpose of ensuring compliance with specifications and design, in connection with any public or private utilities, structures, buildings, machines, equipment, processes, works or projects.

(c) Surveying to determine area or topography.

(d) Surveying to establish lines, grades or elevations, or to determine or estimate quantities of materials required, removed or in place.

(e) Surveying required for design and construction layout of engineering and architectural infrastructure.

(f) Performing photogrammetric mapping.

Chair Smith opened the public testimony at 10:03 p.m.

**Opponent:**

Larry Anderson is concerned about over regulating and the length of time it takes to move anything through the City due to unnecessary obstacles and steps in the process which he sees as a waste of time. The actual text should have clear and simple clarifications. Fees are already too high and the time to get things moved through the City of Newberg is longer, so if time can be saved that would be an advantage.

**MOTION #6: Wall/Barnes** moved to approve Planning Commission Resolution No. 2011-288.

**MOTION #7: Bliss/Stuhr** moved to amend the resolution to have Civil Engineers not be stricken from the text relating to Tentative Plats. (7 Yes/ 0 No/ 0 Absent) Motion carried.

**VOTE ON MOTION #6 AS AMENDED:** (7Yes/ 0 No/ 0 Absent) Motion carried.

**VII. ITEMS FROM STAFF:**

Update on Council items: Barton Brierley stated each Planning Commissioner has received a copy of a new development code which was adopted by the City Council. The main difference in the code is the numbering system has changed from the old code. Mr. Brierley reported on the Meridian zone change; the Planning Commission and City Council both approved it and then it was appealed to LUBA. The deadline for filing the petition for review came and passed this week and the appellants chose not to file the petition for review. Therefore, the appeal will be dismissed. The next City Council Hearing is scheduled on June 6, 2011 and they will consider the South Industrial UGB Amendments and updates to the Economic Opportunities Analysis.

The next Planning Commission Meeting is scheduled on Thursday, June 9, 2011.

***Resolution 2011-289 will be moved to the June 9, 2011 Planning Commission Meeting.***

**VIII. ITEMS FROM COMMISSIONERS:**

Commissioner Stuhr will be unable to attend the June 9, 2011 Planning Commission Meeting due to her Nephew's graduation.

**IX. ADJOURN:**

Chair Smith adjourned the meeting at 11:05 p.m.

**Approved by the Planning Commission on this 9<sup>th</sup> day of June, 2011.**

**AYES:**

**NO:**

**ABSENT:**

**ABSTAIN:**

\_\_\_\_\_  
*Planning Recording Secretary*

\_\_\_\_\_  
*Planning Commission Chair*

## **TYPE IV, LEGISLATIVE PUBLIC HEARING PROCEDURE**

1. OPEN THE PUBLIC HEARING, ANNOUNCE THE PURPOSE, DISCUSS TESTIMONY PROCEDURE, AND TIME ALLOTMENTS<sup>1</sup>
2. CALL FOR ABSTENTIONS, CONFLICTS OF INTEREST AND OBJECTIONS TO JURISDICTION
3. STAFF REPORT
  - A. PROJECT SUMMARY AND RECOMMENDATION BY STAFF
  - B. STAFF SUMMARY OF LATE CORRESPONDENCE SUBJECT TO PLANNING COMMISSION REQUEST<sup>2</sup>
4. PUBLIC TESTIMONY (SEE "HOW TO TESTIFY" FORM)<sup>3 4</sup>
  - A. THE PLANNING COMMISSION CHAIR WILL CALL YOUR NAME WHEN IT'S YOUR TURN TO TESTIFY (NOTE: COMMISSIONERS MAY ASK QUESTIONS DURING THE TESTIMONY PERIOD, AT THE DISCRETION OF THE CHAIR)
5. STAFF SUMMARY OF WRITTEN TESTIMONY FROM REGISTRATION FORMS
6. CLOSE OF PUBLIC TESTIMONY PORTION OF HEARING (GAVEL)
7. FINAL COMMENTS FROM STAFF
8. DELIBERATION OF COMMISSION
9. ACTION BY THE PLANNING COMMISSION

***NOTE: No new public hearings will be started after 10:00 p.m. (except by majority vote of the Commission).***

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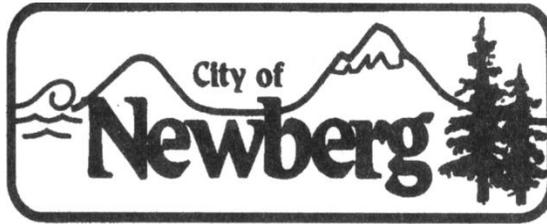
<sup>1</sup> The Chair of the Planning Commission may set time limits on the public testimony portion of the hearing.

<sup>2</sup> ORS 197.763(3)(j) allows the City to establish procedures for submittal of evidence. The Planning Commission has established a period of one week prior to hearing for submittal of written evidence in order to be considered at the hearing. Written testimony received late will only be considered at the discretion of the Planning Commission.

<sup>3</sup> Questions by those wishing to testify should be directed to the Chair during the PUBLIC TESTIMONY (Step 4) portion of the public hearing.

<sup>4</sup> Questions may be asked by the Commissioners thru the chair during the PUBLIC TESTIMONY (Step 4) portion of the public hearing.

City of Newberg  
414 E. First Street  
P.O. Box 970  
Newberg, OR 97132



City Manager  
(503) 538-9421  
(503) 538-5013 FAX

## Planning and Building Department

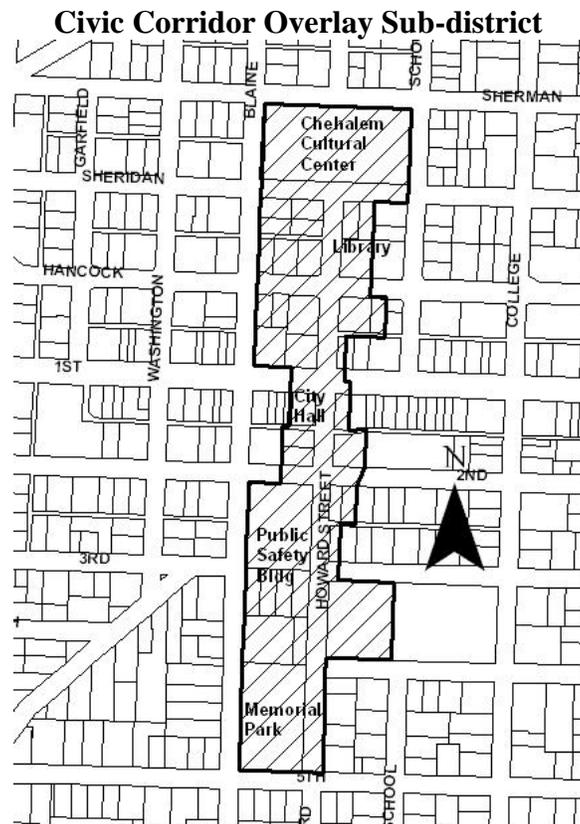
P.O. Box 970 • 414 E. First Street • Newberg, Oregon 97132 • (503) 537-1240 • Fax (503) 537-1272

### STAFF REPORT – CIVIC CORRIDOR SIGN CODE AMENDMENTS

**FILE NO:** DCA-10-001  
**REQUEST:** Amend Newberg's Development Code to make the Civic Corridor sign code more flexible.  
**APPLICANT:** City of Newberg  
**PREPARED BY:** City of Newberg Planning Staff  
**HEARING DATE:** June 9, 2011 Planning Commission (moved from May 12, 2011)

#### ATTACHMENTS:

- Resolution No. 2011-289
  - Exhibit A: Proposed Amendments
  - Exhibit B: Findings
- 1. City Council Resolution 2011-2939
- 2. Photos of Civic Corridor signs
- 3. Public comments received to date (none)



## **I. SUMMARY**

The current Civic Corridor sign code is quite restrictive, and requires signs to meet at least four out of six Civic Corridor design elements. In practice, it is very difficult to meet the Civic Corridor standards; a proposed sign for the Chehalem Cultural Center, for example, consists of raised bronze letters and appears to be a good fit for the Civic Corridor but cannot be approved as it only meets two out of six Civic Corridor design elements. The proposed code amendment would change the Civic Corridor design elements to better match the design themes of signs and buildings in the corridor, and only require signs to meet one design theme. This will simplify the sign standards and add flexibility while preserving the intent of the Civic Corridor overlay.

## **II. BACKGROUND**

The Civic Corridor Overlay is a zone that runs north-south along Howard Street and includes most of Newberg's civic buildings. The overlay was created in 2002 to emphasize the civic heart of the community, and has specific design standards for buildings and signs. The purpose of the overlay is to ensure that new development is consistent with historic buildings, such as the Library and City Hall. Staff feels that the Civic Corridor sign code is too inflexible, and can prevent good signs from being approved. Staff developed potential code changes that would allow the Cultural Center sign to be approved, would simplify the sign standards, and better align the standards with design themes within the corridor. The code language in the attached resolution exhibit is intended as a starting point for the discussion.

The City Council initiated a development code amendment to the Civic Corridor sign code through Resolution 2011-2939 on April 4, 2011. The Planning Commission held a workshop on April 14, 2011 to discuss Newberg's existing Civic Corridor sign code and potential code changes.

## **III. DISCUSSION**

The current Civic Corridor sign regulations are not flexible. Proposed signs must meet the C-3 downtown sign standards plus meet four out of six Civic Corridor design elements. In practice, good signs that appear to fit the historic designs within the Civic Corridor sometimes cannot be approved. The proposed Chehalem Cultural Center sign, for example, consists of raised bronze letters over the front entrance and is very similar to the raised letters on City Hall, the Post Office, the Fire Department and the Public Safety Building. This sign easily meets the C-3 sign standards but only meets two out of four Civic Corridor standards and cannot be approved. Another example is the *Newberg Graphic* brick monument sign, which is located just outside the Civic Corridor; this sign easily meets the C-3 downtown sign standards but could not have been approved if it was within the Civic Corridor.

**Current requirements** = 4 of 6 Civic Corridor standards + 10 points on C-3 standards

**Civic Corridor sign design elements**

1. The most prominent element on a sign, such as the business' name, uses a serif font and does not exceed eight inches in height.
2. The sign includes a frame, background or lettering in natural wood materials.
3. The sign includes a frame, background or lettering in copper or brass in natural finishes.
4. The sign incorporates decorative wrought iron.
5. The lettering is in a raised relief.
6. The sign is attached to a mounting bracket and allowed to swing freely.

**C-3 sign point system**

Points Possible	Element
	<b>Sign Type</b>
4	The sign is attached to a mounting bracket and allowed to swing freely.
4	The sign is on an awning and meets the standards in NMC <a href="#">15.435.080</a> .
3	The sign is a fin sign extending at least two feet from the building surface.
3	The sign primarily includes raised or engraved individual letters or graphics on a background wall.
2	The sign is freestanding and less than six feet high.
	<b>Sign Material</b>
4	The sign is sandblasted or carved wood.
4	The sign includes natural finished wood in the frame, background or lettering (plywood excluded).
4	The sign includes a frame, background or lettering in aluminum, copper or brass in natural finishes.
2	The sign is on an opaque fabric awning made of cotton-based canvas or woven acrylic and includes free-hanging trim or vertical front.
2	The sign incorporates decorative wrought iron.
	<b>Sign Face</b>
4	The outline of the sign frame (or the letters and graphics if no frame) is predominantly curved or nonrectangular.
3	All colors on the sign are low intensity, such as muted earth tones. Bright, fluorescent, or neon colors are excluded.
2	The most prominent lettering on the sign, such as the business' name, uses a serif or cursive font.
2	At least 15 percent of the sign area is a landscape, nature, or similar art scene.
	<b>Lighting</b>
2	The sign uses neon tube lighting for letters or graphics.
minus 2	The sign uses internal illumination with greater than 30 percent transparent or light-colored face.
minus 2	The sign is on a backlit, translucent awning.
minus 4	The sign uses blinking, flashing, or chasing lights.
	<b>Sign Size</b>
1 point per 20 percent reduction	For major attached signage, one point for each full 20 percent reduction in the total sign area allowed on that building frontage. For major freestanding signage, one point for each full 20 percent reduction in the total area allowed for that sign.

Staff reviewed the existing signs in the Civic Corridor and determined that there are several design themes that tie the corridor signs together: (1) raised metal or wood letters on a background wall (letters up to 12 inches tall); (2) copper/brass/bronze frames or highlights; and (3) brick backgrounds or structures. The existing Civic Corridor sign code encourages freely-swinging signs on mounting brackets; this design element fits the downtown historic character well and could be kept as a design element. Engraved letters in metal or masonry also fit the historic character of the Civic Corridor. The code could be simplified to require signs to meet at least one of the design themes noted above for signs in the Civic Corridor, while still meeting the C-3 downtown standards. This would simplify the code, allow the Chehalem Cultural Center sign to be approved, and would set clear standards for signs within the Civic Corridor. This would also provide more flexibility for future signage at the Library and within the Cultural District area.

