



**PLANNING COMMISSION AGENDA
July 10, 2014 7:00 PM
NEWBERG PUBLIC SAFETY BUILDING
401 EAST THIRD STREET**

I. CALL MEETING TO ORDER

II. ROLL CALL

III. PUBLIC COMMENTS (5-minute maximum per person – for items not on the agenda)

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

1. Approval of May 8 and May 22, 2014 Planning Commission Meeting Minutes

V. QUASI-JUDICIAL PUBLIC HEARING: Continued from June 19, 2014 (public testimony is closed and the Planning Commission is in deliberations).

1. **APPLICANT:** Brown/Nielsen

REQUEST: Subdivision/variance for Shellie Park (21 lots)

LOCATION: 735 N. College Street

TAX LOT: 3218DB-2300, -2600, -700

FILE NO.: SUB3-14-005/VAR-14-002

ORDER NO.: 2014-16

CRITERIA: 15.235.060 and 15.215.040

VI. ITEMS FROM STAFF

1. Update on Council items
2. Other reports, letters or correspondence
3. Next Planning Commission meeting: August 14, 2014

VII. ITEMS FROM COMMISSIONERS

VIII. ADJOURNMENT

FOR QUESTIONS PLEASE STOP BY, OR CALL 503-537-1240, 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 or language accommodations you may need as far in advance of the meeting as possible and no later than 48 business hours prior to the meeting. To request these arrangements, please contact the City Recorder at (503) 537-1283. For TTY services please dial 711.*

PLANNING COMMISSION MINUTES
May 8, 2014 7:00 PM
NEWBERG PUBLIC SAFETY BUILDING (401 EAST THIRD STREET)

I. CALL MEETING TO ORDER

Chair Art Smith called the meeting to order at 7:00 PM.

II. ROLL CALL

Members Present:	Art Smith, chair Philip Smith Matt Fortner	Gary Bliss, vice-chair Jason Dale	Cathy Stuhr Allyn Edwards
Members Absent: ex-officio	Sulamita Barbiyeru, student planning commissioner		Mayor Bob Andrews,
Staff Present:	Steve Olson, interim planning and building director Mandy Dillman, minutes recorder		

III. PUBLIC COMMENTS

Chair Smith opened and closed public comments as no one wished to testify.

IV. CONSENT CALENDAR

1. Approval of April 10, 2014 Planning Commission meeting minutes

MOTION: Philip/Edwards approving the Planning Commission minutes for April 10, 2014. Motion carried (7 Yes/0 No).
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V. QUASI-JUDICIAL PUBLIC HEARINGS

1. **APPLICANT:** Brown/Nielsen
REQUEST: Subdivision/variance for Shellie Park (21 lots)
LOCATION: 735 N. College Street
TAX LOT: 3218DB-2300, -2600, -700
FILE NO.: SUB3-14-005/VAR-14-002 **ORDER NO.:** 2014-16
CRITERIA: 15.235.060 and 15.215.040

Chair Art Smith explained a significant portion of the maps did not print correctly in the original mailed PC packet, and were mailed later. They were included in the digital packet. He asked the commissioners if they felt they had sufficient time to review the information. Jason Dale said he was in favor of moving forward, and Cathy Stuhr agreed. All were ready to move forward.

Chair Smith called the meeting to order and asked if there were any abstentions, bias, ex parte contact or objections to jurisdiction.

Commissioner Phil Smith bought a house from Mr. Grahn 21 years ago and has had a positive interaction with him, but was not biased. Commissioners Bliss and Edwards have visited the site but had no contact with owners or applicants.

Chair Smith read the legal announcement for quasi-judicial hearings.

Mr. Steve Olson, interim planning and building director, presented the staff report accompanied by a PowerPoint presentation (see official meeting packet for full report). Staff's preliminary recommendation was approval with conditions.

Mr. Olson read out loud a short letter from Veritas School. There was additional written testimony from Brian Cavaness, which the Planning Commission agreed to accept into the record.

Commissioner Bliss commented that not all owners have agreed to the development plan, to what level may we go in approving this? Mr. Olson replied that the Planning Commission could consider the tentative subdivision plan application, but that no building permits could be issued for work on the project without the consent of all of the owners; how the applicant arranges that is up to them. Commissioner Stuhr asked what was the city thinking when Rentfro Way was originally approved? Mr. Olson replied that it was approved 30-40 years ago, and does not meet current codes. An audience member commented that it was developed in the early 1980s, and that the Planning Commission approved it then even though it did not meet standards. Commissioner Stuhr asked if the pedestrian access at either end was necessary for the block length exception. Mr. Olson said yes, the finding for the exception was based on the pedestrian access ways. Commissioner Stuhr asked what would prevent cars from parking on the lot 21 driveway and blocking emergency access? It would be marked "no parking – fire lane." Commissioner Stuhr asked if the curbside sidewalks on the two south lots were a make or break deal for buildability. Mr. Olson replied that they were probably not, but would make development easier on these shallow lots. Commissioner Bliss asked how the city would ensure that the stormwater ponds on private property would be maintained. Mr. Olson replied that the city's new stormwater manual addressed some of these issues, and that the Engineering department was working on the long term maintenance issues.

Chair Smith opened public testimony.

Mr. Lee Leighton, director of planning for Westlake Consultants, said that the plan had been refined after meeting with city staff and the neighborhood. They originally wanted to extend the street to College Street, but realized this created other problems. That is why they have applied for the variance to cul-de-sac standards. Michael Ard, the traffic engineer, helped analyze the existing conditions and impact of the proposal. Mr. Leighton described how tax lots 2700 and 2800 could be developed in a reasonable way. He did not know why the site was almost landlocked, but commented that the developments to the west, such as Clifford Court, could have been extended through to connect. There is no other stub street except at Rentfro Way, so no other corridors to connect to. An emergency access connection at College Street should address public safety concerns about connectivity. He commented that they had thought of proposing a design with a knuckle that was adjacent to the Illinois properties, but on balance decided that it might do more harm than good by encouraging redevelopment to add traffic to Rentfro/Mission. The applicant is willing to do this if it is the Planning Commission's preference. It would take almost the entire width of one of the properties to the south to connect to Illinois. The properties on either side of the connection to Illinois could redevelop, but it would put all the burden on the central property that dedicates and builds the street. A connection could also be shown through the mobile home park but that would rely on future removal of the mobile home park. He did not believe there was any significant redevelopment potential being lost if the Illinois lots developed with flag lots in the future.

Michael Ard, Lancaster Engineering senior transportation engineer, has worked in the field for 16 years. A full traffic study was not required due to the moderate size of the project, but he did examine the existing traffic conditions at Mission Drive and Veritas School. The queues that were created dissipated soon, and the

intersection worked well. Veritas does a good job working with the parents to make right turn movements into the site and out onto College. Based on his observations, he thought that the intersection would function at a level of service C after development. There were no crash history concerns, and no mitigation proposed.

Commissioner Stuhr asked if they considered purchasing property to connect to Illinois Street? Mr. Leighton said his client could address that. The commissioners asked if most of the traffic at the intersection during the morning peak was from the school or the neighborhood, and Michael Ard replied that most traffic was from the school. The impact from the proposal would be small, compared to the existing traffic from the school.

Commissioner Bliss asked about the design of the stormwater pond next to lot 12, and how it would be impacted if the LIDA ponds failed. Brett Musick, Westlake Consultants, replied that they were working with city engineering staff on the details, but that they could oversize the large pond if needed. Commissioner Bliss asked if the sidewalk could be constructed within the 5 foot easement without impacting the neighbors. Musick replied it was difficult but possible.

