



**PLANNING COMMISSION AGENDA
May 12, 2016 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

1. Approval of the 4/14/16 Planning Commission meeting minutes

V. QUASI-JUDICIAL PUBLIC HEARINGS (complete registration form to give testimony - 5 minute maximum per person except for principals, 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. **North Valley Annexation:** Consider a proposal to annex 10.37 acres of property. The property is located within the Newberg Urban Growth Boundary and has a Comprehensive Plan designation of PQ. Annexation would change the zoning from Yamhill County AF-10 to Newberg R-1.

APPLICANT: Newberg First Baptist Church

LOCATION: 24950 North Valley Road TAX LOT: 3207-900

FILE NO.: ANX-16-001 RESOLUTION: 2016-317

CRITERIA: Newberg Development Code Sections: 15.250.030 & 15.302.030

2. **Columbia Estates Annexation:** Consider a proposal to annex 3 parcels (with a total of 3.06 acres). The properties are located within the Newberg Urban Growth Boundary and have a Comprehensive Plan designation of MDR. Annexation would change the zoning from Yamhill County VLDR-1 to Newberg R-2.

APPLICANT: Del Boca Vista, LLC

LOCATION: North of Columbia Dr., south of Lynn Dr. TAX LOTS: 3218AB-1700, -1701, & -1702

FILE NO.: ANX-16-003 RESOLUTION: 2016-319

CRITERIA: Newberg Development Code Sections 15.250.030 & 15.302.030

3. **Public Works Maintenance Yard – 520 W. Third St. Annexation:** Consider a proposal to annex 1.41 acres of property. The proposed annexation is located within the Newberg Urban Growth Boundary and has a Comprehensive Plan designation of IND (industrial). Annexation would change the zoning from Yamhill County HI (heavy industrial) to Newberg M-2 (light industrial).

APPLICANT: City of Newberg Public Works Dept.

LOCATION: 520 W. Third St. TAX LOT: 3219BD-1000 (western part)

FILE NO.: ANX-16-002 RESOLUTION: 2016-318

CRITERIA: Newberg Development Code Sections 15.250.030 & 15.302.030

4. **Subdivision preliminary plan & variance – Nova Grace:** Consider a proposal to divide a 1.99 acre parcel into 14 lots for single-family homes. The property is zoned R-2 (medium density residential). Includes a variance request to increase the maximum building height from 30 feet to 33 feet.
APPLICANT: Del Boca Vista, LLC
LOCATION: 900 Wynooski St. TAX LOT: 3220CA-900
FILE NO.: SUB3-16-001/VAR-16-001 ORDER: 2016-21
CRITERIA: Newberg Development Code Sections 15.235.060(A) & 15.215.040

VI. ITEMS FROM STAFF

1. Update on Council items
2. Other reports, letters or correspondence
3. Next Planning Commission meeting: June 9, 2016

VII. ITEMS FROM COMMISSIONERS

VIII. ADJOURNMENT

FOR QUESTIONS, PLEASE STOP BY THE COMMUNITY DEVELOPMENT DEPT. AT 414 E. FIRST STREET, OR CALL 503-537-1240

ACCOMMODATION OF PHYSICAL IMPAIRMENTS: *In order to accommodate persons with physical impairments, please notify the Community Development Department Office Assistant II of any special physical or language accommodations you may need as far in advance of the meeting as possible as and no later than 48 business hours prior to the meeting. To request these arrangements, please contact the Office Assistant at (503) 537-1240. For TTY services please dial 711.*

NEWBERG PLANNING COMMISSION MINUTES
April 14, 2016, 7:00 PM
PUBLIC SAFETY BUILDING (401 E. THIRD STREET)

Chair Allyn Edwards called the meeting to order at 7: 00 p.m.

ROLL CALL

Members Present:	Allyn Edwards, Chair	Jason Dale
	Philip Smith	Gary Bliss
	Cathy Stuhr	Ron Wolfe

Members Absent: Luis Saavedra, Student

Staff Present: Doug Rux, Community Development Director
Bobbie Morgan, Office Assistant II
Steve Olson, Senior Planner
Sonya Johnson, Engineering Associate

PUBLIC COMMENTS:

None

CONSENT CALENDAR:

Approval of the February 25, 2016 Planning Commission Meeting Minutes
Approval of the March 10, 2016 Planning Commission Meeting Minutes

<p>MOTION: PC Cathy Stuhr/PC Gary Bliss moved to approve the February 25, 2016 and March 10, 2016 minutes. Motion carried (6 Yes/ 0 No).</p>

QUASI-JUDICIAL PUBLIC HEARING: Chair Allyn Edwards opened the public hearing at 7:05 pm.

Chehalem Aquatic & Fitness Center - Conditional Use Permit/Design Review/Code Adjustment application to build a 40,390 square foot addition with two pools next to the existing building, remodel the existing building into a gym, reconfigure the site for new parking, park and landscape areas; and to reduce the amount of required off-street parking. APPLICANT: Chehalem Park & Recreation District LOCATION: 1802 Haworth Avenue TAX LOT: 3217CA-1200 FILE NO.: CUP-16-001/DR2-16-001/ADJC-16-001 ORDER: 2016-20 CRITERIA: Newberg Development Code Sections 15.225.060, 15.220.050(B), 15.210.020(C).

Call for abstentions, bias, ex parte contact, and objections to jurisdiction:

PC Philip Smith said he occasionally used the pool. Recently there was an election to expand the pool, and he voted in the election. He was a supporter of CPRD and their work. On this matter he had not spoken with CPRD or neighbors and thought he could be impartial.

Chair Allyn Edwards explained the public hearing process.

Staff Report: Senior Planner Steve Olson gave a PowerPoint presentation. This was a request to approve the expansion of the Chehalem Aquatic and Fitness Center. He explained the site location. There needed to be a Conditional Use Permit because it was an expansion of a recreational facility in the R-1 zone. The applicant tried to save as many trees on the site as possible. He then explained the site plan and right-of-way dedication. The original application was for 143 parking spaces, but they had to bring it up to 148 to meet the standards. He

explained how the applicant shifted the design to add five more parking spaces. He showed the perspective drawings and proposed floor plan and then summarized the approval criteria for the conditional use, design review, and code adjustment. Regarding the parking adjustment, a parking study was done and staff reviewed the Institute of Transportation Engineering's Parking Demand Manual to come up with the required number of spaces, which was 197 spaces. The applicant requested a 25% parking adjustment which was 148 spaces. To make up for the difference, the applicant was proposing to encourage students to bike to the site and there would be a shared parking agreement with the high school to allow use of 20 plus spaces in the south parking lot. They could also apply for a parking permit to use Hayworth for on street parking for large events which was an additional 20 spaces. The parking adjustment would allow the applicant to save trees on the site. Staff thought the demand management would be functional if the park district actively used the shared parking agreement. Regarding compatibility issues, they met 95% of the lighting plan as two spots needed to be revised to comply with the light trespass standard and it was feasible for them to fix that. One change from the staff report was he found out there was not a wooden fence all along the property line. It went along half of the property, and a chain link fence went along the other half. Some of the neighbors had hedges and some did not. Staff was proposing a visual buffer by putting in hedges all around the property, but contacting neighbors to see if they wanted a hedge or wanted to keep visibility to the park. There was a request to move the playground and basketball court further west from where they were proposed. Staff was not recommending they be moved as more trees would have to be removed and it would not reduce the noise. There were also requests for noise deadening by adding wooden fences and hedges, but they would not diminish the noise either. Only a masonry wall would be effective for noise, but staff was not recommending that. There was a lot of concern regarding the existing trees and there was an arborist report going into detail about the health of the trees. An arborist would be on call when there was excavation near the trees to monitor the health of the trees. There were comments about construction impacts, and the applicant could address those and make sure workers did not park on nearby streets. The Code had a time limit for construction of 7 am to 7 pm and if construction damaged streets or public infrastructure, the contractor would be responsible for repair by the end of the project. Staff found the design of the building was compatible with the existing building and a good fit on the site. If the code adjustment for the parking was approved, it would meet the parking code. The general layout provided a safe flow on the site and safer drop off site. There needed to be a setback change on one of the signs and right-of-way dedication on Haworth and Cherry Streets. If they were able to keep the existing curb side sidewalks along Villa up to the western driveway, it would allow some of the trees to remain and east of that the sidewalks would be set back. The water line would need to be eight inches instead of six and stormwater needed additional analysis. A traffic study was done and concluded the intersection would continue to perform at City standard and no transportation improvements were necessary. He discussed the landscape buffer which would be an arborvitae hedge along the eastern border where the neighbors desired a hedge. The site plan with 148 parking spaces, which would replace the 143 space plan, met the City's standards. There was a requirement for stormwater infiltration testing, however Engineering staff said it had been addressed by the information that was already submitted. There was no chlorine gas in use and there was no need for a decommissioning plan. He handed out additional information including the 148 parking space plan, chlorine letter, and suggested changes to the staff report.

PC Gary Bliss asked how staff determined that moving the playground or basketball court would not reduce noise. SP Steve Olson replied moving them might reduce it slightly, but he had seen studies that moving something 50 or 60 feet in the open air had almost no impact. There would have to be a forest of hedges to really block the sound. There would be more impact if they were moved further away, such as 100 to 200 feet.

PC Gary Bliss discussed how moving the playground further west and removing three trees could reduce noise by six decibels which put them in the threshold recommended by the EPA. SP Steve Olson said the applicant could describe the operating hours of the park, and moving of the park and basketball court was not part of the Conditional Use and none of the criteria applied to them. Only a 25 foot setback was required. The expansion of the pool was the Conditional Use.

PC Gary Bliss asked why it was determined that a storm water infiltration test was not required. SP Steve Olson said the City Engineer thought the study already looked at the infiltration and thought it had already been

addressed. AS Sonya Johnson responded the public works design standards did not require an infiltration test at this time. They required considering low impact development facilities and the applicant had chosen to go with a flow through facility so there was an underdrain. An extra infiltration test was not needed.

PC Cathy Stuhr said the code adjustment was a Type 1 decision that the Community Development Director could decide. Was the Planning Commission deciding that or was staff? SP Steve Olson replied it would be the Commission's decision. Since the Conditional Use Permit was a Planning Commission decision, the whole application was tied together and the Commission would be deciding all of it.

Chair Allyn Edwards discussed the arborist's report. Many of the trees fell in the poor health category, and he asked what would be done to those trees. SP Steve Olson replied one of the conditions of approval was having the arborist document what happened during construction, identifying any hazardous trees and removing them, and going tree by tree and removing any limbs that needed to be removed. The goal was by the end of construction to have a healthier stand of trees on the site.

Chair Allyn Edwards clarified there were currently 61 parking spaces and they would be increasing it to 148.

Applicant: Jim McMasters, CPRD Parks Supervisor, said the voters approved this expansion. They held several community meetings so people knew what the layout would be. He thought they could work with the conditions of approval and neighbors.

Sid Scott, Scott Edwards Architecture, presented slides on the application including the subject site, shared parking with the high school, proposed site plan, additional parking, arborist report, and public comments. The current pool would stay open in operation during construction of the new aquatic center and when the aquatic center was done, construction on the existing building would begin so there would be continued service. The plan for the trees was to save as many as possible. The current site had 169 trees and the current plan would be 205 trees. There would be many trees when the project was done. They would work with neighbors regarding the hedge and the concern regarding sidewalks on the property line.

Jim McMasters said the hours of the park were from dawn to dusk. He gave a history of where the playground and basketball court were placed and how they had been moved for safety as well as sound.

Sid Scott continued by stating the basketball court was originally 11 feet from the property line, was moved 210 feet, and was proposed to be 81 feet from the property line. The playground was originally 54 feet from the property line, moved 267 feet, and was proposed to go back to 54 feet where it was originally. He explained and showed slides of the new entries for the aquatic center and design of the new aquatic center and existing building.

Gene Loman, contractor, gave comments on the construction sequence and parking during construction. He explained the staging areas that would be used as well as temporary parking areas. They wanted to be good neighbors and would address any concerns that came up. They knew the curfew hours to work and would rarely ask for extensions outside of that.

PC Philip Smith asked why they were trying to maintain the trees instead of taking them down and putting in trees that would fit in with the neighborhood better. Jim McMasters replied they had heard from the community that they wanted to save as many trees as possible.

PC Philip Smith asked about the screening for the neighbors on the east and if someone could ask for a masonry wall. Jim McMasters replied it would be a vegetative screen only.

PC Philip Smith asked how they were going to make sure the parking plan worked regularly. Jim McMasters explained the extra parking at the high school would only be needed five or six times a year during swim meets. The swim meets would not grow that much larger, and would be done faster when there were eight lanes rather

than six lanes. The teams would not be able to park buses and parents could not park RVs in the parking lot, and the teams would be informed about parking at the high school and not in the neighborhood.

Chair Allyn Edwards asked if CPRD would provide a shuttle van between the high school and the new facility. Jim McMasters said if it was needed they would do that. They were trying to negate impacts on the community.

PC Ron Wolfe asked how much they had exceeded the requirement for greenspace and landscaping. SP Steve Olson said they were required to have 15% landscaping, and they had proposed 33%.

Public Testimony:

Proponents:

Elizabeth Andrews, Newberg resident, discussed her connection with the pool and passion for the Newberg Aquatic Center. She was able to participate in swimming as a student, which taught her hard work and dedication which improved her academics, mental health, and handling her time wisely. She thought it was a continuation of her education. She was excited about the expansion as it would help give other students what she had experienced.

Lisa Rogers, Newberg resident, had participated with the Pool Committee from its inception to today. This group of citizens went to the community a number of times to make sure this project was what the community wanted. There had been a lot of citizen input.

George Sampson, Newberg resident, was a swim coach for the high school and community teams. Swim meets were held about nine times per year. They had discussed shuttling people from the high school parking lot. With the 148 parking spaces, there would be a lot better flow of traffic. The meets would not get any bigger. He did not think they would want to put extra parking on Haworth to keep the traffic flowing better and for safety.

Steve Wytcherley, Newberg resident, had joined the Save the Pool Campaign two years ago. His daughter was involved in the water polo team and he saw the need for a new aquatic center. He explained how he had helped with the campaign and joined the Pool Public Advisory Committee who helped design this expansion. He thought the aquatic center contributed to a flourishing community. There was a lot of passion and excitement for this project.

Opponents:

Karen McCabe, Newberg resident, said her property was on the east end of the park. She was concerned about the large trees on the property line. Two trees had fallen on her backyard last Christmas. There was still one tree that she was worried about. She also had to pick up large limbs out of her backyard and some had damaged her shed. Trees should not be close to the property line. She agreed with the arborvitae screen and would like the tall chain link fence to be repaired that had been damaged when the trees fell over. She was also concerned about the basketball court being too close as it was directly behind her house. It was one of the loudest amenities in the park. She would like to see it moved further away if possible. Traffic was horrible and on street parking was a problem. There should be a stop sign on Cherry, Sitka, and Haworth Streets. About 12 trees on the property line on the east side should be removed.

PC Stuhr asked if she was comfortable with an arborist coming to determine which trees needed to be removed. Ms. McCabe thought the one tree was already leaning and it was a danger.

Chair Allyn Edwards wanted to alieve as many concerns as possible. The arborist report dealt with the angles of the trees and health of the trees and they would be considering what they could do for the trees.

Undecided:

Robert Soppe, Newberg resident, was a supporter of CPRD and this project. He thought the Commission needed to be careful with the request for a code adjustment. The applicant was asking for a reduction of 25% of the code

requirement, and the Commission needed to make sure the arguments for the reduction were accurate and enforceable. The average peak demand was 197 spaces, and the proposed adjustment was for 148 spaces. This would be 75% lower, which was not slightly lower and they did not know the expected peak demand. He also questioned how the average peak demand of 197 spaces was determined. Counts were taken only one day and he questioned if it was an average day as demand changed seasonally, daily, and randomly. This was weak data and should not be relied on. He thought the Transportation Demand Management Plan needed to be looked at to make sure it was realistic to the users' behaviors and demands, was it enforceable, and was it adequate to reduce the parking demand. CPRD might find itself in a difficult position if the plan was unsuccessful and the Commission might set a precedent for code adjustments. The applicant could support the argument that the number of parking spaces per square foot of the expanded facility would be less than with the existing facility to justify a lower parking requirement. He was glad to see the sidewalk on the east side was moved away from the curb.

Rebuttal: Applicant Jim McMasters said when the trees fell over on Ms. McCabe's property, an arborist came to assess the one remaining tree that was leaning. The tree was leaning for the sunlight and some limbs were trimmed and more needed to be trimmed. The ten foot chain link fence around her property was put in when the original basketball court was put in. It would be repaired. There were playgrounds in other parks that were close to the fence and not all parks had basketball courts. There would be more than 20 spaces available at the high school, as most of the events took place during the weekend and the high school parking lot was mostly vacant on the weekends.

Sid Scott said the basketball court was as far to the west of the site as they could go. The peak parking demand for the proposed facility was projected to be 197 parking spaces.

PC Philip Smith asked about the difference between the average parking demand and peak parking demand. Sid Scott did not know, only that the experts said that was the peak parking demand. Jim McMasters said the size of the meets was not increasing and the spectator area could only hold so many people. They could not hold state-wide type meets. The meets could be over sooner because there were more lanes.

PC Philip Smith thought there should be incentives for parking at the high school.

PC Cathy Stuhr said outdoor basketball was available at the high school and at other parks and indoor basketball at this facility. What if there was no outdoor basketball at this park? Jim McMasters said they were trying to have the amenities available to the community. The high school did not have outdoor basketball courts.

PC Philip Smith suggested adding conditions to the Conditional Use Permit that the arborist must certify that any tree within 100 feet of the eastern boundary had to be in good health or removed. Jim McMasters replied if the tree was unsafe, they would want to remove it.

PC Jason Dale discussed the peak parking and asked what would happen if there was not enough parking during those times. Jim McMasters replied if there was a problem, they could look at reducing the programming of the site.

Close of public testimony: Chair Allyn Edwards closed the public testimony at 8:47 pm.

Final comments from staff:

SP Steve Olson said staff recommended approval of Order 2016-20 as revised.

Chair Allyn Edwards recessed the meeting for a break at 8:48 pm and reconvened the meeting at 8:54 pm.

Deliberation of commission:

PC Jason Dale thought this was a good proposal. He agreed with adding a condition for an arborist to look at the trees that were 100 feet from the eastern boundary.

PC Philip Smith said after looking at the conditions, what he said before was unneeded.

Chair Allyn Edwards commented that the arborist ascertained the health of the trees and he thought anything that was 45% or less considered in poor condition should be removed.

PC Philip Smith asked what the definition of a hazardous tree was. SP Steve Olson explained the attempt was to give the arborist some discretion and authority to determine what was hazardous.

Chair Allyn Edwards agreed that the arborist on site should be the one to decide.

PC Cathy Stuhr appreciated the applicant working with the public. She thought they should consider adding into the findings the suggestion by Mr. Soppe regarding the parking. The changes to the staff report also needed to be included in the findings.

PC Gary Bliss was concerned with the relocation of the basketball court and playground. He hoped the park district would try to alleviate the use of those facilities at night.

MOTION: PC Philip Smith/PC Cathy Stuhr moved to adopt Order 2016-20 incorporating the proposed changes to the staff report and to the findings.

PC Philip Smith was concerned about having adequate parking.

Chair Allyn Edwards said the applicant would be monitoring the situation and there was a possibility in the future of clearing the northeastern area of the lot for additional parking. The facilities would be most used on the weekend, and the high school parking lot would be open on the weekends.

Motion carried (6 Yes/ 0 No).

The Commission took a five minute break.

LEGISLATIVE PUBLIC HEARING: Chair Allyn Edwards opened the public hearing at 9:12 pm.

Recreational Marijuana Wholesalers, Laboratories, Research Certificates and Retailers: *Consider a proposal to amend the Newberg Development Code Chapter 15.05.030 Definitions; 15.305 Zoning Use Tables; 15.342.110 Stream Corridor Overlay; 15.350.030 Civic Corridor Overlay; 15.356.050 Bypass Interchange Overlay; and 15.358.030 and 15.358.050 Interim Industrial overlay for regulations on recreational marijuana wholesalers, laboratories, research certificates and retailers as either permitted, conditional or prohibited uses. FILE NO.: DCA-16-001 RESOLUTION NO.: 2016-314*

Call for abstentions, bias, ex parte contact, and objections to jurisdiction: None.

Staff Report: Community Development Director Doug Rux presented the staff report. This recommendation had been forwarded by the Marijuana Subcommittee. It would allow in certain districts marijuana laboratories as a permitted use primarily in the commercial and industrial areas, recreational research certificates as a permitted use in the commercial and industrial districts, retailers as a permitted use in commercial with 1,000 foot buffers from parks and schools and limited to operation from 9 am to 8 pm, and marijuana wholesalers as a permitted use in residential districts and as conditional use in C-2 and permitted in industrial districts. Definitions for laboratory, retailer, and wholesaler would be added. Marijuana was legal per State law and he gave a background on the laws. OLCC anticipated issuing licenses for wholesalers, laboratories, and researchers in April of 2016 and for retailers

in July of 2016. One public comment had been received in support of retailers. The City could regulate place, time, and manner and a Land Use Compatibility Statement was required by OLCC before issuing the license. He explained the limitations of where these facilities could be located and emphasized OLCC would not issue licenses in primary residences. A research certificate was good for three years. Marijuana products had to be tested by a laboratory. There were many manner regulations in the laws for retailer operations. There was also a handler's permit required for marijuana handlers. Some of the laws had been changed in 2016. A medical marijuana dispensary could now sell medical and recreational marijuana and a recreational store could sell both medical and recreational. Retail would not be allowed in residential or industrial districts, community facilities, institutional districts, and would be allowed in commercial except in the civic corridor and have a 1,000 foot buffer from schools and parks. Wholesalers would be allowed in all residential categories with no product allowed on the premises. However, OLCC would not issue a license to a primary residence and it could not function as a home occupation. Wholesalers would be allowed as conditional use in the C-2 with a 1,000 foot buffer for parks and schools and would also be allowed in the industrial districts except for airport industrial. Laboratories would be allowed in commercial, institutional, and industrial except for airport industrial. Staff asked if the City should allow wholesalers in residential districts and if there should be a separation requirement from retail to retail or retail to medical dispensaries. He then discussed the tables showing what would be permitted or prohibited by each district. This was the first hearing on this issue, and the Commission's recommendation would be forwarded to the Council who would hold a second hearing. The City was providing the opportunity for operating legal businesses within the community for which there was demand, but it was not allowed everywhere in every district. Staff recommended approval of the resolution. Today a communication was received from Canna Bros Dispensaries regarding the 1,000 foot separation between medical dispensaries and retail facilities and he handed it out to the Commission to read.

PC Gary Bliss thought medical and recreational were supposed to be separate, but now they were being allowed in the same facility. CDD Doug Rux replied it started out with medical dispensaries selling to card holders, and recreational sales could be sold out of medical marijuana dispensaries until December 2016. Now in the 2016 legislative session they were being merged and could sell both in one facility. The rules would have to be modified, but he suggested moving forward with the information they had based upon the laws already adopted and go back later to reconcile for any discrepancies. The City had to have something in place before licenses were issued by OLCC.

PC Cathy Stuhr asked about wholesalers being allowed in residential. CDD Doug Rux replied staff recommended wholesalers be prohibited in all residential districts.

PC Philip Smith asked if the research locations could move into recreational or medical marijuana facilities. CDD Doug Rux stated researchers were a separate certificate regulated by OLCC which would allow them to have cannabis in their lab to do research. It was possible for a research facility to be in the same location as recreational or medical marijuana facilities.

PC Jason Dale asked if processors and labs needed to have a 1,000 foot buffer between facilities. CDD Doug Rux did not think so. He explained the buffer requirements for all of the uses. Processors were allowed as a conditional use in the C-2 and required a 1,000 foot buffer from schools and parks.

Public Testimony:

Proponents:

Larry Brock of Canna Bros suggested adopting the 1,000 foot buffer between recreational retail sales and medical dispensaries. It was getting harder to find locations in the bigger cities for these facilities, such as in Portland, and they soon would be coming to the smaller cities like Newberg. He thought the City could get a lot more in taxes if they allowed recreational sales and they could decide where to allow them. He thought the City could better protect people by allowing recreational sales. He did not charge customers the 5% tax for medical marijuana, he

just paid it out of his pocket. He would probably make the recreational customers pay the 10% tax. He did not think patients should pay a tax to use a medical product.

Chair Allyn Edwards asked if he had both medical and recreational licenses. Larry Brock said no, the City did not allow recreational sales. He did plan to have both licenses in the future.

PC Philip Smith said if the proposed regulations went forward with a 1,000 foot buffer between outlets, it would only allow four possible locations. Larry Brock thought that was a good number for the City.

Larry Brock said regarding the processors, they would not be noticed in the City and did not think a 1,000 foot buffer was appropriate.

Opponents and Undecided: None

Close of public testimony: Chair Allyn Edwards closed the public hearing at 9:58 p.m.

Final comments from staff:

CDD Doug Rux said staff's recommendation was to adopt Resolution 2016-314 with the considerations that wholesalers not be allowed in residential districts due to the OLCC restrictions and the 1,000 foot separation between retailer and retailer or retailer and dispensaries.

Deliberation of commission:

PC Philip Smith thought wholesalers should be prohibited in residential districts. He thought C-2 should be the preferred place for recreational and medical marijuana establishments and that there should be a 1,000 foot separation between them.

MOTION: PC Cathy Stuhr/PC Ron Wolfe moved to approve Resolution 2016-314 with the following modifications: wholesalers were not allowed in any residential district or subdistrict and a 1,000 foot buffer be placed between retail to retail and retail to dispensaries. Motion carried (6 Yes/ 0 No).

NEW BUSINESS:

Economic Development Strategy

CDD Doug Rux said the Commission had the final strategy documents. The strategy would go to the City Council on April 18 for adoption by resolution.

ITEMS FROM STAFF:

CDD Doug Rux reported the Council adopted the recreational marijuana processors and producers recommendations with one modification regarding OLCC not issuing licenses for primary residences. He reminded the Commission to submit their Statement of Economic Interest forms by tomorrow. The Council gave staff direction to continue discussions with Sportsman Airpark about the purchase of development rights and approved the Rourke annexation. The Newberg 2030, the Urban Growth Boundary pre-work, was beginning. The Downtown Plan work was still underway. The next Planning Commission meeting would be held on May 12, 2016.

ITEMS FROM COMMISSIONERS:

PC Philip Smith suggested the cities of Dundee and Newberg and Yamhill County consider making a greenspace buffer between Newberg and Dundee so the natural growth of the cities would not come together.

PC Cathy Stuhr discussed something she read regarding onsite consumption of marijuana for employees with medical cards during a work shift as necessary for their medical condition if they were alone in an enclosed dark room and not visible to others, but could not be intoxicated while on duty.

Chair Allyn Edwards asked about the replacement of Patrick Johnson's seat on the Planning Commission as he had recently been appointed to the City Council. CDD Doug Rux said the opening would be advertised.

Chair Allyn Edwards adjourned the meeting at 10:12 p.m.

Approved by the Newberg Planning Commission this 12 day of May, 2016.

Allyn Edwards, Planning Commission Chair

Bobbie Morgan, Office Assistant II

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.



Community Development Department

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

PLANNING COMMISSION STAFF REPORT FIRST BAPTIST CHURCH ANNEXATION/ZONE CHANGE

HEARING DATE: May 12, 2016

FILE NO: ANX-16-001

REQUEST: Annex 10.37 acres of property, plus the area of the adjacent rights-of-way, into the Newberg city limits and change the zoning from Yamhill County AF-10 to Newberg R-1.

LOCATION: Directly north of the current Newberg city limits on the southeast side of the North Valley Road/Chehalem Drive intersection, 24950 NE North Valley Road.

TAX LOT: 3207-00900

APPLICANT: Newberg First Baptist Church

OWNER: Same as applicant

PLAN DISTRICT: PQ (Public/Quasi-Public)

ATTACHMENTS:

Planning Commission Resolution 2016-317 with:

- Exhibit "A": Property Map
 - Exhibit "B": Legal Description
 - Exhibit "C": Findings
1. Aerial Photo
 2. Concept Development Plan
 3. Current Comprehensive Plan/Zoning Map
 4. Application
 5. Public Comments

appears to be a wetland/stream along the southeast boundary of the site.

6. Adjacent Land Uses:
 - a. North: rural residential/farm (outside city limits)
 - b. East: rural residential/farm (outside city limits)
 - c. South: CPRD park and ball fields (inside city limits)
 - d. West: rural residential/farm (outside city limits)
7. Access and Transportation: The property is currently undeveloped, but has frontage on both Chehalem Drive and North Valley Road. Both roads are currently under Yamhill County jurisdiction.
8. Utilities:
 - a. There is an 8-inch and 10-inch public water line that is located at the intersection of Foothills Drive and Chehalem Drive that could be extended north along Chehalem Drive to serve the site.
 - b. There is an 8-inch public wastewater line that currently ends at the intersection of Foothills Drive and Chehalem Drive that could be extended north along Chehalem Drive to serve the site.
 - c. The current site is an open field of a pervious nature. The applicant must comply with the stormwater requirements of the municipal code and PW Design and Construction Standards Manual in effect at the time of site development. Stormwater currently flows south along Chehalem Drive through a roadside ditch. A 36-inch storm sewer pipe is located just north of the intersection of Foothills Drive and Chehalem Drive.
 - d. As required by the Newberg Municipal Code and at the time of site development, the applicant shall install all overhead utilities underground.

D. PROCESS: An annexation and zone change request is a Type III application and follows the procedures in Newberg Development Code 15.100.050. The Planning Commission will hold a quasi-judicial hearing on the application. The Commission makes a recommendation on the application based on the criteria listed in the attached findings. The Planning Commission's recommendation is forwarded to the City Council, who will hold a hearing and render a final decision on the application. State law recently changed with the passage and adoption of Oregon Senate Bill 1573, which added language to ORS 222.111 preempting Newberg's requirement that annexations go to a public vote, and instead directs the legislative body of a city to annex property without a public vote when the property meets certain requirements. Important dates related to this application are as follows:

- 4/19/16: The Community Development Director deemed the application complete.
- 4/18/16: The applicant mailed notice to the property owners within 500 feet of the site and posted the site.
- 4/27/16: The *Newberg Graphic* published notice of the Planning Commission hearing.
- 5/12/16: The Planning Commission will hold a quasi-judicial hearing to consider the application.

E. AGENCY COMMENTS: The application was routed to several public agencies for review and comment. Comments and recommendations from city departments have been

incorporated into the findings and conditions. As of the writing of this report, the city received the following agency comments:

Newberg School District: *Reviewed; no conflict. The pedestrian path to the park and schools is critical due to unsafe walking conditions on Chehalem Drive and North Valley Road.* (note: this comment is to the draft future development plan, which is not under consideration at this time).

- F. PUBLIC COMMENTS:** As of the writing of this report, the city has received one written public comment, which is attached as Attachment 5 to this staff report. The public comment expressed concern about traffic safety issues at the Chehalem Drive/North Valley Road intersection. Intersection safety is concern for the city, and this is an issue that would be analyzed and mitigated at the time of development. Future development of the property would require a traffic study to identify necessary improvements for traffic safety and function. In any case, frontage improvements along both Chehalem Drive and North Valley Road would be required, as well as fixing any known issues such as a sight distance issue at the intersection.
- G. ANALYSIS:** This is an annexation request for 10.37 acres of property plus the area of the adjacent rights-of-way of property that is already identified as being within the Newberg urban growth boundary. The property has a Comprehensive Plan designation of PQ (Public/Quasi-Public), which corresponds with the requested zoning of R-1 (Low Density Residential) per section 15.250.080 of the Newberg Development Code. According to the most recent analysis completed as part of the recent “Martell Commons” Comprehensive Plan Map and Zone Map amendment, the city has a deficit of 37 acres of LDR land to meet 2030 housing needs. Annexation of this property will provide additional residential development opportunities to meet future housing demands.

Adequate public utilities are available to serve the site within three years – there are both public water and wastewater lines located at the intersection of Foothills Drive and Chehalem Drive. Future development will require the public utilities to be extended north along Chehalem Drive adjacent to the school property and park property to the site, and then to and through the site to serve future development.

The site is located at the southeast corner of the Chehalem Drive/North Valley Road intersection. Both roads are designated as major collectors in the Yamhill County TSP Functional Classification Map (TSP – Appendix). Street improvements to both frontages will be required at the time of development, and there will likely be a requirement for a sidewalk to be extended south along Chehalem Drive to connect at Foothills Drive. In addition, future development will likely require a traffic study, which will identify other necessary mitigation measures, including improvements to the site distance issue at the intersection.

State law recently changed with the passage and adoption of Oregon Senate Bill 1573, which added language to ORS 222.111 preempting Newberg’s (and other cities) requirement that annexations go to a public vote, and instead directs the legislative body of a city to annex property without a public vote when the property meets certain requirements, including: being within the urban growth boundary; subject to the Comprehensive Plan of the city; contiguous to city limits; and meeting the city’s adopted Development Code criteria for annexation. This property meets

those criteria as outlined in the findings in Exhibit “C” and will not be sent to a public vote. The City Council will make the final local decision on this application for annexation.

H. PRELIMINARY STAFF RECOMMENDATION: The preliminary staff recommendation is made in the absence of public hearing testimony, and may be modified subsequent to the close of the public hearing. At this writing, staff recommends the following motion:

Move to adopt Planning Commission Resolution 2016-317, which recommends that the City Council approve the requested annexation and zone change.