Staff sent a copy of the proposed code change to all property owners and public agencies within the Civic Corridor overlay, and received one comment. Leah Griffith, Library Director, wanted to know how the code change would affect the Library when they wanted to change their existing readerboard sign. Would they be able to have a readerboard sign similar to the *Newberg Graphic* sign or the Library's old monument sign? Leah did like the proposed Cultural Center sign, and was in favor of code changes to allow it. She asked how the proposed changes would fit with any ideas that come out of the Cultural District project.

The proposed changes will make the Civic Corridor sign code more flexible and give the Library and the Cultural District more design options in the future. Under the current code the Library could not build a readerboard sign like the *Graphic's* (the sign is a freestanding brick monument sign with a curved top, raised metal letters, and a readerboard). That sign would easily meet the C-3 standards but only meets two out of six Civic Corridor standards and could not be approved. The proposed changes would allow the Library to have a readerboard sign like the *Graphic*, and allow additional flexibility for the Cultural District project.

#### **IV. STAFF RECOMMENDATION**

The staff recommendation is made in the absence of public testimony and may be modified prior to the close of the hearing. At this time, staff recommends:

**Adopt Resolution 2011-289**, recommending that the City Council adopt the proposed Development Code amendments to the Civic Corridor sign regulations.

## PLANNING COMMISSION RESOLUTION NO. 2011-289

### A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWBERG RECOMMENDING THAT THE CITY COUNCIL MODIFY THE DEVELOPMENT CODE RELATING TO CIVIC CORRIDOR SIGNS

#### RECITALS:

1. The Newberg Development Code currently requires signs in the Civic Corridor to meet four out of six design elements. This is very restrictive, and can prevent the approval of signs that appear to meet the intent of the Civic Corridor overlay zone.
2. The code could allow some additional flexibility by modifying the sign design elements to better match the character of the Civic Corridor, and only requiring signs to meet one design element. The proposed code changes would still meet the intent of the Civic Corridor sign regulations, which is to ensure that new signs fit the historic character of the corridor.
3. On April 4, 2011, the Newberg City Council adopted Resolution 2011-2939, initiating potential amendments to the Development Code.
4. On April 14, 2011, the Planning Commission held a public workshop to discuss Newberg's existing Civic Corridor sign code and potential code changes.
5. On April 21, 2011, notice of the proposed changes and public hearing was mailed to all property owners within the Civic Corridor overlay zone.
6. On April 22, 2011, notice of the public hearing was posted in four public locations (City Hall, Library, Fire Station, and Public Safety Building)
7. On April 27, 2011, notice of the public hearing on the proposed changes was published in the *Newberg Graphic*.
8. On May 12, 2011, the Newberg Planning Commission moved the public hearing on the proposed amendments to the following meeting on June 9, 2011.
9. On June 9, 2011, the Newberg Planning Commission held a public hearing on the proposed amendments.

**NOW THEREFORE, BE IT RESOLVED** by the Planning Commission of the City of Newberg that it recommends that the City Council approve the amendment to the Newberg Development Code as shown in Exhibit A.

This recommendation is based on the staff report, the findings in Exhibit B, and testimony.

**Adopted** by the Newberg Planning Commission on this 9<sup>th</sup> day of June, 2011.

AYES:                      NAYS:                      ABSTAIN:                      ABSENT:

ATTEST:

\_\_\_\_\_  
Planning Commission Secretary

\_\_\_\_\_  
Planning Commission Chair

Exhibit A: Development Code Text Amendments

Exhibit B: Findings

**Exhibit A to Resolution 2011-289  
Proposed Amendment to Newberg Development Code**

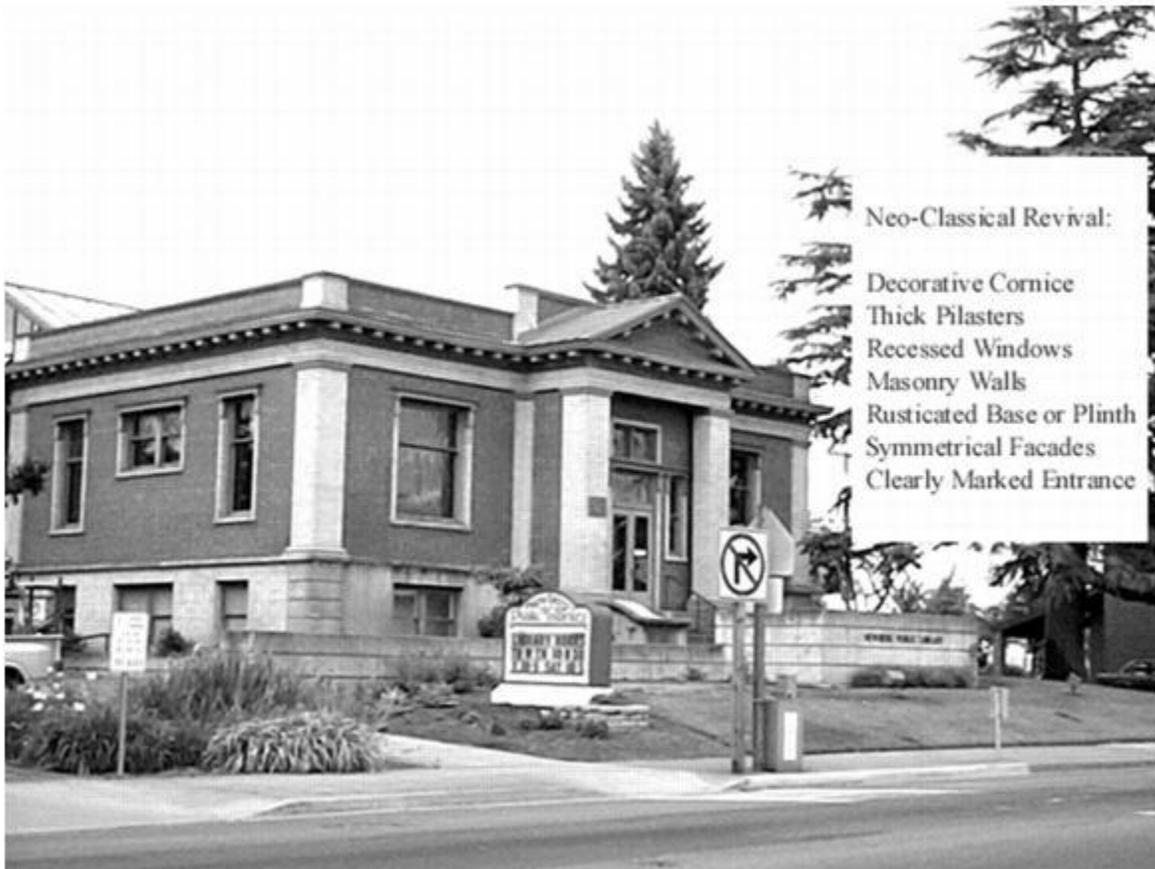
**Newberg Development Code shall be amended as follows:**

(Note: Additions to the code are underlined, deletions are ~~struck through~~.)

**Part 18.1. CIVIC CORRIDOR OVERLAY (CC) SUB-DISTRICT**

**15.350.010 PURPOSE.**

(A) The Civic Corridor Overlay Sub-district is designed to emphasize the civic heart of the community and to capitalize on the significant amenity that Newberg's historic downtown buildings represent. Two buildings which characterize the historic style of Newberg are City Hall, built in 1913 and the library, built in 1912. The important architectural features of this style are illustrated in the figure below.



(B) Specific design standards will ensure that new development is consistent with the regional and local historical traditions that these buildings represent. While incorporating historic ornament and detail into new buildings is encouraged, it is recognized that the current cost of such detail may not be feasible. Instead, historical compatibility is better achieved by relating to the vertical proportions of historic facades,

the depth and quality of windows and doors, and emulating the simple vertical massing of historical buildings.

(C) The CC Sub-district is intended to emphasize the civic and historic character of that portion of downtown Newberg generally bounded by Sherman Street on the north, Blaine Street on the west, 5th Street on the south, and Howard and School Streets on the east and as depicted on the zoning map. The sub-district overlay may be applied within any zoning district within these boundaries. The sub-district shall be designated by the suffix "CC" added to the symbol of the parent district. Permitted uses include those permitted by the underlying zoning district and other uses specifically allowed within the CC Sub-district that are compatible with the uses in the underlying zoning. (Ord. 2002-2561, passed 4-1-02)

#### 15.350.020 GENERAL PROVISIONS.

The uses, procedures, and standards contained within § 15.350.030 through § 15.350.060 apply in addition to the development standards of the underlying zone. Where there is a conflict between the uses and standards of this section and those of the base zone, the uses and standards of this section shall prevail. (Ord. 2002-2561, passed 4-1-02)

#### 15.350.060 DEVELOPMENT STANDARDS.

In addition to the standards of § 15.220.080, the following development standards shall apply to new development or redevelopment within the Civic Corridor Overlay Sub-district.

(E) *Signage standards.* In addition to the C-3 signage requirements of § 15.435.010 through § 15.435.120, to encourage the historic character of the Civic Corridor as described in § 15.350.010, signs lettering within the Civic Corridor shall not exceed 12 inches in height, and signs shall include at least one ~~four~~ of the following ~~six~~ elements:

- ~~(1) The most prominent element on a sign, such as the business' name, uses a serif font and does not exceed eight inches in height.~~
- ~~(2) The sign includes a frame, background or lettering in natural wood materials.~~
- (13) The sign includes a frame, background or lettering in copper, bronze or brass in natural finishes, comprising at least 5 percent of the sign face.
- (2) The sign is a freestanding brick monument sign.
- ~~(4) The sign incorporates decorative wrought iron.~~
- (35) The sign lettering is in a raised relief, and is constructed of either naturally-finished metal or white-painted wood (or material that appears to be wood).
- (4) The sign lettering is engraved in either metal or masonry.
- ~~(56) The sign is attached to a mounting bracket and allowed to swing freely.~~

*End of proposed amendment.*

## **Exhibit B to Resolution 2011-289 Findings**

### *Newberg Development Code § 15.350.010 PURPOSE – CIVIC CORRIDOR OVERLAY.*

- (A) *The Civic Corridor Overlay Sub-district is designed to emphasize the civic heart of the community and to capitalize on the significant amenity that Newberg’s historic downtown buildings represent. Two buildings which characterize the historic style of Newberg are City Hall, built in 1913 and the library, built in 1912. The important architectural features of this style are illustrated in the figure below.*
- (B) *Specific design standards will ensure that new development is consistent with the regional and local historical traditions that these buildings represent. While incorporating historic ornament and detail into new buildings is encouraged, it is recognized that the current cost of such detail may not be feasible. Instead, historical compatibility is better achieved by relating to the vertical proportions of historic facades, the depth and quality of windows and doors, and emulating the simple vertical massing of historical buildings.*

### ***Newberg Comprehensive Plan***

#### **J. URBAN DESIGN**

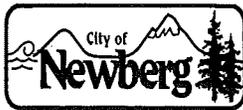
**GOAL 1:** *To maintain and improve the natural beauty and visual character of the City.*

**POLICIES:**

**1. General Policies**

- g. *Community appearance should continue to be a major concern and subject of a major effort in the area. Street tree planting, landscaping, sign regulations and building improvements contribute to community appearance and should continue to be a major design concern and improvement effort.*

**Findings:** As stated in the above purpose statement and policies, maintaining and improving the visual character of the city is important to the community. The historic character of the Civic Corridor, as characterized by City Hall and the Library, is an area of special focus. The existing Civic Corridor sign code is inflexible, and can prevent signs that have historic character and meet the purpose of the Civic Corridor regulations from being approved. The proposed amendments will change the design elements to better match the observed historic character of the Civic Corridor, and only require signs to incorporate one design element. These amendments will make the Civic Corridor sign code more flexible for institutions and businesses within the corridor, while protecting the historic character of the corridor. The proposed development code amendment therefore conforms to the Newberg Comprehensive Plan by maintaining and improving the visual character of Newberg.