Dave Nielsen, applicant, commented that he was in favor of the proposal and staff recommendation. Richard Brown, applicant, commented that they had an agreement to resolve the ownership of the property after a decision, and that the supplemental material shows that tax lots 2700 and 2800 will be buildable. The existing building does not encroach on the property line. He also noted that the school intends to relocate eventually. He commented that it did not make sense to buy one property to the south, as you would need three to make it feasible to extend a street. They did not try to buy these properties. He also noted that the pond would have an overflow route built in.

Mike Wiltshire, local real estate broker, noted that these lots were relatively large, and would be a quality development. He was in favor of the proposal.

Bryan Cavaness, representing R.P. Grahn, Inc., commented that the variance application and findings did not include substantial evidence to support conclusions and could not be approved. The applicant should have applied for a PUD for design flexibility. The flag lot proposal on Illinois was a poor design, and may not meet the buildable land commitments the city has made on density. The comments about ownership are irrelevant to the decision, and the development costs for tax lots 2700 and 2800 are irrelevant. The cul-de-sac design conflicts with city policies in the comprehensive plan and development code. The traffic analysis does not consider the impact to Illinois Street. This is not a minor variance, and greatly exceeds the standards. The application does not identify the practical difficulty of the regulation. A variance is discretionary, and the Planning Commission is not obligated to approve it. The standard does not deprive the applicant of all use of the property. It would be appropriate to not approve the development without a connection to Illinois. The applicant has not made any comparison to other properties in the zoning district, so there is no substantial evidence that most of the variance criteria are met. The design will increase speeds and create a safety problem on Mission.

Teresa Hamill commented that the on street parking on Mission blocks visibility near the school driveways, and that the speeds were high. Speed bumps on Mission would help. The walkway to the west would create a visibility and safety problem at the cul-de-sac, and is not needed or wanted.

Sonda Martin, owner of the Clifford Court property with the potential walkway, requested that the record be left open for seven days. She was not in opposition to the housing but to the walkway, as it would create an unsafe dark walkway and a safety concern. The walkway was not needed for either neighborhood, and not wanted by anyone at Clifford Court. The slope was steep, and would lead to fast bikes and skateboards shooting into the cul-de-sac. Approving this would be detrimental to neighboring properties. Was aware of the public utility easement, but not the public access easement when bought the property.

Dan Schutter was also not in opposition to development but to the pedestrian path to Clifford Court. It would create a long narrow dark path with limited visibility, which would be potentially dangerous. It would make

backing out of a driveway on Clifford Court hazardous, as it would be difficult to see bikers exiting the pathway. There is also no need for the connection because other streets north and south of there provide access. The Planning Commission can fix this bad situation by not requiring the pathway to Clifford Court.

Mr. Roger Grahn commented that a previous Planning Commission chair got the Mission plan approved in the 1980s against city code. Planners like connectivity, but no one else does. He always planned on fighting the pedestrian path requirement and does not think it should be built. It will create a safety hazard. The applicant is asking for big exceptions and variances without justifying their hardships. Approving the variance would set a bad precedent. The best option for the property is to combine it with other properties in the area, rezone it, and build a larger residential project including multifamily housing and connect it to Illinois Street. The current proposal is a bad example of planning.

Kevin Buhning lives directly across from the church parking lot, and sees the traffic impacts every day. The application really needs a full traffic study and more research. He is not against the development itself, but thinks the traffic estimate is unrealistic as most households will have more than one car. The Mission/College intersection is already difficult.

Chuck Zickefoose commented that his letter, already read aloud, made all of this comments.

Roger Fleuter also lives on Mission near the intersection with College. He is resigned to the property being developed but concerned about the traffic impacts and safety on the street. He likes his neighborhood, and hopes it is not rezoned for higher density in the future.

Marika Conrad lives on Clifford Court and was concerned about the walkway. Many kids play in the cul-de-sac, and it would not be safe to have bike traffic zoom into the street. The walkway only creates problems, and does not solve any. They were not aware of it when they purchased their home because it was not built.

Gary Kilbrook lives on Mission Court and was concerned about the safety of the children in the area, many of whom play in the street. Speeds are too high on Mission, and visibility is a problem near the school driveways. Removing some on-street parking may help, and speed bumps may help.

The chair discussed whether to continue the hearing. The record must be kept open for seven days, due to the request of one commenter. The commission discussed this briefly with the applicant and opponent. The Planning Commission decided to continue the meeting and leave public testimony open.

MOTION: **Smith/Stuhr** allowing seven days for additional written record to be submitted and leaving the public testimony open until the June 12th meeting. Motion carried (7 Yes/0 No).

Discussion commenced on record procedures.

MOTION: **Bliss/Fortner** allowing written testimony to be submitted within a minimum of seven days before the next hearing. Motion carried (7 Yes/0 No).

VI. ITEMS FROM STAFF

1. Update on Council items

Mr. Olson announced a new city manager, Jacque Betz, has been hired. The city budget proposal is out, and cuts are probably necessary. We may be losing the economic development planner position. The newspaper reported the last Planning Commission training session incorrectly, and has run a correction noting that the Planning Commissioners did not make a recommendation about the UGB amendment. All Planning

Commission and City Council meetings are recorded, and the audio recording can be accessed from the city website. The zoning use table and Terra Estates approvals were upheld by LUBA.

2. Other reports, letters or correspondence
3. Next Planning Commission meeting: May 22, 2014 for a TSP update.

VII. ITEMS FROM COMMISSIONERS

VIII. ADJOURNMENT

The meeting adjourned at 10:33 PM.

Approved by the Newberg Planning Commission this 10th day of July, 2014.

Minutes Recorder

Planning Commission Chair

Mike Wiltshire
Richard Brown
David Nielsen
Gary Kilbrook
Marika Conrad
Shari Murren
Robert Fluter
Kevin Duhring
Chuck Zickefoose
Roger Graffos
Dan Schutter
Sonda Marin
Teresa Hamel
Bryan Cavaness

PLANNING COMMISSION MINUTES
Meeting as the Citizens Advisory Committee for the TSP Update
May 22, 2014 7:00 PM
NEWBERG PUBLIC SAFETY BUILDING (401 EAST THIRD STREET)

I. CALL MEETING TO ORDER

Chair Art Smith called the meeting to order at 7:00 PM.

II. ROLL CALL

Members Present:	Art Smith, Chair	Gary Bliss	Jason Dale
	Allyn Edwards	Matt Fortner	Philip Smith
	Cathy Stuhr		

Members Absent: Sulamita Barbiyeru, Student Commissioner (excused) Mayor Andrews, ex-officio

Staff Present:	Steve Olson, interim planning & building director	Jessica Pelz, associate planner
	Jay Harris, city engineer	Mandy Dillman, minutes recorder

Others Present: Karl Birky, transportation system plan advisory board member

III. PUBLIC COMMENTS

Chair Smith opened and closed public comments, as there was no one to testify.

IV. WORKSHOP: Transportation System Plan (TSP) update.

Ms. Jessica Pelz introduced the speakers and opened the TSP update meeting.

Mr. Carl Springer and Mr. Garth Appanaitis, transportation engineers with DKS Associates, presented an update on the TSP process accompanied by a PowerPoint presentation (see official meeting packet for full report).

Commissioner Cathy Stuhr asked how their plan, which goes until 2035, is linked to the Urban Growth Boundary (UGB) plans. Mr. Appanaitis explained they plan until 2035; however, the plan is then updated every five to ten years to coincide with changes happening in real time. Commissioner Philip Smith asked who the stakeholders were that they interviewed in March. Mr. Appanaitis replied the planning staff came up with a list of persons of interest throughout the community including those with development interests, some from the hospital, some from the Downtown Coalition, and more. Mr. Springer explained it is the same group of people they interviewed the previous time; however, this time they asked them before finalizing the plan so they could give input. Commissioner Smith suggested they include the Friends of Yamhill County in their discussions next time to help facilitate interactions between them and the city. Ms. Pelz said they had done a sensitivity testing and Mr. Appanaitis said they are required to look at the existing UGB plan, whether it is put into place or not. Chair Smith suggested they add people who are involved in commuting to and from work like industries and the airport. Ms. Pelz said they would add them and explained the purpose of the open houses was to provide those entities with an opportunity to learn; however, not many people came. Discussion commenced on how the plan focuses on livability of Newberg and how public safety should be included.