PLANNING COMMISSION RESOLUTION 2016-317

A RESOLUTION RECOMMENDING THAT THE CITY COUNCIL APPROVE AN ANNEXATION OF 10.37 ACRES OF PROPERTY, PLUS THE AREA OF THE ADJACENT RIGHTS-OF-WAY, INTO THE CITY OF NEWBERG AND CHANGE THE ZONING FROM YAMHILL COUNTY AF-10 TO NEWBERG R-1, FOR PROPERTY LOCATED AT 24950 NE NORTH VALLEY ROAD, TAX LOT 3207-00900

RECITALS

1. The Newberg First Baptist Church submitted an application to annex 10.37 acres of property, plus the area of the adjacent rights-of-way, into the City of Newberg and change the zoning from Yamhill County AF-10 to Newberg R-1. The property is located directly north of the current Newberg city limits at the southeast corner of the Chehalem Drive/North Valley Road intersection, Tax Lot 3207-00900.
2. After proper notice, the Newberg Planning Commission held a hearing on May 12, 2016, to consider the application. The Commission considered testimony, and deliberated.
3. The Newberg Planning Commission finds that the application meets the applicable Newberg Development Code criteria as shown in the findings in Exhibit "C".
4. State law recently changed with the passage and adoption of Oregon Senate Bill 1573, which added language to ORS 222.111 that preempts Newberg's requirement that annexations go to a public vote, and instead directs the legislative body of a city to annex property without a public vote when the property meets certain requirements, including: being within the urban growth boundary; subject to the Comprehensive Plan of the city; contiguous to city limits; and meeting the city's adopted Development Code criteria for annexation. This property meets those criteria.

The Newberg Planning Commission resolves as follows:

1. The Planning Commission recommends that the City Council annex the property shown in Exhibit "A" and described in Exhibit "B", along with a zone change to R-1, and withdraw the property from the Newberg Rural Fire Protection District. Exhibits "A" and "B" are hereby adopted and by this reference incorporated.
2. This recommendation is based on the findings shown in Exhibit "C". Exhibit "C" is hereby adopted and by this reference incorporated.

Adopted by the Newberg Planning Commission this 10th day of March, 2016.

ATTEST:

Planning Commission Chair

Planning Commission Secretary

**Exhibit "A" to Planning Commission Resolution No. 2016-317
Property Map – First Baptist Annexation**

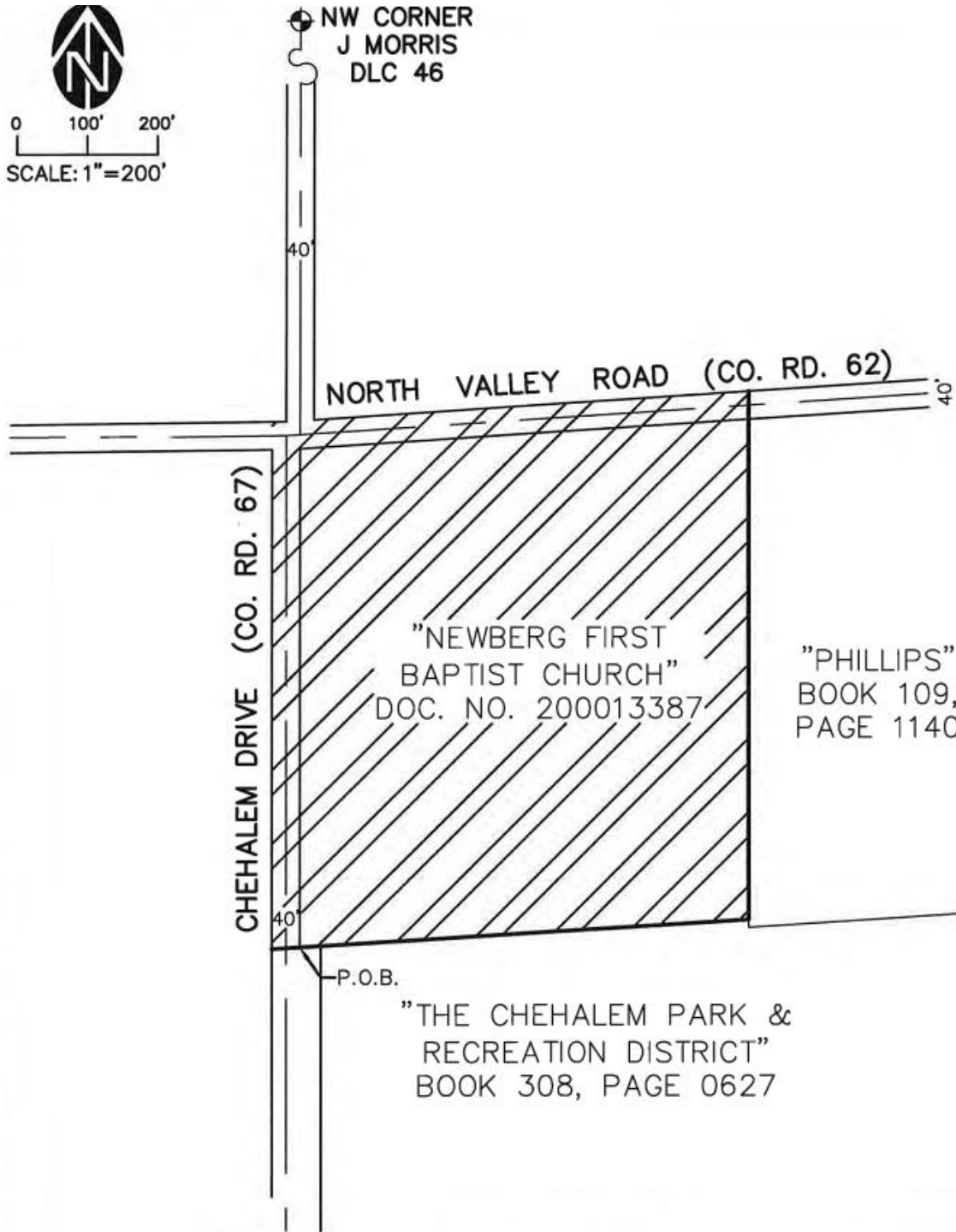


EXHIBIT B
PROPOSED ANNEXATION
LOCATED IN THE NORTH 1/2 OF SECTION 7
TOWNSHIP 3 SOUTH, RANGE 2 WEST, W.M.
YAMHILL COUNTY, OREGON

DATE	3/2/16	 WESTLAKE CONSULTANTS INC. ENGINEERING ♦ SURVEYING ♦ PLANNING PACIFIC CORPORATE CENTER 15115 S.W. SEQUOIA PARKWAY, SUITE 150 (503) 684-0652 TIGARD, OREGON 97224 FAX (503) 624-0157
DRAWN BY	GRA	
CHECKED BY	KLS	
REVISION	0	
JOB NO.	D131-049	

**Exhibit "B" to Planning Commission Resolution No. 2016-317
Legal Description – First Baptist Annexation**

Newberg First Baptist Church
Proposed Annexation
February 2, 2016
Project P131-042

PROPERTY DESCRIPTION

A tract of land; situated in the North 1/2 of Section 7, T 3 S., R 2 W., W.M. Yamhill County, Oregon; being more particularly described as follows:

Beginning at a point along the West line of the J. Morris DLC # 46, which point bears South 1,467.16 feet from the northwest corner thereof, said point also being at the intersection of the north line extended to the west of that tract conveyed to "The Chehelam Park & Recreation District" as recorded in Book 308, Page 0627, Yamhill County Deed Records and the east right of way line of Chehalem Drive (Co. Rd. 67);

thence, along said north line and its westerly extension, North 86°32'30" East 642.35 feet, more or less, to the west line of that tract of land conveyed to "Robert Edward Phillips, Jr. and Barbara Jean Phillips" as recorded in Book 109, Page 1140, Yamhill County Deed Records;

thence, along last said west line, North 758.91 feet, more or less, to the northerly right of way line of North Valley Road (Co. Rd. 62);

thence, along said northerly right of way line, South 86°20'00" West 682.58 feet, more or less, to the west right of way line of said Chehalem Drive;

thence, along said west right of way line, South 756.42 feet, more or less, to its intersection with said north line extended to the west of said tract conveyed to "The Chehelam Park & Recreation District";

thence, along said westerly extension, North 86°32'30" East 40.07 feet to the Point of Beginning.

Containing 11.848 acres or 516,106 square feet, more or less.

Bearings are based upon Yamhill County Survey #8020.



L:\Promo\ P131-042 10Acre Annexation\ Work in Progress\ PDP13-42 ANNEXATION.docx

**Exhibit “C” to Planning Commission Resolution No. 2016-317
Findings –File ANX-16-001 – First Baptist Annexation**

A. 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.

Finding: The First Baptist property, located at 24950 NE North Valley Road, Tax Lot 3207-00900, is located within the urban growth boundary and is contiguous to the Newberg city limits along its southern boundary. The legal description of area to be annexed includes the adjacent Chehalem Drive and North Valley Road rights-of-way, which provides for future continuity of the city limits. This criterion is met.

B. 15.250.030 Quasi-judicial annexation criteria.

The following criteria shall apply to all annexation requests:

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

Finding: The property has a Comprehensive Plan designation of PQ (Public/Quasi-Public), which corresponds with the requested zoning of R-1 (Low Density Residential). Section 15.250.080 of the Newberg Development Code says that any zoning designation is consistent with the PQ Comprehensive Plan designation. The PQ designation is typically used to indicate the location of public/quasi-public uses such as schools and churches; these uses are typically permitted in any zone, which is why any zone can be applied under a PQ designation. The PQ designation was likely applied at the time of the urban growth boundary expansion in consultation with the property owners to pave the way for a future church on the site; however, the property owners would be permitted to develop the property with any permitted or conditionally permitted use in the R-1 zone and not held to only a PQ type of development. This criterion is met.

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

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

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

Finding: City water, sanitary sewer and stormwater lines are not located adjacent to this property. The nearest services are located at the intersection of Foothills Drive and Chehalem Drive, but there is adequate capacity for the utilities to be extended to the property within three years. At the time of development, services could be extended to the north along Chehalem Drive to serve the property. Downstream of the property, the sanitary sewer flows to the Chehalem Pump Station. At the time of development, an analysis of the pump station is required, and any necessary upgrades to the pump station would be completed by the developer.

There appears to be wetlands located at the southern end of the property. At the time of development, a wetland delineation/determination will be required, along with all associated permits.

The property has road frontage along Chehalem Drive and North Valley Road. Future development of this property will necessitate roadway frontage improvements, along all property frontages, to City standards. Due to limited sight distance at the intersection of North Valley Road and Chehalem Drive, improvements to this intersection will be necessary to meet engineering sight distance standards. Additionally, a pedestrian sidewalk will be required to be installed from the property south along Chehalem Drive to Foothills Drive.

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

Finding: The city sends the application information out to the Police and Fire Departments, Chehalem Parks and Recreation District (CPRD), and the Newberg School District, among other agencies, for comments prior to the staff report. In addition, the applicants indicate that they contacted the Newberg School District and the Police and Fire Departments, and verified that there were no issues with serving future development on this site. The School District did comment that a future pedestrian path from the development to the adjacent park would be critical due to the unsafe pedestrian conditions on Chehalem Drive. There is no information to suggest that city services could not support the addition of the 10.37 acres of property, plus the area of the adjacent rights-of-way, to the city limits, and in fact future development of the site helps fund these city services and other System Development Charge or permit fee funded services such as the School District and CPRD. It should be noted that the City of Newberg does not do future planning for the Parks District or the School District; however, the city coordinates with those agencies on a regular basis in regards to future planning efforts. This type of coordination is typically done at the time of urban growth

boundary expansion, when properties are added to serve as the future 20-year urbanizable area, or areas where the city limits is expected to expand to meet growth needs.

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

Finding: The applicant submitted adequate information to allow the city to make findings to the applicable criteria.

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

Finding: This criterion is not applicable because adequate urban services are found to be available within the three year time frame.

C. 15.302.030 Procedures for comprehensive plan map and zoning map amendments.

A.3. Amendment Criteria. The owner must demonstrate compliance with the following criteria:

a. The proposed change is consistent with and promotes the goals and policies of the Newberg comprehensive plan and this code;

Finding: The property has a Comprehensive Plan designation of PQ (Public/Quasi-Public), which corresponds with the requested zoning of R-1 (Low Density Residential) as section 15.250.080 of the Newberg Development Code says that any zoning designation is consistent with the PQ Comprehensive Plan designation. The Comprehensive Plan Housing Goal says “To provide for 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.” Annexations meet the intent of the Goal because they provide land to meet the needs of City residents. The buildable land data in the Comprehensive Plan is rather outdated, but the most recent analysis done for a recent zone change showed a need for 37 acres of LDR land. Annexation of this property would help the city meet this deficiency. This criterion is met.

b. Public facilities and services are or can be reasonably made available to support the uses allowed by the proposed change;

Finding: As demonstrated in the finding to 15.250.030.B. above, the applicant has demonstrated that adequate public facilities and services can be reasonably made available to support future development of the property at R-1 permitted densities.

c. Compliance with the State Transportation Planning Rule (OAR 660-012-0060) for proposals that significantly affect transportation facilities.

Finding: Annexation of the property complies with the State Transportation Planning Rule (TPR) (OAR 660-012-0060) because it meets the requirements for an amendment to a zoning map that does not significantly affect an existing or planned transportation facility as permitted by Subsection (9) of the TPR: the proposed zoning of R-1 is consistent with the existing comprehensive plan map designation of PQ; the City of Newberg has an acknowledged TSP which included this area in the urban reserve as planned future urbanizable land; this property was brought into the urban growth boundary in 2006 as part of a larger urban growth boundary amendment that included a full report with adequate justifications for transportation and other public facilities.

OAR 660-012-0060(9) Notwithstanding section (1) of this rule, a local government may find that an amendment to a zoning map does not significantly affect an existing or planned transportation facility if all of the following requirements are met.

(a) The proposed zoning is consistent with the existing comprehensive plan map designation and the amendment does not change the comprehensive plan map;

(b) The local government has an acknowledged TSP and the proposed zoning is consistent with the TSP; and

(c) The area subject to the zoning map amendment was not exempted from this rule at the time of an urban growth boundary amendment as permitted in OAR 660-024-0020(1)(d), or the area was exempted from this rule but the local government has a subsequently acknowledged TSP amendment that accounted for urbanization of the area.

[Subsection (1) of OAR 660-012-0060]

(1) If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:

(a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);

(b) Change standards implementing a functional classification system; or

(c) Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified

in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.

(A) Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;

(B) Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or

(C) Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.

- D. Conclusion:** Based on the above-mentioned findings, the application meets the criteria of the Newberg Development Code.

Attachment 1: Aerial Photo








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

Z:\WPSFILES\FILES.ANX\2016\ANX-16-001 North Valley - Chehalem Drive\Staff Report_ANX-16-001_FirstBaptistANX.doc

Attachment 2: Concept Development Plan



Legend

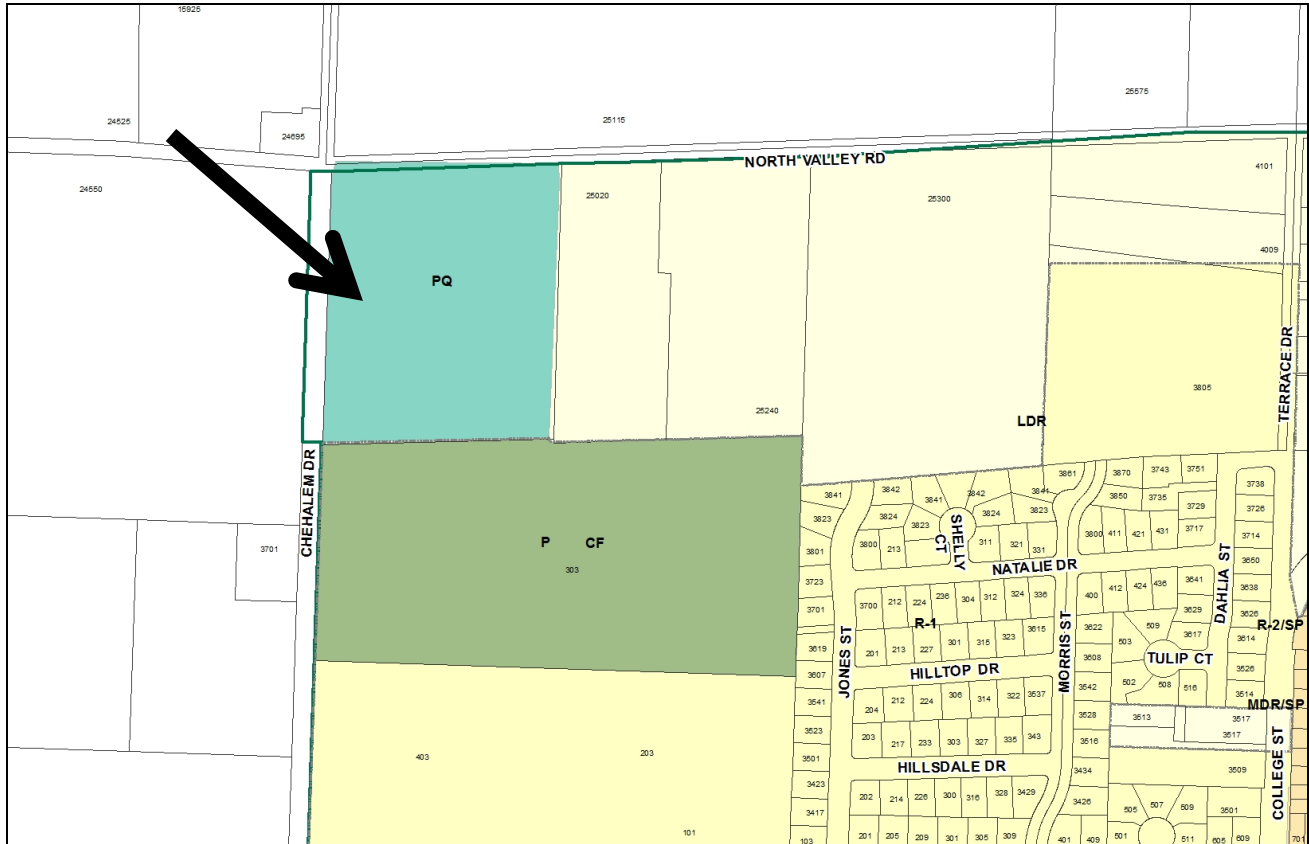
	Water Extension
	Sewer Extension
	Open Space
	Single Family Lots
	Street ROW's

Notes

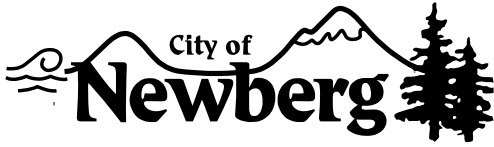
This site layout is conceptual and representation of what could be developed on the site.

Typical Lot size will range between 5,000 and 10,000 S.F.

Attachment 3: Current Comprehensive Plan/Zoning Map



"Working Together For A Better Community-Serious About Service"
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Planning and Building Department

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503-537-1240 • Fax 503-537-1272 • www.newbergoregon.gov

NOTICE OF DECISION {PROJECT TITLE} ANNEXATION/ZONE CHANGE

[Date of Letter]

[Applicant Name]

[All persons providing comment]

[Applicant Mailing Address]

[Mailing City ST, ZIP]

On [Hearing date], the Newberg City Council adopted Order 20xx-xxxx, approving an annexation, and a zone change from { } to { }, for property at {address}, Yamhill County Tax Lot {Tax Lot}. The order became final on the hearing date. A copy of the order may be viewed on the city’s website at http://www.newbergoregon.gov/sites/default/files/Order0031_0.pdf

This ordinance is subject to a public vote. The Council also approved Resolution 20xx -, setting this item for a [date] election.

Any party aggrieved by this decision may appeal to the Land Use Board of Appeals (LUBA) by first filing a “Notice of Intent to Appeal” within 21 days after the land use decision became final (OAR-661-010-0010(3)). For details on filing an appeal, contact the Land Use Board of Appeals at 503-373-1265 (550 Capitol Street NE Suite 235, Salem, OR 97301-2552).

Please remove all notice signs from the site.

If you have any questions; please contact me at [planner phone] or [planner e-mail].

Sincerely,

[Planner name and position]

Enc

cc: file [File no]

Newberg Annexation

24950 NE North Valley Road, Newberg, OR 97132

March 7, 2016

Annexation Application

Prepared for:
Newberg First Baptist Church

Prepared by:
Westlake Consultants, Inc.
15115 SW Sequoia Parkway, Suite 150
Tigard, Oregon 97224
Phone: 503.684.0652
Fax: 503.624.0157

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City of Newberg Annexation Criteria	3
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- B Map and Legal Description
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- D Development Concept Statement
- E Public Facilities Financing Statement
- F Positive and Negative Effects Statement
- G Concept Pedestrian Connection Plan
- H Memo for Sewer Availability
- I Measure 49 Waiver
- J Annexation Consent Forms
- K Application Form
- L Transportation Planning Rule Consistency

Application and Subject Site Summary

SUBJECT PROPERTY: Tax Map R3207 Tax Lot 00900

PROPERTY LOCATION: 24950 NE North Valley Road, Newberg, OR 97132

PROPOSAL: Annexation into City of Newberg with R-1 zoning

SITE SIZE: 10.37 acres

COUNTY ZONING DESIGNATION: AF-10 Agriculture/Forestry Small Holding District

COMPREHENSIVE PLAN DESIGNATION: PQ – Public/Quasi-Public

REQUESTED ZONING: R-1 Low Density Residential

PROPERTY OWNER & APPLICANT: Newberg First Baptist Church

Application Description

Introduction

The applicant, Newberg First Baptist Church, is the owner of the property at 24950 NE North Valley Road, Newberg, OR 97132. The church is seeking to annex the 10.37 acre parcel into the City of Newberg as R-1 Residential. A Pre-Application meeting was held with the City of Newberg in February of 2016 to discuss the annexation process and requirements.

Proposal

This annexation application requests that the site be annexed with R-1 zoning. This zoning will allow the site to be developed with detached single family homes consistent with surrounding developments in the area. Current zoning regulations would allow the 10 acre site to be developed at approximately 6 to 7 lots per acre resulting in the potential to add 60 to 70 new homes to the site.

Existing Conditions

As depicted below by Figure 1, aerial photograph, the subject site is surrounded on the east, north, and west by large lot residential and farmland. To the south of the site is Crater Park and the Darnell Wright Sports Complex. South of the park, are the Chehalem Valley Middle School and Antonia Crater Elementary School. The site is currently vacant with an open field and a few trees in the NE corner.

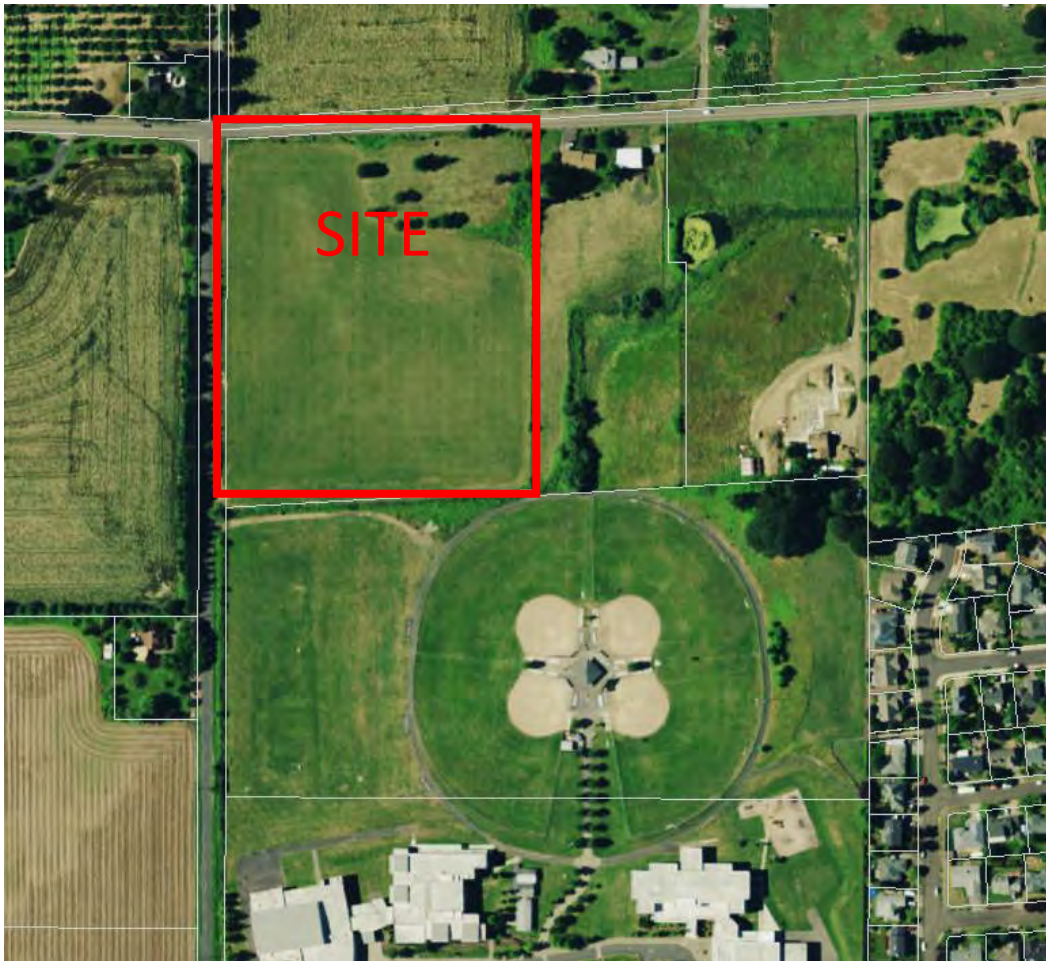


Figure 1 – Aerial Photograph

Public Facilities

1. Sanitary Sewer: There is a City of Newberg 8” sewer main located south of the site along Chehalem Drive. A public sanitary pump station is located approximately 2,600 feet south of the site along Chehalem Drive.
2. Water Service: There is a City of Newberg 8” water main located south of the site along Chehalem Drive.
3. Stormwater Management: There are stormwater lines south of the site located along Chehalem Drive.
4. Streets: Chehalem Drive and NE North Valley Road are both 2 lane roads. They are classified as Major Collectors.

City of Newberg Annexation Criteria

Applicant Narrative

The City of Newberg Municipal Code sections applicable to this Annexation Request include:

Chapter 15.250 ANNEXATIONS

- 15.250.020 Conditions for Annexation
- 15.250.030 Quasi-judicial Criteria
- 15.250.040 Quasi-judicial procedures
- 15.250.050 Application requirements for quasi-judicial annexations
- 15.250.080 Comprehensive plan and zoning designations
- 15.250.09

The specific applicable sub-sections from these Articles and the Applicant Responses demonstrating compliance with each are as follows:

Chapter 15.250 ANNEXATIONS

15.250.020 Conditions for annexation

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

- A. *The subject site must be located within the Newberg urban growth boundary or Newberg urban reserve areas.*
- B. *The subject site must be contiguous to the existing city limits. [Ord. 2745 § 1 (Exh. A), 7-18-11; Ord. 2451, 12-2-96. Code 2001 § 151.261.]*

APPLICANT'S RESPONSE:

The subject site is located within the Newberg Urban growth boundary. The subject site is contiguous to the existing city limits.

15.250.030 Quasi-judicial annexation criteria

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

Attachment 4

- 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.*

APPLICANT'S RESPONSE:

The current Newberg Comprehensive Plan labels the site as PQ – Public/Quasi-public. As discussed further in this narrative, 15.250.080 states that land designated as PQ can be zoned as any type of zoning designation when being annexed into the City. The annexation application is requesting R-1, Low Density Residential be applied upon annexation to match the existing development and zoning in the area. The R-1 will also allow the future development of the site for detached single family residential.

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

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

APPLICANT'S RESPONSE:

The subject site can be served by municipal wastewater and water service with the extension of main lines to the site within the Chehalem Drive public right-of-way. The memo in Exhibit H demonstrates the ability of the site to be adequately and timely served by the extension of sewer services with capacity.

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.*

APPLICANT'S RESPONSE:

Street improvements will be conditioned as required through review and approval of the future development of the site as a single family residential subdivision. Consistent with the applicable provisions of this section, the Development Concept Statement demonstrates the type of development that is proposed for the site. There are no conditions present on the property preventing compliance with a waiver of remonstrance for road improvements nor participation along with the City in traffic improvement costs associated with the future development of the property.

- 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.*

APPLICANT'S RESPONSE:

The Newberg School District was contacted about the annexation request. The district verified that it had the capacity to serve a 70 home residential development on the site. The Newberg Fire and Police Departments were contacted and verified that there not be any issues with providing service to the site. These agencies will also receive this application for annexation to provide further comments during the process. Parks replies are pending and will be provided through the review process of this application.

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

Attachment 4

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

APPLICANT'S RESPONSE:

As addressed in this application, urban services are available or can be made readily available within 3 years through development of the property as a detached single family residential subdivision. Thus, this section is not applicable.

15.250.040 Quasi-judicial annexation procedures.

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

APPLICANT'S RESPONSE:

The applicant is aware of the procedures for the annexation. This application for annexation is submitted to the City of Newberg to be considered before the Planning Commission and City Council for their vote to refer the annexation to the November 2016 general election ballot.

15.250.050 Application requirements for quasi-judicial annexations.

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

- A. *Written consent to the annexation signed by the requisite number of affected property owners, electors, or both to conduct an election within the area to be annexed, as provided by state law. The consent shall include a waiver stating that the owner will not file any demand against the city under Measure 49, approved November 6, 2007, that amended ORS Chapters 195 and 197.*
- 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 subcommunity 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:*
 1. *A planned unit development approved through a Type III procedure.*
 2. *A development agreement approved by the city council.*

Attachment 4

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

APPLICANT'S RESPONSE:

The applicant is aware of the process for the application. All applicable materials listed in this section for the submittal of this annexation are included with this application.

15.250.080 Comprehensive plan and zoning designations

- A. The comprehensive plan map designation of the property at the time of annexation shall be used as a criterion to determine whether or not the proposed request complies with the Newberg comprehensive plan. A redesignation of the comprehensive plan map may be requested concurrent with annexation. The proposed redesignation shall then be used to determine compliance with the Newberg comprehensive plan.
- B. Upon annexation, the area annexed shall be automatically zoned to the corresponding land use zoning classification which implements the Newberg comprehensive plan map designation. The corresponding designations are shown in the table below. The procedures and criteria of NMC 15.302.030 shall not be required.

Comprehensive

Plan Classification	Appropriate Zoning Classification
OS	Any zoning classification
LDR	R-1
MDR	R-2, R-4
HDR	R-3, R-4
COM	C-1, C-2, or C-3 as determined by the director
MIX	C-2, M-1, or M-2 as determined by the director
IND	M-1, M-2, M-3, M-4, or AI
PQ	Any zoning classification
P	CF

- C. If a zoning classification is requested by the applicant for other than that described in subsection (B) of this section, the criteria of NMC 15.302.030 shall apply. This application shall be submitted concurrently with the annexation application.
- D. In the event that the annexation request is denied, the zone change request shall also be denied. [Ord. 2747 § 1 (Exh. A § 6), 9-6-11; Ord. 2720 § 1(9), 11-2-09; Ord. 2451, 12-2-96. Code 2001 § 151.267.]

APPLICANT'S RESPONSE:

The applicant is requesting that the property be zoned to R-1, Low Density Residential to match the existing development and zoning in the area. The R-1 zoning will allow the site to be developed with detached single family homes. Annexation of the property and zoning the land R-1 adds residential land to the city meeting the housing and land use goals of the Comprehensive Plan. The residential use is compatible and appropriate given surrounding residential, agricultural, and public facilities development.

CONCLUSION

As demonstrated with this narrative and the attached exhibits, the annexation of this property meets the applicable criteria and will benefit the City of Newberg. The applicant requests that the Planning Commission and City Council approve this application and refer this annexation on to the November 2016 general election ballot.

Exhibit A

Title Report

Attachment 4



Ticor Title Company of Oregon

STATUS OF RECORD TITLE REPORT

1433 SW 6th Avenue, Portland, OR 97201
(503)646-4444 FAX:

March 1, 2016

TO: Keller Williams Realty Portland Premier
Attn: Kelly Hagglund
215 N Blaine Street
Newberg, OR 97132

Title Number: 471816047899-TTMIDWIL18
Regarding: 24950 North Valley Road, Newberg, OR 97132
Property Address: 24950 North Valley Road
Newberg, Oregon 97132
County: Yamhill
DATED AS OF: February 26, 2016, 08:00-AM

PROPERTY

We have searched our Tract Indices as to the following described real property:
See Exhibit A Attached Hereto

VESTING

The First Baptist Church of Newberg, an Oregon non-profit corporation, which acquired title as Newberg First Baptist Church

RECORDED INFORMATION

Said property is subject to the following on record matter(s):

1. Rights of the public to any portion of the Land lying within streets, roads and highways.
2. Development Agreement with Consent to Annexation Agreement, including the terms and provisions thereof,

Executed by: The First Baptist Church of Newberg and the City of Newberg
Recording Date: July 8, 2003
Recording No.: 200316344

END OF EXCEPTIONS

ADDITIONAL REQUIREMENTS / NOTES:

Attachment 4

STATUS OF RECORD TITLE REPORT

(Continued)

- A. Note: Property taxes for the fiscal year shown below are paid in full.

Fiscal Year: 2015-2016
Amount: \$1,688.33
Levy Code: 29.2
Account No.: 23334
Map No.: R3207 00900

Prior to close of escrow, please contact the Tax Collector's Office to confirm all amounts owing, including current fiscal year taxes, supplemental taxes, escaped assessments and any delinquencies.

THIS REPORT IS TO BE UTILIZED FOR INFORMATION ONLY.