## RESOLUTION No. 2011-2939

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### A RESOLUTION INITIATING AN AMENDMENT TO THE NEWBERG DEVELOPMENT CODE REGARDING SIGNS IN THE CIVIC CORRIDOR

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#### RECITALS:

1. The proposed Chehalem Cultural Center sign does not meet the Civic Corridor sign standards. Staff believes the sign is a good fit for the Civic Corridor, and that therefore the Civic Corridor sign standards should be reviewed.
2. The Civic Corridor sign standards currently require signs to include four out of six possible design elements. Staff reviewed the existing signs in the Civic Corridor and determined that there are three design themes that tie the corridor signs together: (1) raised metal or wood letters on a background wall; (2) copper/brass/bronze frames or highlights; and (3) brick backgrounds or structures. The code could be simplified to require signs to meet at least one of the three design themes noted above for signs in the Civic Corridor.
3. This potential amendment would simplify the code, allow the Chehalem Cultural Center sign to be approved, and would set clear standards for signs within the Civic Corridor.
4. The City Council would like to consider a potential amendment to change the Civic Corridor sign standards to focus on the three identified design themes.

#### THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. The City initiates an amendment to the Newberg Development Code that could potentially change the Civic Corridor design standards. The code language in Exhibit "A" is a starting point.
2. By initiating this amendment, the Council does not commit to taking any particular action on the amendment. It only wishes to consider potential amendments through a public hearing process.

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: April 5, 2011.

**ADOPTED** by the City Council of the City of Newberg, Oregon, this 4<sup>th</sup> day of April, 2011.

  
\_\_\_\_\_  
Norma I. Alley, City Recorder

**ATTEST** by the Mayor this 7<sup>th</sup> day of April, 2011.

  
\_\_\_\_\_  
Bob Andrews, Mayor

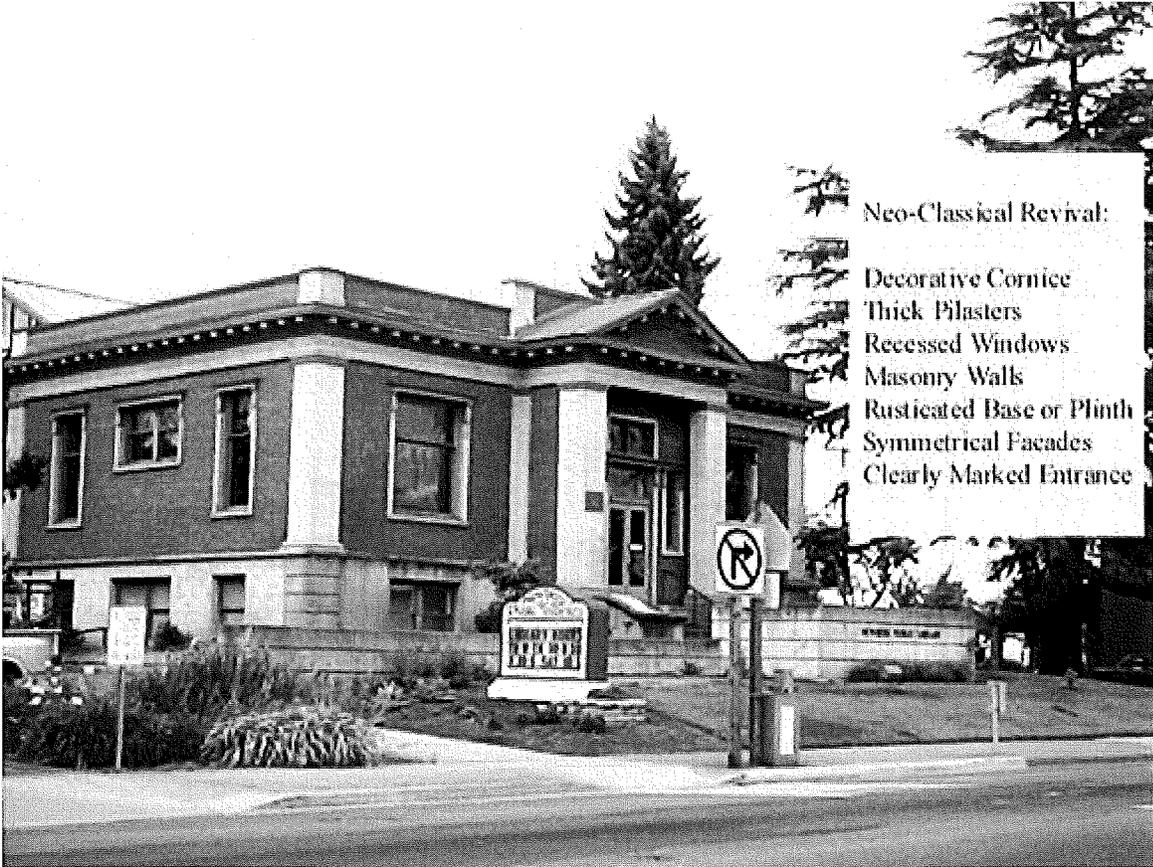
Potential Development Code Amendment

(Note: Additions to the code are underlined, deletions are ~~struck through~~.)

Part 18.1. CIVIC CORRIDOR OVERLAY (CC) SUB-DISTRICT

151.526.1 PURPOSE.

(A) The Civic Corridor Overlay Sub-district is designed to emphasize the civic heart of the community and to capitalize on the significant amenity that Newberg’s historic downtown buildings represent. Two buildings which characterize the historic style of Newberg are City Hall, built in 1913 and the library, built in 1912. The important architectural features of this style are illustrated in the figure below.



(B) Specific design standards will ensure that new development is consistent with the regional and local historical traditions that these buildings represent. While incorporating historic ornament and detail into new buildings is encouraged, it is recognized that the current cost of such detail may not be feasible. Instead, historical compatibility is better achieved by relating to the vertical proportions of historic facades, the depth and quality of windows and doors, and emulating the simple vertical massing of historical buildings.

(C) The CC Sub-district is intended to emphasize the civic and historic character of that portion of downtown Newberg generally bounded by Sherman Street on the north, Blaine Street on the west, 5th Street on the south, and Howard and School Streets on the east and as depicted on the zoning map. The sub-district overlay may be applied within any zoning district within these boundaries. The sub-district shall be designated by the suffix "CC" added to the symbol of the parent district. Permitted uses include those permitted by the underlying zoning district and other uses specifically allowed within the CC Sub-district that are compatible with the uses in the underlying zoning.

(Ord. 2002-2561, passed 4-1-02)

## 151.526.2 GENERAL PROVISIONS.

The uses, procedures, and standards contained within § 151.526.3 through § 151.526.6 apply in addition to the development standards of the underlying zone. Where there is a conflict between the uses and standards of this section and those of the base zone, the uses and standards of this section shall prevail.

(Ord. 2002-2561, passed 4-1-02)

## 151.526.6 DEVELOPMENT STANDARDS.

In addition to the standards of § 151.197, the following development standards shall apply to new development or redevelopment within the Civic Corridor Overlay Sub-district.

(E) *Signage standards.* In addition to the C-3 signage requirements of § 151.590 through § 151.601, to encourage the historic character of the Civic Corridor as described in § 151.526.1, signs within the Civic Corridor shall include at least one ~~four~~ of the following ~~six~~ elements:

~~(1) The most prominent element on a sign, such as the business' name, uses a serif font and does not exceed eight inches in height.~~

~~(2) The sign includes a frame, background or lettering in natural wood materials.~~

~~(13) The sign includes a frame, background or lettering in copper, bronze or brass in natural finishes, comprising at least 5 percent of the sign face.~~

~~(2) The sign is a freestanding brick monument sign.~~

~~(4) The sign incorporates decorative wrought iron.~~

~~(35) The sign lettering is in a raised relief, does not exceed 12 inches in height, and is constructed of either naturally-finished metal or white-painted wood (or material that appears to be wood).~~

~~(46) The sign is attached to a mounting bracket and allowed to swing freely.~~

(Ord. 2002-2561, passed 4-1-02)

*End of proposed amendment.*

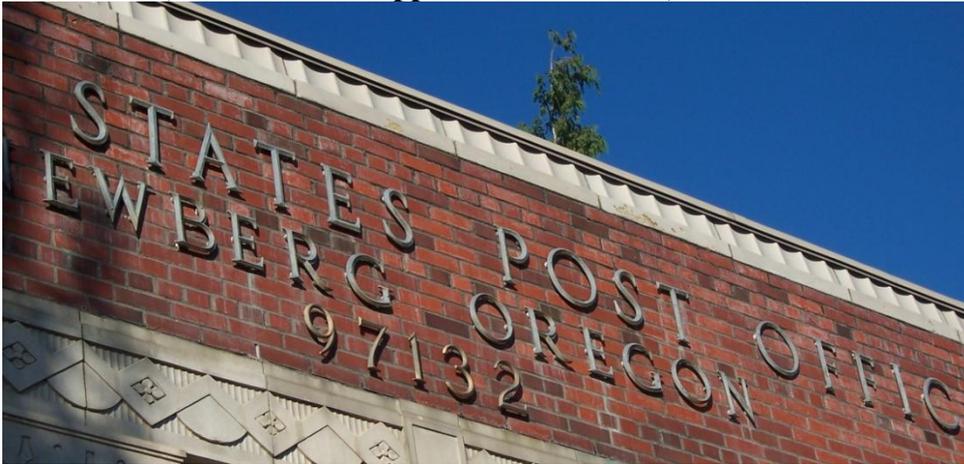
### **Test cases:**

Note that the Civic Corridor standards apply to new development or redevelopment only. They do not make any existing signs non-conforming. It is instructive to test the proposed changes on existing signs, however, to verify how they would apply.

- Proposed Cultural Center sign: Would pass – meets two Civic Corridor (CC) standards.
- Post office: Would pass – meets one CC standard.
- Fire Dept.: Would pass – meets one CC standard.
- Public Safety Building: Would pass – meets one CC standard.
- City Hall: Would pass - meets one CC standard.
- Masonic Hall brass wall sign: Would pass – meets two CC standards. Fin sign does not meet C-3 standards, or CC standards.
- Snooty Fox: Would pass – meets two CC standards.
- Oregon First Community Bank: Would pass – monument sign meets two CC standards, and wall sign meets one CC standard.
- Wine Country Antiques: Does not pass but could be modified to pass (by adding a copper frame, for example). (Note: for illustration only – the existing sign is not required to be changed).
- Bike Shoppe: Does not pass but could be modified to pass (by adding a copper outline of a bike or wheel to the sign, for example). (Note: Existing sign is not required to be changed – historic signs are exempt).