The presentation continued.

Discussion commenced on the amount of travel currently occurring downtown during peak hours, which is 1500-1900 cars each direction, however they expect it to decrease when the bypass is put in place, and then slowly return to present levels. They discussed the NDC public meetings, where people are brainstorming ways to revitalize the downtown corridor with ideas like turning both one way streets back to two way, removing a lane from each one way street to create bike lanes or parking, making wider sidewalks, and making the downtown more pedestrian and bike friendly overall. No decisions have been made on how to proceed, but the city is currently applying for a planning grant for potential changes to the streets. It was further discussed the best time to implement any plan downtown would be immediately after the bypass is opened since there is an expected decrease in traffic, but the reality is the bypass first phase, as a two lane road not directly connected to 99W, will not create a huge drop in traffic in Newberg. Commissioners also discussed ideas like parking garages and pedestrian sky bridges, and compared Newberg's downtown area to other cities.

Discussion commenced on the Highway 219/2nd median, and the need for a Highway 219/Everest traffic light. The presentation continued.

In conclusion, they discussed pedestrian accessibility in town and the College Street sidewalk project. It was mentioned the sidewalk is being paid in part by a Local Improvement District (LID) and partially by a grant from Oregon Department of Transportation (ODOT) to complete the entire length on the west side.

Ms. Pelz explained there would be one more citizen's advisory committee meeting in August, and then after evaluation and an additional open house, they would bring the updated objectives back to the planning commission. She concluded by saying even though items are in order on the priority list, if funding presents itself for an item less important, it will be completed first. Additionally it was discussed how taxes are distributed in regards to city projects.

V. ITEMS FROM STAFF

1. Update on Council items

Mr. Steve Olson, interim planning and building director, reminded the commission of their continued meeting on a housing development project next month. Ms. Pelz updated the commission on the UGB and explained city council voted to start the mediation assessment process.

2. Other reports, letters or correspondence

None Appeared.

3. Next Planning Commission meeting: June 12, 2014

VI. ITEMS FROM COMMISSIONERS

None appeared.

VII. ADJOURNMENT

The meeting adjourned at 8:47 PM.

Approved by the Newberg Planning Commission this 10th day of July, 2014.

Minutes Recorder

Planning Commission Chair

OUTLINE FOR QUASI-JUDICIAL PUBLIC HEARING
Newberg Planning Commission

- 1. CALL TO ORDER**
OPEN THE PUBLIC HEARING, ANNOUNCE THE PURPOSE, DISCUSS TESTIMONY PROCEDURE, AND TIME ALLOTMENTS
- 2. CALL FOR ABSTENTIONS, BIAS, EX PARTE CONTACT, AND OBJECTIONS TO JURISDICTION**
- 3. LEGAL ANNOUNCEMENT**
READ “QUASI-JUDICIAL ANNOUNCEMENTS” SHEET
- 4. STAFF REPORT**
COMMISSION MAY ASK BRIEF QUESTIONS FOR CLARIFICATION
- 5. PUBLIC TESTIMONY**
5 MINUTE TIME LIMIT PER SPEAKER (15 MINUTE LIMIT FOR APPLICANT AND PRINCIPAL OPPONENT). SPEAKER GOES TO WITNESS TABLE, STATES NAME & PRESENTS TESTIMONY. COMMISSION MAY ASK QUESTIONS OF SPEAKERS.
 - A. APPLICANT(S)
 - B. OTHER PROPONENTS
 - C. OPPONENTS AND UNDECIDED
 - D. STAFF READS WRITTEN CORRESPONDENCE (TIME LIMIT APPLIES)
 - E. APPLICANT REBUTTAL
- 6. CLOSE OF PUBLIC TESTIMONY PORTION OF HEARING**
- 7. FINAL COMMENTS FROM STAFF AND RECOMMENDATION**
- 8. PLANNING COMMISSION DELIBERATION INCLUDING DISCUSSION OF CRITERIA WITH FINDINGS OF FACT**
- 9. ACTION BY THE PLANNING COMMISSION**
 - A. ORDER OR RESOLUTION – Usually requires passage of order if the commission is the final decision maker, or a resolution if the commission is only advisory to the council.
 - B. VOTE – Vote is done by roll call.
 - C. COMBINATION – Can be combined with other commission action; separate vote on each action is required.

**QUASI-JUDICIAL
PUBLIC HEARING PROCESS
TESTIMONY AND EVIDENCE REQUIREMENTS**

ORS 197.763 requires certain statements to be made at the commencement of a public hearing.

- The applicable City and State zoning criteria must be listed. This means that we must advise you of the standards that must be satisfied by the applicant prior to our approval of an application. The Planning Staff will list the applicable criteria during his or her presentation of the staff report.
- Persons wishing to participate in this hearing must direct their testimony or the evidence toward the criteria stated by the Planner or other specific City or State criteria which you believe apply. You must tell us why the testimony or evidence relates to the criteria.
- Any issue which might be raised in an appeal of this case to the Land Use Board of Appeals (LUBA) must be raised in person or by letter at the local level prior to the City approving or denying the application. The law states that the issue must be raised in enough detail to afford the decision-maker and the parties an opportunity to respond. This part of the law is also known as the "raise it or waive it" requirement. If you do not bring it up now, you can't bring it up at LUBA.
- Failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval in enough detail to allow the local government or its designee to respond to the issue precludes an action for damages in Circuit Court.
- Prior to the conclusion of the initial evidentiary hearing on an application, any participant may request an opportunity to present additional evidence or testimony regarding the application. The Planning Commission will grant such a request through a continuance or extension of the record.

**PLANNING COMMISSION HEARING
SHELLIE PARK SUBDIVISION & VARIANCE APPLICATION**

HEARING DATE: July 10, 2014 (continued from June 19, 2014)

FILE NO: SUB3-14-005/VAR-14-002

REQUEST: Approval of a 21 lot subdivision preliminary plan and variance request to exceed the standards for length of cul-de-sac and number of lots on a cul-de-sac.

LOCATION: 735 N. College Street

TAX LOT: 3218DB-2300, -2600, -700

APPLICANT: Brown/Nielsen

OWNER: Grahn/Nielsen

ZONE: R-1

PLAN DISTRICT: LDR (low density residential)

OVERLAYS: none

ATTACHMENTS:

Order 2014-16 with

Exhibit "A": Findings

Exhibit "B": Conditions

1. Public Comments/Correspondence Received (by reference – see 6/12/14 PC packet)
2. Application (by reference – see 5/8/14 PC packet)
3. Supplement to application (by reference – see 5/8/14 PC packet)





AN ORDER APPROVING SUB3-14-005/VAR-14-002 FOR A TENTATIVE SUBDIVISION PLAN FOR SHELLIE PARK, AND A VARIANCE TO CUL-DE-SAC STANDARDS, AT 735 N. COLLEGE STREET, YAMHILL COUNTY TAX LOTS 3218DB-2300, -2600, -700

RECITALS

1. Brown & Nielsen submitted an application for tentative subdivision plan approval for 21 lots and a variance request to the cul-de-sac limits for a residential subdivision called Shellie Park at 735 N. College Street, Yamhill County tax lots 3218DB-2300, -2600, -700.
2. After proper notice, the Newberg Planning Commission held a hearing on May 8, 2014 to consider the application. The Commission took public testimony, and continued the hearing to June 12, 2014.
3. On June 12, 2014, the Newberg Planning Commission reopened the hearing, took additional testimony and closed public testimony. They began deliberations, and continued the hearing to June 19, 2014.
4. On June 19, 2014, the Newberg Planning Commission reopened the hearing and continued deliberations. They continued the hearing to July 10, 2014.
5. On July 10, 2014, the Newberg Planning Commission reopened the hearing and deliberated.
6. The Newberg Planning Commission finds that the application meets the applicable criteria as shown in the findings in Exhibit "A" and the conditions in Exhibit "B".