Any use of this report as a basis for transferring, encumbering or foreclosing the real property described will require payment in an amount equivalent to applicable title insurance premium as required by the rating schedule on file with the Oregon Insurance Division.

The liability for Ticor Title Company of Oregon is limited to the addressee and shall not exceed the \$350.00 paid hereunder.

Ticor Title Company of Oregon

Deborah Clark
deborah.clark@titlegroup.fntg.com

Attachment 4

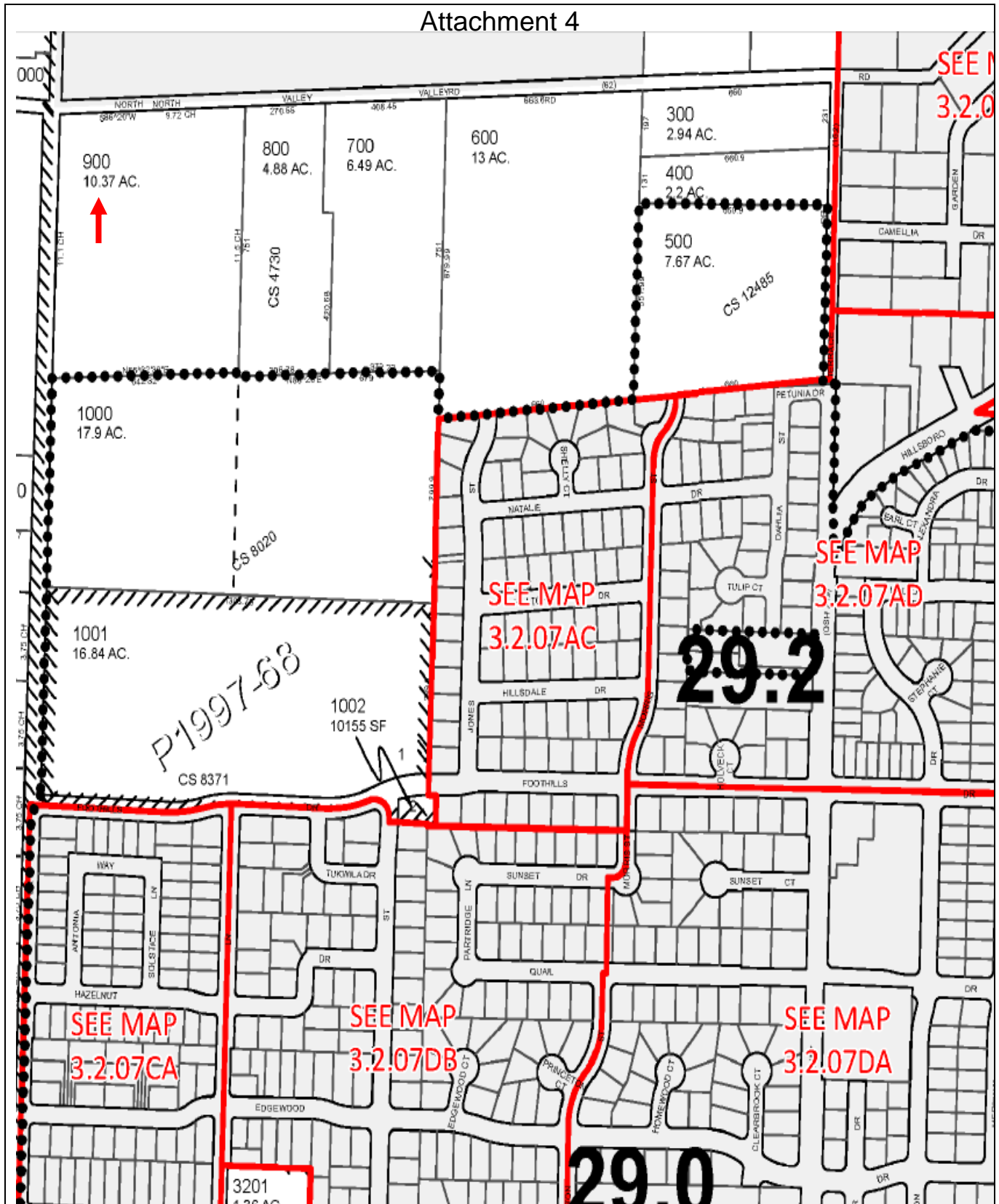
Order No.: 471816047899-TTMIDWIL18

EXHIBIT "A"

A tract of land in Yamhill County, Oregon, and being more particularly described as follows:

Being a part of the Donation Land Claim of James Morris and Lydia Morris, husband and wife, Notification No. 478, Claim No. 46 in Section 7, Township 3 South, Range 2 West of the Willamette Meridian in said County and State, and more particularly described as beginning at a point 1467.16 feet South of the Northwest corner of said Donation Land Claim in Section 7 of said Township and Range, County and State, said point also being the Northwest corner of that tract of land described in Judgment, Antonia Crater vs. Ovy D. Pratt et ux, et al, in Circuit Court, Yamhill County, Oregon, Case No. 82-1390, in which Judgment was entered October 31, 1983; thence North $86^{\circ}32'30''$ East 642.35 feet along a fence now there (July 1982), passing an iron rod at 30.06 feet, to an iron rod; thence North 11.33 chains, more or less, to center of county road; thence South $86^{\circ}20'$ West 9.72 chains, more or less, to a point exactly North of the true place of beginning of the tract herein described; and thence South 11.61 chains, more or less, to the true point of beginning.

Attachment 4



THIS MAP IS MADE SOLELY FOR THE PURPOSE OF ASSISTING IN LOCATING SAID PREMISES, AND THE COMPANY ASSUMES NO LIABILITY FOR VARIATIONS, IF ANY, IN DIMENSIONS, AREAS, AND LOCATIONS AS CERTAINED BY ACTUAL SURVEY.



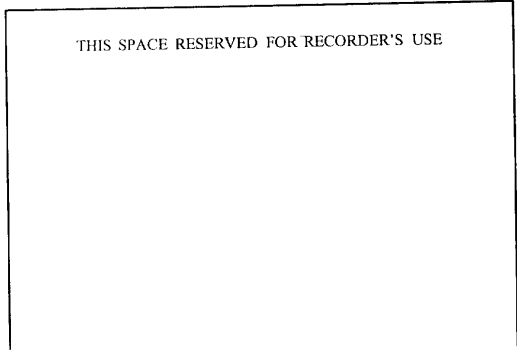
Attachment 4



After recording return to:
Newberg First Baptist Church
PO Box 1
Newberg, OR 97132

Until a change is requested all tax statements shall be sent to the following address:
Newberg First Baptist Church
PO Box 1
Newberg, OR 97132

Escrow No. 00040719
Title No. 71289



Recorded in Official Yamhill County Records
CHARLES STERN, COUNTY CLERK



31.00

00041159200013388002

200013388 4:01:04 PM 09/15/2000
DMR DDMR 1 - 1 TONYA
10.00 10.00 11.00

STATUTORY WARRANTY DEED

Marian Jean Poindexter, Grantor, conveys and warrants to Newberg First Baptist Church, Grantee, the following described real property free of liens and encumbrances, except as specifically set forth herein:

See attached Exhibit "A" for legal description.

This property is free of liens and encumbrances, EXCEPT:
Easements, Restrictions, Reservations, Covenants, Conditions and Agreements of record, if any, and taxes for 2000-2001, a lien not yet payable.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS, BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

The true consideration for this conveyance is \$125,000.00 (here comply with the requirements of ORS 93.030)

Dated this 14 day of September, 2000.

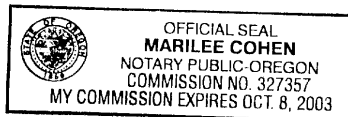
Marian Jean Poindexter
Marian Jean Poindexter

STATE OF OREGON
County of Washington } ss.

This instrument was acknowledged before me on this 14 day of September, 2000
by Marian Jean Poindexter.

Marilee Cohen
Notary Public for Oregon

My commission expires: 10/08/2003



NORTHWEST TITLE COMPANY

1/2

Attachment 4

EXHIBIT "A"

A tract of land in the County of Yamhill and State of Oregon and being more particularly described as follows, to-wit:

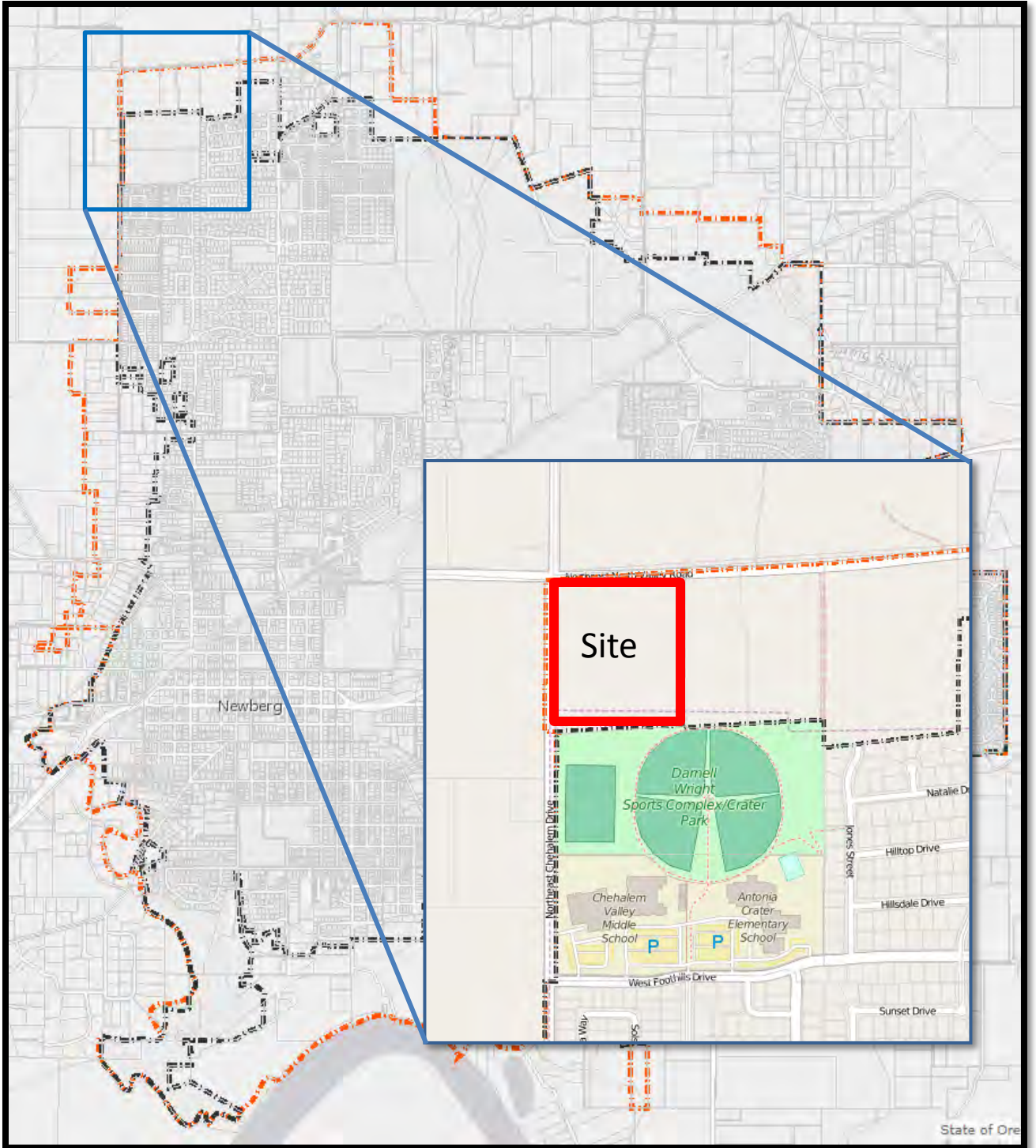
Being a part of the Donation Land Claim of James Morris and Lydia Morris, husband and wife, Notification No. 478, Claim No. 46 in Sections 7 and 18 in Township 3 South, Range 2 West of the Willamette Meridian in said County and State, and more particularly described as beginning at a point 86.9 rods South of the Northwest corner of said Donation Land Claim in Section 7 of said Township and Range, County and State; thence East 9.71 chains; thence North 11.50 chains to center of county road; thence South $86^{\circ}20'$ West 9.72 chains, more or less, to a point exactly North of the true place of beginning of the tract herein described; and thence South 11.10 chains, more or less to the true point of beginning.

Exhibit B

Map and Legal Description

Vicinity Map

24950 North Valley Rd
Newberg, OR



Attachment 4

Exhibit "A"

Newberg First Baptist Church
Proposed Annexation
February 2, 2016
Project P131-042

PROPERTY DESCRIPTION

A tract of land; situated in the North 1/2 of Section 7, T 3 S., R 2 W., W.M. Yamhill County, Oregon; being more particularly described as follows:

Beginning at a point along the West line of the J. Morris DLC # 46, which point bears South 1,467.16 feet from the northwest corner thereof, said point also being at the intersection of the north line extended to the west of that tract conveyed to "The Chehelam Park & Recreation District" as recorded in Book 308, Page 0627, Yamhill County Deed Records and the east right of way line of Chehalem Drive (Co. Rd. 67);

thence, along said north line and its westerly extension, North 86°32'30" East 642.35 feet, more or less, to the west line of that tract of land conveyed to "Robert Edward Phillips, Jr. and Barbara Jean Phillips" as recorded in Book 109, Page 1140, Yamhill County Deed Records;

thence, along last said west line, North 758.91 feet, more or less, to the northerly right of way line of North Valley Road (Co. Rd. 62);

thence, along said northerly right of way line, South 86°20'00" West 682.58 feet, more or less, to the west right of way line of said Chehalem Drive;

thence, along said west right of way line, South 756.42 feet, more or less, to its intersection with said north line extended to the west of said tract conveyed to "The Chehelam Park & Recreation District";

thence, along said westerly extension, North 86°32'30" East 40.07 feet to the Point of Beginning.

Containing 11.848 acres or 516,106 square feet, more or less.

Bearings are based upon Yamhill County Survey #8020.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JULY 25, 1990
GARY R. ANDERSON
2434

RENEWS: 12/31/17



0 100' 200'
SCALE: 1"=200'

NW CORNER
J MORRIS
DLC 46

NORTH VALLEY ROAD (CO. RD. 62)

CHEHALEM DRIVE (CO. RD. 67)

"NEWBERG FIRST
BAPTIST CHURCH"
DOC. NO. 200013387

"PHILLIPS"
BOOK 109,
PAGE 1140

P.O.B.

"THE CHEHALEM PARK &
RECREATION DISTRICT"
BOOK 308, PAGE 0627

EXHIBIT B

PROPOSED ANNEXATION

LOCATED IN THE NORTH 1/2 OF SECTION 7
TOWNSHIP 3 SOUTH, RANGE 2 WEST, W.M.
YAMHILL COUNTY, OREGON

DATE	3/2/16
DRAWN BY	GRA
CHECKED BY	KLS
REVISION	0
JOB NO.	51 01328-042

WESTLAKE
CONSULTANTS INC.

ENGINEERING ♦ SURVEYING ♦ PLANNING

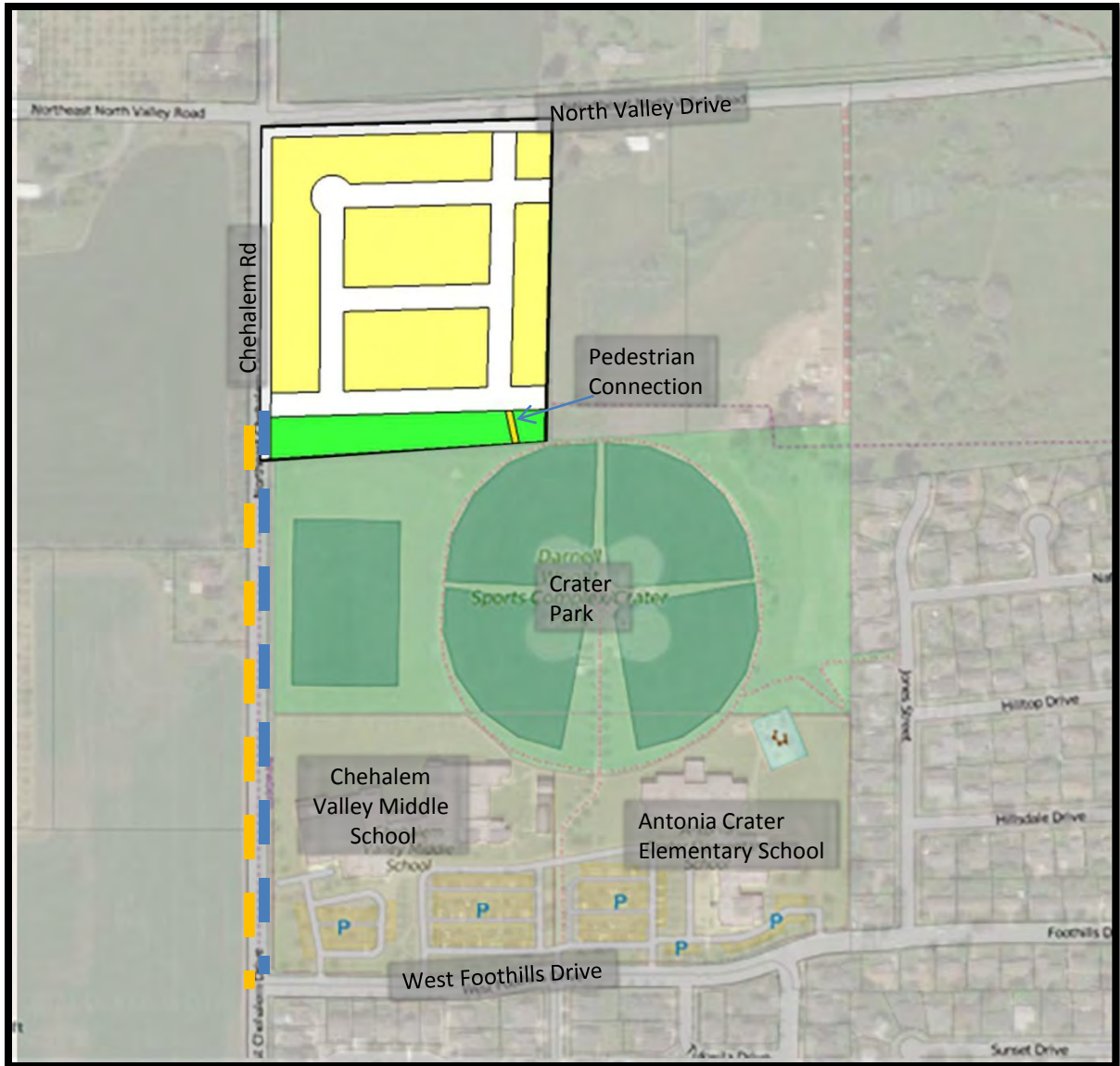
PACIFIC CORPORATE CENTER
15115 S.W. SEQUOIA PARKWAY, SUITE 150 (503) 684-0652
TIGARD, OREGON 97224 FAX (503) 624-0157

DRAWING NAME: L:\PROMO\PI31-042 10-ACRE ANNEXATION\WORK IN PROGRESS\PI31-42 WSDWG MAR 03, 2016 - 6:57AM - GRA






Exhibit C

General Land Use Plan

Attachment 4 General Land Use Plan



Legend

-  Water Extension
-  Sewer Extension
-  Open Space
-  Single Family Lots
-  Street ROW's

Notes

This site layout is conceptual and representation of what could be developed on the site.

Typical Lot size will range between 5,000 and 10,000 S.F.

Exhibit D

Development Concept Statement

Development Concept Statement

This annexation application requests that the site be annexed in with the R-1 zoning. This zoning will allow the site to be developed with single family homes consistent with surrounding developments in the area. Current zoning regulations would allow the 10 acre site to be developed at approximately 6 to 7 lots per acre resulting in the potential to add 60 to 70 new homes to the site.

Development of the site for single family residential would follow the City of Newberg's Type II subdivision application process. All necessary requirements and improvements for the site would be made prior to final approval. Typical improvements will include new streets and sidewalks, extension of public utilities, and landscaping. A future connectivity plan has been included to ensure accessibility and connections are provided to existing and future development of the adjacent property.

The inclusion of the site into the City of Newberg as residential will allow for development which is appropriate given the neighboring park and school facilities. The proximity of the site to an elementary and middle school will allow for pedestrian connections within a walkable area supporting the policies of the Comprehensive Plan.

A pedestrian/bikeway connection can be provided to the existing recreational path at Crater Park which ties into the Antonia Crater Elementary and Chehalem Middle Schools. Street and pedestrian connection stubs to the east would connect future development of the adjacent property to a proposed pathway to the schools/park as shown on the concept pedestrian connection plan submitted with this application.

Expected street improvements to Chehalem Dr. and North Valley Rd. frontages would bring these streets to City standards with the likely addition of bike lanes, sidewalks, and planting strips.

Exhibit E

Public Facilities Financing Statement

Public Facilities Financing Statement

The extension of public infrastructure and street improvements necessary to serve future development of the site will be financed through a combination of system development charges determined at the time of building permit applications, and on-site improvements constructed by the developer and conditioned via the land division approval process. The developer will bear the cost of any on-site improvements necessary for the development of the property.

Exhibit F

Positive and Negative Effects Statement

Positive and Negative Effects Statement

Consistent with the current Quasi-Public Comprehensive Plan designation of the property, this annexation application requests that the site be annexed into the City of Newberg and that R-1 zoning be applied upon annexation. This zoning will allow the site to be developed with detached single family homes consistent with surrounding developments in the area. Current zoning regulations would allow the approximately 10 acre site to be developed at roughly 6 to 7 lots per acre, resulting in the potential to add 60 to 70 new homes to the site.

Positive Effects

At a macro level, the annexation of the property into the City of Newberg will add new land for low density residential development, upholding the policies of the City Comprehensive Plan, which highlights a need for increased residential zoning within the City to meet the projected population growth.

The annexation and development of this site will also increase the City's jurisdiction for tax purposes and development review. Future development of the property will be required to be reviewed and approved through the City's Development process ensuring it meets applicable site development and zoning requirements.

At a micro level, the annexation and development of the site with detached single family homes will be consistent with the current development pattern in the surrounding area. A residential development will be harmonious and beneficial to adjacent residences, as well as Crater Park and Chehalem Valley Middle School and Antonia Crater Elementary School.

Annexation of the site will result in the City regulating future development, including the site's connection to surrounding properties. One major benefit will be the City's ability to ensure that pedestrian connections are provided to Crater Park, as well as Chehalem Valley Middle School and Antonia Crater Elementary School, which are adjacent to the site's southern property line.

Negative Effects

An increase in population in the area with a new residential development will put an increased demand on infrastructure and city services. Traffic in the immediate vicinity will increase and new residents will add to the school population. Additionally, the development will require water and sewerage service to the site, and the existing open space of the site will become housing.

Attachment 4

Mitigation

In order to mitigate the effects of annexation of the property, applicable City code and development standards will condition needed infrastructure improvements. Any required future infrastructure improvements for the site will be reviewed and determined through the future subdivision process. Anticipated improvements will include the extension of water and sewage facilities to the site, street improvements and stormwater management.

Sewer

Provided with this annexation application is a memo from Westlake Consultants' Engineering division which addresses the ability of this property to be connected to the existing sewer infrastructure in the area via an upgrade to the existing sanitary sewer pump station on Chehalem Road south of the property.

Water

Water service is available and can be extended to the site along with stubs to provide for future development of neighboring properties, as well as the ability to loop the system.

Streets and Pedestrian Connections

Chehalem Drive and NE North Valley Road would have roadway frontage improvements including the dedication of any additional Right of Way needed along the property's frontages. Construction of half-street improvements to the frontages along both rights-of-way would be to City standards. Future development may also include a sidewalk extension on the east side of Chehalem Drive, south to Foothills Drive.

A pedestrian connection to the existing recreational path at Crater Park may also be considered at the time of future development. This connection would provide a pedestrian/bicycle route to the schools that can be tied into future developments of the adjacent parcels. The major benefit would be a pedestrian route separated from major streets that follows the principles of the Safe Routes to Schools Program.

Schools

The Newberg School District has stated that school capacity at the affected schools would not be an issue for the potential 60 to 70 home development at the site.

Attachment 4

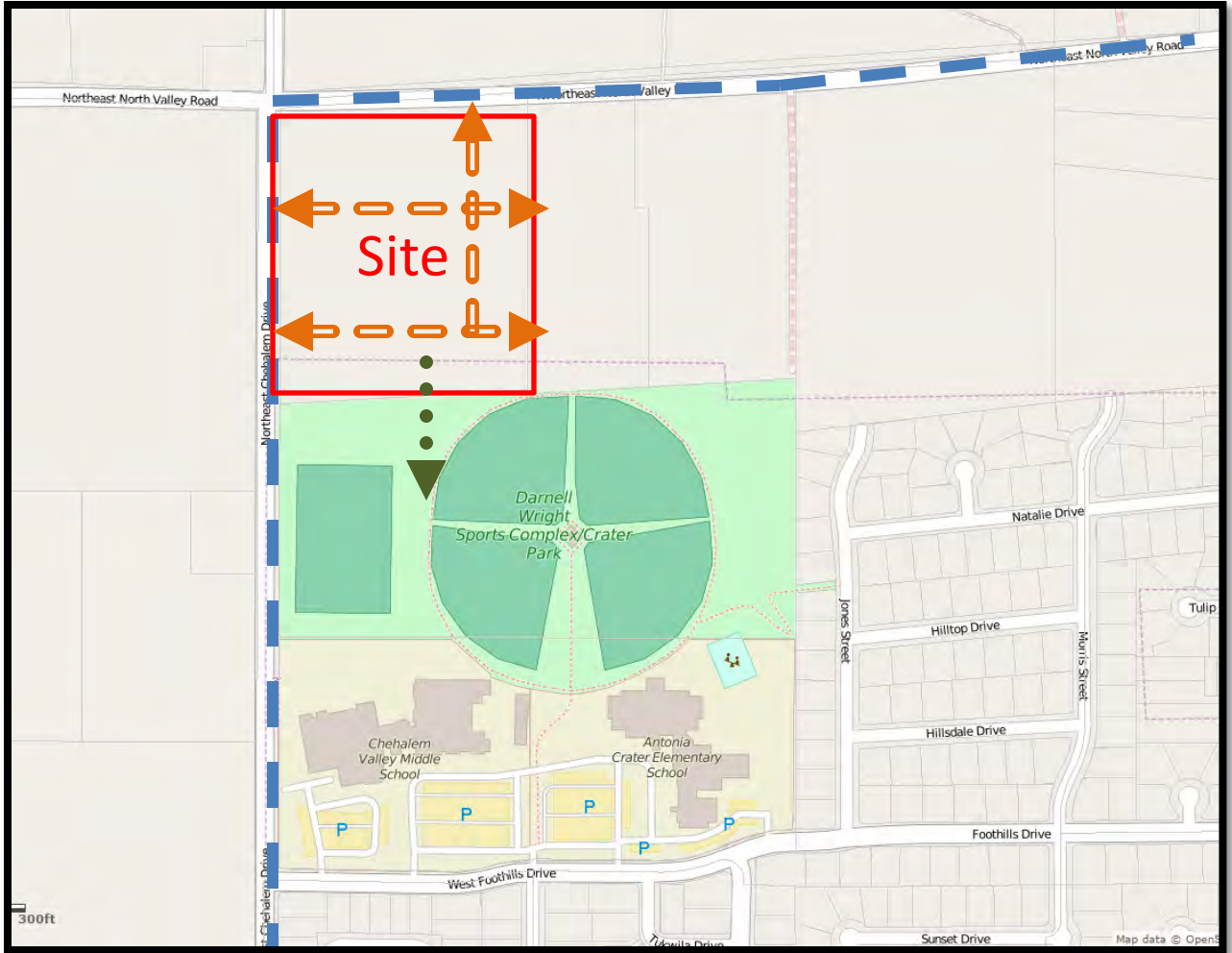
Conclusion

The annexation of the site and R-1 zoning as requested will provide the City of Newberg the ability to regulate the type of development that occurs on the site. It will increase the amount of residential acreage within the City; meeting goals of the Comprehensive Plan. Any negative effects of the development to the community will be mitigated. Furthermore, the positive benefits of this annexation clearly outweigh the negative effects.




Exhibit G

Concept Pedestrian Connection Plan

Concept Pedestrian Connection Plan



Legend

-  Future Bike Lanes
-  Road and Pedestrian Connections
-  Pedestrian Connections

Notes

All connections shown are conceptual. City standards and requirements during the subdivision process would stipulate the actual connections and locations.

Exhibit H

Memo for Sewer Availability

March 4, 2016

City of Newberg
Planning Department
414 E. 1st St.
Newberg, OR 97132

RE: Memo for Sewer Availability – Proposed Annexation of 24950 NE North Valley Road, Newberg OR 97132 (Tax Map R3207, Tax Lot 00900)

To the City of Newberg:

The purpose of this memorandum is to address the availability of municipal sanitary sewer service to the subject property. Documents reviewed include:

- City of Newberg Preliminary Engineer's Report for Crater Lane LID, dated December 2001.
- City of Newberg Technical Memorandum Regarding Parcels Adjacent to Crater Lane LID, dated February 18, 2002.
- City of Newberg Chehalem Drive Pump Station Project Summary, dated May 9, 2003.
- GIS Mapping available on the City of Newberg Website.

The subject property is located approximately 2,600 feet north of the Chehalem Drive pump station on Chehalem Drive. The pump station is located approximately 1,300 feet south of Foothills Drive. An existing gravity sewer that drains to the pump station is located approximately 1,300 feet south of the subject property. The proposed annexation site consisting of approximately 10.37 acres could be served by an extension of the gravity sanitary sewer line in Chehalem Drive. An extension of the gravity sanitary sewer line is anticipated to occur at the time of development of the subject property.

According to the City of Newberg Chehalem Drive Pump Station Project Summary, dated May 9, 2003, the pump station pump capacity is 630 gpm with a peak design flow of 554 gpm. The design flow of 554 gpm is consistent with the design flow stated in the City of Newberg Preliminary Engineer's Report for Crater Lane LID, dated December 2001. A design flow of 554 gpm compared to the pump capacity of 630 gpm indicates that there is an available additional capacity of 72 gpm at the Chehalem Drive Pump Station. The City of Newberg Technical Memorandum Regarding Parcels Adjacent to Crater Lane LID, dated February 18, 2002 indicates that seven parcels north of the LID could be served by the Crater Lane LID (Chehalem Drive) pump station, provided there was an extension of the gravity sewer in Chehalem Drive and a larger capacity pump were installed. No changes to the pump station wet well depth were anticipated to serve adjacent lots to the north.

The subject property is the western most of the seven lots referenced in the Technical Memorandum of February 18, 2002, utilizing design assumptions listed in the referenced City of Newberg documents, the approximately 10.37 acre site proposed for annexation could yield approximately 50 to 55 lots when developed. Utilizing these design assumptions preliminary estimates are for sanitary sewer flows from the developed site to be 60 to 65



gpm with an available capacity of 72 gpm at the Chehalem Drive Pump Station. Thus, based on the design assumptions listed in the referenced 2002 and 2003 documents, the Chehalem Drive Pump Station could accommodate the subject site without major modifications. Utilizing a more current density ratio the subject site could yield to 60 to 70 lots when developed. Preliminary estimates are for sanitary sewer flows from the developed site with a potential 60 to 70 lots to be 65 to 80 gpm. Development of the site at the current density ratio yielding more lots than anticipated in the City of Newberg Technical Memorandum Regarding Parcels Adjacent to Crater Lane LID, dated February 18, 2002, would likely require an upgraded pump size to be installed at the Chehalem Drive Pump Station.

At the time of development of the subject property a detailed analysis of the pump station's available capacity and developed sanitary sewer flows from the subject site is anticipated as part of infrastructure designs. At that time, a final determination of any needed upgrade in pump size could be made based on the final lot count at the time of development.

Sincerely,
WESTLAKE CONSULTANTS, INC.

Brett Musick, PE
Project Manager

BEM/mrd

Exhibit I

Measure 49 Waiver

Attachment 4

AFTER RECORDING RETURN TO:

City of Newberg
Planning and Building Department
PO Box 970 – (414 E. First Street)
Newberg, OR 97132

COVENANT OF WAIVER OF RIGHTS AND REMEDIES

Recitals

- 1) The undersigned, Newberg First Baptist Church and _____ (hereinafter referred to as "Owner" or "Owners") has/have petitioned the City of Newberg (hereinafter referred to as "City") to commence certain proceedings, relating to Annexation, _____ for the real property described in **Exhibit A** which is attached hereto and incorporated herein.
- 2) Pursuant to the enactment of **Ballot Measure 49** (adopted November 6, 2007), if a public entity enacts one or more land use regulations that restrict the residential use of private real property or a farming or forest practice and that reduce the fair market value of the property, then the owner of the property shall be entitled to just compensation from the public entity that enacted the land use regulation or regulations as provided in Measure 49.
- 3) There is the potential that the Oregon electors or the Oregon Legislature may, in the future, enact further statutory or constitutional amendments relating to compensation for the impact of local regulations upon real property, under certain circumstances.
- 4) City does not wish to approve the Owner's/Owners' requested proceedings if the result would or could arguably give rise to a later claim by the Owner or Owners, or the Owner's/Owners' successors or assigns for compensation for the land use regulations in effect upon the effective date of the proceedings, or would or could arguably require the City to waive the City's land use regulations in effect upon the effective date of the proceedings, which are being newly imposed upon the property by reason and result of the proceedings.
- 5) Owner(s) seek(s) to induce the City to proceed with the proceedings and therefore Owner(s) agree(s) to eliminate the potential of claim for compensation or the right to seek waiver from the City's land use regulations existing as of the effective date of the proceedings.