**Attachment 2: Civic Corridor signs**

**Post Office (raised letters – approx. 12 inches tall)**



**Fire Department (raised letters – approx. 10 inches tall)**



**Public Safety Building (raised letters – 8 inches tall)**



**City Hall (raised letters – approx. 12 inches tall)**



**Word of Faith Church (raised letters – approx. 6 inches tall)**



**Masonic Hall (raised letters, bronze)**



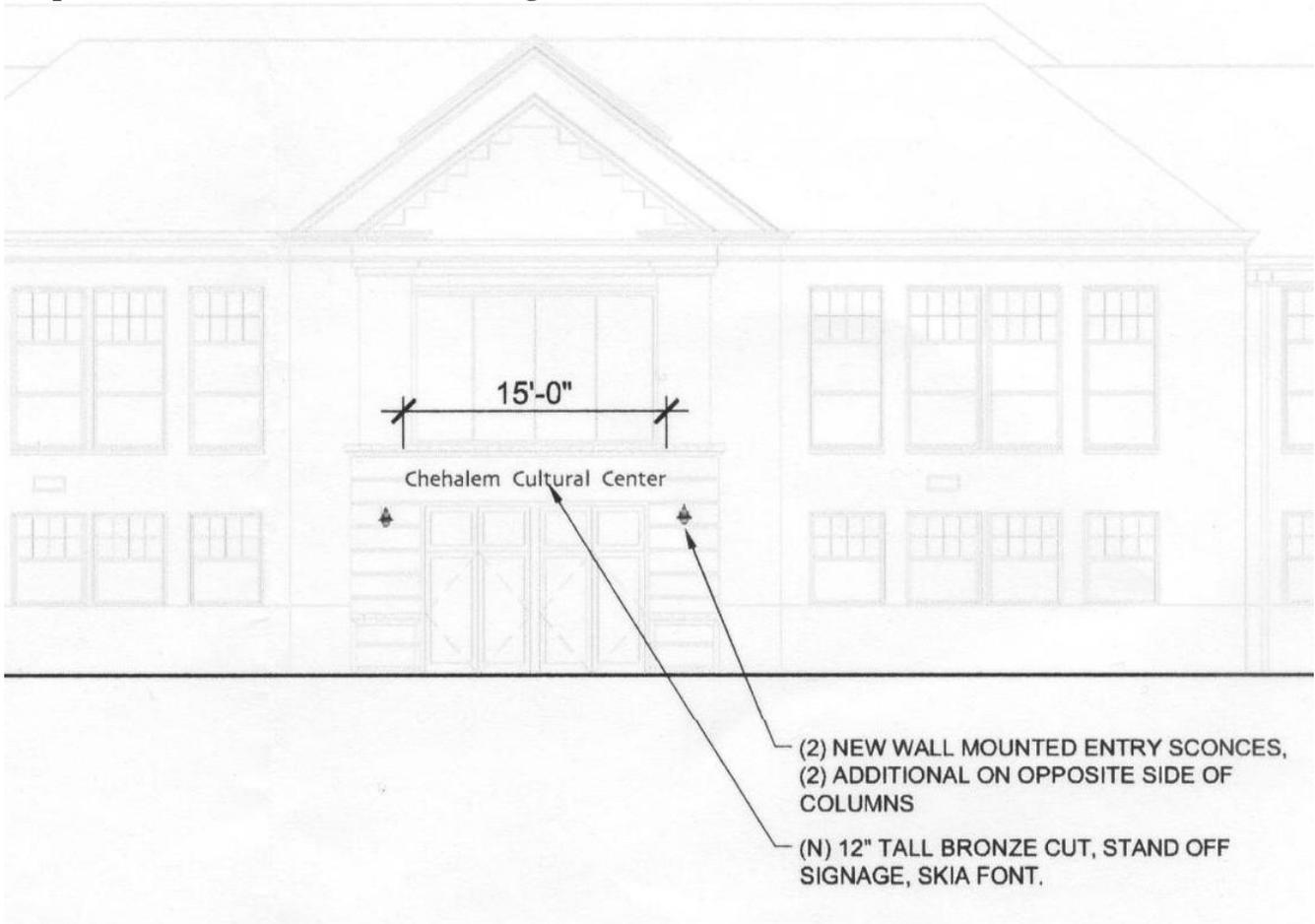
**Snooty Fox (raised letters, bronze)**



**OR First Community Credit Union (copper frame, brick monument – tallest letter approx. 15 inches)**



**Proposed Chehalem Cultural Center sign (raised letters, bronze)**



**Wine Country Antiques (tallest letter approx. 14 inches)**

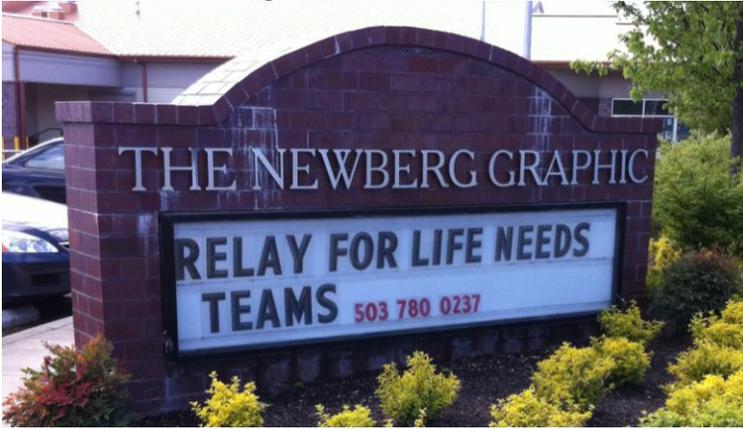


**Newberg Bicycle Shoppe**



**Examples of sign types (these are downtown signs but not in Civic Corridor)**

**Brick monument sign, raised metal letters (letters less than 12 inches tall)**



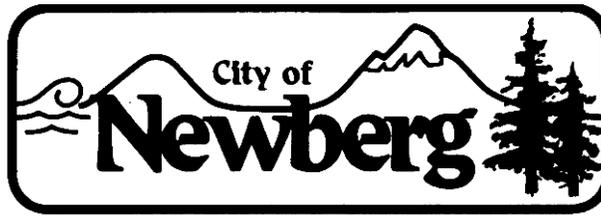
**Sign with copper background (letters are not raised, are less than 12 inches tall)**



**Sign attached to a mounting bracket and allowed to swing freely**



City of Newberg  
414 E First Street  
P.O. Box 970  
Newberg, OR 97132



City Manager  
(503) 538-9421  
(503) 538-5013 Fax

## Planning and Building Department

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

### STAFF REPORT – ANNEXATION PROCESS AMENDMENT

**FILE NO:** DCA 11-002

**REQUEST:** Amendment the Newberg Development Code procedures for annexation of property to the city limits.

**APPLICANT:** Initiated by the Newberg City Council via resolution 2009-2843

**PREPARED BY:** City of Newberg Planning Staff

**DATE OF HEARING:** June 9, 2011

**ATTACHMENTS:**

Resolution 2011-291 with:

Exhibit A: Proposed Development Code Text Amendments

Exhibit B: Findings

1. Newberg Charter provision for annexations
2. Oregon Annexation Methods
3. Public Comments

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### A. SUMMARY

The proposed amendments would do the following:

1. Create a “batch” annexation process, where annexation of a group of small properties could be considered together.
2. Clarify procedures for legislative annexations.
3. Modify procedures for annexation of properties surrounded by the city (“island” annexations) to conform to recent changes in state law.
4. Allow legal non-conforming residential use of property to remain after annexation.

Note that none of the proposed changes affect City charter requirements for votes on annexations.

## **B. BACKGROUND**

The Affordable Housing Action Committee has recommended changes to the annexation process. The proposal would allow small annexations to be grouped and processed together. The proposal would set one time every two years where property owners could request to be included in the “batch.” Only groups of properties less than three buildable acres would be eligible except as approved by the City Council, and only properties where no comprehensive plan amendment also is requested. Staff would collect the applications up to a certain date, then send the full batch to the City Council for one hearing. If the City Council approves, the batch then would be sent to the May primary ballot under one measure.

The proposal also allows legal non-conforming residential uses to remain after annexation. For example, a duplex in a single family zone, or a house in an industrial zone, could remain after the property is annexed to the city.

The proposal also establishes a separate process for city initiated annexations, such as for island annexations or triple-majority annexations, that do not fit the typical property owner initiated application process. The island annexation process is modified to conform to recent changes in state law.

The proposal relates to Action 4.2.E. of the Affordable Housing Action Plan

***Action 4.2E: Create an expedited annexation process for affordable housing projects.***  
*One barrier to affordable housing projects is the time, expense, process, and uncertainty of the City’s annexation process. The City could streamline this process, such as by allowing annexation of specified affordable housing projects without being subjected to a public vote under certain conditions. In these cases, the provision of affordable housing would need to be guaranteed through a development agreement or other method. Modifications to the public vote requirement would require an amendment to the Newberg Charter.*

The draft would reduce some of the time, expense, and process needed for annexations of small properties. This should result in some savings that results in more affordable housing. It also would be a help to small non-residential projects, such as businesses and institutions.

## **C. STAFF RECOMMENDATION**

The staff recommendation is made in the absence of public testimony and may be modified prior to the close of the hearing. At this time, staff recommends:

**Adopt Resolution 2011-291** which recommends that the City Council adopt the proposed Development Code amendments.

**PLANNING COMMISSION RESOLUTION NO. 2011-291**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWBERG  
RECOMMENDING THAT THE CITY COUNCIL AMEND NEWBERG DEVELOPMENT  
CODE ANNEXATION PROCEDURES**

**RECITALS:**

1. On May 4, 2009, the Newberg City Council passed Resolution 2009-2843, supporting the Newberg Affordable Housing Action plan. One action recommended in the plan was to create an expedited annexation process.
2. The Affordable Housing Action Committee reviewed the processes for annexation, and recommended adoption of a batch annexation process.
3. Oregon state law regarding island annexations has been changed, and the city desires its ordinances to be in conformance with state law.
4. After proper notice, the Planning Commission held a hearing on June 9, 2011, and considered testimony.

**NOW THEREFORE, BE IT RESOLVED** by the Planning Commission of the City of Newberg that it recommends that the City Council approve the amendments to the Newberg Development Code as shown in Exhibit A. This recommendation is based on the staff report and the findings in Exhibit B.

**Adopted by the Newberg Planning Commission** this 9<sup>th</sup> day of June, 2011.

AYES:

NAYS:

ABSTAIN:

ABSENT:

ATTEST:

\_\_\_\_\_  
Planning Commission Secretary

\_\_\_\_\_  
Planning Commission Chair

Exhibit A: Development Code Text Amendments

Exhibit B: Findings

**Exhibit “A” to Resolution 2011-286**  
**Development Code Amendments**

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

**ANNEXATIONS**

**15.250.010 Statement of purpose.**

The city finds that annexation is the first step to converting future urbanizable lands to urbanizable land within the Newberg Urban Growth Boundary, and that as such it is an important part of the process of providing timely and orderly urban development. The city also recognizes that the development of lands at an urban density must include the provision of an adequate level of required urban services such as sewer, water, and roads. Policies and procedures adopted in this code are intended to carry out the directives of the citizens of Newberg and the Newberg comprehensive plan, and to insure that annexation of lands to the city is incorporated into the process of providing a timely and orderly conversion of lands to urban uses. The City Charter requires that, unless otherwise mandated by state law, annexation may only be approved by a majority of those voting.

**15.250.020 Conditions for annexation.**

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

- A. The subject site must be located within the Newberg Urban Growth Boundary or Newberg Urban Reserve Areas.
- B. The subject site must be contiguous to the existing city limits.

**15.250.030 Quasi-judicial annexation criteria.**

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

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

B. An adequate level of urban services must be available, or made available, within three years time of annexation, except as noted in division (E) below. An adequate level of urban services shall be defined as:

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

2. Roads with an adequate design capacity for the proposed use and projected future uses. Where construction of the road is not deemed necessary within the three year time period, the city shall note requirements such as dedication of right-of-way, waiver of remonstrance against assessment for road improvement costs, or participation in other traffic improvement costs, for application at the appropriate level of the planning process. The city shall also consider public costs for improvement and the ability of the city to provide for those costs.

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

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

E. The city council may annex properties where urban services are not and cannot practically be made available within the three year time frame noted in division (B) above, but where annexation is needed to address a health hazard, to annex an island, to address sewer or water connection issues for existing development, to address specific legal or contract issues, to annex property where the timing and provision of adequate services in relation to development is or will be addressed through legislatively adopted specific area plans or similar plans, or to address similar situations. In these cases, absent a specific legal or contractual constraint, the Council shall apply an interim zone, such as a limited-use overlay, that would limit development of the property until such time as the services become available.

#### 15.250.040 Quasi-judicial Annexation procedures.

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

A. Annexation elections are normally scheduled for the biennial primary or general elections which are held in May and November of even numbered years. Applications for annexation shall be filed with the Planning Division before 5:00 p.m. on October 1 for a primary ballot election in May and before 5:00 p.m. on April 1 for a general ballot election in November. An applicant may request that the Council schedule an annexation ballot measure for a special election date. Applications proposed for review at a special election must be filed with the city eight months prior to the proposed special election date. Filing of an annexation application and having the application deemed complete does not obligate the city to place the annexation question before the voters at any particular election. This division does not obligate the city to process an annexation application within any time frame not required by ordinance or state statute.

B. The application shall be processed in accordance with the Type III processing procedures outlined in this code. Once the Director receives a completed application for annexation, he/she shall schedule a recommendation hearing before the planning commission. The planning commission shall make a recommendation to the city council as to whether or not the application meets the criteria contained in § 151.262. This decision shall be a quasi-judicial determination and not a legislative

determination. The planning commission may also recommend denial of an application based upon a legislative perception of the request even though the findings support and would allow annexation. A decision to recommend denial of an annexation, even though the findings support the request, shall be specifically stated in the record and noted as a legislative recommendation separate and apart from the quasi-judicial recommendation.

C. Following the planning commission hearing, the Director shall schedule a city council hearing to consider the request. The city council shall conduct a quasi-judicial hearing and determine whether or not the application meets the criteria contained in § 151.262. The hearing at the city council shall be considered a new hearing. If additional testimony is submitted, the Council may, at its own discretion, return the application to the planning commission for further review and recommendation. The city council may also deny an application based upon a legislative perception of the request even though the findings support and would allow annexation. A decision to deny an annexation, even though the findings support the request, shall be specifically stated in the record and noted as a legislative recommendation separate and apart from the quasi-judicial recommendation.

D. If the city council approves the annexation request, the proposal may, at the city council's sole discretion, be placed before the voters of the city as follows:

1. The biennial primary or general elections which are held in May and November of even numbered years, or
2. An available special election.

E. If the city schedules the annexation election for an election other than the biennial primary or general election, the agreement of the applicant or owner of the property must be obtained. All costs associated with placing the matter on the ballot shall be paid for by the applicant or owner of the property being annexed.

F. The city shall place a notice of the annexation election in a newspaper of general circulation in the city not more than 30 days nor less than 20 days prior to the date of the election. Such notice shall take the form of a minimum one quarter page layout, which includes a map of the property to be annexed and unbiased information regarding the annexation.

G. The city shall cause the property under consideration for annexation to be posted with a minimum of one sign not less than 16 square feet in size. The sign shall provide notice of the annexation election, a map of the subject property, and unbiased information regarding the annexation. The sign shall be removed by the applicant within ten days following the election day.