The Newberg Planning Commission orders as follows:

1. The tentative subdivision plan/variance application SUB3-14-005/VAR-14-002 is hereby approved, subject to the conditions contained in Exhibit "B". Exhibit "B" is hereby adopted and by this reference incorporated.
2. The findings shown in Exhibit "A" are hereby adopted. Exhibit "A" is hereby adopted and by this reference incorporated.
3. This order shall be effective July 25, 2014 unless appealed prior to that date.
4. This order shall expire two years after the effective date above if the applicant does record the final plat by that time, unless an extension is granted per Newberg Development Code 15.235.130(B).

Adopted by the Newberg Planning Commission this 10th day of July, 2014.

ATTEST:

Planning Commission Chair

List of Exhibits:

Exhibit "A": Findings

Exhibit "B": Conditions

Planning Commission Secretary

"Working Together For A Better Community-Serious About Service"

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**Exhibit “A” to Planning Commission Order 2014-16
Findings –File SUB3-14-005/VAR-14-002
Shellie Park subdivision**

I. SUBDIVISION CRITERIA THAT APPLY: Newberg Development Code 15.235.060(A).

The Director (Type II) or Planning Commission (Type III) shall approve a subdivision of four parcels or more under a Type II or Type III procedure if the resulting parcels comply with the following approval criteria:

1. Approval does not impede the future best use of the remainder of the property under the same ownership or adversely affect the safe and healthful development of such remainder or adjoining land or access thereto.

Finding: The application subdivides the entire property, so there is no remainder of the property to further develop. A public street and utility lines will be constructed to serve all 21 lots in the subdivision.

With respect to adjacent land and access thereto, the new street and utility lines will provide access and utilities enabling the future development of the vacant lots south of the end of the cul-de-sac (tax lots 3218DB-2700 and -2800). These lots would have to dedicate additional right of way and construct curb/planter strip/sidewalk when developed, but would not have to bear the expense of paving half a street or extending public water/sewer lines, which are typically large expenses of development. The requirements for dedicating right of way and improving the street frontage when developing are directly related to the impact of development on the street system, and are proportional to the development because they are based on the length of the frontage being developed. These lots would become fairly shallow if a 10 foot future right of way dedication was required. They are currently 67 feet deep; if the right of way dedication was 10 feet and a house on the lot met the 15 foot front setback and the 5 foot rear setback that would leave 37 feet for the depth of the house. A garage setback is 20 feet deep if it faces the street, but only 15 feet if the opening is perpendicular to the street. A house on this shape lot would have to be shallow and wide, and may need to have a side access garage. The applicant has submitted a site plan (attachment 3) that shows a potential partition and development on tax lots 2700 and 2800, with house footprints that meet the setbacks and lot coverage standards for the R-1 zone. The conclusion is that tax lots 2700 and 2800 would still be developable if Shellie Park was approved, and would have lower development costs than most subdivision lots. The Planning Commission will allow a curbside sidewalk on future development on taxlots 2700 and 2800, which will make the lots more flexible to develop in the future.

The proposed plan is the future street plan for the area. The subdivision provides access to taxlots 2700 and 2800, and is otherwise surrounded by developed property. Illinois Street, College Street and Mission Drive/Rentfro Way are shown on the Comprehensive Plan map, and the Development Code access spacing standards prohibit access to College Street; together, the Comprehensive Plan and Development Code establish the conceptual street layout on this site unless the applicant purchases other nearby property for access to other streets. The applicant’s proposed street plan provides access to the vacant adjacent parcels, and the surrounding street network provides access to the surrounding developed

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properties. There are no other vacant adjacent properties that require a conceptual future street plan.

Some public comments stated that the street design does not provide access to adjacent underdeveloped properties south of the site fronting Illinois. The parcels south of the site are either already fully developed or are single family homes with deep back yards (lots are up to half an acre). These single family lots are developed with homes, have access on Illinois Street, and are connected to city utilities. While they could be considered underdeveloped, they are not vacant properties and there is nothing that would require them to develop. If their owners chose to develop these properties they would probably be able to do so as flag lots that take access from Illinois. The development code allows up to three lots to share a driveway, so development may not necessarily require more access points. Two of these Illinois properties have already been developed this way, so there is already an example of a future development pattern for the area. It would be better for future development on these lots to take access from Illinois Street than from Rentfro Way, so that the number of lots using Rentfro Way for their primary access increases as little as possible.

For the reasons listed above, approval of the subdivision would not impede the future best use of the remainder of the property or adversely affect the safe and healthful development of adjoining land or access thereto.

2. The subdivision complies with this code including but not limited to 15.340.010 through 15.440.080 and 15.235.030 et seq.

Finding: The lot standards and development standards are addressed in detail below in section II.

3. Either:

a. Improvements required to be completed prior to final plat approval; or

b. The sub divider will substantially complete, as defined by city policies, required improvements prior to final plat approval, and enter into a performance agreement to complete the remaining improvements. The performance agreement shall include security in a form acceptable to the city in sufficient amount to insure completion of all required improvements; or

c. A local improvement district shall have been formed to complete the required improvements; or

d. The required improvements are contained in a city or other government agency capital improvement project that is budgeted and scheduled for construction.

Finding: The required public improvements will either be completed prior to final plat approval or, at the city's discretion, they will be substantially completed, with the remainder bonded and covered by a performance agreement.

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II. Applicable Lot Requirement: Newberg Development Code 15.405.010, Lot Area; Lot Areas per Dwelling Unit

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

1. In the R-1 district, each lot or development site shall have a minimum area of 5,000 square feet or as may be established by a subdistrict. The average size of lots in a subdivision intended for single-family development shall not exceed 10,000 square feet.

Finding: All of the lots are at least 5,000 square feet, and exceed the minimum standard. The average lot size is 6,352 square feet, so the average lot size does not exceed 10,000 square feet. This criterion is met.

III. Applicable Lot Requirements – Newberg Development Code 15.405.030 Lot Dimensions and Frontage

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

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

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

D. Frontage.

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

a. Each lot or development site shall have either frontage on a public street for a distance of at least 25 feet or have access to a public street through an easement that is at least 25 feet wide. No new private streets, as defined in NMC 15.05.030, shall be created to provide frontage or access.

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

c. Each lot in an R-1, AI, or RP zone shall have a minimum width of 50 feet at the front building line.

d. Each lot in an AR zone shall have a minimum width of 45 feet at the front building line.

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2. The above standards apply with the following exceptions:

a. Legally created lots of record in existence prior to the effective date of the ordinance codified in this code.

b. Lots or development sites which, as a process of their creation, were approved with sub-standard widths in accordance with provisions of this code.

c. Existing private streets may not be used for new dwelling units, except private streets that were created prior to March 1, 1999, including paving to fire access roads standards and installation of necessary utilities, and private streets allowed in the airport residential and airport industrial districts.

Finding: No lots exceed 15,000 square feet, so the lot width/depth ratio does not apply. All lots exceed the minimum lot size of 5,000 square feet. All lots have at least 25 feet of frontage on a street, and all lots are at least 50 feet wide at the front building line. This criterion is met.