NOW THEREFORE, the undersigned Owner(s) warrant(s) that the Owner(s) executing this covenant hold(s) the full and complete present ownership or any interest therein in the property, and hereby agree(s) and covenant(s) as follows:

- 1) As inducement to the City to proceed with the following proceeding(s) affecting the subject real property: Annexation, which may include designation of the property as subject to additional applicable overlay zones and districts, e.g., Limited Use Overlay District, (all inclusively referred to herein as "proceedings"), the undersigned Owner(s), on behalf of Owner(s), Owner's/Owners' heirs, devisees, executors, administrators, successors and assigns, agree(s) and covenant(s) to the City of Newberg, its officers, agents, employees and assigns that the undersigned hereby remises, waives, releases and forever discharges, and agrees that Owner(s) shall be estopped from asserting any rights and remedies, actions, causes of action, suits, claims, liabilities, demands, and rights to waivers arising under or granted by any statutory or constitutional regulatory compensation or waiver provisions, including but not limited to Ballot Measure 49 (2007) or otherwise enacted after the date of this proceeding which would create a right of claim for compensation or waiver from City land use regulations that exist upon the effective date of the proceeding and which, by the approval of the proceeding, are then applicable to the property.
- 2) This waiver and release shall bind the undersigned's heirs, devisees, executors and administrators, successors in interests, and assigns. This covenant, waiver, release and discharge shall run with the land, and this instrument, or a memorandum hereof, may be recorded in the official records of the County in which the subject real property is located. This instrument may be terminated upon the filing of a Notice of Termination of Covenant filed by the City of Newberg.

Attachment 4

- 3) If this instrument is given contemporaneous with a consent to future proceedings to be initiated by the City, Owner(s) acknowledge(s) that the proceedings may be initiated by the City of Newberg at any time in the discretion of the City of Newberg, and that this waiver and release is applicable to any ordinances adopted prior to the effective date of the proceeding.
- 4) This document is executed of my/our own free will and without duress. I, or if more than one, each of us respectively acknowledge that I/we have been advised to obtain legal advice prior to the execution of this document, and that either I, or each of us respectively, have either obtained legal advice or have independently elected not to seek legal advice prior to the execution of this document, recognizing that this document may affect my/our legal rights and remedies.

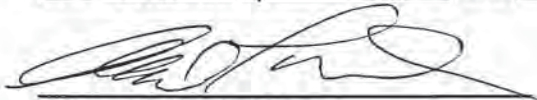
OWNER


OWNER

STATE OF OREGON)

County of Yamhill) ss.
)

This instrument was acknowledged before me on this 2nd day of MARCH, 2006, by DAN SWANSON and _____.


 Notary Public for Oregon
 My Commission expires: 9/14/2019



CITY OF NEWBERG

 Norma I. Alley, City Recorder

Dated: _____

APPROVED AS TO FORM:

 Terrence D. Mahr, City Attorney

Dated: _____

Exhibit J

Annexation Consent Forms

ANNEXATION CONSENT

TO THE HONORABLE MAYOR AND COUNCIL OF THE CITY OF NEWBERG, OREGON:

The undersigned Newberg First Baptist Church

being the sole owner of the real premises described in Exhibit A attached hereto and incorporated by reference herein, and generally known as (address) 24950 N Valley Rd, OR and (tax lot) 3207 - 900, does hereby consent to the annexation of such territory above described to the City of Newberg, Oregon.

The undersigned does hereby respectfully petition that the real premises described in Exhibit A be annexed to the City of Newberg, Oregon, in the manner provided by the laws of the State of Oregon and the Charter and Ordinances of the City of Newberg, Oregon.

This consent is binding upon the heirs, successors, and assigns of the above listed property.

In construing this consent, the singular includes the plural as circumstances may require.

IN WITNESS WHEREOF, Petitioner has caused these presents to be executed this 2 day of March, 20 16.

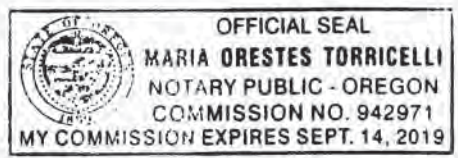
Dan Swanson

Dan Swanson

STATE OF Oregon, County of Yamhill ss 3/2/2016
Month / day / year

Personally appeared the above named DAN SWANSON

and acknowledged the foregoing instrument to be _____ voluntary act and deed.



Before me: [Signature]

Notary Public for Oregon
My commission expires 9/14/2019

WAIVER OF EXPIRATION OF ANNEXATION CONSENT

WHEREAS: The undersigned
Newberg First Baptist Church

_____ as
owner(s) of certain property have signed a consent to annex that property to the City of Newberg, Oregon, which
consent is attached; and

WHEREAS: ORS 222.173 provides that "only statements of consent to annexation which are filed within any one-
year period shall be effective, unless separate written agreement waiving the one-year period or prescribing some
other period of time has been entered into between an owner of land or an elector and the city."; and

WHEREAS: The owner(s) desire that this consent to annex be valid until the property is annexed.

NOW, THEREFORE:

The undersigned do hereby request that the attached consent to annex be valid until the property is annexed to the
City of Newberg, Oregon.

In construing this consent, the singular includes the plural as circumstances may require.

IN WITNESS WHEREOF, Petitioner has caused these presents to be executed this 2 day
of March, 20 16.

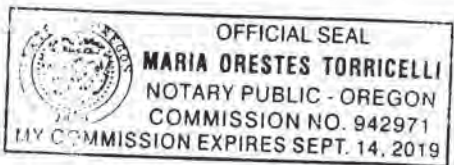
Dan Swanson

Dan Swanson

STATE OF Oregon, County of Yamhill ss 3/2/2016
month/day/year

Personally appeared the above named DAN SWANSON

and acknowledged the foregoing instrument to be _____ voluntary act and deed.



Before me: [Signature]

Notary Public for:
Oregon

My commission expires:
9/14/19

Exhibit K

Annexation Form



TYPE III APPLICATION - 2016 (QUASI-JUDICIAL REVIEW)

File #: _____

TYPES - PLEASE CHECK ONE:

- Annexation
- Comprehensive Plan Amendment (site specific)
- Zoning Amendment (site specific)
- Historic Landmark Modification/alteration
- Conditional Use Permit
- Type III Major Modification
- Planned Unit Development
- Other: (Explain) _____

APPLICANT INFORMATION:

APPLICANT: Newberg First Baptist Church
 ADDRESS: PO Box 1 Newberg OR 97132
 EMAIL ADDRESS: bgilmore@coca-cola.com
 PHONE: 503-538-7468 MOBILE: 503-754-2883 FAX: 503-554-5858
 OWNER (if different from above): Newberg First Baptist Church PHONE: _____
 ADDRESS: PO Box 1, Newberg, OR 97132
 ENGINEER/SURVEYOR: Westlake Consultants PHONE: 503-684-0652
 ADDRESS: 15115 SW Sequoia PKWY, Tigard, OR 97224

GENERAL INFORMATION:

PROJECT NAME: Annexation PROJECT LOCATION: 24950 N Valley Rd
 PROJECT DESCRIPTION/USE: Annexation of Land for Residential Subdivision Development
 MAP/TAX LOT NO. (i.e. 3200AB-400): R3207 00900 ZONE: _____ SITE SIZE: 10 SQ. FT. ACRE
 COMP PLAN DESIGNATION: PQ Public - Quasi Public TOPOGRAPHY: Flat, cleared land with few trees in NE section
 CURRENT USE: Vacant Land
 SURROUNDING USES:
 NORTH: Agricultural SOUTH: Recreational and Athletic Fields
 EAST: Large Lot Residential WEST: Agricultural

SPECIFIC PROJECT CRITERIA AND REQUIREMENTS ARE ATTACHED

General Checklist: Fees Public Notice Information Current Title Report Written Criteria Response Owner Signature

For detailed checklists, applicable criteria for the written criteria response, and number of copies per application type, turn to:

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

The above statements and information herein contained are in all respects true, complete, and correct to the best of my knowledge and belief. Tentative plans must substantially conform to all standards, regulations, and procedures officially adopted by the City of Newberg. All owners must sign the application or submit letters of consent. Incomplete or missing information may delay the approval process.

Dan Swanson 3-2-2016
 Applicant Signature Date
Dan Swanson
 Print Name

Dan Swanson 3-2-2016
 Owner Signature Date
Dan Swanson
 Print Name

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

Exhibit L

Transportation Planning Rule Consistency

Transportation Planning Rule Consistency

In determination of the effect of the Newberg First Baptist Church annexation of 10-acres on the City transportation system, analysis of the Transportation Planning Rule must be completed.

Division 12 of the Statewide Planning Goals implements planning regulations. Specifically, Oregon Administrative Rules (“OAR”) Section 660-012-0060 stipulates requirements for plan and land use regulation amendments which include annexations.

After review of OAR 660-012-0060, the following subsection is found applicable to the annexation request for this property with text shown in *italics*. The applicant’s findings are shown in **bold**.

OAR 660-012-0060

(9) Notwithstanding section (1) of this rule, a local government may find that an amendment to a zoning map does not significantly affect an existing or planned transportation facility if all of the following requirements are met.

(a) The proposed zoning is consistent with the existing comprehensive plan map designation and the amendment does not change the comprehensive plan map;

Applicant Response:

Facts: The current Newberg Comprehensive Plan map designated the Newberg Baptist Church property as Public/Quasi Public (“PQ”). As per Section 15.250.080 of the City of Newberg Municipal Code, property designated PQ is to be assigned any requested zoning designation when annexing into the City. To be consistent with existing City zoning in the surrounding area, this applicant is requesting and proposing R1, low density residential.

Finding: The zoning proposed through this annexation application is consistent with the existing Newberg Comprehensive Plan and does not change the Comprehensive Plan map. This requirement is met.

(b) The local government has an acknowledged TSP and the proposed zoning is consistent with the TSP; and

Applicant Response:

Facts: Attached are copies of pages from the Newberg Transportation System Plan (“TSP”), one is a Street System map depicting the subject property designated within an Urban Reserve Area (“URA”) and the other page is from TSP Section 3.2 confirming that the TSP study area includes URA. As addressed herein above, the requested proposed R1 zoning is consistent with the TSP.

Finding: The City of Newberg has an acknowledged TSP dated June 2005. The subject property proposed zoning is consistent with the TSP. This requirement is met.

Attachment 4

(c) The area subject to the zoning map amendment was not exempted from this rule at the time of an urban growth boundary amendment as permitted in OAR 660-024-0020(1)(d), or the area was exempted from this rule but the local government has a subsequently acknowledged TSP amendment that accounted for urbanization of the area.

Applicant Response:

Facts: Attached is a copy of City of Newberg Ordinance #2006-2661, an ordinance approved by the Newberg City Council amending the Urban Growth Boundary (UGB). This ordinance includes the subject property and approval placing the subject property within the Newberg UGB. As stated in the approval Justification Report, Pages 32 and 49 attached, transportation impacts for Urban Reserve Areas, including the subject property, were reviewed and found to be consistent with the TPR requirements upon adoption of Ordinance #2006-2661.

Finding: The subject property was not exempted from the TPR rule at the time of Urban Growth Boundary (UGB) amendment approval. This requirement is met.

Based upon satisfaction of the above TPR requirements, this annexation application of 10-acres into the City of Newberg does not significantly affect the existing or planned transportation system. As contained within this application submittal, future development of the property at R1 zoning will involve an estimated 60-70 single family detached residential houses which are estimated at 10 trips per day per residential house. Future development of the subject property will be required to provide a traffic study assessing affected intersections (e.g. levels of service, traffic volumes, sight distance, etc.). Future development will be required to dedication additional right-of-way meeting TSP requirements along the subject property's Chehalem Drive and North Valley Road frontages. Further, future development will be required to construct frontage improvements to these same two frontages.

Attachment A

Newberg Transportation Systems Plan Excerpt

Existing Conditions

3.1 INTRODUCTION

Transportation is one of the most important aspects of the economic viability and livability for a city. The City of Newberg is situated approximately 25 miles to the south and west of Portland and has experienced a population increase from 10,400 in 1980 to approximately 18,100 in 2000, an annual average growth rate of 3.7%. The growth of Newberg has placed increased demands on transportation modes in, and around the City. This section provides a summary of the existing transportation system conditions within the Newberg urban area.

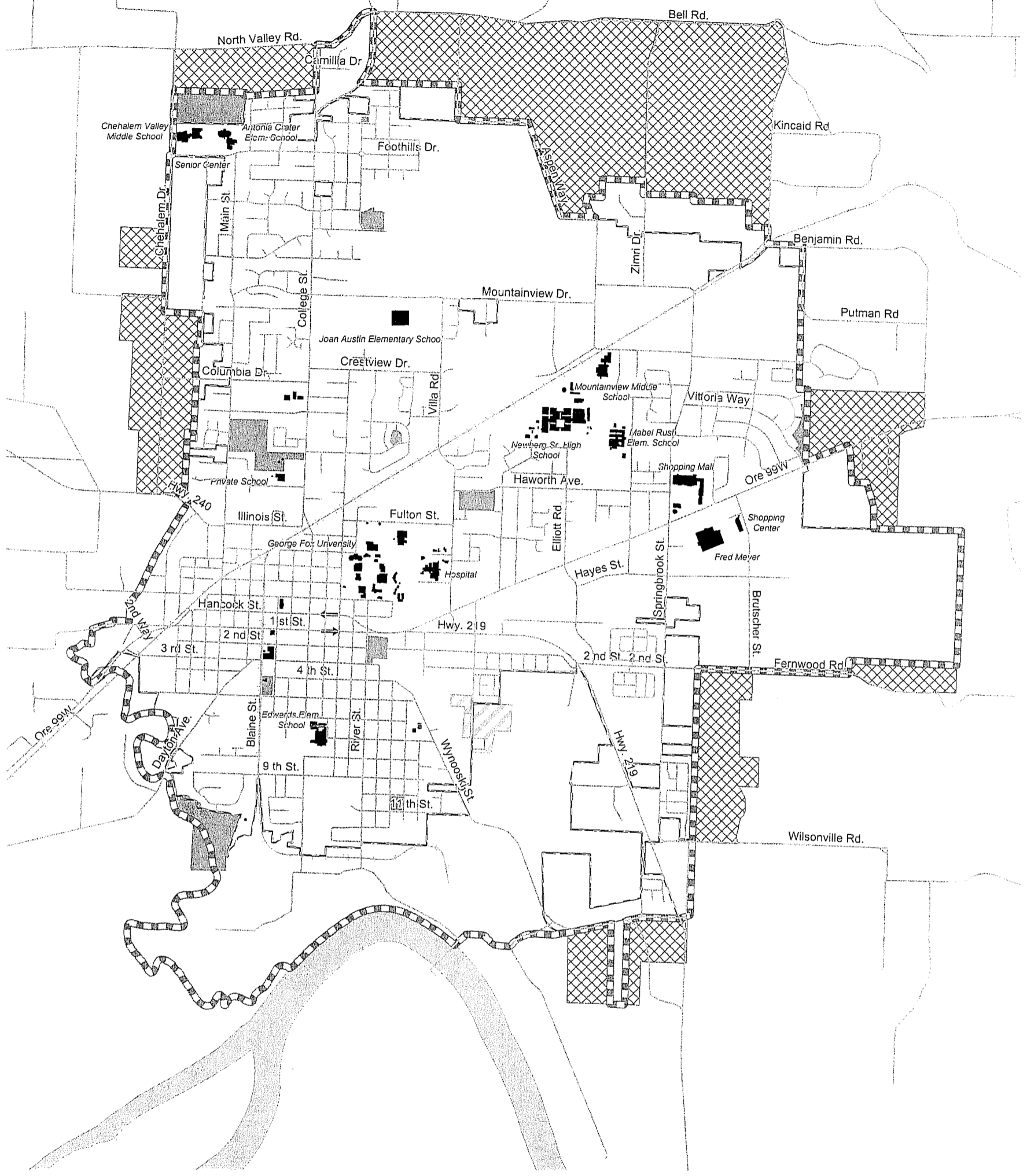
This section describes the existing condition of the City's transportation system, covering the highway, pedestrian, bicycle, transit, rail, air, water, freight movement, and pipeline/transmission transportation modes. Each mode's current performance and deficiencies are described. Also included is an inventory of existing transportation facilities. The findings of this existing conditions analysis serve as a baseline to which future conditions can be compared.

This section is a fact-finding document, in that it describes existing conditions, but does not recommend solutions to identified problems. Its findings will be combined with the findings of two other sections (plan and policy review, and future conditions) to provide a comprehensive overview of Newberg's transportation needs. Once this complete set of needs has been identified, subsequent sections will describe solution alternatives developed to meet these needs.

3.2 STUDY AREA AND LAND USE

Figure 3-1 is a street map of Newberg as of May 2004 and its immediate vicinity, with the city limits and Urban Growth Boundary (UGB) indicated. The base map used in Figure 3-1 and other maps included in this chapter provide a reference for locating other features of Newberg's transportation system. They do not depict the condition or public status of a particular roadway. The study area for the TSP generally consists of the area within the UGB and the Urban Reserve Area (URA), although in some instances areas outside the study area are also addressed, where transportation issues extend beyond the City.

Based on the requirements of Oregon's Transportation Planning Rule, only significant streets within the study area—those that can be classified as arterials or collectors—and intersections of these streets are generally addressed. Local street issues such as street connectivity and safety issues are also discussed where appropriate. Local traffic and safety issues on other roadways will be addressed in subsequent chapters through the primary analysis of the public involvement process, while the future conditions chapter presents a more extensive analysis of Newberg's development potential. However, because of the requirements of Oregon's Transportation Planning Rule, the TSP will only consider those areas currently within the City's planning area boundary (i.e., those areas currently covered by the City's comprehensive plan) when making assumptions about where Newberg will grow in the next 20-25 years.



LEGEND

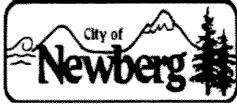
- Urban Growth Boundary
- City Limits
- Urban Reserve Area
- Activity Centers
- Parks
- Cemetery
- Railroad
- Streets
- River

NOTE: STREET SYSTEM AS OF MAY 2004

**STREET SYSTEM MAP
NEWBERG, OR.** FIGURE
3-1

Attachment B

Urban Growth Boundary Expansion Excerpt



ORDINANCE No. 2006-2661

AN ORDINANCE AMENDING THE URBAN GROWTH BOUNDARY TO ADD APPROXIMATELY 200 ADDITIONAL ACRES, AND APPLYING THE FOLLOWING COMPREHENSIVE PLAN DESIGNATIONS: PQ (PUBLIC/QUASI-PUBLIC), LDR (LOW DENSITY RESIDENTIAL), LDR/1A (LOW DENSITY RESIDENTIAL, 1 UNIT PER ACRE), MDR (MEDIUM DENSITY RESIDENTIAL), AND HDR (HIGH DENSITY RESIDENTIAL)

RECITALS:

1. On July 21, 2005, the Newberg City Council adopted Resolution 2005-2590, initiating amendments to the Newberg Comprehensive Plan and Development Code, generally as described in the recommendations of the Ad Hoc Committee on Newberg's Future, and directed City staff to undertake the activities needed to initiate and support a number of actions for the City to consider these amendments.
2. Consistent with Paragraph 2.c. of Resolution 2005-2590, City staff held neighborhood meetings in each general area that the Committee had recommended for addition to the Urban Growth Boundary to define specific boundaries, and is proceeding with the hearings process to create a new Urban Growth Boundary.
3. After proper notice, on September 21, 2006 a hearing was held by the Newberg Urban Area Management Commission on a specific proposal to amend the Newberg Urban Growth Boundary in the north and west. The Commission recommended approval of the urban growth boundary amendment, and recommended that the amendment areas be designated a combination of PQ (Public/Quasi-Public), LDR (Low Density Residential), LDR/1A (Low Density Residential, 1 unit per acre), MDR (Medium Density Residential), and HDR (High Density Residential). This area includes portions of Chehalem Creek as mapped and described in the June 2006 "Water Features Inventory" report appendix to the "Justification and Findings Report" (Exhibit "C").
4. After proper notice, on November 6, 2006, the Newberg City Council held a hearing to consider the request.
5. The City Council finds that the applicable criteria have been met, and that approval of the application is in the best interests of the community.

THE CITY OF NEWBERG ORDAINS AS FOLLOWS:

1. The property described in Exhibit "A" and shown in Exhibit "B" is hereby included within the Newberg Urban Growth Boundary.

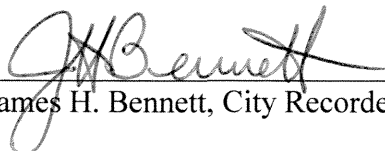
Attachment 4

2. The Comprehensive Plan Designations for the property described in Exhibit "A" and shown in Exhibit "B" are hereby changed to Low Density Residential (LDR), Low Density Residential 1 Dwelling Unit Per Acre (LDR-1), Medium Density Residential (MDR), High Density Residential (HDR), and Public/Quasi-Public (PQ) as shown in Exhibit "B". The "Newberg, Oregon Comprehensive Plan Map" shall be amended to indicate this change. The Newberg Comprehensive Plan supply and demand tables shall be amended to reflect this change.
3. The stream corridors and generalized locations for future park sites shown in Exhibit "B" shall be added to the City's Inventory of Natural and Cultural Resources. Upon annexation, the stream corridors will be added to the Stream Corridor Overlay Sub-District (SC).
4. The findings which are attached hereto as Exhibit "C" are incorporated herein.
5. This ordinance is subject to adoption of the same Urban Growth Boundary and Comprehensive Plan changes by Yamhill County.

➤ **EFFECTIVE DATE** of this ordinance is 30 days after the adoption date, which is: December 6, 2006.


ADOPTED by the City Council of the City of Newberg, Oregon, this 6th day of November, 2006, by the following votes:

AYE: **NAY:** **ABSENT:** **ABSTAIN:**



James H. Bennett, City Recorder

ATTEST by the Mayor this 9th day of November, 2006.



Bob Stewart, Mayor

LEGISLATIVE HISTORY

By and through Newberg Urban Area Management Commission at 9/21/2006 meeting.

Exhibits

Exhibit "A": List of Tax Lots

Exhibit "B": Comprehensive Plan Map Designations

Exhibit "C": Findings

Attachment 4

EXHIBIT "A" LIST OF TAX LOTS UGB-05-011

LDRIA	LDR		MDR	HDR	PQ
3218CD 00205	3218BA 00400	3218BD 00900	3207 04100	3218CA 01900	3207 00900
3218CD 00206	3218BA 00301	3218BD 00800	3207 04000	3218CA 01800	3208 02701
3218CD 00202	3218BA 00700	3218BD 00702	3207 03900	3218CA 01700	3208 02802
3218CD 00203	3207 00300	3218BD 00700	3218AB 01401		3208 02800
3218CD 00204	3207 00600	3218BD 00701	3218AB 01500		3208 02801
3218CD 00211	3207 00700	3218BA 00900	3218AB 01600		3208 02703
3218CD 00210	3207 00800	3218BA 00800	3218AB 01700		3208 02702
3218CD 00209	3207 00400	3218BA 00600	3218AB 01701		3208 02700
3218CD 00220	3207 00500	3218BA 00500	3218AB 01702		
3218CD 00200	3218BD 00200	3218BA 00302	3218CD 01000		
3218CD 00208	3218BD 00100	3218BA 00303	3218CD 01400		
3218CD 00201	3218BD 00500	3218BA 00304	3218CD 00702		
3219BB 00102	3218BD 01000	3218BA 00300	3218CD 00700		
3219BB 00101	3218BD 00401	3218BA 00100	3218CD 00701		
3219BB 00100	3218BD 00600	3218BA 00101	3218CD 00900		
3218CD 00218	3218CA 02500	3218BA 00200	3218CD 01100		
3218CD 00217	3218CA 02400	3208 02900	3218CD 01200		
3218CD 00219	3218CA 02300	3218CA 02201	3218CD 01300		
3218CD 00214	3218CA 02100	3218CA 02200	3218CD 01600		
3218CD 00215	3218CA 02000	3218BD 00403	3218CD 00300		
3218CD 00216	3218CA 03300	3218BD 00402			
3218CD 00213	3218CA 03400	3218BD 00400			
3218CD 00207	3218CA 03200	3218BD 00300			
	3218CA 03100	3218BD 00301			
	3218CA 03500	3218CA 02800			
	3218CA 03000	3218CA 02801			
	3218CA 02900				
	3218CA 02700				
	3218CA 02600				
	3218BD 01100				

Note: Some parcels may be only partially in the amendment area. See map.

Attachment 4

Exhibit "B"
Newberg Comprehensive Plan Designations

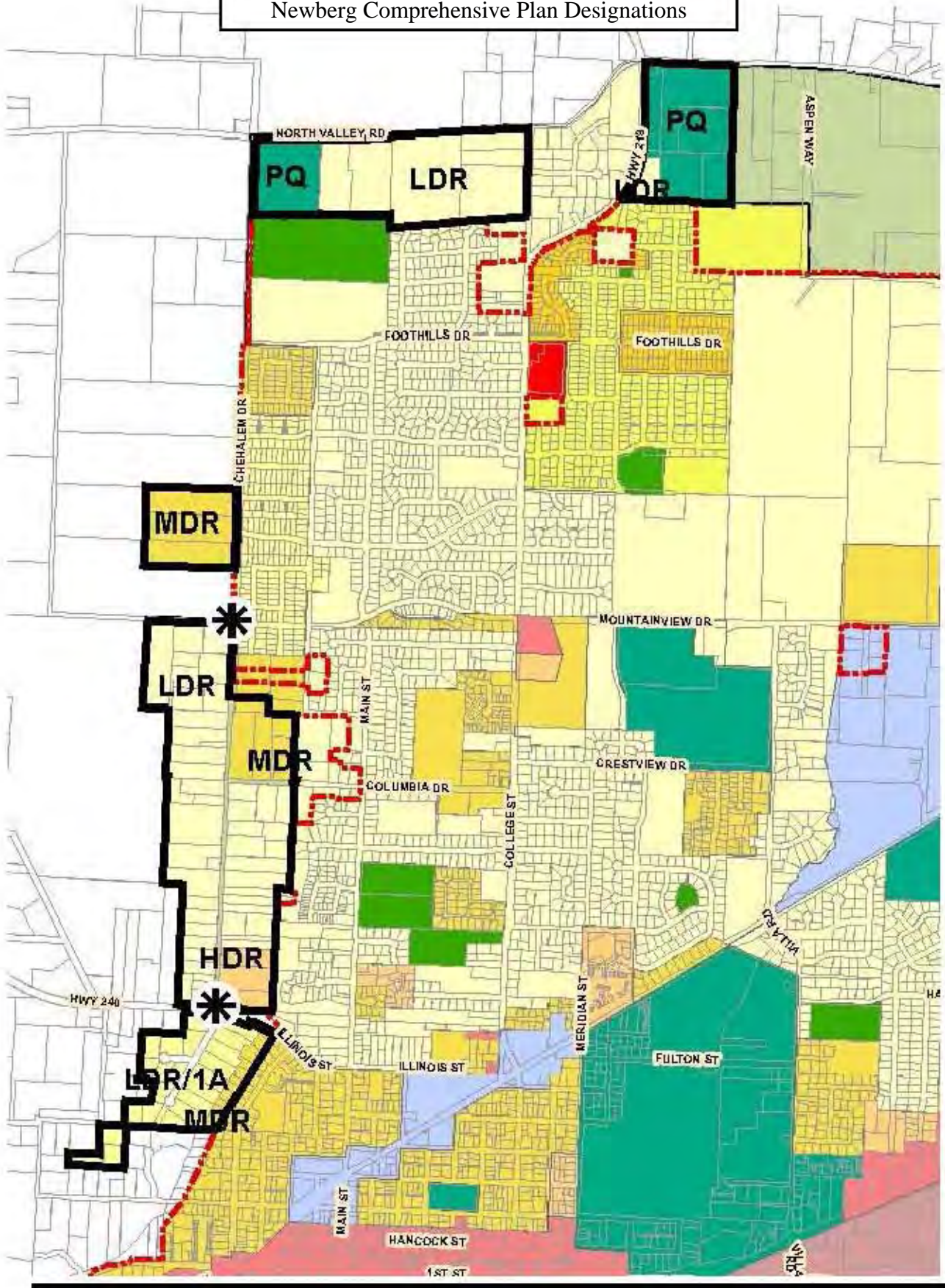


Exhibit “C”

Please see “Northwest Newberg 2006 UGB Expansion,
Justification & Findings Report,”
City of Newberg, Oregon, August 3, 2006
(provided as a separately bound document)

NORTHWEST NEWBERG

2006 UGB EXPANSION

JUSTIFICATION & FINDINGS REPORT

**City of Newberg, Oregon
Adopted November 6, 2006**

Attachment 4

In evaluating alternative areas for possible inclusion in the UGB, these factors require consideration of each Urban Reserve Area's relative serviceability and efficiency in accommodating identified land needs. The City of Newberg determined which Urban Reserve Areas could be most efficiently developed for identified land needs and economically provided with public facilities and services.

Transportation System Extension

In 2005, the Newberg City Council adopted the Newberg Transportation System Plan (TSP).²⁵ The findings adopting the TSP addressed Statewide Planning Goal 14 – Urbanization as follows:

Statewide Goal 14: Urbanization

To provide for an orderly and efficient transition from rural to urban land use.

Finding: *The study area for the TSP update includes the Newberg Urban Growth Boundary and Urban Reserve areas. In order to provide an orderly and efficient transition from rural to urban land use, a comprehensive transportation plan is necessary. This plan provides that comprehensive system. Small segments of a few transportation facilities are currently shown on rural lands, which are not currently under the jurisdiction of Newberg. These facilities are not planned to accommodate any urban uses outside Urban Growth Boundaries. Any such recommended improvements will need to be coordinated with Yamhill County. All the facilities can be approved without an exception to Goal 14, as stated in the findings addressing Goal 3 above. Thus, the plan is consistent with Goal 14.*

Thus, the TSP specifically addressed transportation impacts resulting from planned development within the 2004 UGB plus the 1995 URA. Map 5, Transportation Systems Plan for UGB Expansion Areas (2005)²⁶, shows Chehalem Drive, North Valley Road, Foothills Drive, College Street, Main Street, Columbia Drive, Highway 240 (Illinois Street), and Aspen Way as the primary collector and arterial street system serving the 2006 UGB Expansion Areas.

Section 6.2 of the TSP identifies the intersection improvements necessary to accommodate increased traffic resulting in part from anticipated development within the 2006 UGB Expansion Areas. Specific transportation projects identified in the TSP include substantial improvements to Main Street, Chehalem Drive, Oregon Highway 240, Illinois Street, Columbia Drive, College Street and Foothill Drive. With these improvements, the local and state transportation system will have the capacity to accommodate planned development within the 2004 UGB and the 2006 UGB Expansion Areas.

Efficiency and Serviceability

Newberg Public Works evaluated the cost of extending sewer, water, and storm drainage services to each of the Urban Reserve Areas. (See *Newberg Urban Reserve Area Public Facilities Cost Estimates*, Planning and Building Department (2006).)

²⁵ See Ordinance 2005-2619.

²⁶ This map is identified as Figure 6-1, Functional Classification Plan, in the adopted Newberg TSP.

D. AGRICULTURAL LANDS GOAL STATEMENT

1. *To conserve Yamhill County's farm lands for the production of crops and livestock and to ensure that the conversion of farm land to urban use where necessary and appropriate occurs in an orderly and economical manner.*

Proposed Findings

Goal 14 – Urbanization and ORS 197.298 balance the competing land needs of agriculture and forestry on the one hand, and future urban growth on the other. Goal 14 requires that cities provide enough land for 20-year growth needs. ORS 197.298 defines land within URAs as the “highest priority” for expanding urban growth boundaries to meet 20-year land needs. Since Newberg is expanding almost exclusively on high priority URA land, the agricultural policies listed above are met. Agricultural lands are not affected by the decision to expand into the Aspen Estates rural residential exception areas, because (a) exception areas are not defined as “agricultural land,” and (b) none of the lots included within the UGB abut agricultural land.

E. TRANSPORTATION GOAL STATEMENT

1. *To provide and encourage an efficient, safe, convenient and economic transportation and communication system, including road, rail, waterways, public transit and air, to serve the needs of existing and projected urban and rural development within the county, as well as to accommodate the regional movement of people and goods and the transfer of energy, recognizing the economic, social and energy impacts of the various modes of transportation.*

Policies

- e. *Yamhill County will cooperate with and support the State Highway Division, the Mid-Willamette Valley Council of Governments, and any other county or regional transportation agency in an effort to establish a viable and productive regional transportation planning process and operations system geared to identifying, prioritizing and resolving both present and future transportation needs, with special reference to our county and regional network.*
- k. *All county transportation-related decisions will be made in particular consideration of energy efficiency and conservation.*
- o. *All transportation-related decisions will be made in support of the efficient and economic movement of people, goods, and services throughout the region, and will be based on the location and adequacy of facilities for such goods and services.*

Proposed Findings

The 2005 Newberg TSP addresses transportation impacts resulting from development within the 2004 UGB plus all URAs adopted by the City and County in 1995.

Attachment 5

We are mailing you information about this proposal because you own land within 500 feet of the proposed annexation site. We invite you to send any written comments about the proposal to the Planning Division at:

Written Comments
File No. ANX-16-001
Newberg Planning Division
PO Box 970
Newberg, OR 97132

All written comments must be received by 12:00 p.m. on May 9, 2016. Written information received after this time will be read out loud at the hearing subject to time limits for speakers, and will be included in the record if there are further proceedings.