H. In addition to the regular annexation fee, the applicant shall pay for all of the costs associated with the election, the ad in the newspaper, and posting of the notice. The city shall inform the applicant of the costs necessary for the newspaper ad and property posting and of the deadline for payment of these costs.

I. Should this annexation request be approved by a majority vote of the electorate of the city at the election date as identified by resolution of the city council, the property shall be annexed and the following events shall occur:

1. The property shall be ordered and declared annexed and withdrawn from the Newberg Rural Fire Protection District.

2. The territory will be changed from a county zone to a city zoning designation as indicated in NMC 15.250.080. The Newberg, Oregon zoning map shall be amended to indicate this change.

3. The Recorder of the city is directed to make and submit to the Secretary of State, the Department of Revenue, the Yamhill County Elections Officer, and the Assessor of Yamhill County, a certified copy of the following documents:

- a. A copy of the approved ordinance.
- b. A map identifying the location of said territory.

J. If the city council refers an annexation to the voters at a particular election, and the annexation fails to pass at that election, the applicant may petition the city council to refer the annexation to the voters at a subsequent election, subject to the following.

1. The petition shall include a fee in an amount determined by resolution of the city council. In addition, should the petition be granted, the applicant shall be responsible for all election costs, including the cost of preparing the new annexation measure.

2. The applicant may only petition the city council once for resubmittal to place the annexation on the ballot in any 12-month period.

3. The city council shall hold a hearing to consider the petition. The hearing is a legislative hearing. Notice of the hearing shall be published in accordance with NMC 15.100.270.

4. After hearing the petition, the city council may decide any of the following.

a. The Council may approve the petition and schedule the annexation for a subsequent election. The annexation may only be placed before the voters once in any 11-month period. The annexation shall be processed according to the procedures in subsections (D) through (I) of this section.

b. The Council may deny the petition.

c. If conditions affecting the original criteria for the approval of the annexation by the city council have changed significantly, the Council may require the applicant to resubmit the annexation application for consideration by the city council and to pay a new annexation application fee. The Council also may direct that the resubmitted application be referred to the planning commission for recommendation. If there is a period of more than five years between the Council's original quasi-judicial determination that the annexation meets applicable criteria and the annexation election date, then a new application shall be required.

5. The city council shall have total discretion in determining the timing of placing an annexation measure before the voters, in requiring the submittal of a new or modified annexation application, or in denying a petition for new election.

6. Where an annexation has been initiated by the city council, the council may refer the annexation to a subsequent election upon its own motion.

**15.250.050 Application requirements for quasi-judicial annexations.**

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

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

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

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

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

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

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

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

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

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

A. A planned unit development approved through a Type III procedure.

B. A development agreement approved by the city council.

C. A contract annexation as provided in the state statutes. Development plans must be approved and an annexation contract must be signed by the city council in order to use the contract annexation process.

**15.250.055 Legislative annexations.**

A. Purpose. Legislative annexations are those annexations that are initiated by the City of Newberg. Legislative annexations include health hazard annexations, island annexations, batch annexations, and other annexations initiated by the City Council.

B. Process. Legislative annexations shall be processed as a Type IV legislative action, except as noted. The annexation request shall be reviewed directly by the city council. A planning commission hearing shall be required only if a comprehensive plan amendment is involved or city council refers the matter to the planning commission for a recommendation.

C. Notice. The director shall provide notice of hearings:

1. To the owner of the site proposed for annexation.

2. To owners of property within 500 feet of the entire site for which the application is made. The list shall be compiled from the most recent property tax assessment roll.

3. To the Department of Land Conservation and Development per NMC 15.100.250.

4. Within a newspaper of general circulation within the city at least ten days prior to the first public hearing on the action per NMC 15.100.270.

D. Approval. In approving any legislative annexation, the city council shall follow the applicable procedures of state law and the Newberg Charter. If the city council approves the annexation, where required by state law or City Charter the annexation shall be referred to an election at a date determined by the city council. If the annexation election is not approved, the city council, at its discretion, may refer the proposal to a future election with any modifications it determines are appropriate. If an election is not required by state law or City Charter, the city council shall by ordinance declare that the territory is annexed to the City.

**15.250.060 Health hazard annexation.**

The city shall annex those areas constituting a health hazard in accordance with Oregon Revised Statutes, taking into consideration the ability of the city to provide necessary services. Annexation of areas constituting a health hazard are not subject to voter approval.

**15.250.070 Island annexation.**

The following policies are adopted for island annexations:

A. The city shall attempt to not create islands of unincorporated territory within the corporate limits of the city. If such an island is created, the city council may set a time for a public hearing for the purpose of determining if the annexation should be submitted to the voters. The hearing shall be conducted in accordance with the policies and procedures contained in this code.

B. Written notice to property owners will be made prior to annexation to allow for property owner responses. Failure to receive notice shall not in any way invalidate the annexation procedure that may be subsequently undertaken by the city.

C. The island annexation shall follow the procedures required under ORS 222.750.

~~CD.~~ Annexation of an island shall be by ordinance, subject to approval by the voting majority. The city shall allow electors, if any, in the territory proposed to be annexed to vote in the election on the question of annexation. If the city council finds that a majority of the votes cast in the city and the territory combined favor annexation, the city council, by ordinance, shall proclaim the annexation approved. The proclamation shall contain a legal description of each territory annexed.

E. For property that is zoned for, and in, residential use when annexation is initiated by the city under this section, the city shall specify an effective date for the annexation that is at least three years and not more than 10 years after the date the city proclaims the annexation approved. The director shall:

1. Cause notice of the delayed annexation to be recorded by the county clerk of the county in which any part of the territory subject to delayed annexation is located within 60 days after the city proclaims the annexation approved; and

2. Notify the county clerk not sooner than 120 days and not later than 90 days before the annexation takes effect.

3. Notwithstanding subsection (D) of this section, property that is subject to delayed annexation becomes part of the city immediately upon transfer of ownership.

15.250.075 Batch annexation of small properties by consent

With the consent of the property owners, the city may process multiple smaller annexations together as a legislative annexation in order to streamline the annexation process and to share the financial cost of the application.

A. Eligibility. Properties are eligible for batch annexation if:

1. The total area of each contiguous territory to be annexed does not exceed three buildable acres, unless the city council moves to allow consideration of a larger territory prior to the hearing.

2. Property owners shall file a consent and request to annex with the city on forms provided by the director.

3. The zoning map designation complies with the comprehensive plan map designation. If a comprehensive plan map change is proposed the request shall follow the process described in NMC 15.250.060 (B).

B. Process. Batch annexations shall be processed as follows:

1. The deadline to file a request shall be November 1 prior to a May primary election in even number years.

2. Property owners shall submit a consent to annex form provided by the city and a request to be part of a batch annexation. The request shall include a legal description of the property and a title report or proof of ownership, and a waiver stating that the owner will not file any demand against the city under Measure 49, approved November 6, 2007, that amended O.R.S. Chapter 195 and 197.

3. The director shall collect the requests. If two or more eligible requests are submitted by November 1, the director shall initiate the batch annexation and schedule the item for a city council hearing. If fewer than two requests are submitted, the director shall extend the deadline to May 1 of the even numbered year to allow consideration prior to the general election in November. If multiple requests are not submitted by the May 1 deadline, the requests shall be deferred until multiple requests are received by the next deadline.

4. The city council may initiate a batch annexation at times other than those specified above.

C. Criteria for a batch annexation.

For each property, an adequate level of urban services is or can be made available within three years, including.

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

2. Roads with an adequate design capacity for the proposed use and projected future uses.

3. Police, fire, parks, and school facilities and services.

D. Approval. The Council may approve or deny all or part of the proposed batch annexation. If the city council approves, it shall refer the annexation to an election following the legislative process under NMC 15.250.060.

### **15.250.090 Coordination.**

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

**15.250.100 Annexation of non-conforming uses.**

When a non-conforming use, as described in NMC 15.205.010 through 15.205.100, is annexed into the city, the applicant shall provide a schedule for the removal of the non-conforming use for the planning commission and city council. Legal non-conforming residential uses are allowed to remain indefinitely. At time of approval of the annexation, the city council may add conditions to ensure the removal of the non-conforming use during a reasonable time period. The time period may vary from one year to 10 years at the discretion of the city council.

## **Exhibit “B” to Resolution 2011-291 Findings**

### **Newberg Comprehensive Plan Goal I. Housing**

*To provide for a diversity in the type, density and location of housing within the City to ensure there is an adequate supply of affordable housing units to meet the needs of City residents of various income levels*

*Policy 3. The City has adopted a comprehensive approach to meeting local housing needs that balances density, design, and flexibility in code standards and procedures. The City shall use development incentives such as density bonuses, flexible development standards, and streamlined review procedures to stimulate or require the production and preservation of affordable housing*

**Finding:** The proposed amendments would help in the provision of affordable housing by streamlining the annexation process for small properties.

### **Newberg Comprehensive Plan Policy N.2.**

*The City shall amend the annexation ordinance to streamline the procedures used for annexations.*

**Finding:** The proposed amendment would streamline procedures by allowing small properties to be annexed as a group rather than individually.

**ORS 222.750 Annexation of unincorporated territory surrounded by city.** (1) *As used in this section:*

(a) *“Creek” means a natural course of water that is smaller than, and often tributary to, a river, but is not shallow or intermittent.*

(b) *“River” means a large, continuous and natural stream of water that is fed along its course by converging tributaries and empties into an ocean, lake or other body of water.*

(2) *When territory not within a city is surrounded by the corporate boundaries of the city, or by the corporate boundaries of the city and the ocean shore, a river, a creek, a bay, a lake or Interstate Highway 5, the city may annex the territory pursuant to this section after holding at least one public hearing on the subject for which notice has been mailed to each record owner of real property in the territory proposed to be annexed.*

(3) *This section does not apply when the territory not within a city:*

(a) *Is surrounded entirely by water; or*

(b) *Is surrounded as provided in subsection (2) of this section, but a portion of the corporate boundaries of the city that consists only of a public right of way, other than Interstate Highway 5, constitutes more than 25 percent of the perimeter of the territory.*

(4) *Unless otherwise required by its charter, annexation by a city under this section must be by ordinance or resolution subject to referendum, with or without the consent of any owner of real property within the territory or resident in the territory.*

(5) *For property that is zoned for, and in, residential use when annexation is initiated by the city under this section, the city shall specify an effective date for the annexation that is at least three years and not more than 10 years after the date the city proclaims the annexation approved. The city recorder or other officer performing the duties of the city recorder shall:*

*(a) Cause notice of the delayed annexation to be recorded by the county clerk of the county in which any part of the territory subject to delayed annexation is located within 60 days after the city proclaims the annexation approved; and*

*(b) Notify the county clerk of each county in which any part of the territory subject to delayed annexation is located not sooner than 120 days and not later than 90 days before the annexation takes effect.*

*(6) Notwithstanding subsection (5) of this section, property that is subject to delayed annexation becomes part of the city immediately upon transfer of ownership.*

*(7) This section does not limit provisions of a city charter, ordinance or resolution that are more restrictive than the provisions of this section for creating or annexing territory that is surrounded as described in subsection (2) of this section.*

*(8) If a city charter, ordinance or resolution requires the city to conduct an election in the city, the city shall allow electors, if any, in the territory proposed to be annexed to vote in the election on the question of annexation. If the governing body of the city finds that a majority of the votes cast in the city and the territory combined favor annexation, the governing body, by ordinance or resolution, shall proclaim the annexation approved. The proclamation shall contain a legal description of each territory annexed. [Amended by 1963 c.444 §1; 1985 c.702 §16; 2007 c.654 §1; 2007 c.706 §1]*

**Finding:** The statute above was amended in 2007 to require delayed annexation for residential islands annexed. This amendment conforms to that requirement.

**CHAPTER I  
REVISION CLAUSE; NAME AND BOUNDARIES**

**Section 1. Revision Clause.**

The sections of the Charter have been revised as hereafter indicated.

**Section 2. Title.**

This charter may be referred to as the 2006 Newberg Charter.

**Section 3. Name.**

The City of Newberg, Oregon, continues as a municipal corporation with the name City of Newberg.