IV. Applicable Development Standards

NDC 15.510.040: Water Supply. All lots and parcels within subdivisions and partitions shall be served by the water system of the City of Newberg.

NDC 15.510.050: Sewage. All lots and parcels within subdivisions and partitions shall, where practicable, as determined by the Director, in accordance with the provisions of this Code, be served by the sewage system of the City.

NDC 15.510.060: Land Surface Drainage. Such grading shall be done and such drainage facilities shall be constructed by the land divider as are adequate for the purpose of proper drainage of the partition or subdivision, of areas affected thereby, and for the preservation of healthful and convenient surroundings and conditions for residents of the subdivision or partition, and for the general public, in accordance with specifications adopted by the City Council under 15.510.030.

NDC 15.505.030: Streets and Alleys. The land divider or developer shall grade and pave all streets and alleys in the subdivision or partition to the width specified in 15.505.060, and provide for drainage of all such streets and alleys, construct curbs and gutters within the subdivision or partition in accordance with specifications adopted by the City Council under 15.510.030. Such improvements shall be constructed to specifications of the City under the supervision and direction of the Director. It shall be the responsibility of the land divider or developer to provide street signs

NDC 15.505.040: Existing Streets. A subdivision, partition or development requiring a Type II design review abutting or adjacent to an existing road of inadequate width, shall dedicate additional right-of-way to and improve the street to the width specified in 15.505.060.

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NDC 15.505.210: Sidewalks. Sidewalks shall be located and constructed in accordance with the provisions of 15.510.030. Minimum width is five feet.

15.505.120 Cul-de-sacs.

A. Cul-de-sacs shall only be permitted when one or more of the circumstances listed in this section exist. When cul-de-sacs are justified, public walkway connections shall be provided to connect with another street, greenway, school, or similar destination unless one or more of the circumstances listed in this section exist.

1. Physical or topographic conditions make a street or walkway connection impracticable. These conditions include but are not limited to controlled access streets, railroads, steep slopes, wetlands, or water bodies where a connection could not be reasonably made.

2. Buildings or other existing development on adjacent lands physically preclude a connection now or in the future considering the potential for redevelopment.

3. Where streets or accessways would violate provisions of leases, easements, or similar restrictions.

4. Where the streets or accessways abut the urban growth boundary and rural resource land in farm or forest use, except where the adjoining land is designated as an urban reserve area.

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

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

15.505.160 Platting standards for blocks.

A. Purpose. Streets and walkways can provide convenient travel within a neighborhood and can serve to connect people and land uses. Large, uninterrupted blocks can serve as a barrier to travel, especially walking and biking. Large blocks also can divide rather than unite neighborhoods. To promote connected neighborhoods and to shorten travel distances, these following minimum standards for block lengths are established.

B. Maximum Block Length and Perimeter. The maximum length and perimeters of blocks in the zones listed below shall be according to the following table. The review body for a subdivision, partition, conditional use permit, or a Type II design review may require installation of streets or walkways as necessary to meet the standards below.

<i>Zone(s)</i>	<i>Maximum Block Length</i>	<i>Maximum Block Perimeter</i>
<i>R-1</i>	<i>800 feet</i>	<i>2,000 feet</i>
<i>R-2, R-3, RP, I</i>	<i>1,200 feet</i>	<i>3,000 feet</i>

C. Exceptions.

1. If a public walkway is installed mid-block, the maximum block length and

perimeter may be increased by 25 percent.

2. Where a proposed street divides a block, one of the resulting blocks may exceed the maximum block length and perimeter standards provided the average block length and perimeter of the two resulting blocks do not exceed these standards.

3. Blocks in excess of the above standards are allowed

where access controlled streets, street access spacing standards, railroads, steep slopes, wetlands, water bodies, preexisting development, ownership patterns or similar circumstances restrict street and walkway location and design. In these cases, block length and perimeter shall be as small as practical. Where a street cannot be provided because of these circumstances but a public walkway is still feasible, a public walkway shall be provided.

4. Institutional campuses located in an R-1 zone may apply the standards for the institutional zone.

5. Where a block is in more than one zone, the standards of the majority of land in the proposed block shall apply.

6. Where a local street plan, concept master site development plan, or specific plan has been approved for an area, the block standards shall follow those approved in the plan. In approving such a plan, the review body shall follow the block standards listed above to the extent appropriate for the plan area. [Ord. 2736 § 1 (Exh. A § 4), 3-21-11; Ord. 2619, 5-16-05; Ord. 2494, 4-6-98; Ord. 2451, 12-2-96. Code 2001 § 151.695.]

15.505.220 Public walkways.

A. The review body for a design review or land division may require easements for and construction of public walkways where such walkway is needed for the public safety and convenience or where the walkway is necessary to meet the standards of this code or a walkway plan. Public walkways are to connect to cul-de-sacs, to pass through oddly shaped or unusually long blocks, to provide for networks of public paths according to adopted plans, or to provide access to schools, parks or other community destinations or public areas of such design, width, and location as reasonably required to facilitate public use. Where possible, said dedications may also be employed to accommodate public utilities.

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

C. A walk strip, not less than five feet in width, shall be paved in the center of all public walkway easements. Such paving shall conform to specifications adopted by the city council under NMC 15.510.030.

D. Public walkways shall be designed, as far as practical, to meet the Americans with Disabilities Act requirements.

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

F. The developer of the public walkway shall provide a homeowners' association or similar entity to maintain the public walkway and associated improvements.

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

H. The review body may modify these requirements where it finds that topographic, preexisting development, or similar constraints exist. [Ord. 2619, 5-16-05; Ord. 2451, 12-2-

96. Code 2001 § 151.705.]

NDC 15.510.070: Street Trees. *Street trees shall be provided adjacent to all public rights-of-way abutting or within a subdivision or partition. Street trees shall be installed in accordance with the provisions of 15.420.010(B) (4).*

Finding: Lots 1-20 will be served by new water and sanitary sewer lines extended within Rentfro Way. The applicant shall propose a utility plan for lot 21 that meets city standards. All lots will have stormwater drainage facilities; the applicant has proposed a mix of swales in the planter strip, swales/detention areas in yards, and a common stormwater tract near the western end of the subdivision. The Planning Commission finds the following Engineering Services Department comments are applicable:

- *Storm water design shall comply with City Code and City Design Standards Manual. LIDA shall be used to the maximum extent reasonable. City standard details shall be used for all public stormwater facilities. For quantity control, site must detain half of the 2 year storm, 2 yr, 10 yr, and 25 year storms.*
- *Fire hydrants will be required to be installed at intervals per the fire chief*

Part of the subdivision will be served by a standard residential street: 60 foot right-of-way, 32 feet of paving curb to curb, with setback sidewalks and planter strips. The eastern end of the site (lots 1-6) is narrower, so the applicant has proposed a 40 foot wide right-of-way with a ¾ street improvement: 32 feet of paving curb to curb, with a curbside sidewalk on the north. The parcels south of this section of the street would dedicate additional right-of-way and construct curb/planter strip/sidewalk if they develop in the future. The applicant has proposed street trees at regular intervals in the planter strip. At the end of the proposed cul-de-sac a 20 foot wide access and utility easement will extend to College Street. This will provide a pedestrian walkway and emergency vehicle access to College Street, and serve as the driveway for lots 20 and 21. The proposed public walkway to College Street must be constructed of concrete, and not striped on asphalt. The College Street frontage of the property is also required to be improved to city and ODOT standards.