You can look over all the information about this project or drop comments off at Newberg City Hall, 414 E. First Street. You can also buy copies of the information for a cost of 25 cents a page. A staff report relating to the proposal will be available for inspection at no cost seven days prior to the public hearing. If you have any questions about the project, you can call the Newberg Planning Division at 503-537-1240.

All interested persons may appear and provide testimony at the hearings. Only those persons who participate either orally or in writing during the hearing proceedings leading to the adoption of any action may appeal the decision. Any issue which might be raised in an appeal of this case to the Land Use Board of Appeals (LUBA) must be raised during the public hearing process. You must include enough detail to enable the decision maker an opportunity to respond. The applicable criteria used to make a decision on this application for annexation are found in Newberg Development Code Sections 15.250.050.

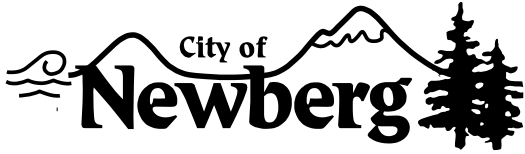
The Planning Commission will make a recommendation to the Newberg City Council about this proposal. The Planning Commission recommendation will be forwarded to City Council for a hearing in the near future. If you participate in the hearing process, either orally or in writing, we will send you information about any decision made by the City relating to this project.

Date mailed: April 18, 2016

We continue to have many serious traffic accidents at the corner of Chehalum Drive and North Valley. Something must be done about this dangerous corner particularly if another 50+ houses are built on the adjoining property. At minimum the intersection should be aligned to avoid the jog required traveling on Chehalum Drive. I don't see how it makes any sense to allow this development unless this intersection fix is part of the deal.

Sincerely,
Paul Jellum
15925 NE Chehalum Dr.

REC
4/21/16
JP



Community Development Department

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

PLANNING COMMISSION STAFF REPORT COLUMBIA ESTATES ANNEXATION/ZONE CHANGE

HEARING DATE: May 12, 2016

FILE NO: ANX-16-003

REQUEST: Annex 3.06 acres of property, plus the area of the adjacent rights-of-way, into the Newberg city limits and change the zoning from Yamhill County VLDR-1 to Newberg R-2.

LOCATION: North of Columbia Dr., south of Lynn Drive/Heritage Way

TAX LOT: 3218AB-1700, -1701, -1702

APPLICANT: Del Boca Vista, LLC

OWNER: Jo Dacklin (tax lots -1700, -1701), Richard & Merilee Lee (tax lot -1702)

PLAN DISTRICT: MDR (medium density residential)

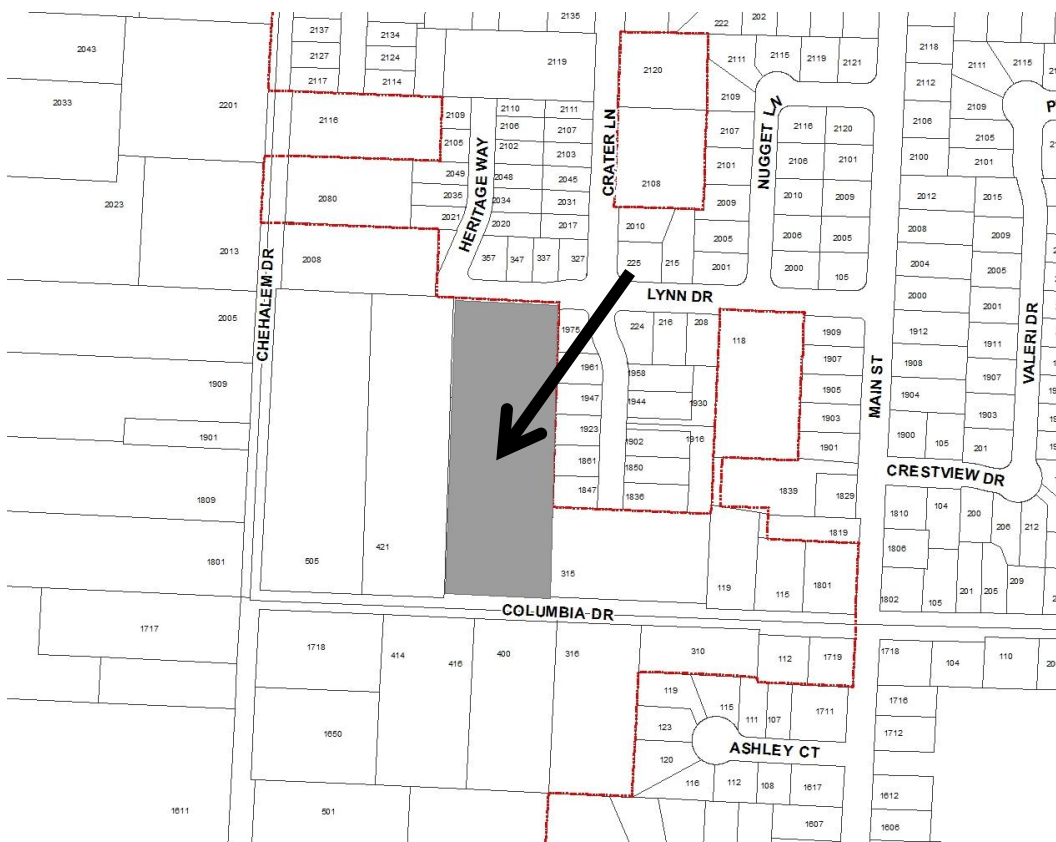
ATTACHMENTS:

Planning Commission Resolution 2016-319 with:

- Exhibit "A": Property Map
- Exhibit "B": Legal Description
- Exhibit "C": Findings
- 1. Aerial Photo
- 2. Concept Development Plan
- 3. Comprehensive Plan Map
- 4. Zoning Map
- 5. Comments
- 6. Application

A. DESCRIPTION OF APPLICATION: The proposed annexation is for three parcels totaling 3.06 acres, located north of Columbia Drive and south of Lynn Drive/Heritage Way. The properties are located within the Newberg urban growth boundary and have a Newberg Comprehensive Plan designation of MDR (medium density residential). The annexation would change the zoning of the properties from Yamhill County VLDR-1 to Newberg R-2 (medium density residential). The R-2 zone has a minimum lot size of 3,000 square feet for future residential development. The applicant's concept development plan shows a subdivision for single-family homes, with primarily 3,000 square foot lots. The concept development plan is not binding on the applicant, and does not approve a subdivision for the property, but the subdivision concept does meet the minimum lot size standard in the R-2 zone and shows how the site could potentially be developed.

B. LOCATION MAP



C. SITE INFORMATION:

1. Location: North of Columbia Drive, south of Lynn Drive/Heritage Way. West and south of the current Newberg city limits.
2. Size: 3 lots, totaling approximately 3.06 acres (3.2 acres including adjacent right-of-way to centerline of Columbia Drive).
3. Topography: The property has a slight slope to the south.
4. Current Land Uses: Vacant fields.

5. Natural Features: The site is primarily grass fields, with scattered trees and shrubs.
6. Adjacent Land Uses:
 - a. North: single-family homes (R-2, on typically 5,000 sf lots)
 - b. East: single-family homes (R-2, on approx. 6,000 sf lots)
 - c. South: rural residential (outside city limits)
 - d. West: rural residential (outside city limits)
7. Access and Transportation: The property is currently undeveloped, but has frontage on both Lynn Drive and Columbia Drive. Columbia Drive is under Yamhill County Jurisdiction and Lynn Drive is under the City of Newberg jurisdiction.
8. Utilities:
 - a. There is an 8-inch public water line that is located in Lynn Drive that could be extended South through the property to serve the site.
 - b. There is an 8-inch public wastewater line that is located in Lynn Drive that could be extended South through the property to serve the site.
 - c. Stormwater: The current site is an open field of a pervious nature. The applicant must comply with the stormwater requirements of the municipal code and PW Design and Construction Standards Manual in effect at the time of site development. Stormwater currently flows north to south where it meets with a Yamhill County roadside ditch along Columbia Drive.
 - d. As required by the Newberg Municipal Code and at the time of site development, the applicant shall install all overhead utilities underground.

D. PROCESS: An annexation and zone change request is a Type III application and follows the procedures in Newberg Development Code 15.100.050. The Planning Commission will hold a quasi-judicial hearing on the application. The Commission makes a recommendation on the application based on the criteria listed in the attached findings. The Planning Commission’s recommendation is forwarded to the City Council, who will hold a hearing and render a final decision on the application. State law recently changed with the passage and adoption of Oregon Senate Bill 1573, which added language to ORS 222.111 preempting Newberg’s requirement that annexations go to a public vote, and instead directs the legislative body of a city to annex property without a public vote when the property meets certain requirements. Important dates related to this application are as follows:

- 4/18/16: The Community Development Director deemed the application complete.
- 4/18/16: The applicant mailed notice to the property owners within 500 feet of the site and posted the site.
- 4/27/16: The *Newberg Graphic* published notice of the Planning Commission hearing.
- 5/12/16: The Planning Commission will hold a quasi-judicial hearing to consider the application.

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

PGE: *Reviewed, no conflict.*

Newberg School District: *Reviewed; no conflict.*

F. PUBLIC COMMENTS: As of the writing of this report, the city has received no written public comments.

G. ANALYSIS:

1. The proposed annexation site is adjacent to city limits, and is within the Newberg urban growth boundary. The requested R-2 zoning corresponds with the existing MDR (medium density residential) Comprehensive Plan designation.
2. One issue facing this application was determining whether adequate public utilities can serve the site within three years. City water and sewer lines are currently in place along Lynn Drive, which could be used to serve the site. The sanitary sewer line flows to the Highway 240 Pump Station. A very preliminary assessment provided by the applicant's engineer has determined that the pump station could serve the additional flows contributed by this development. If necessary, upgrades to the pump station could be completed by the developer to provide the capacity needed. The site stormwater management would be designed to comply with the stormwater requirements of the municipal code and public works design and construction standards manual in effect at the time of site development. A permit from Yamhill County will be required for any connections to the ditch along Columbia Drive.
3. Transportation: The site is north of Columbia Drive, and south of Lynn Drive/Heritage Way. Columbia Drive is classified in the TSP as a minor collector, and Lynn Drive & Heritage Way are both local residential streets. Street improvements to both frontages will be required at the time of development. Yamhill County Permits are required for improvements to Columbia Drive.
4. State law recently changed with the passage and adoption of Oregon Senate Bill 1573, which added language to ORS 222.111 preempting Newberg's (and other cities) requirement that annexations go to a public vote, and instead directs the legislative body of a city to annex property without a public vote when the property meets certain requirements, including: being within the urban growth boundary; subject to the Comprehensive Plan of the city; contiguous to city limits; and meeting the city's adopted Development Code criteria for annexation. This property meets those criteria as outlined in the findings in Exhibit "C" and will not be sent to a public vote. The City Council will make the final local decision on this application for annexation.

H. PRELIMINARY STAFF RECOMMENDATION: The preliminary staff recommendation is made in the absence of public hearing testimony, and may be modified subsequent to the close of the public hearing. At this writing, staff recommends the following motion:

Move to adopt Planning Commission Resolution 2016-319, which recommends that the City Council approve the requested annexation and zone change.



PLANNING COMMISSION RESOLUTION 2016-319

A RESOLUTION RECOMMENDING THAT THE CITY COUNCIL APPROVE AN ANNEXATION OF 3.06 ACRES OF PROPERTY, PLUS THE AREA OF THE ADJACENT RIGHTS-OF-WAY, INTO THE CITY OF NEWBERG AND CHANGE THE ZONING FROM YAMHILL COUNTY VLDR-1 TO NEWBERG R-2, FOR PROPERTY LOCATED NORTH OF COLUMBIA DRIVE, SOUTH OF LYNN DRIVE, YAMHILL COUNTY TAX LOTS 3218AB-1700, -1701, AND -1702

RECITALS

1. Del Boca Vista, LLC submitted an application to annex 3.06 acres of property, plus the area of the adjacent rights-of-way, into the City of Newberg and change the zoning from Yamhill County VLDR-1 to Newberg R-2. The R-2 zoning is consistent with the adopted MDR (medium density residential) Comprehensive Plan designation on the site. The property is located directly west and south of the current Newberg city limits, north of Columbia Drive, south of Lynn Drive, on Yamhill County tax lots 3218AB-1700, -1701, and -1702.
2. After proper notice, the Newberg Planning Commission held a hearing on May 12, 2016, to consider the application. The Commission considered testimony, and deliberated.
3. The Newberg Planning Commission finds that the application meets the applicable Newberg Development Code criteria as shown in the findings in Exhibit "C".
4. State law recently changed with the passage and adoption of Oregon Senate Bill 1573, which added language to ORS 222.111 that preempts Newberg's requirement that annexations go to a public vote, and instead directs the legislative body of a city to annex property without a public vote when the property meets certain requirements, including: being within the urban growth boundary; subject to the Comprehensive Plan of the city; contiguous to city limits; and meeting the city's adopted Development Code criteria for annexation. This property meets those criteria.

The Newberg Planning Commission resolves as follows:

1. The Planning Commission recommends that the City Council annex the property shown in Exhibit "A" and described in Exhibit "B", along with a zone change to R-2, and withdraw the property from the Newberg Rural Fire Protection District. Exhibits "A" and "B" are hereby adopted and by this reference incorporated.
2. This recommendation is based on the findings shown in Exhibit "C". Exhibit "C" is hereby adopted and by this reference incorporated.

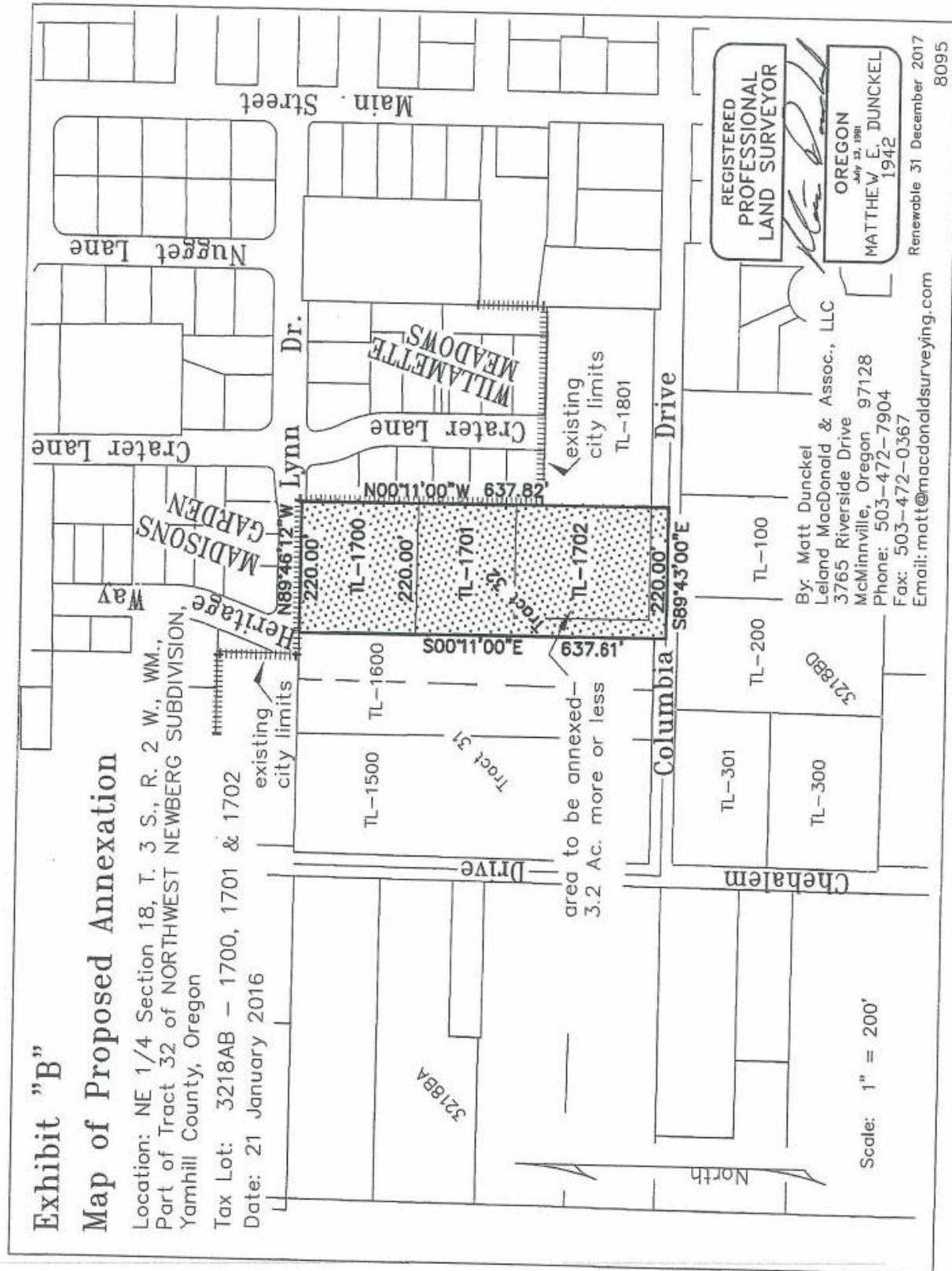
Adopted by the Newberg Planning Commission this 12th day of May, 2016.

ATTEST:

Planning Commission Chair

Planning Commission Secretary

**Exhibit "A" to Planning Commission Resolution No. 2016-319
Annexation Map – Columbia Estates**



**Exhibit "B" to Planning Commission Resolution No. 2016-319
Legal Description – Columbia Estates Annexation**

Date: 21 January 2016

Proposed Annexation - Legal Description (3.2 Ac. more or less)

A tract of land in Section 18, Township 3 South, Range 2 West, City of Newberg, Yamhill County, Oregon, being more particularly described as follows:

Beginning at the northeast corner of Tract 32 of the NORTHWEST NEWBERG SUBDIVISION; thence North $89^{\circ}46'12''$ West 220.00 feet along the north line of said Tract 32; thence South $00^{\circ}11'00''$ East 637.61 feet parallel with the east line of said Tract 32 to the center line of Columbia Drive; thence South $89^{\circ}43'00''$ East 220.00 feet along said centerline to the southerly extension of the east line of said Tract 32; thence North $00^{\circ}11'00''$ West 637.82 feet more or less along the east line of said Tract 32 to the point of beginning as shown by Exhibit "B".

Also described as the East 220 feet for Tract 32 of the NORTHWEST NEWBERG SUBDIVISION as shown by Exhibit "B".

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

**Exhibit “C” to Planning Commission Resolution No. 2016-319
Findings –File ANX-16-003 – Columbia Estates**

A. 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.

Finding: The proposed annexation site, located on Yamhill County tax lots 3218AB-1700, -1701, and -1702, is within the Newberg urban growth boundary and contiguous to the existing city limits on its north boundary and most of its east boundary. The legal description of the area to be annexed extends to the centerline of the Columbia Drive right-of-way, which provides for future continuity of the city limits. This criterion is met.

B. 15.250.030 Quasi-judicial annexation criteria.

The following criteria shall apply to all annexation requests:

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

Finding: The property has a Comprehensive Plan designation of MDR (Medium Density Residential), which corresponds with the requested zoning of R-2 (Medium Density Residential). The R-2 zone allows either single-family, duplex or multifamily development, with a minimum lot area per unit of 3,000 square feet, and a minimum lot size of 3,000 square feet. The applicant’s concept development plan shows a single-family home subdivision with a minimum lot size of 3,000 square feet, and a 54 foot wide public right-of-way for a street. The applicant is not bound by the concept development plan, and approval of the annexation would not approve a subdivision for the site. If the applicant wishes to apply for a subdivision as shown in the concept development plan then they would need to submit a subdivision application after the property was annexed. The concept development does show a use (single-family homes) and a lot size (3,000 square feet) that comply with the R-2 zone and the MDR Comprehensive Plan designations. This criterion is met.

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

1. Municipal wastewater and water service meeting the requirements

enumerated in the Newberg comprehensive plan for provision of these services.

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

Finding: City water and sewer lines are currently in place along Lynn Drive, which could be used to serve the site. The sanitary sewer line flows to the Highway 240 Pump Station. A very preliminary assessment provided by the applicant's engineer has determined that the pump station could serve the additional flows contributed by this development. If necessary, upgrades to the pump station could be completed by the developer to provide the capacity needed. At the time of development, a detailed analysis of the Highway 240 sanitary sewer pump station is required, and any necessary upgrades to the pump station would be completed by the developer.

The site stormwater management would be designed to comply with the stormwater requirements of the municipal code and public works design and construction standards manual in effect at the time of site development.

The property has road frontage along Columbia Drive and Lynn Drive. Future development of this property will necessitate roadway frontage improvements, along both property frontages, to City standards. A Yamhill County Permit is required for all improvements along Columbia Drive. The applicant was not required to complete a full traffic impact analysis for the site, as the expected impact (29 new trips in the PM peak hour) from development is below the 40 trips in the PM peak hour that would trigger a requirement for a traffic study. However, at the time of development, a limited traffic study will be required to evaluate the intersection of Main Street and Lynn Drive.

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

Finding: The city sent the application information out to the Police and Fire Departments, Chehalem Parks and Recreation District (CPRD), and the Newberg School District, among other agencies, for comments prior to the staff report. The School District commented "reviewed, no conflict." There is no information to suggest that city services could not support the addition of the 3.06 acres of property, plus the area of the adjacent right-of-way, to the city limits, and in fact future development of the site helps fund these city services and other System Development Charge or permit fee funded services such as the School District and CPRD. It should be noted that the City of Newberg does not do future planning for the Parks District or the School District; however, the city coordinates with those agencies on a regular basis in regards to future planning efforts. This type of coordination is

typically done at the time of urban growth boundary expansion, when properties are added to serve as the future 20-year urbanizable area.

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

Finding: The applicant submitted adequate information to allow the city to make findings to the applicable criteria.

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

Finding: This criterion is not applicable because adequate urban services are found to be available within the three year time frame.

**C. 15.302.030 Procedures for comprehensive plan map and zoning map amendments.
A.3. Amendment Criteria. The owner must demonstrate compliance with the following criteria:**

a. The proposed change is consistent with and promotes the goals and policies of the Newberg comprehensive plan and this code;

Finding: The property has a Comprehensive Plan designation of MDR (Medium Density Residential), which corresponds with the requested zoning of R-2 (Medium Density Residential). The Comprehensive Plan Housing Goal says “To provide for 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.” Annexations meet the intent of the Goal because they provide land to meet the needs of City residents. The proposed change is consistent with and promotes the goals and policies of Newberg’s comprehensive plan. This criterion is met.

b. Public facilities and services are or can be reasonably made available to support the uses allowed by the proposed change;

Finding: As demonstrated in the finding to 15.250.030.B. above, the applicant has demonstrated that adequate public facilities and services can be reasonably made available to support future

development of the property at R-2 permitted densities.

c. Compliance with the State Transportation Planning Rule (OAR 660-012-0060) for proposals that significantly affect transportation facilities.

Finding: Annexation of the property complies with the State Transportation Planning Rule (TPR) (OAR 660-012-0060) because it meets the requirements for an amendment to a zoning map that does not significantly affect an existing or planned transportation facility as permitted by Subsection (9) of the TPR: the proposed zoning of R-2 is consistent with the existing comprehensive plan map designation of MDR; the City of Newberg has an acknowledged TSP which included this area in the urban reserve as planned future urbanizable land; this property was brought into the urban growth boundary in 2006 as part of a larger urban growth boundary amendment that included a full report with adequate justifications for transportation and other public facilities. The TPR report submitted by the applicant's traffic engineer states that, in order to comply with the TPR, development should be limited to 27 single-family homes or acceptable uses that generate less than the 258 trips anticipated in the Comprehensive Plan.

OAR 660-012-0060(9) Notwithstanding section (1) of this rule, a local government may find that an amendment to a zoning map does not significantly affect an existing or planned transportation facility if all of the following requirements are met.

(a) The proposed zoning is consistent with the existing comprehensive plan map designation and the amendment does not change the comprehensive plan map;

(b) The local government has an acknowledged TSP and the proposed zoning is consistent with the TSP; and

(c) The area subject to the zoning map amendment was not exempted from this rule at the time of an urban growth boundary amendment as permitted in OAR 660-024-0020(1)(d), or the area was exempted from this rule but the local government has a subsequently acknowledged TSP amendment that accounted for urbanization of the area.

[Subsection (1) of OAR 660-012-0060]

(1) If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:

(a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);

(b) Change standards implementing a functional classification system; or

(c) Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.

(A) Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;

(B) Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or

(C) Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.

- D. Conclusion:** Based on the above-mentioned findings, the application, as conditioned, meets the criteria of the Newberg Development Code.

Conditions of approval

1. At the time of development, a detailed analysis of the Highway 240 sanitary sewer pump station is required, and any necessary upgrades to the pump station would be completed by the developer.
2. At the time of development, a limited traffic study will be required to evaluate the intersection of Main Street and Lynn Drive.
3. The TPR report submitted by the applicant's traffic engineer states that, in order to comply with the TPR, development should be limited to 27 single-family homes or acceptable uses that generate less than the 258 trips anticipated in the Comprehensive Plan.

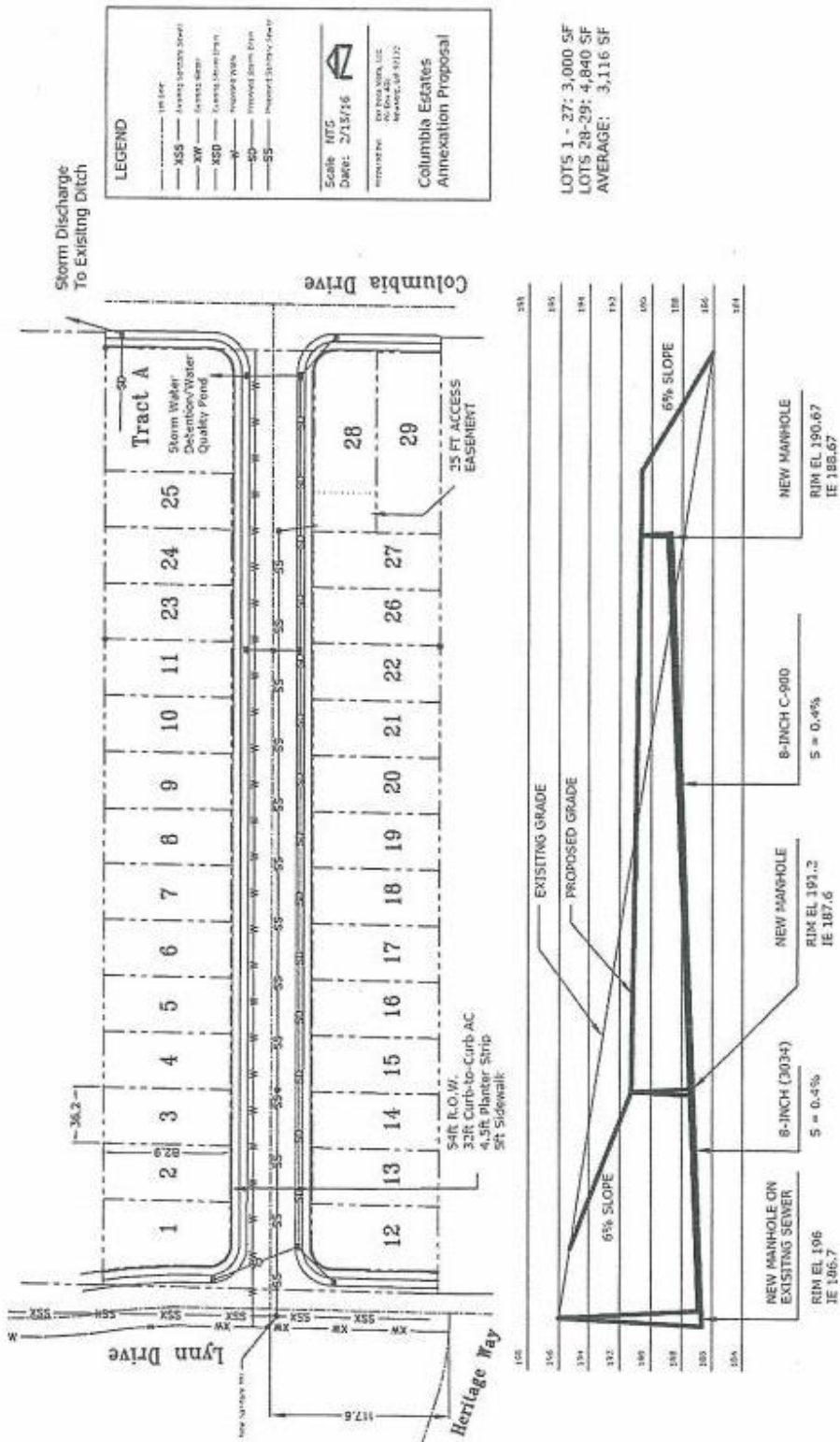
Attachment 1: Aerial Photo



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

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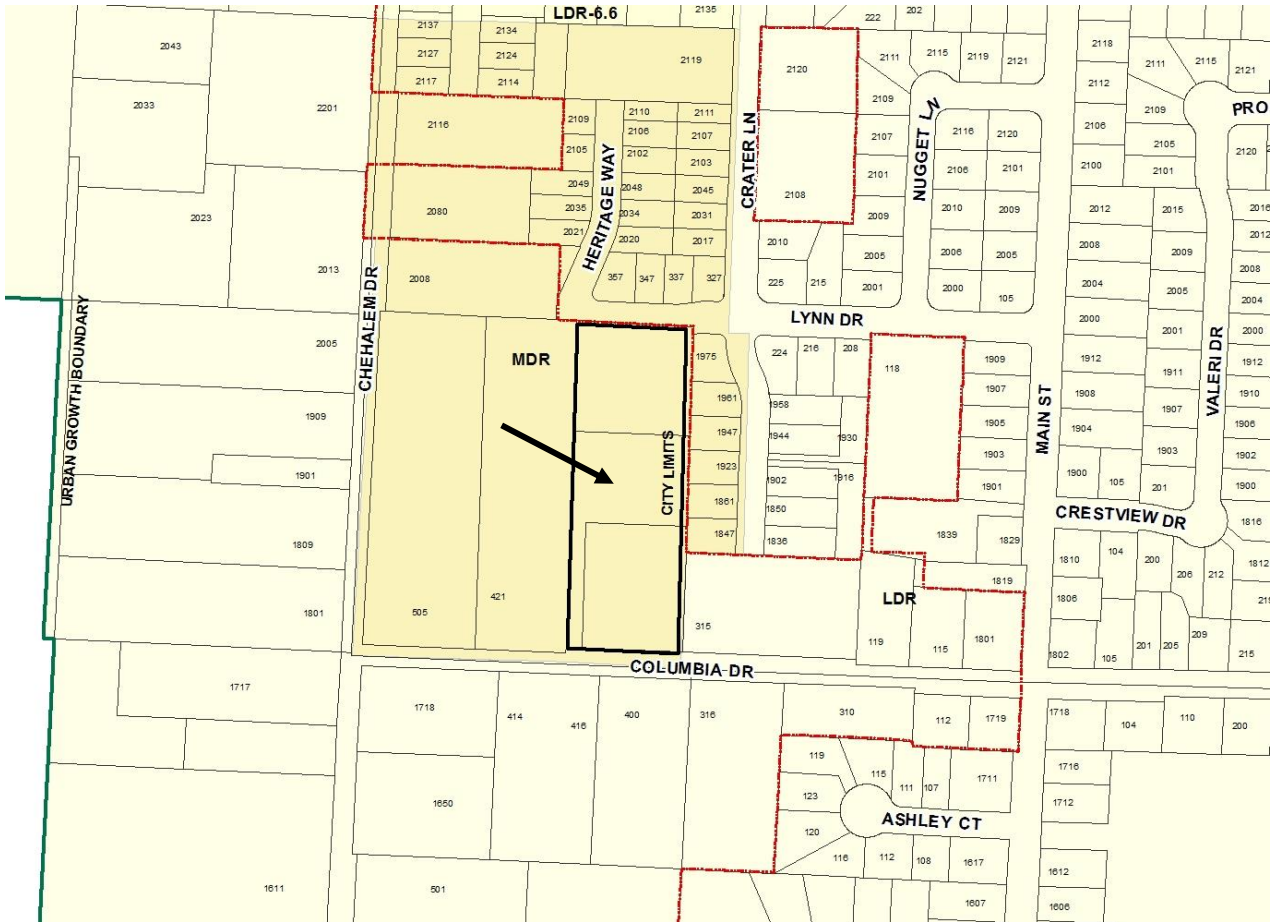
Attachment 2: Concept Development Plan



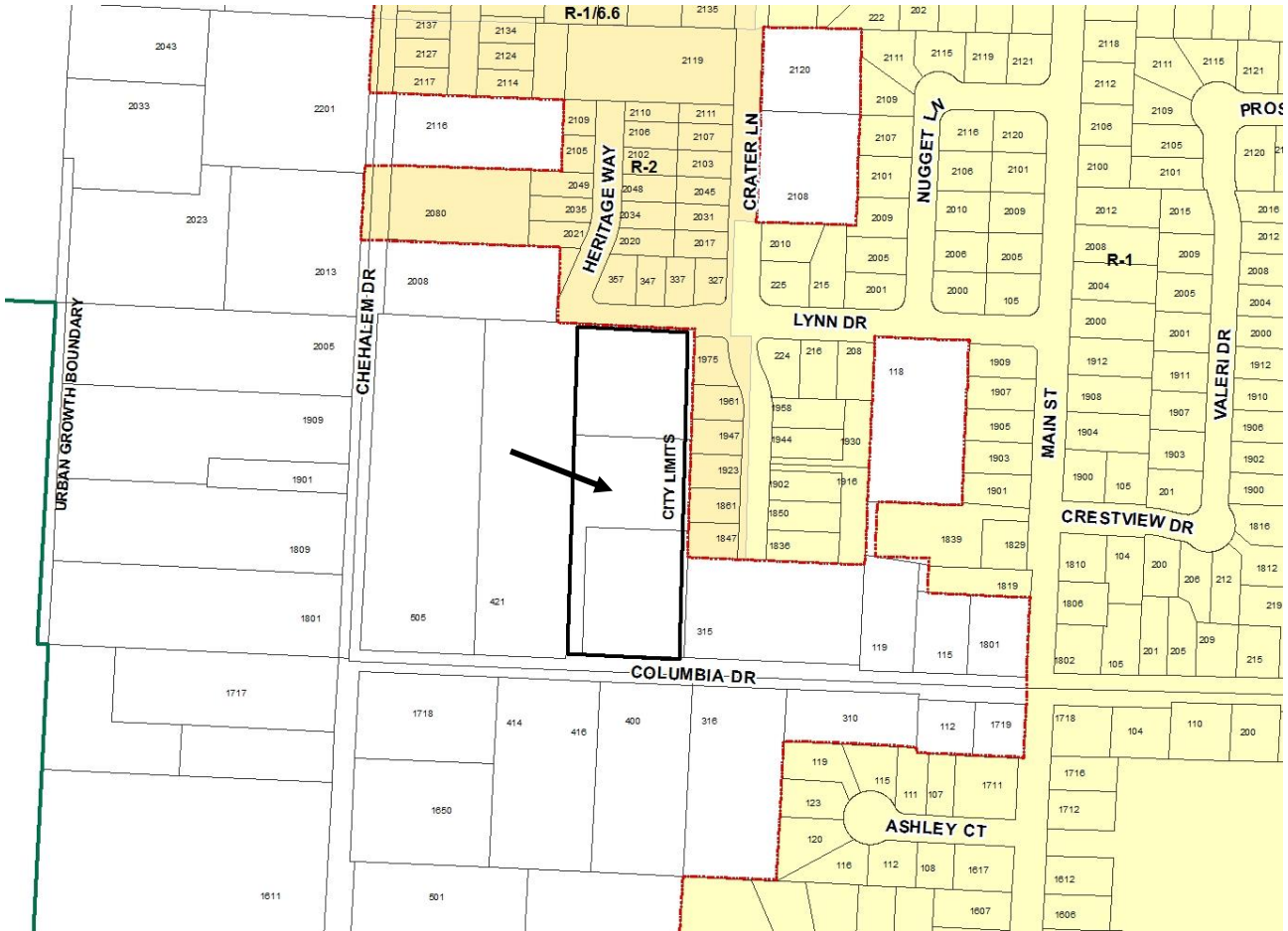
"Working Together For A Better Community-Serious About Service"

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Attachment 3: Comprehensive Plan Map



Attachment 4: Zoning Map



Attachment 5: Comments

(none received)



TYPE III APPLICATION - 2015
(QUASI-JUDICIAL REVIEW)

File #: _____

TYPES - PLEASE CHECK ONE:

- X Annexation
Comprehensive Plan Amendment (site specific)
Zoning Amendment (site specific)
Historic Landmark Modification/alteration
Conditional Use Permit
Type III Major Modification
Planned Unit Development
Other: (Explain)

APPLICANT INFORMATION:

APPLICANT: Del Boca Vista, LLC
ADDRESS: PO Box 486 Newberg, OR 97132
EMAIL ADDRESS: dan@dbvcorp.com
PHONE: 503-590-8600 MOBILE: 503-476-7702 FAX:
OWNER (if different from above): See attached documents PHONE: 503-590-8600
ADDRESS:
ENGINEER/SURVEYOR: Daniel Danicic, PE PHONE: 503-590-8600
ADDRESS: PO Box 486 Newberg, OR

GENERAL INFORMATION:

PROJECT NAME: Columbia Estates PROJECT LOCATION: Lynn Drive and Prospect Way
PROJECT DESCRIPTION/USE: Annexation for single family residential subdivision
MAP/TAX LOT NO. (i.e. 3200AB-400): 3218AB-1700, 1701 & 1702 ZONE: VLDR-1 SITE SIZE: 3.06 SQ. FT. ACRE
COMP PLAN DESIGNATION: MDR TOPOGRAPHY:
CURRENT USE: Vacant
SURROUNDING USES:
NORTH: R2 Single Family Subdivision (Newberg) SOUTH: VLDR-1 Single Family (County)
EAST: VLDR-1 Single Family (County) and R2 Single Family (Newberg) WEST: VLDR-1 Single Family (County)

SPECIFIC PROJECT CRITERIA AND REQUIREMENTS ARE ATTACHED

General Checklist: Fees Public Notice Information Current Title Report Written Criteria Response Owner Signature

For detailed checklists, applicable criteria for the written criteria response, and number of copies per application type, turn to:

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

The above statements and information herein contained are in all respects true, complete, and correct to the best of my knowledge and belief. Tentative plans must substantially conform to all standards, regulations, and procedures officially adopted by the City of Newberg. All owners must sign the application or submit letters of consent. Incomplete or missing information may delay the approval process.