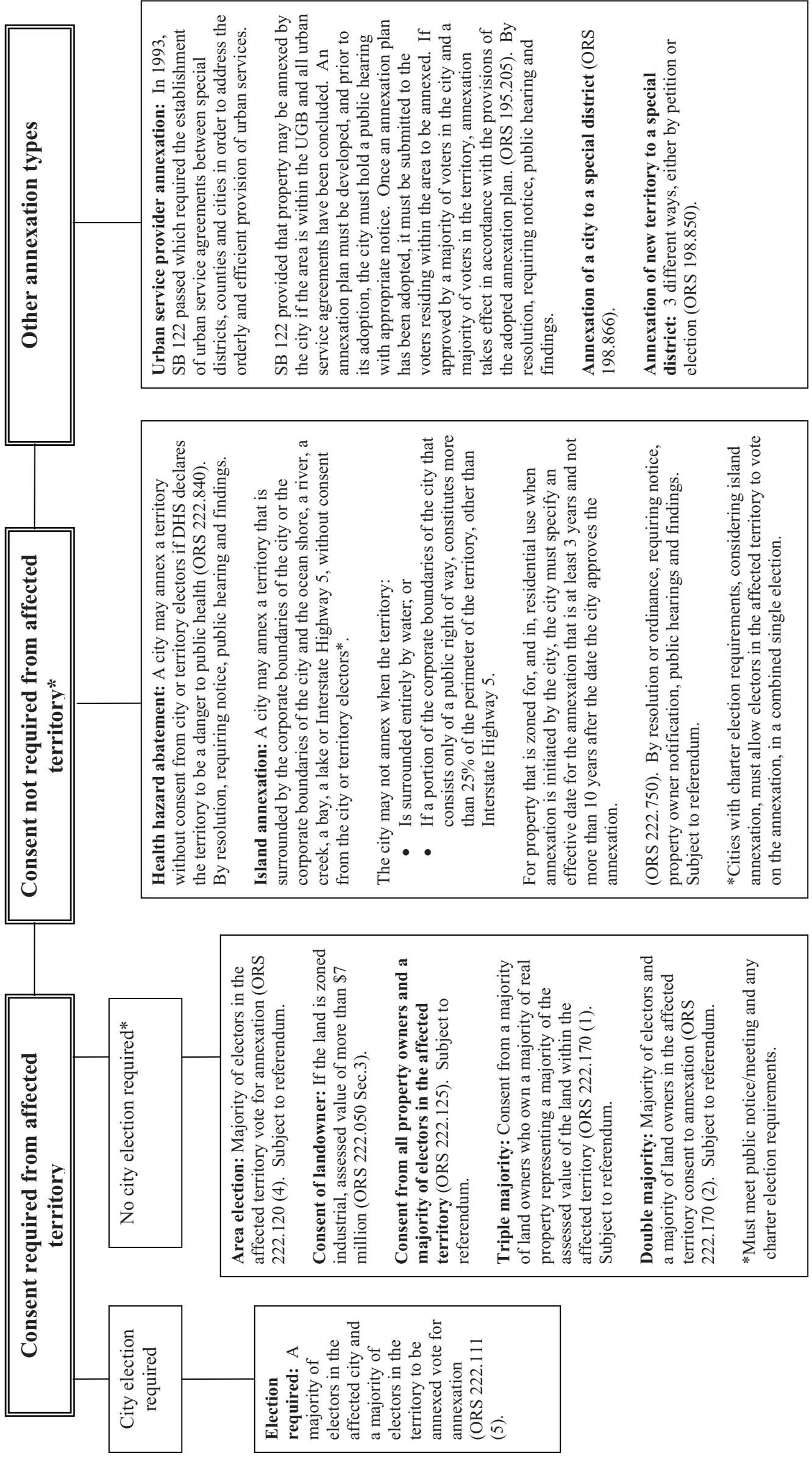
**Section 4. Boundaries.**

The city includes all territory within its boundaries as they now exist or are legally modified. Unless mandated by state law, annexation, delayed or otherwise, to the City of Newberg, may only be approved by a majority of the voters. The city will maintain as a public record an accurate and current description of the boundaries.

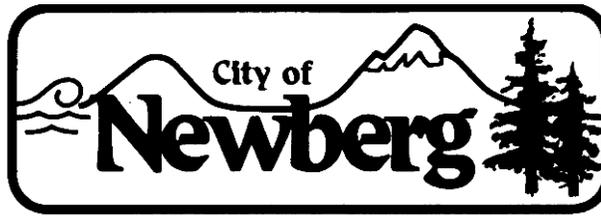
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# Oregon Annexation Methods

Annexations during incorporation proceedings are prohibited until a petition to incorporate is rejected by the county, or voters reject the incorporation



City of Newberg  
414 E First Street  
P.O. Box 970  
Newberg, OR 97132



City Manager  
(503) 538-9421  
(503) 538-5013 Fax

## Planning and Building Department

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

### STAFF REPORT

**FILE NO:** DCA 11-005

**REQUEST:** Initiate an amendment to the Newberg Development Code to increase the allowable lot coverage in the R-1 zone from 30 percent to 40 percent

**REQUESTED BY:** Doug Lanz

**PREPARED BY:** City of Newberg Planning Staff

**DATE OF MEETING:** JUNE 9, 2011

#### ATTACHMENTS:

Resolution 2011-292 with:

- Exhibit A: Proposed Development Code Text Amendments
- 1. Current Development Code Lot Coverage Requirements
- 2. Applicable Comprehensive Plan Policies
- 3. Submittal from Doug Lanz

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#### A. SUMMARY

The attached resolution would initiate an amendment to the Newberg Development Code to increase the allowable lot coverage in the R-1 zone from 30 percent to 40 percent. If the Planning Commission initiates the amendment, then staff will schedule a hearing to consider the change.

#### B. BACKGROUND

1. **Project origin and process.** At the May Planning Commission hearing, Doug Lanz appeared before the Commission and requested a change to allow a increase in the percent lot coverage in the R-1 Zone. The Commission asked Mr. Lanz to work with staff to prepare a draft for their consideration. Attached is a draft that can begin this process.

Note that the City, as a result of recommendations from the Affordable Housing committees, recently adopted amendments that reduced the minimum lot sizes in the R-1, R-2, and R-3 zones, and increased the maximum lot coverage requirements in the R-2 and R-3 zone. The committees did not make a recommendation to change lot coverages in the R-1 zone.

2. **Current lot coverage standards.**

The current maximum lot coverage is as follows:

<b>Zone</b>	<b>Maximum Lot Coverage (Buildings)</b>	<b>Maximum Parking Coverage</b>	<b>Maximum Combined Coverage (Buildings + Parking)</b>
R-1	30%	30%	60%
R-2, R-P	50%	30%	60%
R-3, AR	50%	30%	70%

See Attachment 1 for the current code language.

3. **Purpose for lot coverage standards**

Unfortunately, the development code does not articulate a purpose for the lot coverage standards. Attachment 2 provides related comprehensive plan policies. The following are apparent reasons for the standards:

a. Control storm drainage. The more land that is covered by impervious surfaces, the less that can absorb rainwater, and thus the more need for storm water control facilities. Note that the current proposal would modify the amount of the lot that could be covered by a *building*, but would not modify the total amount of the lot that could be covered by impervious surfaces. Also note that the City is currently undergoing a thorough review of storm water standards in an effort to control runoff and meet state and federal storm drainage standards. These may result in additional requirements for storm drainage control.

b. Provide for outdoor living area on a lot. By limiting the amount of lot coverage, the development code effectively requires that some of the lot be retained for lawns, gardens, backyard barbeque areas, and other recreational activities.

c. Limit development density to that appropriate for the zone. We often speak of “density” in terms of the number of dwelling units per acre of land. For the casual observer, “density” also refers to the look and feel of a neighborhood. A neighborhood with large, two story homes built to minimum setbacks will feel more dense than one with smaller, single story homes with greater setbacks, even if number of dwellings per acre is less. Limiting lot coverage limits the total bulk of building allowed on a lot.

4. **Other issues to consider**

In reviewing lot coverage issues, the Planning Commission could also consider the following issues. The Commission could direct that proposed language to address these issues be included in the hearing draft.

a. Should the lot coverage standards continue to apply to all uses in residential zones, or just residential uses? The lot coverage standards clearly were designed with residential uses in mind, but they do apply to all uses in residential zones, including schools, churches, day care facilities, and fire stations. Some developers of these uses desire to maximize the amount of the lot used for parking or structures, and have little desire for landscaped areas or open space. On the other hand, many of the same issues, storm drainage, recreation, and density feel, also affect non-residential development in these zones. For example, churches and

schools frequently have outdoor activities. A two-story community center built to minimum setbacks would add to the feeling of density in a single family residential zone.

b. Should the building coverage standards continue to apply to small accessory structures?

Accessory structures, such as sheds, count toward the maximum building coverage on a lot. However, a building permit is not required for a shed under 200 square feet and 10 feet in height. Thus, if a home is built to the maximum building coverage and afterward the occupant places a small shed in the back yard, she would not need a building permit, but she would be violating the maximum building coverage standard. One potential change would be to exempt structures not requiring a building permit from the maximum building coverage percentage.

c. Should some limit be applied to building heights or massing if building coverage is increased? A two story building covering 40% of a lot would feel more dense than a one-story building covering the same percentage of that lot. The Commission could consider placing some limit on building heights if the building covers more than 30% of the lot.

d. Should more parking coverage be allowed on flag lots? Maximum parking coverage is rarely an issue on standard single family residential rectangular lots. However, on flag lots, the flag pole portion of the lot is of necessity paved. This leads to a higher amount of parking coverage, and sometimes a smaller amount of allowable building coverage. This need could be ameliorated by the proposed increase in lot coverage, but it is an issue that deserves some thought.

One way this could be accomplished is through a floor to area ratio (FAR). An FAR is the ratio of the total floor area of buildings on a lot to the total lot size. Thus, a building covering 30% of a lot that is one story has an FAR of 0.3, that is two story has an FAR of 0.6, and that is three story has an FAR of 0.9. If the city had a maximum FAR of 0.7 in the R-1 zone, then that would require that, if the building covers more than 30% of the lot, then that portion over 30% would have to be one story.

Any type of building or massing limit would add additional complexity to the building review process.

### **C. PLANNING COMMISSION OPTIONS**

Development Code amendments may be initiated in one of three ways:

1. By resolution of the City Council
2. By resolution of the Planning Commission.
3. By application from any citizen, along with payment of applicable fees, and with resolution of the Planning Commission or City Council.

In this case, the requestor has asked the Planning Commission to initiate an amendment, but has not filed a formal application.

The Commission has several options:

1. Adopt the resolution as attached, or with amendments. If the commission adopts the resolution, staff will schedule a public hearing on the item. The commission could make changes to the resolution at this time. Note that the commission could make changes at a future hearing also.

The Commission should do this if (1) it feels the item is an important issue for the community beyond the requestor's development plans, and (2) it feels this item is urgent to be resolved.

2. Adopt the resolution, contingent on the requestor filing an application and filing fee (\$2,035).

The Commission should do this if it feels the item is important to this particular proposal but not necessarily the larger community.

3. Take no action. The Planning Commission is not obligated to take any action of this request.

**PLANNING COMMISSION RESOLUTION NO. 2011-292**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWBERG  
INITIATING AN AMENDMENT TO THE NEWBERG DEVELOPMENT CODE TO  
INCREASE THE PERCENTAGE BUILDING COVERAGE ALLOWED IN THE R-1 ZONE**

**RECITALS:**

1. Newberg recently amended the Development Code to modify the minimum lot size allowed in the R-1 Zone. The changes made no change in the maximum building coverage standards.
2. Doug Lanz is developing a subdivision in the R-1 zone, and has requested that the maximum building coverage limits be increased.
3. The Planning Commission finds this change potentially could affect a number of developments in the community, and would like to consider changes through the public hearing process.

**NOW THEREFORE, BE IT RESOLVED** by the Planning Commission of the City of Newberg that it initiates an amendment to the Newberg Development Code, potentially along with changes to the Newberg Comprehensive Policies, generally as shown in Exhibit A.

By initiating this amendment, the Commission does not commit to take any particular action on the amendment. It only wishes to consider potential amendments through a public hearing process

**Adopted by the Newberg Planning Commission this 9<sup>th</sup> day of June, 2011.**

AYES:

NAYS:

ABSTAIN:

ABSENT:

ATTEST:

\_\_\_\_\_  
Planning Commission Secretary

\_\_\_\_\_  
Planning Commission Chair

Exhibit A: Development Code Text Amendments

**Exhibit “A” to Resolution 2011-286**  
**Potential Development Code Amendments Draft**

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

**Section 1. Newberg Development Code Section 15.405.040 shall be amended as follows:**

**15.405.040 Lot coverage and parking coverage requirements.**

A. Purpose. The lot coverage and parking coverage requirements below are intended to, in residential zones:

1. Limit the amount of impervious surface and storm drain runoff.
2. Provide open space and recreational space on the same lot for occupants of that lot.
3. Limit the bulk of development to that appropriate in the applicable zone.

A.B For all buildings and uses the following shall mean the maximum permitted lot coverage, maximum coverage of public or private parking areas or carports, and/or combined maximum lot and parking combined coverage required in the various districts expressed in percentage of the area of the lot or development site in which district such coverage is permitted or required (see Appendix A, Figure 4).