The Planning Commission finds the following Engineering Services Department comments are applicable:

1. *Continuous sidewalk connection shall be installed around the cul-de-sac when houses are built to connect to the public access easement at East end of project*
2. *Sidewalk shall be setback sidewalk throughout project except for at cul-de-sac. The sidewalk could be located in an access easement where the right-of-way is narrow to reduce the need for additional right of way dedication.*
3. *Coordinate with Engineering Department and Fire Chief and ODOT for the emergency access to College Street. Bollards will not be allowed. Access road shall be designed for fire equipment loading. Pedestrian access shall be concrete.*
4. *No construction impacts are allowed on tax lots 2700 and 2800.*

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5. Frontage improvements along College Street are required. These improvements are being constructed by the City and ODOT through a Local Improvement District. Developer shall participate in the Local Improvement District, paying their identified fee as adopted by the City Council. Developer shall also pay a payment in Lieu of construction for the difference between the LID Assessment and the local street standard improvements. Engineer to submit cost estimate for frontage improvements to be approved by the City for use in determining the payment in lieu fee.

The subdivision design would have additional connectivity if Rentfro Way could extend to College Street, and not create a long cul-de-sac. That is not an option, however, for several reasons. First, because College Street is a minor arterial the access spacing standards in the development code would require a new street access to be at least 300 feet from Mission Drive. An extension of Rentfro Way would only be 230 feet from Mission Drive. Second, a Rentfro extension would also be only slightly offset from Ella Court on the east side of College. The spacing standards in the development code require streets to either align with each other or be offset by at least 100 feet. These spacing standards for streets are based on making safe turning motions and having adequate vision of oncoming cars, and are not standards the city would consider approving a variance to.

The development code limits the maximum length of cul-de-sacs to 400 feet, and limits the maximum number of single family dwellings it can serve to 18. The proposed cul-de-sac is 1,830 feet long and serves 43 single family dwellings, as it includes all of the existing development on Mission Drive. The applicant would prefer to extend Rentfro Way to College Street but access spacing standards prevent that. The applicant has requested a variance to the cul-de-sac limits on length and number of single family dwellings; if the variance is approved then the application will meet the development code requirements.

Block length: In the R-1 zone the maximum block length is 800 feet and the maximum block perimeter is 2000 feet. The city can require the installation of streets or walkways as necessary to meet these standards. Blocks in excess of these standards are allowed where access spacing standards and preexisting development restrict street location and design. The applicant has requested an exception to these standards as the access spacing standards prevent the extension of Rentfro Way to College Street, and the surrounding properties are already developed. Requiring a street plan that would extend to Illinois would create a negative impact on the property owners along Illinois. The block length and perimeter greatly exceed the code standards. The applicant has proposed public walkways to bring the subdivision as close to the standards as reasonable. The walkway to the west is not practicable, per the finding below, but the walkway to the east is so the exception to the block length and block perimeter standards is allowed.

Public walkways east and west: The proposal adds public walkways extending east to College Street and west to Clifford Court. When the Clifford Court subdivision was developed there was supposed to be a public walkway extending east to the property line. The public access easement was recorded on the plat, but the walkway was never built. The development code clearly states that public walkways shall be provided to connect cul-de-sacs and improve street connectivity, but also allows exceptions where the walkway can be deleted if physical conditions make a walkway impracticable. The code also limits block lengths; if the application requests an exception to the block length standard then the code requires

public walkways to break up block length, unless the walkway is not feasible due to preexisting development and other issues. The code requires public walkways to be as short and straight as possible, and within a 15 foot wide public access easement. When the Clifford Court subdivision was approved the walkway easement width was allowed to be reduced to 5 feet, and the walkway was allowed to have a sharp angle. It is reasonable to assume that the adjacent property owners will install fences along the walkway, which will create a long narrow corridor where a pedestrian entering the path from either end will not be able to see through to the end of the path. Visibility is an important element of safety for the walkway. If the walkway from Clifford Court was in a wider public access easement and was straight then the path would have good visibility and the path would be required in order to meet the connectivity and block length standards. The walkway from Clifford Court should not be required because the narrow width of the access easement and the sharp bend in the walkway path that were approved as part of the Clifford Court subdivision created a situation where the walkway would have poor visibility and potentially be unsafe. This is a physical condition due to preexisting development that makes the walkway to Clifford Court impracticable and infeasible. The block length exception for the subdivision application can still be approved, as there is a public walkway extending east to College Street that is feasible. The code does require the applicant to create a HOA or similar entity to maintain the eastern public walkway.

Traffic: One of the concerns of the neighbors was the existing traffic near Veritas School at the intersection of Mission Drive and College Street, and the future potential increase in traffic. This development is estimated to generate fewer than 40 trips in the PM peak hour, so it is not large enough to require a full traffic study. A 21 lot subdivision will generate approximately 21 trips in the evening peak hour, and traffic studies are typically only required for projects that will generate more than 40 trips in the evening peak hour. The city did have the applicant hire a traffic engineer to examine the existing situation and the impact of the proposed development. They found that much of the traffic at the intersection was from Veritas School, and Veritas recognized that by working to control the impact. They require parents dropping off children to approach from the north on College and make a right turn into the driveway, and then exit on Mission and again make a right turn on College Street. This does reduce traffic and queuing at the Mission/College intersection. This intersection currently operates well, with minimal queuing and no crash history in the last five years. Overall, the traffic engineer found that the intersection of Mission and College would operate acceptably with a level of service of C if the proposed subdivision was built. The proposed subdivision would be expected to add 7 trips at the Mission/College intersection during the 20-25 minute morning peak traffic period. No mitigation was proposed, as the intersection was found to have ample existing capacity.

The Planning Commission finds that the following ODOT comments are applicable:

ODOT completed a review of the traffic analysis provided by Mr. Michael Ard of Lancaster Engineering and ODOT concurs with the analysis and conclusions. The additional traffic on Mission Drive will be nominal and the intersection of N College Street/Mission Drive should operate at an acceptable level. ODOT also supports the proposal to connect the new development to Mission Drive rather than creating a new public access directly to N College Street. However, page 3 of the report mentions the intersection was observed to operate at LOS C but provides no backup data on how this was calculated. I recommend that the City ask the applicant to provide the backup information so that it can be included in our files.

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The application's project description states that an emergency and pedestrian access will be provided to N. College Street. Sheet P301, the Site Plan for the Public Access Easement to N. College Street shows a 20' wide public utilities and access easement (16' wide paved) starting at the southern property line.

The property referred to as Lot 21 abuts N. College Street, Oregon Route (OR) 219 and there is an existing residential approach on the property. The response to NDC 15.505.030 mentions a paved driveway will be construction to serve as an emergency access to the development. The impression given is that the emergency approach location will be somewhere within the paved area shown on Sheet P301. The response to NDC 15.505.040 states that improvements along N. College Street are being completed by an ODOT project. For clarification; an ODOT designed project shows improvements along the property's frontage of Lot 21. The proposed approach in the ODOT designed project will not meet the criteria of this application. The residential approach design will not have the strength to carry the weight of an emergency vehicle and the approach location show in the ODOT design plans appears to be partially located outside the paved footprint shown on Sheet P301. Therefore, the applicant is required to submit a state highway road approach application to ODOT for the new emergency approach location. The applicant should contact Jacob Butler (503.986.2666) for more information regarding approach road permits.

ODOT recommends the following conditions:

The applicant shall provide evidence of an ODOT Approach 'Use' Permit for the proposed emergency approach.

Sheet P301 shows 5' of the 16' of pavement as a marked 4" diagonal striped PED Path (first southern five feet), leaving 11' of pavement unmarked. The plan shows three removable bollards placed, at N. Collage Street (OR 219), within the 16' paved strip in an area labeled as 5' R/W dedication.