Applicant Signature Date

Owner Signature Date

Michael Hanks, Member
Print Name

Print Name

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

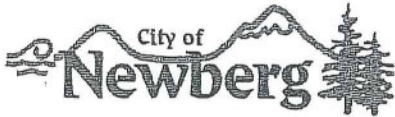
TL 3218AB-1700 & 1701

APPLICATION

COVENANT OF WAIVER OF RIGHTS AND REMEDIES

WAIVER OF EXPERIATION OF ANNEXAATION CONSENT

ANNEXATION CONSENT



TYPE III APPLICATION - 2015
(QUASI-JUDICIAL REVIEW)

File #: _____

TYPES - PLEASE CHECK ONE:

- X Annexation
Comprehensive Plan Amendment (site specific)
Zoning Amendment (site specific)
Historic Landmark Modification/alteration
Conditional Use Permit
Type III Major Modification
Planned Unit Development
Other: (Explain)

APPLICANT INFORMATION:

APPLICANT: Del Boca Vista, LLC
ADDRESS: PO Box 486 Newberg, OR 97132
EMAIL ADDRESS: dan@dbvcorp.com
PHONE: 503-590-8600 MOBILE: 503-476-7702 FAX:
OWNER (if different from above): Jo Dacklin PHONE: 503-590-8600
ADDRESS: 11990 SW King James Pl King City, OR 97224
ENGINEER/SURVEYOR: Daniel Danicic, PE PHONE: 503-590-8600
ADDRESS: PO Box 486 Newberg OR 97132

GENERAL INFORMATION:

PROJECT NAME: Columbia Estates PROJECT LOCATION: Lynn Drive and Heritage Way
PROJECT DESCRIPTION/USE: Single Family Residential
MAP/TAX LOT NO. (i.e. 3200AB-400): 3218AB-01700 ZONE: VLDR-1 SITE SIZE: 1.02 SQ. FT. ACRE
COMP PLAN DESIGNATION: MDR TOPOGRAPHY:
CURRENT USE: Vacant
SURROUNDING USES:
NORTH: SOUTH:
EAST: WEST:

SPECIFIC PROJECT CRITERIA AND REQUIREMENTS ARE ATTACHED

General Checklist: Fees Public Notice Information Current Title Report Written Criteria Response Owner Signature

For detailed checklists, applicable criteria for the written criteria response, and number of copies per application type, turn to:

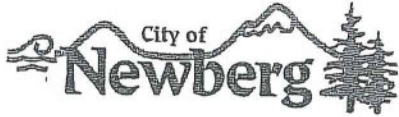
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The above statements and information herein contained are in all respects true, complete, and correct to the best of my knowledge and belief. Tentative plans must substantially conform to all standards, regulations, and procedures officially adopted by the City of Newberg. All owners must sign the application or submit letters of consent. Incomplete or missing information may delay the approval process.

Applicant Signature: [Signature] Date: 9/24/15
Print Name: MARC WILLIAMS, DEL BOCA VISTA LLC

Owner Signature: [Signature] Date: 9-28-15
Print Name: JO D. DACKLIN

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



TYPE III APPLICATION - 2015
(QUASI-JUDICIAL REVIEW)

File #: _____

TYPES - PLEASE CHECK ONE:

- Annexation
Comprehensive Plan Amendment (site specific)
Zoning Amendment (site specific)
Historic Landmark Modification/alteration
Conditional Use Permit
Type III Major Modification
Planned Unit Development
Other: (Explain)

APPLICANT INFORMATION:

APPLICANT: Del Boca Vista, LLC
ADDRESS: PO Box 486 Newberg, OR 97132
EMAIL ADDRESS: dan@dbvcorp.com
PHONE: 503-590-8600 MOBILE: 503-476-7702 FAX:
OWNER (if different from above): Jo Dacklin PHONE: 503-590-8600
ADDRESS: 11990 SW King James Pl King City, OR 97224
ENGINEER/SURVEYOR: Daniel Danicic, PE PHONE: 503-590-8600
ADDRESS: PO Box 486 Newberg OR 97132

GENERAL INFORMATION:

PROJECT NAME: Columbia Estates PROJECT LOCATION: Lynn Drive and Heritage Way
PROJECT DESCRIPTION/USE: Single Family Residential
MAP/TAX LOT NO. (i.e. 3200AB-400): 3218AB-01701 ZONE: VLDR-1 SITE SIZE: 1.02 SQ. FT. ACRE
COMP PLAN DESIGNATION: MDR TOPOGRAPHY:
CURRENT USE: Vacant
SURROUNDING USES:
NORTH: SOUTH:
EAST: WEST:

SPECIFIC PROJECT CRITERIA AND REQUIREMENTS ARE ATTACHED

General Checklist: Fees Public Notice Information Current Title Report Written Criteria Response Owner Signature

For detailed checklists, applicable criteria for the written criteria response, and number of copies per application type, turn to:

Annexation p. 15
Comprehensive Plan / Zoning Map Amendment (site specific) p. 19
Conditional Use Permit p. 21
Historic Landmark Modification/Alteration p. 23
Planned Unit Development p.26

The above statements and information herein contained are in all respects true, complete, and correct to the best of my knowledge and belief. Tentative plans must substantially conform to all standards, regulations, and procedures officially adopted by the City of Newberg. All owners must sign the application or submit letters of consent. Incomplete or missing information may delay the approval process.

Applicant Signature: [Signature] Date: 9/24/15
Print Name: Manu Williams, Del Boca Vista LLC

Owner Signature: [Signature] Date: 9-28-15
Print Name: JO D. DACKLIN

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

AFTER RECORDING RETURN TO:
City of Newberg
Planning and Building Department
PO Box 970 – (414 E. First Street)
Newberg, OR 97132

COVENANT OF WAIVER OF RIGHTS AND REMEDIES

Recitals

- 1) The undersigned, Jo Dacklin and _____ (hereinafter referred to as "Owner" or "Owners") has/have petitioned the City of Newberg (hereinafter referred to as "City") to commence certain proceedings, relating to Tax Lot 3218AB-01700 and _____, Tax Lot 3218AB-01701 for the real property described in **Exhibit A** which is attached hereto and incorporated herein.
- 2) Pursuant to the enactment of **Ballot Measure 49** (adopted November 6, 2007), if a public entity enacts one or more land use regulations that restrict the residential use of private real property or a farming or forest practice and that reduce the fair market value of the property, then the owner of the property shall be entitled to just compensation from the public entity that enacted the land use regulation or regulations as provided in Measure 49.
- 3) There is the potential that the Oregon electors or the Oregon Legislature may, in the future, enact further statutory or constitutional amendments relating to compensation for the impact of local regulations upon real property, under certain circumstances.
- 4) City does not wish to approve the Owner's/Owners' requested proceedings if the result would or could arguably give rise to a later claim by the Owner or Owners, or the Owner's/Owners' successors or assigns for compensation for the land use regulations in effect upon the effective date of the proceedings, or would or could arguably require the City to waive the City's land use regulations in effect upon the effective date of the proceedings, which are being newly imposed upon the property by reason and result of the proceedings.
- 5) Owner(s) seek(s) to induce the City to proceed with the proceedings and therefore Owner(s) agree(s) to eliminate the potential of claim for compensation or the right to seek waiver from the City's land use regulations existing as of the effective date of the proceedings.

NOW THEREFORE, the undersigned Owner(s) warrant(s) that the Owner(s) executing this covenant hold(s) the full and complete present ownership or any interest therein in the property, and hereby agree(s) and covenant(s) as follows:

- 1) As inducement to the City to proceed with the following proceeding(s) affecting the subject real property: TL 3218AB-1700 and 1701, which may include designation of the property as subject to additional applicable overlay zones and districts, e.g., Limited Use Overlay District, (all inclusively referred to herein as "proceedings"), the undersigned Owner(s), on behalf of Owner(s), Owner's/Owners' heirs, devisees, executors, administrators, successors and assigns, agree(s) and covenant(s) to the City of Newberg, its officers, agents, employees and assigns that the undersigned hereby remises, waives, releases and forever discharges, and agrees that Owner(s) shall be estopped from asserting any rights and remedies, actions, causes of action, suits, claims, liabilities, demands, and rights to waivers arising under or granted by any statutory or constitutional regulatory compensation or waiver provisions, including but not limited to Ballot Measure 49 (2007) or otherwise enacted after the date of this proceeding which would create a right of claim for compensation or waiver from City land use regulations that exist upon the effective date of the proceeding and which, by the approval of the proceeding, are then applicable to the property.
- 2) This waiver and release shall bind the undersigned's heirs, devisees, executors and administrators, successors in interests, and assigns. This covenant, waiver, release and discharge shall run with the land, and this instrument, or a memorandum hereof, may be recorded in the official records of the County in which the subject real property is located. This instrument may be terminated upon the filing of a Notice of Termination of Covenant filed by the City of Newberg.

WAIVER OF EXPIRATION OF ANNEXATION CONSENT

WHEREAS: The undersigned
Jo Dacklin

_____ as
owner(s) of certain property have signed a consent to annex that property to the City of Newberg, Oregon, which
consent is attached; and

WHEREAS: ORS 222.173 provides that "only statements of consent to annexation which are filed within any one-
year period shall be effective, unless separate written agreement waiving the one-year period or prescribing some
other period of time has been entered into between an owner of land or an elector and the city."; and

WHEREAS: The owner(s) desire that this consent to annex be valid until the property is annexed.

NOW, THEREFORE:

The undersigned do hereby request that the attached consent to annex be valid until the property is annexed to the
City of Newberg, Oregon.

In construing this consent, the singular includes the plural as circumstances may require.

IN WITNESS WHEREOF, Petitioner has caused these presents to be executed this 28th day
of September, 2015

Jo Dacklin

STATE OF Oregon, County of Washington ss 9/28/15
month/day/year

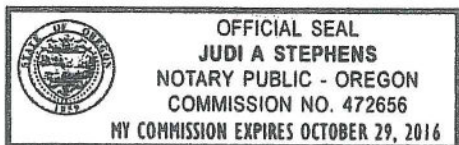
Personally appeared the above named JO Dacklin

and acknowledged the foregoing instrument to be her voluntary act and deed.

Before me: *Stephens*

Notary Public for: Oregon

My commission expires: 10/29/16



ANNEXATION CONSENT

TO THE HONORABLE MAYOR AND COUNCIL OF THE CITY OF NEWBERG, OREGON:

The undersigned Jo Dacklin

being the sole owner of the real premises described in Exhibit A attached hereto and incorporated by reference herein, and generally known as (address) N/A and (tax lot) 3218AB-01700 and 1701, does hereby consent to the annexation of such territory above described to the City of Newberg, Oregon.

The undersigned does hereby respectfully petition that the real premises described in Exhibit A be annexed to the City of Newberg, Oregon, in the manner provided by the laws of the State of Oregon and the Charter and Ordinances of the City of Newberg, Oregon.

This consent is binding upon the heirs, successors, and assigns of the above listed property.

In construing this consent, the singular includes the plural as circumstances may require.

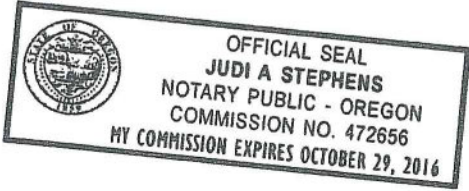
IN WITNESS WHEREOF, Petitioner has caused these presents to be executed this 28th day of September, 2015

Jo D. Dacklin

STATE OF Oregon, County of Washington ss 9/28/15
Month / day / year

Personally appeared the above named Jo Dacklin

and acknowledged the foregoing instrument to be his voluntary act and deed.



Before me: Stephens
Notary Public for Oregon
My commission expires 10/29/16

- 3) If this instrument is given contemporaneous with a consent to future proceedings to be initiated by the City, Owner(s) acknowledge(s) that the proceedings may be initiated by the City of Newberg at any time in the discretion of the City of Newberg, and that this waiver and release is applicable to any ordinances adopted prior to the effective date of the proceeding.
- 4) This document is executed of my/our own free will and without duress. I, or if more than one, each of us respectively acknowledge that I/we have been advised to obtain legal advice prior to the execution of this document, and that either I, or each of us respectively, have either obtained legal advice or have independently elected not to seek legal advice prior to the execution of this document, recognizing that this document may affect my/our legal rights and remedies.

OWNER

OWNER

Jo Dacklin

STATE OF OREGON)

County of ~~Yamhill~~

Washington

) ss.

This instrument was acknowledged before me on this 28th day of Sept, 2015, by Jo Dacklin and _____.

J. Stephens
 Notary Public for Oregon
 My Commission expires: 10/29/16



CITY OF NEWBERG

APPROVED AS TO FORM:

 Norma I. Alley, City Recorder

 Terrence D. Mahr, City Attorney

Dated: _____

Dated: _____

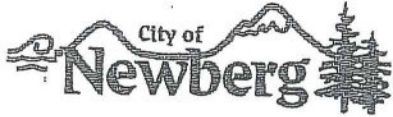
TL 3218AB-1702

APPLICATION

COVENANT OF WAIVER OF RIGHTS AND REMEDIES

WAIVER OF EXPERIATION OF ANNEXAATION CONSENT

ANNEXATION CONSENT



TYPE III APPLICATION - 2015
(QUASI-JUDICIAL REVIEW)

File #: _____

TYPES - PLEASE CHECK ONE:

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

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

APPLICANT INFORMATION:

APPLICANT: Del Boca Vista, LLC
ADDRESS: PO Box 486 Newberg, OR 97132
EMAIL ADDRESS: dan@dbvcorp.com
PHONE: 503-590-8600 MOBILE: 503-476-7702 FAX:
OWNER (if different from above): Richard and Merrilee Lee PHONE: 503-590-8600
ADDRESS: PO Box 275 Ridgefield, WA 98642
ENGINEER/SURVEYOR: Daniel Danicic, PE PHONE: 503-590-8600
ADDRESS: PO Box 486 Newberg OR 97132

GENERAL INFORMATION:

PROJECT NAME: Columbia Estates PROJECT LOCATION: Lynn Drive and Heritage Way
PROJECT DESCRIPTION/USE: Single Family Residential
MAP/TAX LOT NO. (i.e. 3200AB-400): 3218AB-01702 ZONE: VLDR-1 SITE SIZE: 1.02 SQ. FT. [] ACRE [X]
COMP PLAN DESIGNATION: MDR TOPOGRAPHY:
CURRENT USE: Vacant
SURROUNDING USES:
NORTH: SOUTH:
EAST: WEST:

SPECIFIC PROJECT CRITERIA AND REQUIREMENTS ARE ATTACHED

General Checklist: [] Fees [] Public Notice Information [] Current Title Report [] Written Criteria Response [] Owner Signature

For detailed checklists, applicable criteria for the written criteria response, and number of copies per application type, turn to:

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

The above statements and information herein contained are in all respects true, complete, and correct to the best of my knowledge and belief. Tentative plans must substantially conform to all standards, regulations, and procedures officially adopted by the City of Newberg. All owners must sign the application or submit letters of consent. Incomplete or missing information may delay the approval process.

Applicant Signature: [Signature] Date: 9/24/15
Print Name: Marc Willatts Del Boca Vista LLC

Owner Signature: [Signature] Date: 9/24/15
Print Name: RICHARD T. LEE Merrilee A. Lee 9-24-15

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

ANNEXATION CONSENT

TO THE HONORABLE MAYOR AND COUNCIL OF THE CITY OF NEWBERG, OREGON:

The undersigned Richard and Merrilee Lee

being the sole owner of the real premises described in Exhibit A attached hereto and incorporated by reference herein, and generally known as (address) N/A and (tax lot) 3218AB-01702, does hereby consent to the annexation of such territory above described to the City of Newberg, Oregon.

The undersigned does hereby respectfully petition that the real premises described in Exhibit A be annexed to the City of Newberg, Oregon, in the manner provided by the laws of the State of Oregon and the Charter and Ordinances of the City of Newberg, Oregon.

This consent is binding upon the heirs, successors, and assigns of the above listed property.

In construing this consent, the singular includes the plural as circumstances may require.

IN WITNESS WHEREOF, Petitioner has caused these presents to be executed this _____ day of _____, 20__.

[Signature: Richard Lee]
[Signature: Merrilee Lee]

STATE OF WA, County of CLATSOP ss 9 124/15
Month / day / year

Personally appeared the above named _____

and acknowledged the foregoing instrument to be _____ voluntary act and deed.

MARK W EATON
Notary Public
State of Washington
My Commission Expires
January 09, 2016

Before me: [Signature]
Notary Public for CLATSOP WA
My commission expires 1/9/16

WAIVER OF EXPIRATION OF ANNEXATION CONSENT

WHEREAS: The undersigned
Richard and Merrilee Lee

_____ as
owner(s) of certain property have signed a consent to annex that property to the City of Newberg, Oregon, which
consent is attached; and

WHEREAS: ORS 222.173 provides that "only statements of consent to annexation which are filed within any one-
year period shall be effective, unless separate written agreement waiving the one-year period or prescribing some
other period of time has been entered into between an owner of land or an elector and the city."; and

WHEREAS: The owner(s) desire that this consent to annex be valid until the property is annexed.

NOW, THEREFORE:

The undersigned do hereby request that the attached consent to annex be valid until the property is annexed to the
City of Newberg, Oregon.

In construing this consent, the singular includes the plural as circumstances may require.

IN WITNESS WHEREOF, Petitioner has caused these presents to be executed this _____ day
of _____, 20 ____.

Richard T. Lee
Merrilee A. Lee

STATE OF WA, County of CLATSOP ss 9/24/15
month/day/year

Personally appeared the above named _____

and acknowledged the foregoing instrument to be _____ voluntary act and deed.

MARK W EATON
Notary Public
State of Washington
My Commission Expires
January 09, 2016

Before me:
MARK EATON
Notary Public for:
CLATSOP WA
My commission expires:
1/9/16

AFTER RECORDING RETURN TO:

City of Newberg
Planning and Building Department
PO Box 970 – (414 E. First Street)
Newberg, OR 97132

COVENANT OF WAIVER OF RIGHTS AND REMEDIES

Recitals

- 1) The undersigned, Richard Lee and Merrilee Lee (hereinafter referred to as "Owner" or "Owners") has/have petitioned the City of Newberg (hereinafter referred to as "City") to commence certain proceedings, relating to Tax Lot 3218AB-01702 for the real property described in Exhibit A which is attached hereto and incorporated herein.
- 2) Pursuant to the enactment of Ballot Measure 49 (adopted November 6, 2007), if a public entity enacts one or more land use regulations that restrict the residential use of private real property or a farming or forest practice and that reduce the fair market value of the property, then the owner of the property shall be entitled to just compensation from the public entity that enacted the land use regulation or regulations as provided in Measure 49.
- 3) There is the potential that the Oregon electors or the Oregon Legislature may, in the future, enact further statutory or constitutional amendments relating to compensation for the impact of local regulations upon real property, under certain circumstances.
- 4) City does not wish to approve the Owner's/Owners' requested proceedings if the result would or could arguably give rise to a later claim by the Owner or Owners, or the Owner's/Owners' successors or assigns for compensation for the land use regulations in effect upon the effective date of the proceedings, or would or could arguably require the City to waive the City's land use regulations in effect upon the effective date of the proceedings, which are being newly imposed upon the property by reason and result of the proceedings.
- 5) Owner(s) seek(s) to induce the City to proceed with the proceedings and therefore Owner(s) agree(s) to eliminate the potential of claim for compensation or the right to seek waiver from the City's land use regulations existing as of the effective date of the proceedings.

NOW THEREFORE, the undersigned Owner(s) warrant(s) that the Owner(s) executing this covenant hold(s) the full and complete present ownership or any interest therein in the property, and hereby agree(s) and covenant(s) as follows:

- 1) As inducement to the City to proceed with the following proceeding(s) affecting the subject real property: Tax Lot 3218AB-1702, which may include designation of the property as subject to additional applicable overlay zones and districts, e.g., Limited Use Overlay District, (all inclusively referred to herein as "proceedings"), the undersigned Owner(s), on behalf of Owner(s), Owner's/Owners' heirs, devisees, executors, administrators, successors and assigns, agree(s) and covenant(s) to the City of Newberg, its officers, agents, employees and assigns that the undersigned hereby remises, waives, releases and forever discharges, and agrees that Owner(s) shall be estopped from asserting any rights and remedies, actions, causes of action, suits, claims, liabilities, demands, and rights to waivers arising under or granted by any statutory or constitutional regulatory compensation or waiver provisions, including but not limited to Ballot Measure 49 (2007) or otherwise enacted after the date of this proceeding which would create a right of claim for compensation or waiver from City land use regulations that exist upon the effective date of the proceeding and which, by the approval of the proceeding, are then applicable to the property.
- 2) This waiver and release shall bind the undersigned's heirs, devisees, executors and administrators, successors in interests, and assigns. This covenant, waiver, release and discharge shall run with the land, and this instrument, or a memorandum hereof, may be recorded in the official records of the County in which the subject real property is located. This instrument may be terminated upon the filing of a Notice of Termination of Covenant filed by the City of Newberg.

- 3) If this instrument is given contemporaneous with a consent to future proceedings to be initiated by the City, Owner(s) acknowledge(s) that the proceedings may be initiated by the City of Newberg at any time in the discretion of the City of Newberg, and that this waiver and release is applicable to any ordinances adopted prior to the effective date of the proceeding.
- 4) This document is executed of my/our own free will and without duress. I, or if more than one, each of us respectively acknowledge that I/we have been advised to obtain legal advice prior to the execution of this document, and that either I, or each of us respectively, have either obtained legal advice or have independently elected not to seek legal advice prior to the execution of this document, recognizing that this document may affect my/our legal rights and remedies.

OWNER

Richard Lee

OWNER

Merrilee Lee

STATE OF ^{WA} OREGON)
 County of ^{CLATSOP} Yamhill) ss.

This instrument was acknowledged before me on this 24 day of Sept, ²⁰¹⁵~~200~~, by Lee, Richard and Lee, Merrilee.

Mark W. Eaton
 Notary Public for Oregon ^{not}
 My Commission expires: 1/9/10

MARK W EATON
 Notary Public
 State of Washington
 My Commission Expires
 January 09, 2016

CITY OF NEWBERG

APPROVED AS TO FORM:

 Norma I. Alley, City Recorder

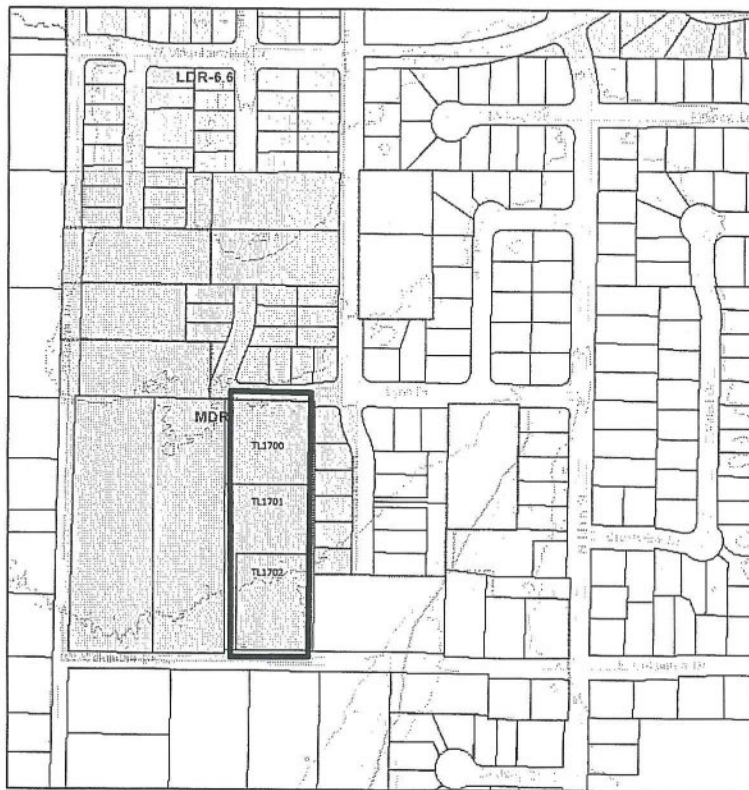
 Terrence D. Mahr, City Attorney

Dated: _____

Dated: _____

WRITTEN RESPONSE CRITERIA

Columbia Estates Annexation and Zone Amendment

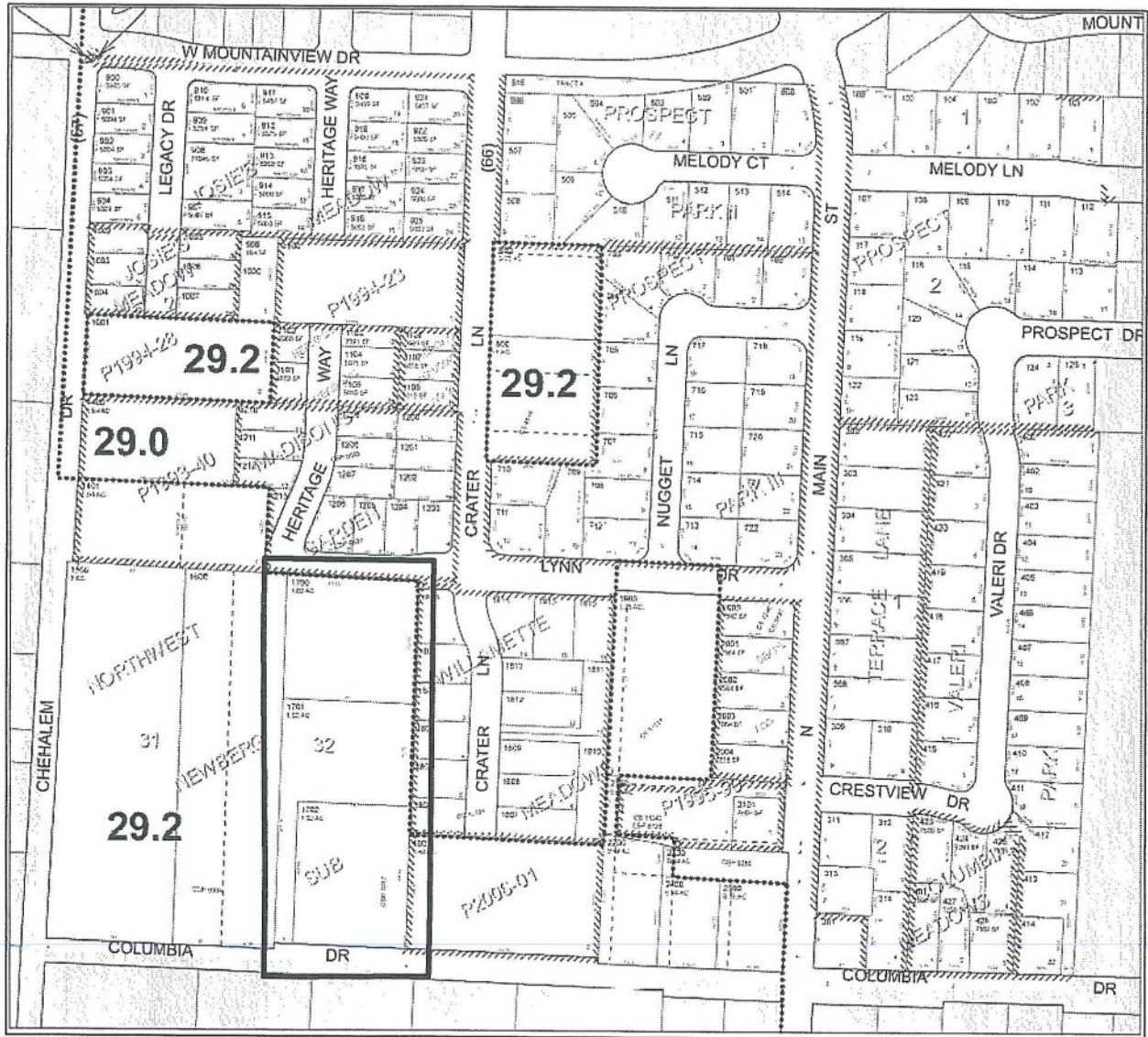


NEWBERG COMP PLAN DESIGNATION



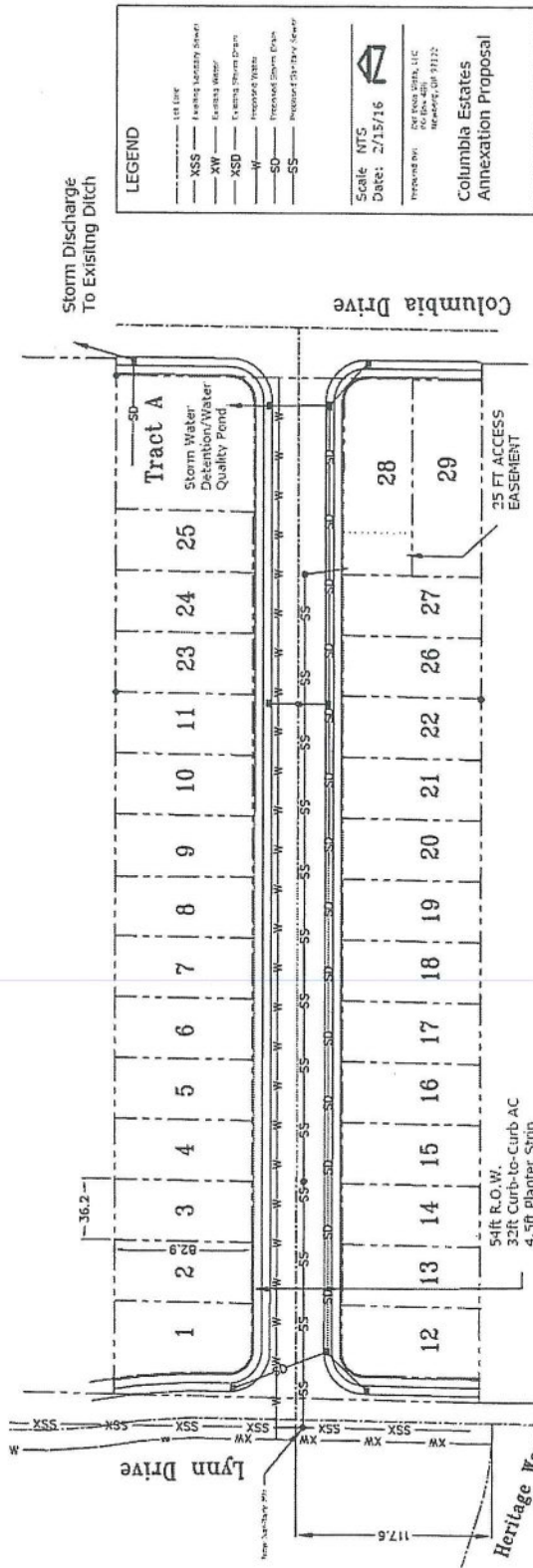
NEWBERG ZONING MAP

Columbia Estates Annexation and Zone Amendment

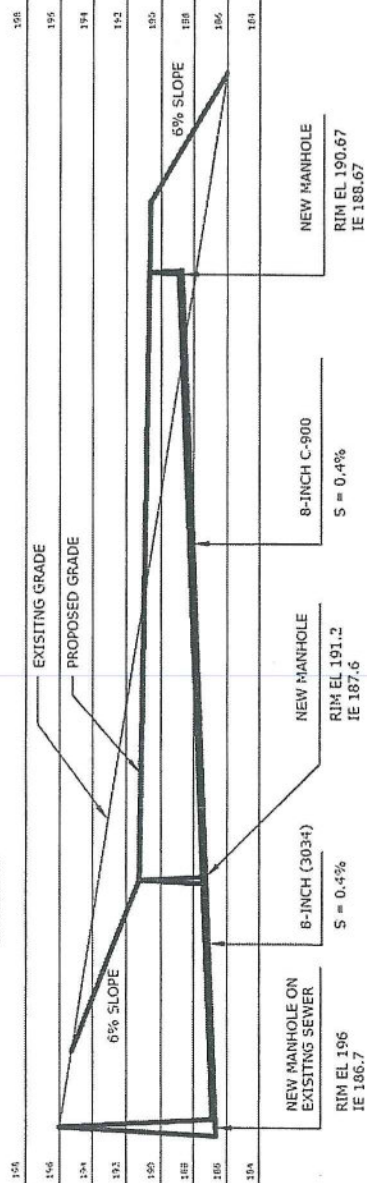


TAX LOT MAP 3218AB

Columbia Estates Annexation and Zone Amendment



LOTS 1 - 27: 3,000 SF
 LOTS 28-29: 4,840 SF
 AVERAGE: 3,116 SF



SUBDIVISION CONCEPT DEVELOPMENT PLAN

Columbia Estates Annexation and Zone Amendment

ANNEXATION REQUEST AND FINDINGS

The following is the applicants' statement regarding the annexation criteria (Newberg Code 15.250.030) for annexation of approximately 3.06 acres (Net area) of territory (Yamhill County-Tax Lots 3218AB 1700, 1701 and 1702) that is north of Columbia Drive and between Chehalem Drive and Main Street in Newberg Oregon.