1. Maximum Lot Coverage.

- a. R-1: ~~30~~40 percent.
- b. R-2 and RP: 50 percent.
- c. AR and R-3: 50 percent.

2. Maximum Parking Coverage. Maximum coverage for parking lots, aisles and access, and parking structures, where 50 percent or more of the perimeter of such structure is open on its sides: R-1, R-2, R-3, and RP: 30 percent.

3. Combined Maximum Lot and Parking ~~Area~~ Coverage.

- a. R-1, R-2 and RP: 60 percent.
- b. R-3: 70 percent.

B.C . All other districts not listed in subsection (A) of this section shall not be limited as to lot coverage and parking ~~area~~ coverage except as otherwise required by this code.

**Section 2. The following shall be added to the definitions of Newberg Development Code Section 15.05.030:**

**“Parking coverage”** means that portion of a lot covered by parking lots, aisles and access, and parking structures, where 50 percent or more of the perimeter of such structure is open on its sides.

# Attachment 1: Current Development Code Lot Coverage Requirements

“**Lot coverage**” means that portion of a lot which, when viewed directly from above, would be covered by a building, or any part of a building, except any area covered by a structure where 50 percent or more of the perimeter of such structure is open from grade. (See also Appendix A, Figure 4.)

## 15.405.040 Lot coverage and parking coverage requirements.

A. For all buildings and uses the following shall mean the maximum permitted lot coverage, maximum coverage of public or private parking areas or carports, and/or combined maximum lot and parking combined coverage required in the various districts expressed in percentage of the area of the lot or development site in which district such coverage is permitted or required (see Appendix A, Figure 4).

1. Maximum Lot Coverage.

- a. R-1: 30 percent.
- b. R-2 and RP: 50 percent.
- c. AR and R-3: 50 percent.

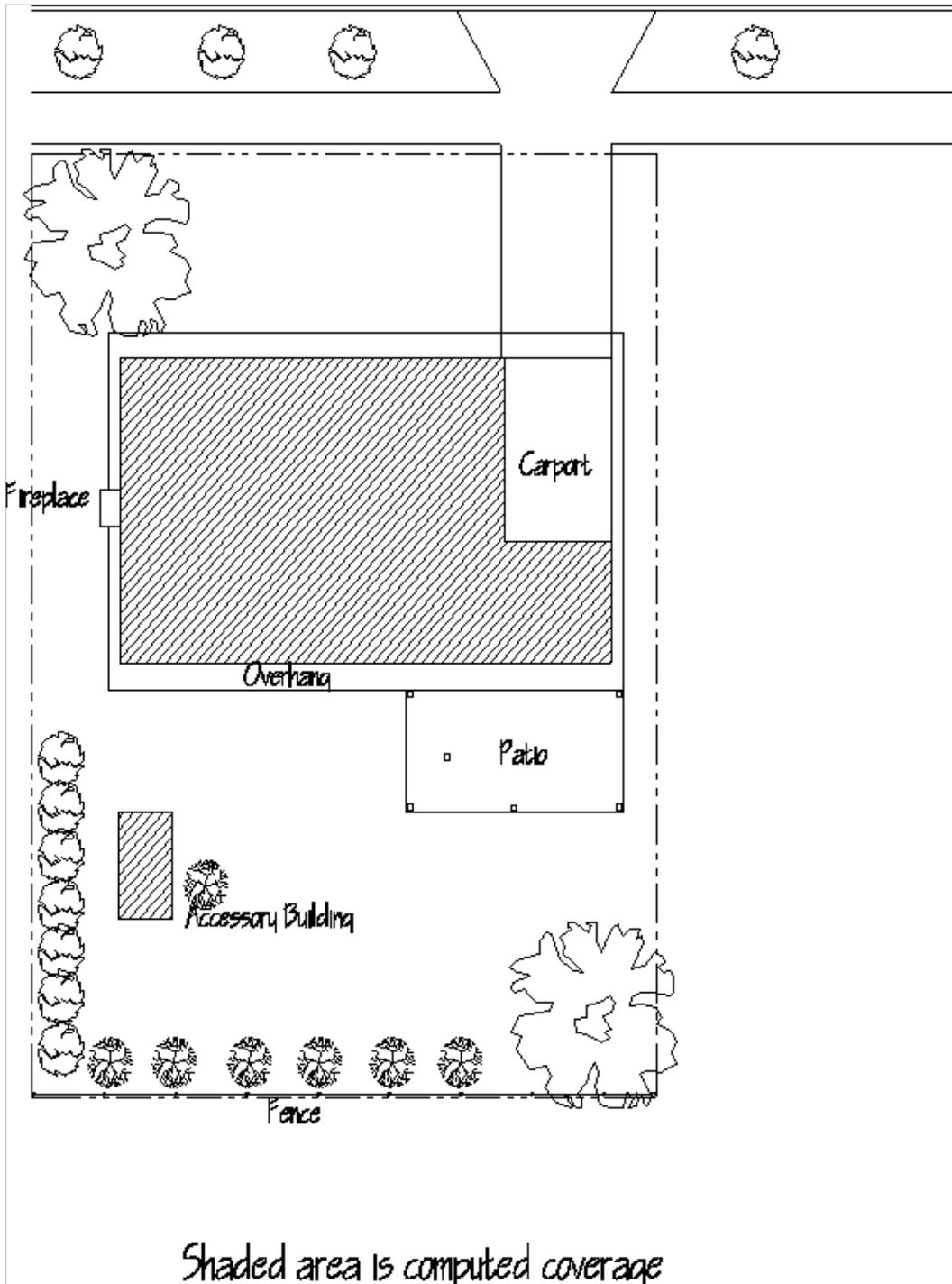
2. Maximum coverage for parking lots, aisles and access, and parking structures, where 50 percent or more of the perimeter of such structure is open on its sides: R-1, R-2, R-3, and RP: 30 percent.

3. Combined Maximum Lot and Parking Area Coverage.

- a. R-1, R-2 and RP: 60 percent.
- b. R-3: 70 percent.

B. All other districts not listed in subsection (A) of this section shall not be limited as to lot coverage and parking area coverage except as otherwise required by this code.

Figure 4. Lot Coverage



**15.210.020 Type I adjustments and approval criteria.**

The director may authorize adjustments from the following requirements through a Type I procedure subject to the following:

A. Yard Setback Dimensions, Lot Area, Percentage of Lot Coverage, Lot Dimensions.

1. The director may approve adjustments to:

- a. Setbacks/Street Trees. Maximum adjustment of 25 percent of the dimensional standards for front yard setback requirements and the spacing of street trees.
- b. Lot Area. Maximum adjustment of five percent of the lot area required. A lot area adjustment shall not be granted, thereby allowing a greater number of dwelling units than that permitted without the adjustment.
- c. Percentage of Lot Coverage. Maximum adjustment of two percent more than permitted for all land uses, except the maximum parking area coverage for R-3 districts may be increased up to 50 percent.
- d. Lot Dimensions. Maximum of 10 percent of the required lot dimensions or frontages.

2. Approval Criteria. Approval of an adjustment shall be based on written findings. The director shall find that approval will result in:

- a. More efficient use of the site.
- b. Preservation of natural features, where appropriate.
- c. Adequate provisions of light, air and privacy to adjoining properties.
- d. Adequate emergency access.
- e. The adjustment is consistent with the setbacks, lot area, and/or coverage of buildings or structures previously existing in the immediate vicinity.

## Attachment 2: Applicable Comprehensive Plan Policies

**RECREATION POLICY G.2.** *To provide adequate recreational resources and opportunities for the citizens of the community and visitors.*

**URBAN DESIGN GOAL J.1:** *To maintain and improve the natural beauty and visual character of the City.*

**URBAN DESIGN POLICY J.1.R.** *Developments of medium or high density shall be of a quality and design which will effectively offset the greater density.*

### RESIDENTIAL LAND USE PLAN CLASSIFICATIONS III.2

*Residential land is divided into three categories. Density rather than housing type is generally the most important development criteria used to classify residential areas. Mobile home parks and mobile home subdivisions are permitted outright in the medium density residential zone. Manufactured homes on individual single family lots are permitted. (As amended by Ord. 2380, 6-6-94).*

*The following is a summary of the three residential land use categories:*

**a. Low Density Residential (LDR)**

*The objective of this designation is to provide a wide range of housing types and styles, while allowing for an overall density of up to 4.4 units per acre.*

*Typical housing types will include single-family attached and detached housing. Clustered housing areas within Planned Unit Developments or condominiums **must include adequate open areas to maintain the low overall density of this classification.***

*Services shall include improved streets, underground utilities (except electrical transmission lines), street lighting, sidewalks, and in some cases, bikeways.*

**b. Medium Density Residential (MDR)**

*The objective of this designation is to provide a wide range of housing types and styles while maintaining an overall density of up to 8.8 units per acre.*

*Typical housing types include single-family housing on small lots, attached or detached single-family or duplex units or tri- or four-plexes **where adequate open areas exist and where the overall density is within the limits of this classification.***

*Services shall include improved streets, underground utilities (except electric transmission lines), street lighting, sidewalks and, in some cases, bikeways.*

**c. High Density Residential (HDR)**

*The objective of this designation is to provide multi-family housing of different types while maintaining an overall density of up to 21.8 units to the acre.*

*Typical housing types include apartments, townhouses, and a variety of cluster developments. Density may vary depending on lot sizes, off-street parking and other site constraints.*

*Services shall include improved streets, underground utilities (except electric transmission lines), street lighting, sidewalks, and in some cases, bikeways.*

# Pacific Northwest Land Development inc.

Oregon City, Oregon

To: City of Newberg, Oregon

## Planning Commission

Dear Commission Members;

We are writing to you at the request of the commission chair to explain our position on the need to change the current residential lot building coverage code of 30%. This letter focuses on single level homes only. We feel along with others in the city that the 30% lot coverage is too restrictive for a single level home. As we look at different examples of the 30% coverage you will see that it is economically unfeasible to build a new single level home in the city of Newberg due to this code.

As you are all aware we are living in very difficult times for building new single family homes. But we feel that Newberg as a unique opportunity for growth in new homes, based on your location and appeal to a certain segment of people that want to live in your city. I am speaking of people who are retired or close to retirement. These folks are looking to your city for its quiet appeal and friendly atmosphere. They are looking for high quality homes that offer modern living on a single level, with large gathering areas within the home for family and friends. Most are moderate to high income folks, looking for more luxury and efficiency in their home. As this may well be their last home. And that is very good business for the city of Newberg to have these people living in your city.

Most of these folks have raised their families and are now empty nesters. They have different needs in housing than do younger couples with children. Most have had the typical two story homes and are now looking for a different living style that is designed to meet current and future needs. They are looking for more living area in a single level home without staircases that may pose a problem to them down the road. They also want larger garages as many have a couple of vehicles and they may want work space in the garage. They may also want a small out building or shed for their yard. What they are not looking for, are large yards to maintain. As many travel and don't want the upkeep of a large yard. And this is not just for the empty nesters but for others as well. People's living styles are changing the single level home on smaller lot sizes is becoming more and more desirable to all groups for living ease and resale value.

As you will see by the exhibits that are attached; we can easily achieve this by simply increasing the buildable lot coverage from its current 30% to a more desirable 40%. As you will notice we are not asking for extreme lot coverage, but common sense lot coverage.

**Exhibit "A"** '5000 square foot lot' a single level home with a small two stall garage of 400 square feet. (20'x20' smaller than is commonly built). You will see that the largest living space area that can be built is only 1100 square feet. There is no way that a builder can build this home effectively due to the fact that the square foot cost would be over \$100.00 per square to build. The reason is that. Kitchens and baths tend to be the most expensive rooms in a house, costing over \$180.00 a square foot and up. In order to spread that cost through the house, we need other square footage (typically: bedrooms and living areas which cost less than \$40.00 a square foot) to balance that cost out. It should also be noted that the owner of this home would not even be able to place a small 8'x8' shed on the property; as that would put them over the current 30% lot coverage. With a change in lot coverage to 40% the house could now be built to 1600 square feet making the price per square foot much more feasible and the house much more desirable to live in.

**Exhibit “B”** ‘5000 square foot lot’ a single level home with a larger garage of 520 square feet (still undersized for a three stall garage, (22’x24’=528). You can see that the largest living area that can be built is only 980 square feet. A home of this size would never get built by any builder. It is both cost prohibited as well as totally unpractical to build in any modern market. No out buildings (shed) of any kind can be placed on this property at the current code coverage of 30%. But by changing the code to 40% lot coverage we can now build a 1480 square foot home with the garage. And now we have a nice little starter home, that fits the lot well and offers buyers a much improved value on the square foot cost to build as we are spreading the cost of the kitchens and baths across the house.