Bollards or any restrictive object will need to be placed outside of right-of-way controlled by ODOT. [It is not clear whether the 5' R/W dedication shown on Sheet P301 is a new right-of-way dedication specific to this application or the right-of-way easement to ODOT mentioned in the response to NDC15.505.040]. When bollards are overused they can cause injury particularly to bicycles. Attached are a couple of pages from the Oregon Highway Design Manual Appendix L (Oregon Bicycle and Pedestrian Design Guide). If allowed by the City, the Applicant is welcome to contact Rodger Gutierrez (Rodger.C.GUTIERREZ@odot.state.or.us) Bike/Ped Facility Specialist or Gary Obery (Gary.R.OBERY@odot.state.or.us), Active Modes Engineer to discuss placement and number of the bollards or alterative designs for the emergency access.

If there is a need to perform miscellaneous or utility work within ODOT right-of-way additional permits may be required before work can be done. The applicant should contact David Chuculate (503.986.2876) for information regarding utility and miscellaneous permits

Please provide ODOT with a copy of the City's decision, including findings and conditions of approval.

II. VARIANCE CRITERIA THAT APPLY: Newberg Development Code 15.215.040

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

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inconsistent with the objectives of the zoning ordinance.

Finding: The development code limits the maximum length of a cul-de-sac to 400 feet, and limits the maximum number of single family dwellings it can serve to 18. The existing Mission Drive and Rentfro Way are not currently considered a cul-de-sac, but will become part of one if this subdivision is built. The proposed cul-de-sac is 1,830 feet long and serves 43 single family dwellings, as it includes all of the existing development on Mission Drive as well as the new development. It could potentially serve a few more dwellings if other adjacent properties develop.

The purpose of the zoning ordinance is:

15.05.020 Purpose.

A. The purpose of this code is to coordinate city regulations governing the development and use of land and to implement the Newberg comprehensive plan.

B. The Newberg development code constitutes the development and land use regulations for the incorporated area of the city. These regulations are adopted to protect and promote the public health, safety, and general welfare, and to provide the economic and social advantages which result from an orderly, planned use of land resources. Such regulations are designed to achieve the following objectives:

- 1. To implement the comprehensive plan for the city.*
- 2. To advance the position of the city as a regional center of commerce, industry, recreation and culture.*
- 3. To provide for desirable, appropriately located living areas in a variety of dwelling types and at a suitable range of population densities, with adequate provision for sunlight, fresh air and usable open spaces.*
- 4. To protect residential, commercial, industrial and civic areas from the intrusions of incompatible uses, and to provide opportunities for compatible uses to concentrate for efficient operation in mutually beneficial relationship to each other and to shared services.*
- 5. To ensure preservation of adequate space for commercial, industrial, agricultural, and other activities necessary for a healthy economy.*
- 6. To promote safe, fast and efficient movement of people and goods without sacrificing the quality of the city's environment, minimize street congestion, and to provide for adequate off-street parking.*
- 7. To achieve excellence and originality of design in all future developments and preserve the natural beauty of the city's setting.*
- 8. To stabilize expectations regarding future development, thereby providing a basis for wise decisions with respect to such development.*
- 9. To preserve and enhance the quality of the city's environment.*
- 10. To secure safety from fire, flood, geological hazards, pollution and other dangers.*

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11. *To provide adequate light and air, and to facilitate adequate provisions for transportation, water supply, wastewater disposal, drainage, education, recreation and other services and facilities. [Ord. 2451, 12-2-96. Code 2001 § 151.002.]*

CITY OF NEWBERG COMPREHENSIVE PLAN

J. URBAN DESIGN

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

1. General Policies

o. The City shall encourage flexibility in design review and interpretation of policies and regulations by ensuring that functional design and community benefit remain as the principal review criteria. Consider variance procedures where interpretation of regulations impede fulfillment of these criteria.

K. TRANSPORTATION

GOAL 9: Create effective circulation and access for the local transportation system.

POLICIES:

b. Enhance existing and add alternative routes for local travel.

1) The City development code shall encourage the development of a continuous interconnected street pattern that connects adjacent developments and minimizes the use of cul-de-sacs.

2) The City shall implement standards for cul-de-sac design.

The objectives of the zoning ordinance include implementing the Comprehensive Plan and regulating development to protect the health, safety and general welfare of the public. The Comprehensive Plan states that the use of cul-de-sacs should be minimized to improve access and circulation, but also allows variances. If the cul-de-sac standards were strictly applied they would create a practical difficulty and make it very difficult to subdivide this particular property without creating a future street plan that would result in negative impacts to currently developed properties along Illinois.

The existing Mission Drive/Rentfro Way street is not considered a cul-de-sac because it is built to be extended. It would be very difficult to subdivide the existing R-1 zoned site without a variance to cul-de-sac standards unless Rentfro Way extended a stub towards Illinois Street, so the resulting cul-de-sac could meet the length and number standards. The street stub to the south would take up nearly the entire width of one of the skinny properties to the south, which would adversely impact the future development of the property to the south.

The development code discourages the creation of cul-de-sacs in order to improve the connectivity of streets for drivers, pedestrians and cyclists. Where cul-de-sacs are allowed, they are limited in length and number of dwellings to further discourage their use in subdivision design. In this case, however, the applicant has no other reasonable alternative to a long cul-de-sac because the access spacing standards and existing surrounding development do not allow another street connection. The public walkway on the east end improves connectivity for pedestrians and cyclists, and the emergency access onto College

Street improves public safety access. Strict enforcement of the cul-de-sac length and dwelling standards would prevent the subdivision development of the site and create a practical difficulty inconsistent with the objectives of the zoning ordinance.

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

Finding: This R-1 property differs from most R-1 property in that it has access from only one city street and is surrounded by developed properties. The property can only be accessed from Rentfro Way, which makes it an extraordinary circumstance. Prior development did not provide other access points, and access to College Street would not meet city access spacing standards. This is an unusual situation that does not generally apply to other R-1 properties.

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

Finding: With other requirements and limitations eliminating options for connections to either College or Illinois, strict interpretation of the cul-de-sac length and dwelling standards would prohibit subdivision of the property to R-1 standards, and possibly the partitioning of lots 2700 and 2800 should they develop in the future. This would deprive the owners of the ability to develop their property under the standards of the R-1 zone, which is a privilege that other R-1 property owners enjoy as long as their development protects the public health, safety and general welfare.

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

Finding: Granting the variance will allow the property to be developed in similar fashion to other subdivisions throughout the city. This variance will not increase the density of the project or constitute a grant of special privilege when compared to other properties in the R-1 zoning district.

E. That the granting of the variance will not be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the vicinity.

Finding: Granting a variance will not be detrimental to public health and safety because at the end of the cul-de-sac there will be an emergency access to College Street. For public safety vehicles, this will be similar to having a street extend all the way to College. The traffic impact from the additional development has been determined to be minor, and the subdivision utilities will meet all current standards for health and safety. This variance avoids producing a street plan that would be injurious to adjacent properties.

Conclusion: Based on the above-mentioned findings, the application meets the required criteria for a variance and a subdivision tentative plan within the Newberg Development Code, subject to completion of the attached conditions.

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Exhibit B to Planning Commission Order 2014-16
Conditions –File SUB3-14-005/VAR-14-002
Shellie Park Subdivision

A. The applicant must provide the following information for review and approval prior to construction of any improvements:

1. **Construction Plans:** Submit engineered construction plans for review and approval of all utilities, public street improvements, and any new public streets being constructed. Plans should be drawn to show storm and street information on one sheet; water and sanitary on another sheet. Please note that additional Engineering Division plan review application and fees apply for review of plans. The plans must note the following:
 - a. Utilities:
 - i. Each lot needs separate utility lines.
 - ii. Lots 1-20 will be served by new water and sanitary sewer lines extended within Rentfro Way. The applicant shall propose a utility plan for lot 21 that meets city standards.
 - iii. Catch basins are required on the uphill side of intersections.
 - iv. Utilities must be constructed to be “to and through” (i.e. to the proposed development and through to provide for adjacent properties to develop).
 - v. All utilities crossing the site must be undergrounded, including power, cable and telephone lines.
 - vi. Fire hydrants will be required to be installed at intervals per the fire chief
 - vii. Storm water design shall comply with City Code and City Design Standards Manual. LIDA shall be used to the maximum extent reasonable. City standard details shall be used for all public stormwater facilities. For quantity control, site must detain half of the 2 year storm, 2 yr, 10 yr, and 25 year storms.
 - b. Streets:
 - i. New internal streets must be constructed in accordance with approved city standards.