The subject property is currently zoned VLDR-1 (Very Low Density Residential-1 acre minimum) and designated "MDR" (Medium Density Residential on the Newberg Comprehensive Plan Map.

There are no existing structures located on the site. The applicant is proposing to develop the site with a minimum of 28 single family lots for residential construction.

The proposal provides for orderly growth of the City limits and once developed, public and private services will be available to the residents of the annexed territory. No new service districts are proposed.

The Urban Growth Boundary is not proposed for expansion. The annexation will provide adequate land for residential development to meet the City's demand for urban development in an orderly, efficient and timely manner.

The subject property is surrounded by City limits on the north, and 2/3rds of the eastern property line.

The annexation will permit new development. Private utilities will be provided with under grounding of electrical, gas, telephone and cable lines. It is timely to process the annexation of the subject property now, as it will be a minimum of one year before actual development can take place. The public interest is best served by referring the matter to the voters in November 2016.

Development Concept Statement and Positive/Negative Effects Statement:

The applicant is proposing to develop the site with at 29 single family residences. The subject property will not only be a site that will contribute to the need for housing, but it is also a site that can help improve the neighborhood in the area by developing a vacant lot. The subject property when developed will provide street improvements such as sidewalks that will provide pedestrian connections throughout the neighborhood. The development of the site will meet a need for new single family homes.

Though this development will increase the traffic in the area, it will provide a valuable link to major and minor collector roads relieving traffic volumes along local residential streets.

The proposed annexation/zone change will have a positive impact on the economy of the City of Newberg. The rezone and annexation will allow the property to be developed, which will create employment during construction, add utility customers and increase property tax revenues to the City.

ANNEXATION CRITERIA:

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

Response - The applicant is proposing a City designation of R2. The proposed land use designation is consistent with the Newberg Area Comprehensive Plan "MDR" designation and applicable Statewide planning goals.

II. Goals and Policies.

A. Citizen Involvement

The City's adopted Comprehensive Plan General Development Goal and Policies, and its adopted zone code, implement the Statewide Citizen Involvement Goal. This application will be reviewed according to the public review process established by the City of Newberg. The City's Plan is acknowledged to be in compliance with this Goal. Notice of the proposal will be provided to property owners and public agencies. The published notice will identify the applicable criteria. A public hearing to consider the request will be held, along with voter approval. Through the notification and public hearing process all interested parties are afforded the opportunity to review the application, comment on the proposal, attend the public hearing, and participate in the decision.

These procedures meet the requirements of this Goal for citizen involvement in the land use planning process.

B. Land-Use Planning

The City's adopted Comprehensive Plan implements the Statewide Land Use Planning Goal. The City's Comprehensive Plan is acknowledged to be in compliance with the Statewide Planning Goals. This proposal is made under the goals, policies and procedures of the Newberg Comprehensive Plan and its implementing ordinance. A description of the proposal in relation to the intent of the Plan, its applicable goals and policies, the annexation and zone change criteria is part of this review. Facts and evidence have been provided that support and justify the proposed zone change, along with findings and evidence to support the annexation. For these reasons, the proposal conforms to the land use planning process established by this Goal.

E. Air, Water, and Land Resource Quality

The City's adopted Comprehensive Plan Growth Management, Scenic and Historic Areas, Natural Resources and Hazards, Commercial, Industrial and Transportation Goals and Policies along with adopted facilities plans implement this Goal.

Development is required to meet applicable State and Federal requirements for air and water quality. The proposal to redevelop is reviewed by the City and any applicable outside agencies for impacts on environment and compliance to applicable standards

Columbia Estates Annexation and Zone Amendment

and regulations. Development is required to meet applicable water, sewer, and storm drainage system master plan requirements. Upon redevelopment, the City is responsible for assuring that wastewater discharges are treated to meet the applicable standards for environmental quality.

The proposed site is outside the noise contours of the air traffic, and that the facility will nevertheless utilize building materials that mitigate such noise, if any.

Considering the location of the site within the city, the availability of public facilities to provide water, sewage disposal and storm drainage services, and the surrounding transportation system, the proposal will have no significant impacts to the quality of the air, water or land.

G. Open Space, Scenic, Natural Historic and Recreational Resources

The City's adopted General Development, Scenic and Historic Areas, Natural Resources and Hazards Goals and Policies address the Statewide Goal. According to City map there are no mapped wetlands and a waterway on the subject property.

H. The Economy and I. Housing

The proposed annexation and zone change will have a positive impact on the economy and housing of the City of Newberg. There is a high demand for single family homes right now. The annexation and rezone will allow the property to be developed, which will create employment along with a housing type that is desirable for families.

K. Transportation

The City's adopted Comprehensive Plan Transportation Goal and Policies implements the Statewide Transportation Goal by encouraging a safe, convenient and economic transportation system. The subject property is located along Lynn Drive and Columbia Drive and will provide a new north/south local residential connector. The major streets are in place due to previous development. The new road will help the traffic circulation by allowing another local connection from Lynn Drive to Columbia Drive.

The attached letter prepared by Associated Transportation Engineering and Planning dated September 22, 2015 addressed the Transportation Planning Rule. Their analysis concludes that the proposed annexation of the three parcels will generate traffic volumes consistent with the Comprehensive Plan and the anticipated zoning of the area.

A traffic study has not been submitted as the trip generation for the proposed development is 29 trips during the p.m. peak hour which less than the 40 trip criteria to trigger a traffic impact study.

With the recommended improvements the function of the transportation system will be maintained at acceptable standards and not have a negative impact on the neighborhood or existing street system.

For these reasons the requirements of this Goal are met.

Columbia Estates Annexation and Zone Amendment

L. Public Facilities and Services

The City's adopted Comprehensive Plan Growth Management, residential, and Transportation Goal and Policies and adopted Storm water and Water Master Plans implement the Statewide Public Facilities and Services Goal by requiring development to be served by public services. The proposal is for revitalized urban development in an area where future extensions of those services can be provided in the most feasible, efficient and economical manner. The City's capital improvement program and its minimum code standards for public facilities provide a means for improving and updating public facilities systems (water and sewer). All necessary and appropriate public services and facilities essential for development will be provided to this property at levels that are adequate to serve the proposed use.

The City maintains an infrastructure of public services that includes sewer, water, and storm drainage facilities. The City will specify any needed changes to the existing service levels at the time building permits are requested.

Water will be extended south from Lynn Drive to serve the proposed development. Stormwater will be collected and conveyed to a water quality/detention facility at the southern end of the site, which then discharges into the Yamhill County drainage ditch system. Yamhill County will dictate any need for downstream drainage improvements. Sanitary sewer can be extended from Lynn Drive to serve the development. The lot slopes away from Lynn Drive, so in order to provide gravity sewer service to all lots, the south end of the lot will be filled approximately three feet. Fill will be acquired by a cut in the northern half of the lot and augmented from off-site sources as needed. Refer to the concept development plan above for details.

Sidewalks will be provided along the public right-of-way through the site to connect to the existing public sidewalk system in Lynn Drive. The vehicle, transit, bicycle, and pedestrian circulation systems will be designed to connect major population and employment centers in this area, as well as provide access to local neighborhood residential, shopping, schools, and other activity centers.

Traffic from this site is diverted away from residential areas and has convenient access to the existing streets. Aesthetics and landscaping will be considered in the design of the circulation system to cut down on headlight glare, heat, and improved traffic direction.

The Newberg School District provides public education facilities. The education district's master plan provides for growth in the district and has options to meet the demand. The education district reviews the population factors to determine planning, funding and locating new schools or providing additional facilities on the sites of existing schools.

Other private service providers supply garbage, telephone, television, postal and internet services as needed by the development. The required public services and facilities to serve new development will be determined by the City at the time development permits are requested

Columbia Estates Annexation and Zone Amendment

The proposed annexation is in compliance with the applicable Goals and Policies in the Comprehensive Plan.

(B) Urban Services

As stated above, the proposal is for revitalized urban development in an area where future extensions of those services can be provided in the most feasible, efficient and economical manner. The City's capital improvement program and its minimum code standards for public facilities provide a means for improving and updating public facilities systems (water and sewer). All necessary and appropriate public services and facilities essential for development will be provided to this property at levels that are adequate to serve the proposed use.

The City maintains an infrastructure of public services that includes sewer, water, and storm drainage facilities. The City will specify any needed changes to the existing service levels at the time building permits are requested.

Sidewalks will be provided through the site to connect to the existing public sidewalk system. The location along a major transportation corridor facilitates access to a transit route, bicycle and pedestrian access, provides significant opportunity to reduce vehicle miles traveled. The vehicle, transit, bicycle, and pedestrian circulation systems will be designed to connect major population and employment centers in the Newberg urban area, as well as provide access to local neighborhood residential, shopping, schools, and other activity centers.

Traffic from this site is diverted away from residential areas and has convenient access to the existing major and minor collector streets. Aesthetics and landscaping will be considered in the design of the circulation system to cut down on headlight glare, heat, and improved traffic direction.

(C) Police, Fire, Parks, and School Facilities

The Newberg School District provides public education facilities. The education district's master plan provides for growth in the district and has options to meet the demand. The education district reviews the population factors to determine planning, funding and locating new schools or providing additional facilities on the sites of existing schools.

Other private service providers supply garbage, telephone, television, postal and internet services as needed by the development. The required public services and facilities to serve new development will be determined by the City at the time development permits are requested.

The development of the site will require the applicant to pay System Development Charges (SDC'S) that will contribute to parks and school facilities. Taxes that come from the development will help to provide funding for Police, Fire, and other required services.

Columbia Estates Annexation and Zone Amendment

ZONE CHANGE REQUEST AND FINDINGS:

The applicant is requesting an annexation into the City of Newberg. The subject property is currently zoned VLDR-1 in Yamhill County. The subject property is surrounded by City zoned R-2 property. The applicant is requesting a zone change to R-2 upon annexation into the City of Newberg.

Zone Change Criteria

a) The proposed change is consistent with and promotes the goals and policies of the Newberg Comprehensive Plan and this Code.

The proposed zone change is consistent with the Comprehensive Plan and Code. The subject property is designated as "MDR" (Medium Density Residential) on the Newberg Comprehensive Plan Map. The "MDR" designation is consistent with the R2 zone, which is reserved for similar density development.

The applicant is proposing to develop the site as single family homes. The single family homes will be consistent with the goals and policies of the "MDR" designation and the intent of the R-2 zone.

b) Public Facilities and Services

Water and sanitary sewer public facilities are adjacent to (within Lynn Drive) and capable to serve this site. Therefore public services can be considered to be reasonably available to support development.

As stated above, the City's adopted Comprehensive Plan Growth Management, residential, and Transportation Goal and Policies and adopted Storm water and Water Master Plans implement the Statewide Public Facilities and Services Goal by requiring development to be served by public services. The proposal is for revitalized urban development in an area where future extensions of those services can be provided in the most feasible, efficient and economical manner. The City's capital improvement program and its minimum code standards for public facilities provide a means for improving and updating public facilities systems (water and sewer). All necessary and appropriate public services and facilities essential for development will be provided to this property at levels that are adequate to serve the proposed use.

The City maintains an infrastructure of public services that includes sewer, water, and storm drainage facilities. The City will specify any needed changes to the existing service levels at the time subdivision development and building permits are requested.

Water will be extended south from Lynn Drive to serve the proposed development. Stormwater will be collected and conveyed to a water quality/detention facility at the southern end of the site, which then discharges into the Yamhill County drainage ditch system. Yamhill County will dictate any need for downstream drainage improvements. Sanitary sewer can be extended from Lynn Drive to serve the development. The lot slopes away from Lynn Drive, so in order to provide gravity sewer service to all lots, the south end of the lot will be filled approximately three feet. Fill will be acquired by a cut in the northern half of the lot and augmented from off-site sources as needed. Refer to the concept development plan above for details.

Columbia Estates Annexation and Zone Amendment

Sidewalks will be provided through the site to connect to the existing public sidewalk system. The vehicle, transit, bicycle, and pedestrian circulation systems will be designed to provide connectivity to major population and employment centers in this area, as well as provide access to local neighborhood residential, shopping, schools, and other activity centers.

Traffic from this site is diverted away from residential areas by way of a new residential street connecting Lynn Drive to Columbia Drive.

The Newberg School District provides public education facilities. The education district's master plan provides for growth in the district and has options to meet the demand. The education district reviews the population factors to determine planning, funding and locating new schools or providing additional facilities on the sites of existing schools.

Other private service providers supply garbage, telephone, television, postal and internet services as needed by the development. The required public services and facilities to serve new development will be determined by the City at the time development permits are requested.

c) Compliance with the State Transportation Planning Rule

The subject site is located between Columbia and Lynn Drive. The City of Newberg's Transportation System Plan (TSP) is in compliance with the requirements of this Goal. The relationship of the proposal to the transportation system, and its impacts, is described in the Transportation Planning Rule analysis prepared by Associate Transportation Engineering and Planning dated 9/22/15. Their analysis concludes that the proposed annexation of the three parcels will generate traffic volumes consistent with the Comprehensive Plan and the anticipated zoning of the area.

As an infill proposal, the transportation network in the area is already established. Connections to the existing system are provided by existing streets and access to serve the new parcels. The subject property, as proposed, will be served with adequate transportation infrastructure, and the street system adjacent to the property provides for safe, orderly, and efficient circulation of traffic into and out of the property.

For these reasons the requirements of this Goal are met.

This concludes the applicants' summary addressing the requirements of the code for annexation and zone change amendment. If you have any questions or need additional information, please call our office at 503 590 8600.

TITLE REPORTS



First American

First American Title Company of Oregon
825 NE Evans Street
McMinnville, OR 97128
Phn - (503)376-7363
Fax - (866)800-7294

PUBLIC RECORD REPORT FOR NEW SUBDIVISION OR LAND PARTITION

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

Del Boca Vista LLC
P.O. Box 486
Newberg, OR 97132
Phone: (503)590-8600

Date Prepared : September 25, 2015
Effective Date : 8:00 A.M on September 03, 2015
Order No. : 1039-2529663
Reference :

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

REPORT

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

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

- B. As of the Effective Date, the tax account and map references pertinent to the Land are as follows:

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

- C. As of the Effective Date and according to the Public Records, we find title to the land apparently vested in:

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

- D. As of the Effective Date and according to the Public Records, the Land is subject to the following liens and encumbrances, which are not necessarily shown in the order of priority:

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

EXHIBIT "B"
(Vesting)

Jo D. Dacklin as to Parcel 1 and 2, and Richard T. Lee and Merrilee A. Lee Revocable Living Trust dated
September 18, 2008 as to Parcel 3

DEFINITIONS, CONDITIONS AND STIPULATIONS

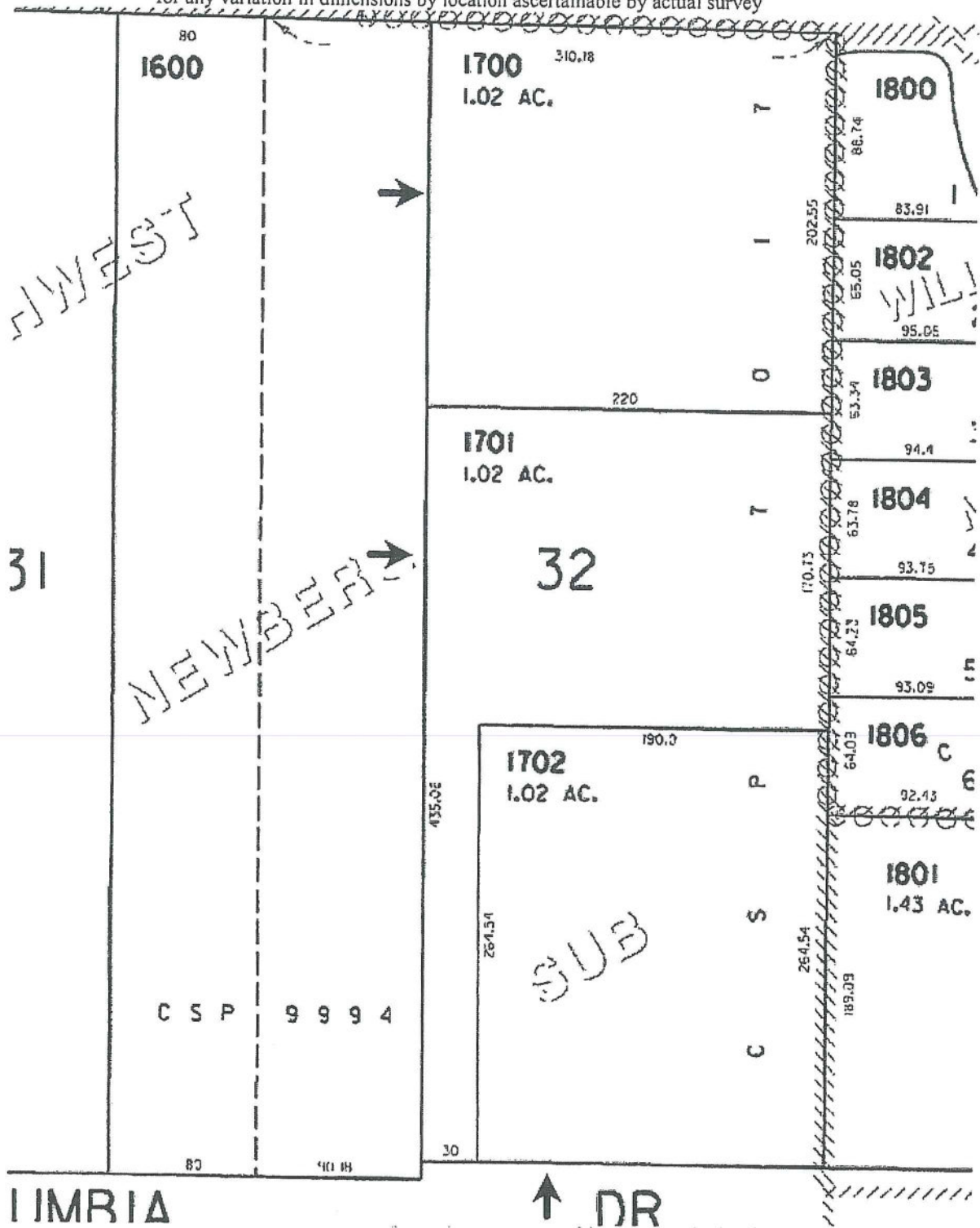
1. Definitions. The following terms have the stated meaning when used in this report:
 - (a) "Customer": The person or persons named or shown as the addressee of this report.
 - (b) "Effective Date": The effective date stated in this report.
 - (c) "Land": The land specifically described in this report and improvements affixed thereto which by law constitute real property.
 - (d) "Public Records": Those records which by the laws of the state of Oregon impart constructive notice of matters relating to the Land.
2. Liability of the Company.
 - (a) This is not a commitment to issue title insurance and does not constitute a policy of title insurance.
 - (b) The liability of the Company for errors or omissions in this public record report is limited to the amount of the charge paid by the Customer, provided, however, that the Company has no liability in the event of no actual loss to the Customer.
 - (c) No costs (including, without limitation attorney fees and other expenses) of defense, or prosecution of any action, is afforded to the Customer.
 - (d) In any event, the Company assumes no liability for loss or damage by reason of the following:
 - (1) Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records.
 - (2) Any facts, rights, interests or claims which are not shown by the Public Records but which could be ascertained by an inspection of the land or by making inquiry of persons in possession thereof.
 - (3) Easements, liens or encumbrances, or claims thereof, which are not shown by the Public Records.
 - (4) Discrepancies, encroachments, shortage in area, conflicts in boundary lines or any other facts which a survey would disclose.
 - (5) (i) Unpatented mining claims; (ii) reservations or exceptions in patents or in Acts authorizing the issuance thereof, (iii) water rights or claims or title to water.
 - (6) Any right, title, interest, estate or easement in land beyond the lines of the area specifically described or referred to in this report, or in abutting streets, roads, avenues, alleys, lanes, ways or waterways.
 - (7) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use or enjoyment on the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the Public Records at the effective date hereof.
 - (8) Any governmental police power not excluded by 2(d)(7) above, except to the extent that notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the Public Records at the effective date hereof.
 - (9) Defects, liens, encumbrances, adverse claims or other matters created, suffered, assumed, agreed to or actually known by the Customer.
3. Report Entire Contract. Any right or action or right of action that the Customer may have or may bring against the Company arising out of the subject matter of this report must be based on the provisions of this report. No provision or condition of this report can be waived or changed except by a writing signed by an authorized officer of the Company. By accepting this form report, the Customer acknowledges and agrees that the Customer has elected to utilize this form of public record report and accepts the limitation of liability of the Company as set forth herein.
4. Charge. The charge for this report does not include supplemental reports, updates or other additional services of the Company.



First American



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



ease over ABC of LOT 32

152970

NORTHWEST ELECTRIC POWER LINE EASEMENT

FILM 139 PAGE 1551

KNOW ALL MEN BY THESE PRESENTS, That

DORIS IDLM

(hereinafter called "the Grantors," whether one or more than one), for and in consideration of the payment of the sum of one and no/100ths Dollars (\$ 1.00), the receipt of which is hereby acknowledged, hereby grant, sell and convey to Portland General Electric Company, an Oregon corporation,

(hereinafter called "the Grantee," whether one or more than one), its successors and assigns, a perpetual easement and right of way over, under and across the following described parcel of land situated in Yamhill County,

Oregon, being a strip of land sixteen (16) feet in width, extending eight (8) feet on each side of a center line more particularly described as follows:

Beginning at a point on the South line of that certain tract of land in Section 18, Township 3 South, Range 2 West, Willamette Meridian, described in Film 93 Volume 357 Deed Records, said point being North 89° 32' 47" West 157.64 feet from the intersection of the South line of said tract of land with the West line of County Road No. 66; RUNNING THENCE South 64° 9' 55" West 117.68 feet; THENCE South 8° 22' 38" East 142.21 feet.

TO HAVE AND TO HOLD the above described easement and right of way unto the Grantee, its successors and assigns, together with the present right to top, limb or fell trees located on land owned by the Grantors, adjacent to the above described right of way, which danger trees will be determined by the Grantee.

Said easement and right of way shall be for the following purposes, namely: the perpetual right to enter upon and to erect, maintain, repair, rebuild, operate and patrol electric power lines, and appurtenant signal or communication lines, including the right to erect such poles, wires, cables, guys, supports and appurtenances as are necessary therefor, together with the present and future right to clear said right of way and keep the same clear of brush, timber, structures and fire hazards, including the right to restrict the growth of trees and brush on said right of way by the use of chemical sprays.

Grantors shall have the right to use the lands subject to the above described easement for all purposes not inconsistent with the uses and purposes herein set forth, except Grantors shall not build or erect any structure upon the right of way without the prior written consent of the Grantee.

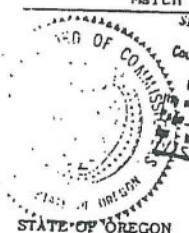
If the Grantee, its successors and assigns, shall fail to use said right of way for the purposes above mentioned for a continuous period of five years after construction of said power lines, then and in that event this right of way and easement shall terminate and all rights and privileges granted hereunder shall revert to the Grantors, their heirs and assigns.

The Grantors hereby warrant that they are possessed of a marketable title to the property covered by this easement, and have the right to grant the same.

The Grantors, for themselves and their heirs and assigns, covenant to and with the Grantee, its successors and assigns, that the Grantee, its successors and assigns, shall peaceably enjoy the rights and privileges herein granted.

IN WITNESS WHEREOF, the Grantors have caused this easement to be executed this 16 day of

March 19 79



STATE OF OREGON }
County of YAMHILL } ss

04241

Doris Idlm (SEAL)

(SEAL)

(SEAL)

(SEAL)

STATE OF OREGON

County of Yamhill

In testimony whereof, I have hereunto set my hand and affixed my official seal
March 16, 1979
Carl J. Berg, Notary Public

On this 16 day of March 1979, before me, the undersigned, a Notary Public in and

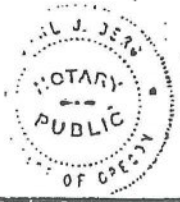
for said County and State, personally appeared Doris Idlm

to me known to be the individuals described in and who executed the foregoing instrument, and acknowledged that they executed the same freely and voluntarily.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal this, the day and year in this instrument first written.

Carl J. Berg
Notary Public for Oregon
November 28, 1982

My commission expires



MAP AND LEGAL DESCRIPTION

Exhibit "A"

Date: 21 January 2016

Proposed Annexation - Legal Description (3.2 Ac. more or less)

A tract of land in Section 18, Township 3 South, Range 2 West, City of Newberg, Yamhill County, Oregon, being more particularly described as follows:

Beginning at the northeast corner of Tract 32 of the NORTHWEST NEWBERG SUBDIVISION; thence North $89^{\circ}46'12''$ West 220.00 feet along the north line of said Tract 32; thence South $00^{\circ}11'00''$ East 637.61 feet parallel with the east line of said Tract 32 to the center line of Columbia Drive; thence South $89^{\circ}43'00''$ East 220.00 feet along said centerline to the southerly extension of the east line of said Tract 32; thence North $00^{\circ}11'00''$ West 637.82 feet more or less along the east line of said Tract 32 to the point of beginning as shown by Exhibit "B".

Also described as the East 220 feet for Tract 32 of the NORTHWEST NEWBERG SUBDIVISION as shown by Exhibit "B".

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

Exhibit "B"

Map of Proposed Annexation

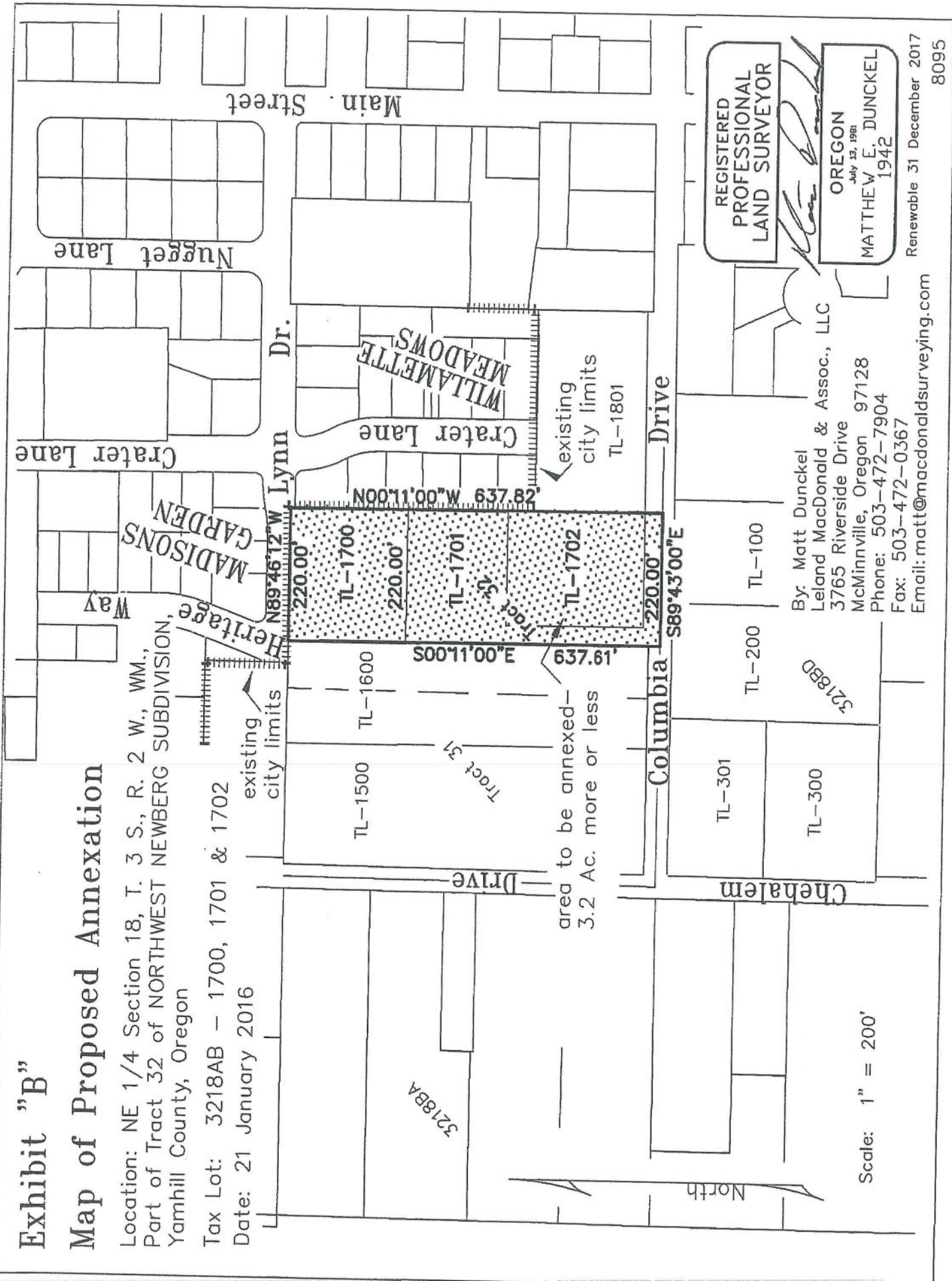
Location: NE 1/4 Section 18, T. 3 S., R. 2 W., WM.,
 Part of Tract 32 of NORTHWEST NEWBERG SUBDIVISION,
 Yamhill County, Oregon

Tax Lot: 3218AB - 1700, 1701 & 1702

Date: 21 January 2016

existing
 city limits

area to be annexed—
 3.2 Ac. more or less



REGISTERED
 PROFESSIONAL
 LAND SURVEYOR

OREGON
 July 12, 1981
 MATTHEW E. DUNCHEL
 1942

By: Matt Duncel
 Leland MacDonald & Assoc., LLC
 3765 Riverside Drive
 McMinnville, Oregon 97128
 Phone: 503-472-7904
 Fax: 503-472-0367
 Email: matt@macdonaldsurveying.com

Scale: 1" = 200'

Renewable 31 December 2017
 8095

TRAFFIC STUDY

Memo

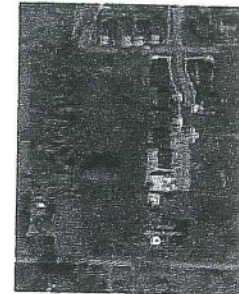
Date: September 29, 2015
To: Mr. Dan Danicic, PE
From: Karl Birky, PE, PTOE
Re: Transportation Planning Rule - Columbia Dr Parcels

ASSOCIATED
TRANSPORTATION
ENGINEERING &
PLANNING Inc.
A.T.E.P., Inc. Tel.: 503.364.5066
P.O. Box 3047 FAX: 503.364.1260
Salem, OK. 97302 e mail: kbirky@atepinc.com

I thank you for asking ATEP, Inc to provide this Transportation Planning Rule analysis for the planned annexation of tax lots 1700, 1701 and 1702 of tax map 3S 2W Sec 18AB. The 3.06 acre site is on the north side of Columbia Dr approximately 300 feet east of Chehalem Dr in Newberg, OR. The site is in Newberg's Urban Growth Boundary, is zoned VLDR-1 in Yamhill County and is designated Medium Density Residential (MDR) on the City of Newberg Comprehensive Plan and Plan Map.