**Exhibit “C”** ‘7500 square foot lot’ a single level home with a small 400 square foot two stall garage. With the larger lot size, a 20’x20’ garage would never be built. Most garages are at least 22’ wide and at least 20’ to 23’ deep especially when you factor in the placement of a furnace and hot water heater that will be in the garage taking up space. With the additional cost of the land factored in and only being able to produce a house of 1847 square feet of living space, it would be very expensive to build this home under the current code. Most people that want a little larger single level home want it for the ability to spread the rooms out for more convenient living. They are factoring in their lifestyle as well as their future needs. This is a section of home building that we are very familiar with. As you can see there is still a large area of unused land on this property. We feel that a more balanced approach should be taken to these moderately sized homes. Most people who are looking for this style of home have already down sized from larger two story homes and are looking for the more living space with open floor plans, that are now being offered. They want less yard to care for and more outdoor living space, as is proven out in current trends for outdoor kitchens and fireplaces in the market. Gone are the days of large oversized master bedrooms and multi living areas. The new and future trends point to smaller bedrooms and having home offices to work from. Along with one central living area that is open to other parts of the home. Being able to have guests come and stay comfortably at your home.

**Exhibit “D”** ‘7500 square foot lot’ a single level home with a larger two stall plus garage. It should be noted that all of the these garages we are showing you are all very undersized to what the market is asking for. If we increased the garage size to what the current market size is in new housing it would make the house living space even smaller. As you can see the house is not in proportion to the lot size or building envelope.

We thank you for taking a look at this matter council members. We are asking for the change of lot coverage from 30% to 40% lot coverage. We strongly believe that this is needed in both the market place and for the future of your city.

Sincerely yours

Douglas Lanz

Pacific Northwest Land Development

# LOT COVERAGE

LOT AREA: 5,000 SQ. FT.  
FOOTPRINT: 1,500 SQ. FT.

PERCENTAGE: 30%

LIVING AREA REMAINING (single story): 1,100 SQ. FT.

LIVING AREA @ 40% COVERAGE WOULD BE: 1,600 SQ. FT.

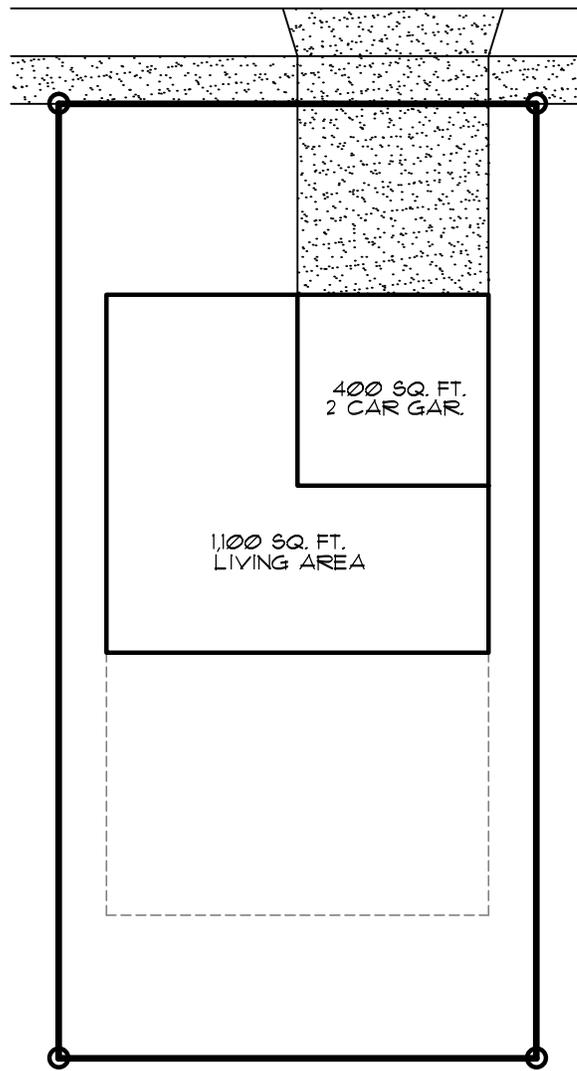


EXHIBIT "A"



# LOT COVERAGE

LOT AREA: 5,000 SQ. FT.  
FOOTPRINT: 1,500 SQ. FT.

PERCENTAGE: 30%

LIVING AREA REMAINING (single story): 980 SQ. FT.

LIVING AREA @ 40% COVERAGE WOULD BE: 1,480 SQ. FT.

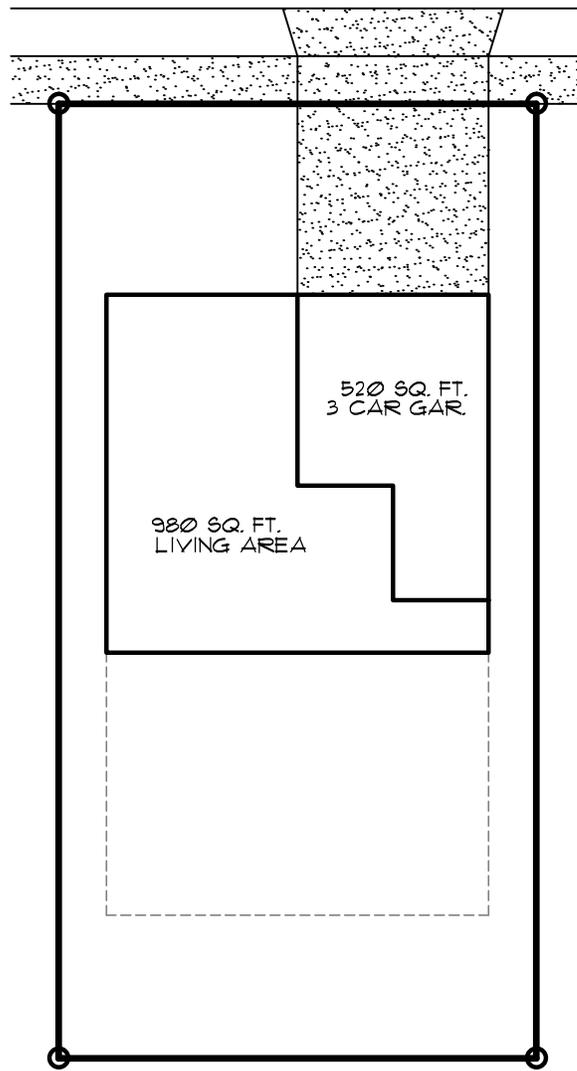


EXHIBIT "B"



# LOT COVERAGE

LOT AREA: 7,500 SQ. FT.  
FOOTPRINT: 2,250 SQ. FT.

PERCENTAGE: 30%

LIVING AREA REMAINING (single story): 1,847 SQ. FT.

LIVING AREA @ 40% COVERAGE WOULD BE: 2,600 SQ. FT.

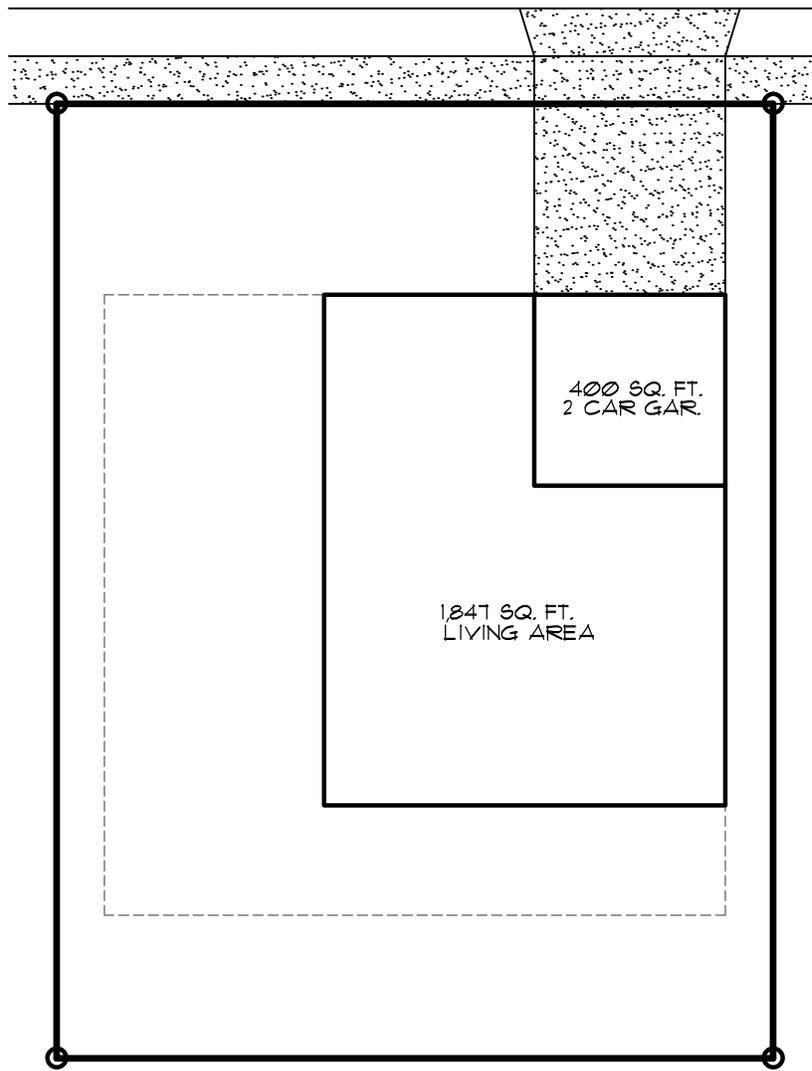


EXHIBIT "C"



# LOT COVERAGE

LOT AREA: 7,500 SQ. FT.  
FOOTPRINT: 2,250 SQ. FT.

PERCENTAGE: 30%

LIVING AREA REMAINING (single story): 1,727 SQ. FT.

LIVING AREA @ 40% COVERAGE WOULD BE: 2,480 SQ. FT.

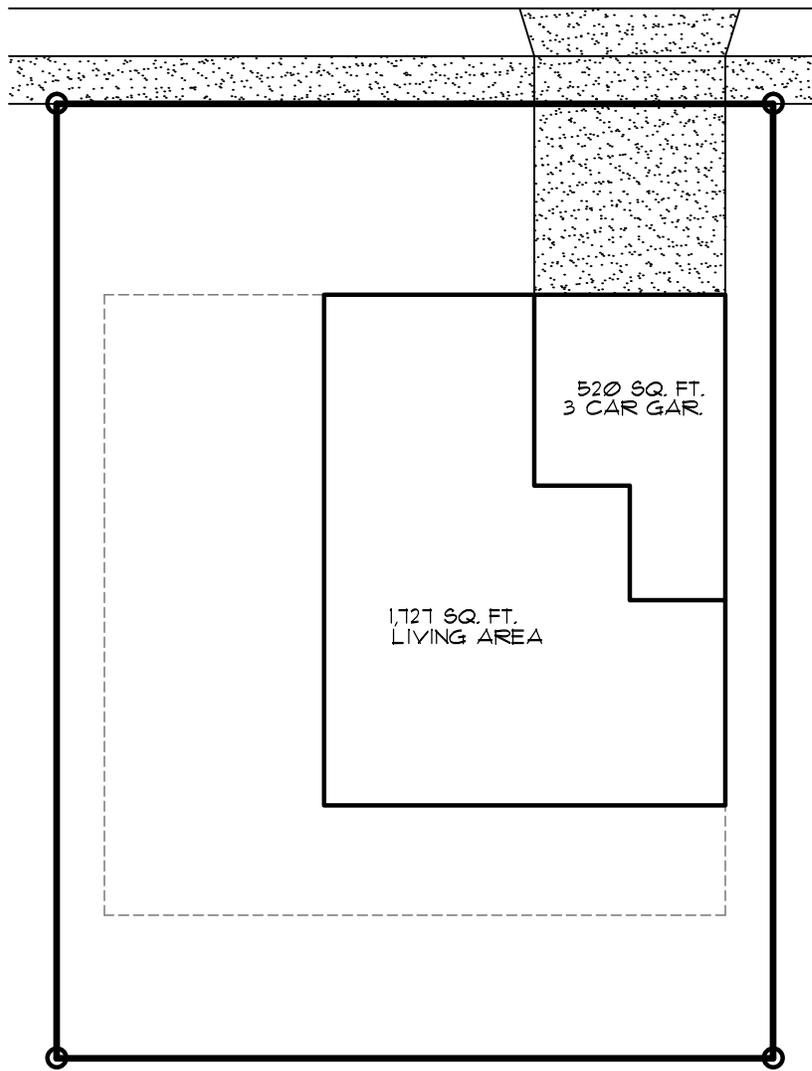


EXHIBIT "D"