- ii. Fire lanes must be marked.
 - iii. Continuous sidewalk connection shall be installed around the cul-de-sac when houses are built to connect to the public access easement at East end of project.
 - iv. Sidewalk shall be setback sidewalk throughout project except for at cul-de-sac. The sidewalk could be located in an access easement to reduce the need for additional right of way dedication.
 - v. Coordinate with the Engineering Department, the Fire Chief and ODOT for the emergency access to College Street. Bollards will not be allowed. Access road shall be designed for fire equipment loading. Pedestrian access shall be concrete.
 - vi. No construction impacts are allowed on tax lots 2700 and 2800.
 - vii. Frontage improvements along College Street are required. These improvements are being constructed by the City and ODOT through a Local Improvement District. Developer shall participate in the Local Improvement District, paying their identified fee as adopted by the City Council. Developer shall also pay a payment in Lieu of construction for the difference between the LID Assessment and the local street standard improvements. Engineer to submit cost estimate for frontage improvements to be approved by the City for use in determining the payment in lieu fee.
2. **Grading:** Obtain a DEQ 1200-C permit and a city grading permit prior to grading.
3. **ODOT:**
- a. Provide the backup information for the level of service calculation for ODOT's file.
 - b. Applicant shall provide evidence of an ODOT Approach "Use" permit for the proposed emergency access. Bollards or any restrictive object will need to be placed outside of right-of-way controlled by ODOT.

B. The applicant must complete the following prior to final plat approval.

- 1. **Substantially Complete the Construction Improvements:** Prior to final plat approval, the applicant must substantially complete the construction improvements and secure for them in accordance with city policy. Complete construction and call for a walk-through inspection with the Engineering Division (503-537-1273).
- 2. Create a HOA or similar entity to maintain the eastern public walkway.

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C. Final Plat Application: In accordance with NDC 15.235.150, submit the following for City review of the final plat application. Construction improvements should be substantially complete at this point.

1. Application Materials:

- a. Type I application form (found either at City Hall or on the website – www.newbergoregon.gov in the Planning Forms section) with the appropriate fees.
- b. A current title report (within 6 months old) for the property. Include copies of all existing easements and CC&Rs that pertain to the property.
- c. A written response to these Conditions of Approval that specifies how each condition has been met.
- d. Two blue-line copies of the final subdivision plat for preliminary review by the City Engineering Division. The City Surveyor will make red-line comments on these sheets for your surveyor/engineer to correct prior to printing final Mylar copies.
- e. Any other documents required for review.

2. Dedications/Easements Required: The plat must show the following:

- a. Easements:
 - i. All utility, sanitary sewer, water and storm drainage easements to the City.
 - ii. 10 ft utility easements along all frontages.
 - iii. All access easements shown on the preliminary plan.
- b. Dedications of Right-Of-Way:
 - i. For the extension of Rentfro Way as shown on the approved preliminary plan.

3. Documents Required: Provide the following documents for review and approval:

- a. A signed and notarized performance agreement that assures construction and performance in accordance with the approved final plans.
- b. A bond for street tree planting in an amount to be approved by the Planning Division.
- c. Complete a subdivision agreement with the City of Newberg. The completed subdivision agreement shall be recorded by the applicant at the time of the final plat recordation.
- d. A final draft copy of any Codes, Covenants and Restrictions (CC&Rs) for the subdivision. Planning staff will review the proposed CC&Rs for compliance with City Code prior to recordation.

4. **Final Mylar Copies of the Subdivision Plat:** Submit final mylar copies of the corrected final subdivision plat (after red-line corrections have been made).
 - a. Three sets (one original and two copies), 18 inches by 24 inches in size, of the final subdivision plan drawn in black India ink in clear and legible form. Original plats shall be in substantial conformity to the approved tentative plan and shall conform to the Yamhill County Surveyor's specifications and requirements pertaining to material that has the characteristics of adequate strength, permanency, as well as suitability for binding and copying. Plats shall be in clear and legible form and may be placed on as many sheets as necessary, but a face sheet and an index page shall be included for all plats placed upon three or more sheets. Scale requirements shall be the same as specified for the tentative plans.

D. The final plat process must be completed prior to issuance of any building permits. The City will review the final plat application after the applicant has completed all of the conditions of approval listed above.

1. **City Review:** In accordance with NDC 15.235.160 and 15.235.180, Planning staff shall determine that:
 - a. Streets, roads, and alleys for public use are dedicated without any reservation or restriction other than reversionary rights upon vacation of any such street or road and easements for public utilities.
 - b. The proposal complies with this code.
 - c. The plat is in substantial conformity with the provisions of the tentative plan for the subdivision, as approved.
 - d. The plat contains a donation to the public of all common improvements, including but not limited to streets, roads, parks, sewage disposal and water supply systems.
 - e. Explanations of all common improvements required as conditions of approval of the tentative plan of the subdivision have been accounted for and referenced on the plat.
 - f. There will exist an adequate quantity and quality of water and an adequate sewage disposal system to support the proposed use of the land described in the plat.
 - g. Either:
 - i. Improvements as required by this code or as a condition of tentative plan approval have been filed with the Director; or

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- ii. A performance agreement (bond) or suitable substitute as agreed upon by the city and applicant has been filed with the Director in sufficient amount to insure the completion of all required improvements; or
 - iii. A petition for improvements has been properly executed by the applicant who is effecting the subdivision and will be assessed for said improvements.
 - h. Taxes, as well as public liens, assessments and fees, with respect to the subdivision area have been paid, or adequate guarantee has been provided assuring said taxes, liens, assessments and fees will be paid prior to recordation.
 - i. The sub divider has entered into agreement with the city relating to completion of improvements, payment of sewer and water hookup fees, inspection fees, public lands payments, monumentation or any other elements deemed relevant to the purpose of this or any other city ordinance, state statute or federal law.
 - j. If the conditions set at the time of tentative land division approval are not fulfilled and the final plat or final map is not recorded by the tentative plan expiration date, the tentative land division approval is null and void.
2. **Required Signatures:** According to NDC 15.235.180, approval of a final subdivision plat must be acknowledged and signed by the following:
- a. Planning and Building Director
 - b. The County Assessor
 - c. The County Surveyor
 - d. The City Recorder
3. **Recording:** Deliver the approved subdivision plat to the office of the County Clerk for recording. The County Clerk's office is located at 414 NE Evans St, McMinnville, OR 97128.
4. **Completion:** Return an exact mylar copy of the recorded plat to the Director to complete the subdivision process.

E. Development Notes:

- 1. **Postal Service:** The applicant shall submit plans to the Newberg Postmaster for approval of proposed mailbox delivery locations. Contact the Newberg Post Office for assistance at 503-554-8014.

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2. **PGE:** PGE can provide electrical service to this project under terms of the current tariff which will involve developer expense and easements. Contact the Service & Design Supervisor, PGE, at 503-463-4348. Call PGE to have the overhead service line to the existing house removed before demolition.
3. **Frontier:** The developer must coordinate trench/conduit requirements with Frontier. Contact the Engineering Division, Frontier, at 541-269-3375.
4. **Addresses:** The Planning Division will assign addresses for the new subdivision. Planning Division staff will send out notice of the new addresses after they receive a recorded mylar copy of the final subdivision plat.