The City of Newberg has identified this and other MDR parcels "to provide a wide range of housing types and styles while maintaining an overall density of up to 8.8 units per acre. This parcel is intended to be developed with up to 27 homes. For Transportation Planning Rule analysis, the Comprehensive Plan Map designation controls. When the City annexes the parcel the Map designation will not be changed.

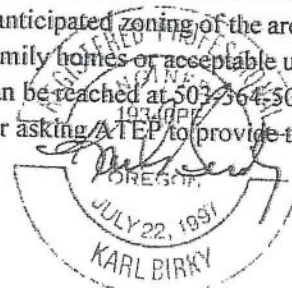


The Transportation Planning Rule (TPR) was adopted in Oregon years ago to provide direction and order to development in Oregon cities. The rule limits making changes to zoning and comprehensive maps that would "significantly" impact the transportation system that has developed and is being planned for the future in the City. For instance the rule would not allow a fast food restaurant in a residential neighborhood because it would generate much more traffic than is expected in a residential neighborhood. There are instances where a zone change is desired, needed and adopted by the City with a cap (or limit) on the number of expected trips the planned use can generate. Generally, cities and traffic engineers use the ITE Trip Generation Manual to determine the trip generation of a variety of uses.

A single family home generates 9.57 trips per day. 0.75 of those trips will be during the AM Peak hour and 1.00 trips will occur during the PM Peak hour. In this instance the 3 parcels are designated as MDR in the City of Newberg Comprehensive Plan and the transportation system planning that is in place and being planned expects traffic from up to 27 homes on the transportation system from this site.

It is the conclusion of this analysis that annexing the 3 parcels on Columbia Dr will generate traffic volumes consistent with the Comprehensive Plan and the anticipated zoning of the area when it is annexed. Development however should be limited to 27 single family homes or acceptable uses that generate less than the 258 trips anticipated in the Comp Plan. I can be reached at 503-364-5006 if there is additional information that you might find helpful. I thank you for asking ATEP to provide this analysis.

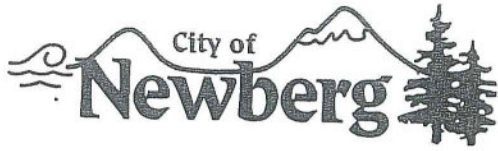
Karl Birky, PE, PTOE
Traffic Engineer
Associated Transportation Engineering & Planning, Inc.



12/31/2015

9/29/15

PUBLIC NOTICE INFORMATION



Community Development Department

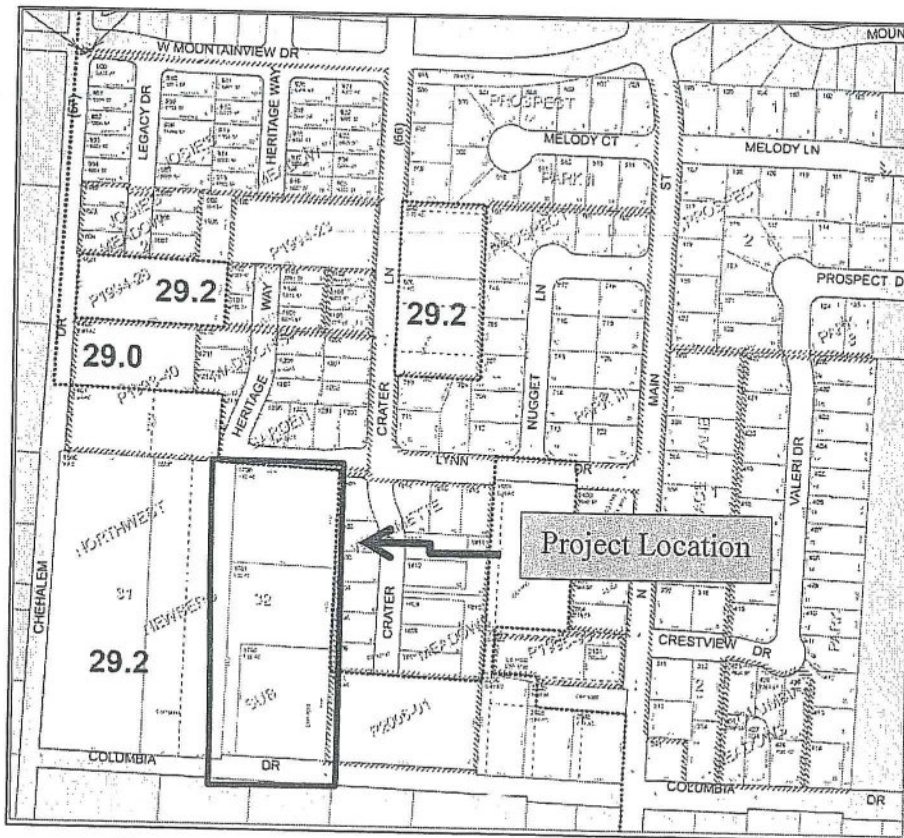
P.O. Box 970 • 414 E First Street • Newberg, Oregon 97132
503-537-1240. Fax 503-537-1272 www.newbergoregon.gov

NOTIC OF PLANNING COMMISSION HEARING ANNEXATION AND ZONING AMENDMENT

A property owner in your neighborhood submitted an application to the City of Newberg for an annexation and zoning amendment. The Newberg Planning Commission will hold a hearing on **Date of Hearing** at 7pm at the Newberg Public Safety Building, 401 E. Third Street, Newberg, OR, to evaluate the proposal. You are invited to take part in the City's review of this project by sending in your written comments or testifying before the Planning Commission. For more details about giving comments, please see the back of this sheet.

The application would annex three tax lots into the city and amend the zoning from the Yamhill County designation of VLDR-1 to City designation of MDR (R2)

APPLICANT: *Del Boca Vista, LLC*
TELEPHONE: *503 590-8600*
PROPERTY OWNERS: *Jo Daklin TL 1700 and 1702*
Richard and Merrilee Lee Tax Lot 1702
LOCATION: *2215Prospect Drive*
TAX LOT NUMBER: *Yamhill County Tax Map and Lot Number 3218AB*



Working Together For A Better Community-Serious About Service™

Z:\Daniel\Columbia Drive\Applications\040412\15 Mailed Notice - Partition.doc

We are mailing you information about this project because you own land within 500 feet of the proposed historic review. We invite you to participate in the land use hearing scheduled before the Planning Commission. If you wish to participate in the hearing, you may do so in person or be represented by someone else. You also may submit written comments. Oral testimony is typically limited to five minutes per speaker.

If you mail your comments to the City, please put the following information on the outside of the envelope:

Written Comments: File *No. XX*
City of Newberg Community Development Department
PO Box 970 Newberg, OR 97132

All written comments must be received by 4:30 p.m. on (*enter date seven days from date of the hearing.*) Written information received after this time will be read out loud at the hearing subject to time limits for speakers, and will be included in the record if there are further proceedings.

You can look over all the information about this project or drop comments off at Newberg City Hall, 414 E. First Street. You can also buy copies of the information for a cost of 25 cents a page. A staff report relating to the proposal will be available for inspection at no cost seven days prior to the public hearing. If you have any questions about the project, you can call the Newberg Planning Division at 503-537-1240.

Any issue which might be raised in an appeal of this case to the Land Use Board of Appeals (LUBA) must be raised during the public hearing process. You must include enough detail to enable the decision maker an opportunity to respond. The applicable criteria used to make a decision on this application for a historic review are found in Newberg Development Code Section 15.344.030 (A) (3).

Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence, arguments or testimony regarding the application through a continuance or extension of the record. Failure of an issue to be raised in the hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes appeal to the State Land Use Board of Appeals based on that issue.

The Planning Commission will make a decision at the end of the public hearing process. If you participate in the public hearing process, either by testifying at the public hearing, or by sending in written comments, we will send you information about any decision made by the City relating to this project.

Date Mailed: *Date notice is mailed*

DRAFT POSTED NOTICE

Land Use Notice

FILE # PAR-15-004

PROPOSAL: Annexation of 3 lots and Zone Amendment

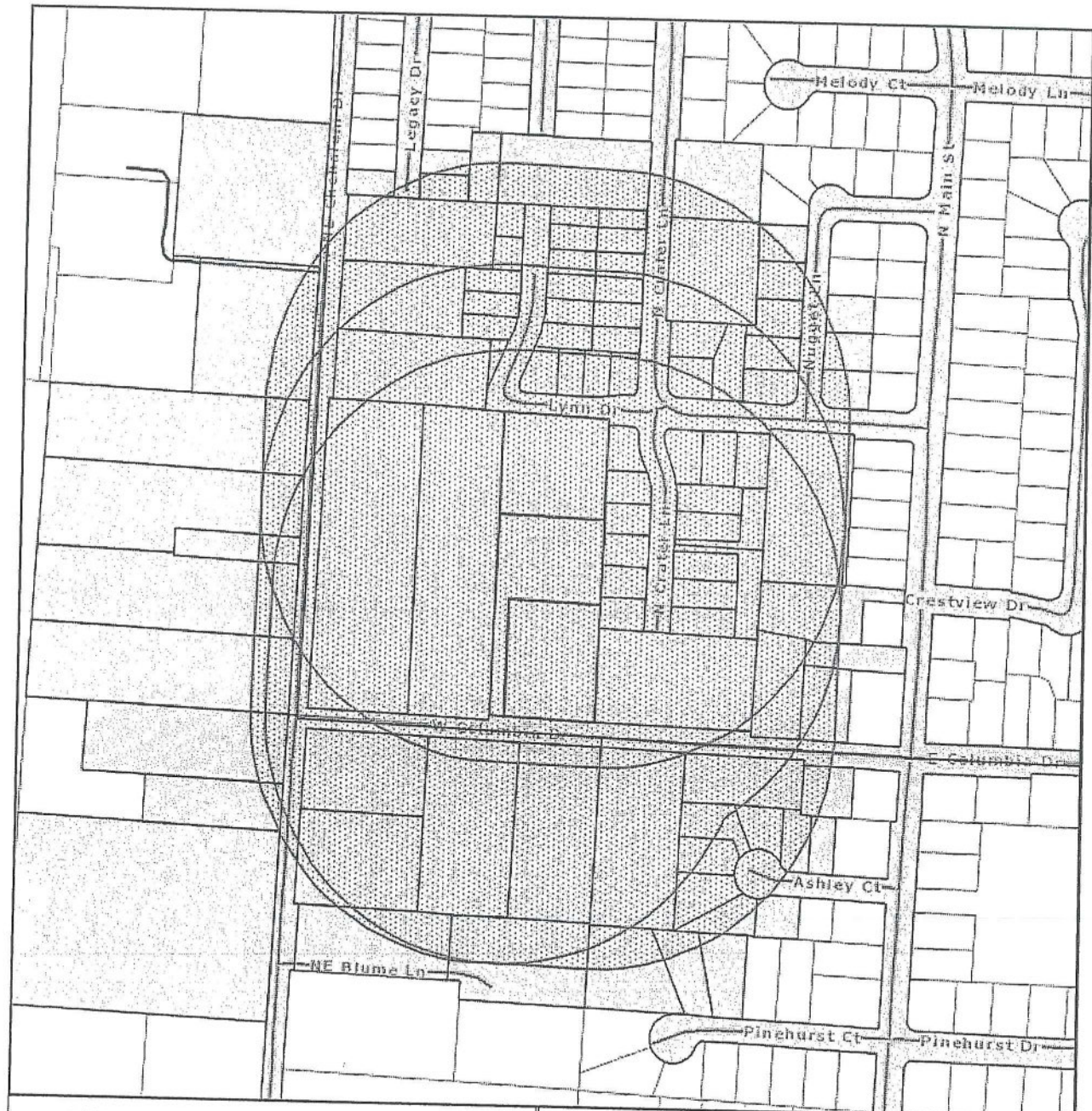
FOR FURTHER INFORMATION, CONTACT:


City of Newberg
Community Development Department
414 E First Street
Phone: 503-537-1240

3'

2'

Notice must be white with black letters, and must be landscape orientation, as shown above.
The notice must be lettered using block printing or a "sans-serif" font, such as Arial.



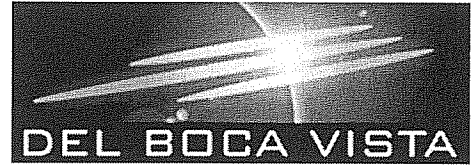
	<p>First American Title</p>	<p>Sentry Dynamics, Inc. and its customers make no representations, warranties or conditions, express or implied, as to the accuracy or completeness of information contained in this report.</p> <p>geoAdvantage www.sentrydynamics.net</p>
---	------------------------------------	---

OwnerNmFirst	OwnerNmLast	OwnerNm	OwnerAddr	OwnerCityNm	OwnerState	OwnerZIP	SiteAddr	SiteCity	SiteState	SiteZIP
Eugene & Concejo	Zirschky		2120 NE Crater Ln	Newberg	OR	97132	2120 NE Crater Ln	Newberg	OR	97132
Jeffrey & Stacey	Dukes		2107 Nugget Ln	Newberg	OR	97132	2107 Nugget Ln	Newberg	OR	97132
Howard & Patricia	Decassios		2101 Nugget Ln	Newberg	OR	97132	2101 Nugget Ln	Newberg	OR	97132
Milford & Carol	Schroeder		2009 Nugget Ln	Newberg	OR	97132	2009 Nugget Ln	Newberg	OR	97132
Ralph & Brenda	Thorp		2005 Nugget Ln	Newberg	OR	97132	2005 Nugget Ln	Newberg	OR	97132
Jerry	McClellan		215 Lynn Dr	Newberg	OR	97132-1054	215 Lynn Dr	Newberg	OR	97132
Joshua	Legler		2010 Crater Ln	Newberg	OR	97132-2640	2010 N Crater Ln	Newberg	OR	97132
John & Eva	Gussenhoven		225 Lynn Dr	Newberg	OR	97132	225 Lynn Dr	Newberg	OR	97132
Greg & Elizabeth	Sharp		2001 Nugget Ln	Newberg	OR	97132	2001 Nugget Ln	Newberg	OR	97132
Shawn & Julie	Bishop		2000 Nugget Ln	Newberg	OR	97132	2000 Nugget Ln	Newberg	OR	97132
Scott & Denise	Downey		2006 Nugget Ln	Newberg	OR	97132	2006 Nugget Ln	Newberg	OR	97132
Terri & John	Andries		2010 Nugget Ln	Newberg	OR	97132	2010 Nugget Ln	Newberg	OR	97132
Eugene & Concejo	Zirschky		2120 NE Crater Ln	Newberg	OR	97132	2108 NE Crater Ln	Newberg	OR	97132
Ron	Manning		PO Box 605	Newberg	OR	97132				97132
Lee	Johnson		2116 NE Chehalem Dr	Newberg	OR	97132-6803	2116 N Chehalem Dr	Newberg	OR	97132
Dixie	Reeve		2117 Legacy Dr	Newberg	OR	97132-2470	2117 Legacy Dr	Newberg	OR	97132
G Vern & Debby	Rabe		19791 NE Sunnycrest Rd	Newberg	OR	97132	2124 Legacy Dr	Newberg	OR	97132
Jodi	Taufest		2114 Legacy Dr	Newberg	OR	97132	2114 Legacy Dr	Newberg	OR	97132
David & Elizabeth	Hancock		2119 N Crater Ln	Newberg	OR	97132	2119 N Crater Ln	Newberg	OR	97132
Lori	Witcosky		2105 Heritage Way	Newberg	OR	97132-2469	2012 Heritage Wy	Newberg	OR	97132
Brian	Tower		2109 Heritage Way	Newberg	OR	97132-2469	2109 Heritage Wy	Newberg	OR	97132
Mark & Kimberly	Gayman		2110 Heritage Way	Newberg	OR	97132	2110 Heritage Wy	Newberg	OR	97132
Heinrich & Joy	Weyer		2106 Heritage Way	Newberg	OR	97132				97132
Susan	Knight		2102 Heritage Way	Newberg	OR	97132	2102 Heritage Wy	Newberg	OR	97132
Daniel	Boyes		2103 Crater Ln	Newberg	OR	97132-4019				97132
David	Todd		23445 NE Sunnycrest Rd	Newberg	OR	97132				97132
David	Todd		23445 NE Sunnycrest Rd	Newberg	OR	97132				97132
Adam & Jennifer	Lundstrom		2045 N Crater Ln	Newberg	OR	97132	2045 N Crater Ln	Newberg	OR	97132
Rex & Jennifer	Philips		2031 N Crater Ln	Newberg	OR	97132	2031 N Crater Ln	Newberg	OR	97132
Peter & Darla	Petrillo		2017 Crater Ln	Newberg	OR	97132	2017 N Crater Ln	Newberg	OR	97132
Bjorn M & Margaret	Skyberg		327 Lynn Dr	Newberg	OR	97132	327 Lynn Dr	Newberg	OR	97132
Anthony	Davies		337 Lynn Dr	Newberg	OR	97132-1293	337 Lynn Dr	Newberg	OR	97132
Derik	Stone		347 Lynn Dr	Newberg	OR	97132	347 Lynn Dr	Newberg	OR	97132
Scott & Misako	Murphy		357 Lynn Dr	Newberg	OR	97132	357 Lynn Dr	Newberg	OR	97132
Bryce	Kurtz		2020 Heritage Way	Newberg	OR	97132	2020 Heritage Wy	Newberg	OR	97132
Scott & Carrie	Fowles		2034 Heritage Way	Newberg	OR	97132	2034 Heritage Wy	Newberg	OR	97132
Bruce & Linda	Gillespie		2048 Heritage Wy	Newberg	OR	97132	2034 Heritage Wy	Newberg	OR	97132
Joshua & Miklyn	Hughes Shelley A		2049 Heritage Wy	Newberg	OR	97132	2048 Heritage Wy	Newberg	OR	97132
Kent	Perdue		2035 Heritage Way	Newberg	OR	97132	2049 Heritage Wy	Newberg	OR	97132
	Winter		2021 Heritage Wy	Newberg	OR	97132	2035 Heritage Wy	Newberg	OR	97132
	Coyote Homes Inc		PO Box 490	Newberg	OR	97132	2021 Heritage Wy	Newberg	OR	97132
David & Kristine	Nelson		PO Box 490	Newberg	OR	97132				97132
Trevor & Jacki	Snyder		2008 NE Chehalem Dr	Newberg	OR	97132	2080 N Chehalem Dr	Newberg	OR	97132
Carl	Ehry		505 W Columbia Dr	Newberg	OR	97132	2008 NE Chehalem Dr	Newberg	OR	97132
				Newberg	OR	97132	505 NE Columbia Dr	Newberg	OR	97132

OwnerNmFirst	OwnerNmLast	OwnerAddr	OwnerCityNm	OwnerState	OwnerZIP	SiteAddr	SiteCity	SiteState	SiteZIP
Joseph	Ladd	421 W Columbia Dr	Newberg	OR	97132	421 NE Columbia Dr		OR	97132
Jo	Dacklin	11990 SW King James Pl	King City	OR	97224	0 NE Crater Ln		OR	97132
Richard & Merrilee	Dacklin	11990 SW King James Pl	King City	OR	97224	0 Columbia Dr	Newberg	OR	97132
Colin & Amy	Lee	PO Box 275	Ridgefield	WA	98642			OR	97132
Michele	Sorensen	308 Lynn Dr	Newberg	OR	97132	308 Lynn Dr	Newberg	OR	97132
Brian	Vondrachek	315 NE Columbia Dr	Newberg	OR	97132	315 NE Columbia Dr	Newberg	OR	97132
Brenda	Snider	1961 Crater Lane	Newberg	OR	97132	1961 N Crater Ln	Newberg	OR	97132
	Haugen	1947 N Vrater Ln	Newberg	OR	97132	1947 N Crater Ln	Newberg	OR	97132
Michael	Christie Living Trust	PO Box 3190	Newberg	OR	97132-5190	1923 N Crater Ln	Newberg	OR	97132
William	Brown	17684 SW Albert Ct	Beaverton	OR	97007-6036	1861 N Crater Ln	Newberg	OR	97132
Roger	Haines	98 Ewelani St	Alea	HI	96701	1847 N Crater Ln	Newberg	OR	97132
Roger	Nelson	PO Box 760	Wilsonville	OR	97070	1836 N Crater Ln	Newberg	OR	97132
Roger	Nelson	PO Box 760	Wilsonville	OR	97070	1850 N Crater Ln	Newberg	OR	97132
Roger	Nelson	PO Box 760	Wilsonville	OR	97070	1902 N Crater Ln	Newberg	OR	97132
Roger	Nelson	PO Box 760	Wilsonville	OR	97070	1916 N Crater Ln	Newberg	OR	97132
Robert & Dawn	Raymond	1930 Crater Ln	Newberg	OR	97132	1930 N Crater Ln	Newberg	OR	97132
Roger	Nelson	PO Box 760	Wilsonville	OR	97070	1944 N Crater Ln	Newberg	OR	97132
Robert & Tanya	Gore	1958 Crater Ln	Newberg	OR	97132	1958 N Crater Ln	Newberg	OR	97132
David & Alexis	Mackie	224 Lynn Dr	Newberg	OR	97132	224 Lynn Dr	Newberg	OR	97132
Roger	Nelson	PO Box 760	Newberg	OR	97132	216 Lynn Dr	Newberg	OR	97132
Roger	Nelson	PO Box 760	Wilsonville	OR	97070	208 Lynn Dr	Newberg	OR	97132
Perry	Mick	PO Box 564	Wilsonville	OR	97070	208 Lynn Dr	Newberg	OR	97132
Frederick P & Linda	Boetsch	PO Box 191	Newberg	OR	97132	118 NE Lynn Dr	Newberg	OR	97132
Oliver & Dawn	Hall	119 NE Columbia Dr	Centralia	WA	98531	1839 N Main St	Newberg	OR	97132
Tina	Kasuba	PO Box 269	Newberg	OR	97132	119 NE Columbia Dr	Newberg	OR	97132
Cecil & Alma	Loggains	115 W Columbia Dr	Newberg	OR	97132	1819 N Main St	Newberg	OR	97132
Frank & Caroleta	Piscitelli	112 W Columbia Dr	Newberg	OR	97132	115 NE Columbia Dr	Newberg	OR	97132
Michele	Vondrachek	315 NE Columbia Dr	Newberg	OR	97132	112 NE Columbia Dr	Newberg	OR	97132
Bill & Maureen	Rogers	316 NE Columbia Dr	Newberg	OR	97132	310 NE Columbia Dr	Newberg	OR	97132
Michael & Sarah	Owen	107 Ashley Ct	Newberg	OR	97132	316 NE Columbia Dr	Newberg	OR	97132
George	Piper Jr	605 Holly Dr	Newberg	OR	97132	107 Ashley Ct	Newberg	OR	97132
George	Piper Jr	605 Holly Dr	Newberg	OR	97132	111 Ashley Ct	Newberg	OR	97132
Alan & Minnie	Halstead	119 Ashley Ct	Newberg	OR	97132	115 Ashley Ct	Newberg	OR	97132
David	Jarvis	123 Ashley Ct	Newberg	OR	97132	119 Ashley Ct	Newberg	OR	97132
Todd	Erickson	120 Ashley Ct	Newberg	OR	97132-1650	123 Ashley Ct	Newberg	OR	97132
George	Piper Jr	605 Holly Dr	Newberg	OR	97132	120 Ashley Ct	Newberg	OR	97132
Kenneth & Linda	Woodward	112 Ashley Ct	Newberg	OR	97132	116 Ashley Ct	Newberg	OR	97132
Thomas D Jr & Lois	Ruiz	211 Pinehurst Ct	Newberg	OR	97132	112 Ashley Ct	Newberg	OR	97132
William & Brenda	Jolliff	207 Pinehurst Ct	Newberg	OR	97132	211 Pinehurst Ct	Newberg	OR	97132
Eldin & Sylvia	Hunt	107 Pinehurst Ct	Newberg	OR	97132	207 Pinehurst Ct	Newberg	OR	97132
	Equity Trust Company Custodian Fbo	9163 NE Broadacres Rd	Newberg	OR	97132	107 Pinehurst Ct	Newberg	OR	97132
Michael & Judith	Wells Fargo Bank Na 2007-ffc1 Tr	1600 S Douglass Rd # 200-a	Aurora	OR	97002	2013 NE Chehalam Dr	Newberg	OR	97132
Nadine	Huelsman	2005 NE Chehalam Dr	Anaheim	CA	92806-5948	2201 NE Chehalam Dr	Newberg	OR	97132
	Brood	1909 NE Chehalam Dr	Newberg	OR	97132	2005 NE Chehalam Dr	Newberg	OR	97132
			Newberg	OR	97132	1909 NE Chehalam Dr	Newberg	OR	97132

OwnerNmFirst	OwnerNmLast	OwnerAddr	OwnerCityNm	OwnerState	OwnerZIP	SiteAddr	SiteCity	SiteState	SiteZIP
Danny	Tatman	1901 NE Chehalem Dr	Newberg	OR	97132	1901 NE Chehalem Dr	Newberg	OR	97132
Michael & Bonnie	Klohs	17710 NE Hillsboro Hwy	Newberg	OR	97132	1809 NE Chehalem Dr		OR	97132
Dale & Alvina M For	Self	PO Box 297	Newberg	OR	97132	1801 NE Chehalem Dr		OR	97132
Yvonne L For & Arvid	Alen	11316 NW 6th Ave	Vancouver	WA	98685	400 NE Columbia Dr		OR	97132
Wanda & Ronald	Wayman	416 NE Columbia Dr	Newberg	OR	97132	416 NE Columbia Dr	Newberg	OR	97132
Robert & Cheryl	Fletcher	1650 NE Chehalem Dr	Newberg	OR	97132	1650 NE Chehalem Dr	Newberg	OR	97132
Mildred A For	Weatherly	1718 NE Chehalem Dr	Newberg	OR	97132	1718 NE Chehalem Dr	Newberg	OR	97132
Gregg & Kathy S For	Blume	400 NE Blume Ln	Newberg	OR	97132	501 NE Blume Ln		OR	97132
Gregg & Kathy S For	Blume	400 NE Blume Ln	Newberg	OR	97132	401 NE Blume Ln		OR	97132
Anna	Laakso	1717 NE Chehalem Dr	Newberg	OR	97132	1717 NE Chehalem Dr	Newberg	OR	97132
Anna	Laakso	1717 NE Chehalem Dr	Newberg	OR	97132	1717 NE Chehalem Dr	Newberg	OR	97132
Elizabeth	Watson	1611 NE Chehalem Dr	Newberg	OR	97132	1611 NE Chehalem Dr	Newberg	OR	97132

MEMO



To: Steve Olson, Newberg Planning Department
From: Daniel Danicic
Date: March 17, 2016
Re: Columbia Drive Annexation Application: ANX-15-001
HWY240 Pump Station Assessment

The Engineering Division has requested an assessment of the capacity for the HWY240 Sanitary Sewer Pump Station to serve the proposed annexation and subdivision development. After some time, the City was able to locate a copy of the Dayton Avenue Trunk Pump Station Preliminary Design Report dated April 2008. This is the report used to design and build the HWY240 Pump Station.

Section 3 of the report summarizes the design flow determination:

Service Area: UGB – 150 ac, URA – 370 ac

Flow Diversion Plan: 2008 – 600 gpm
2015 – 1,000 gpm
2040 – 2,500 gpm

Recommended initial pumps station design capacity: 1,000 gpm

Current flows at the pump station: Not available at the time of this memo.

Proposed Development:

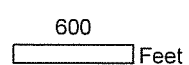
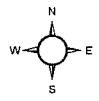
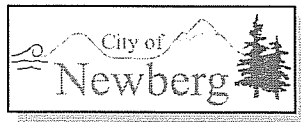
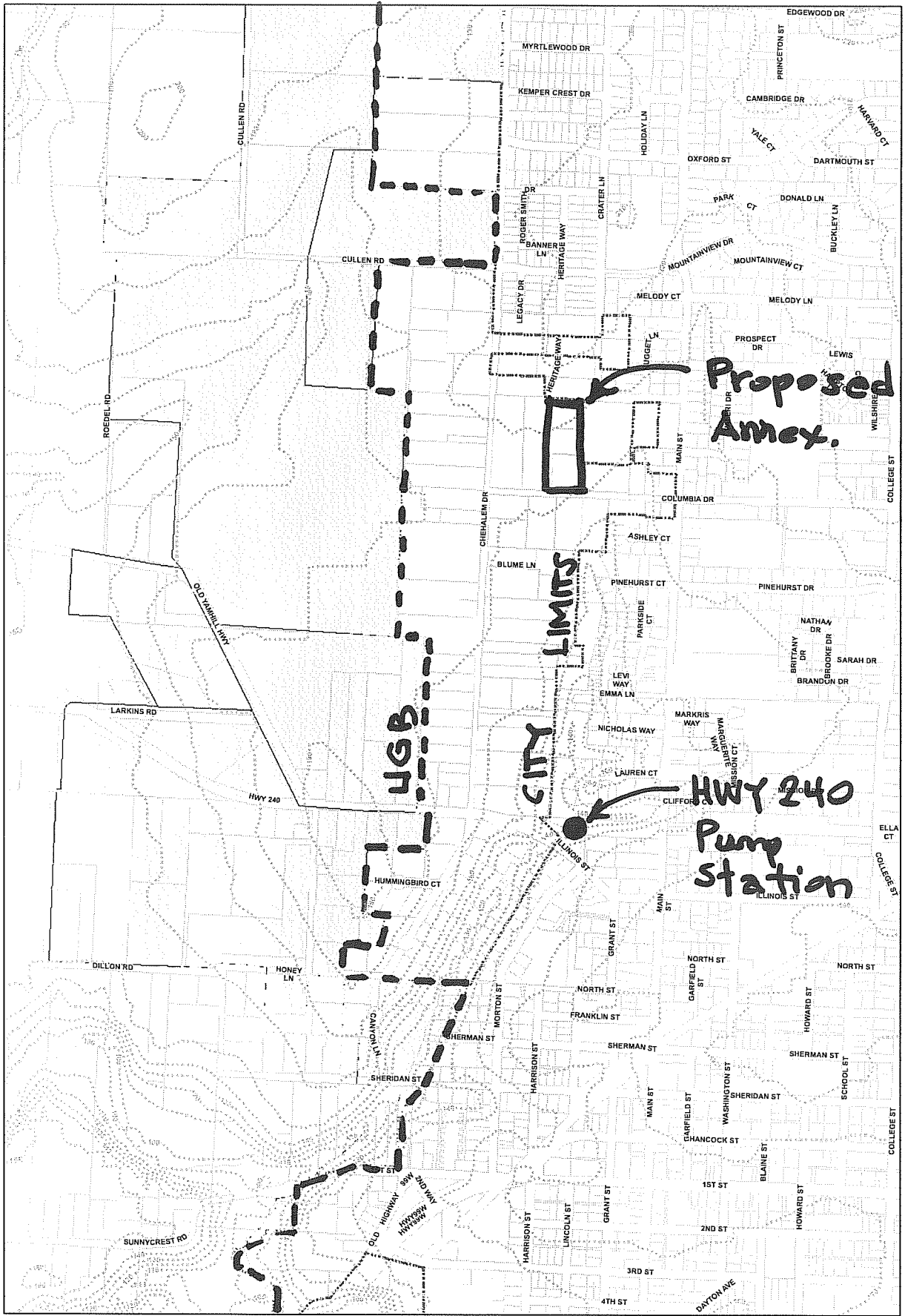
Service Area: The proposed land to annex is within the UGB area identified in the report as part of the area to be served by the pump station. See attached map.

Annexations: Very little of the identified UGB area has been annexed since the 2008 report, estimated to be less than 10 acres of the identified 150 acre UGB service area.

Conclusion:

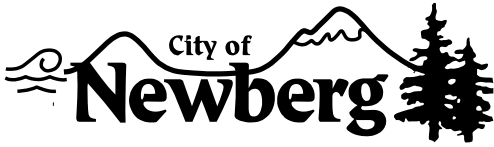
The proposed annexation is within the design service area. Since the 2008 report, the rate of annexation and development has not met projections due to the economic downturn, so it is reasonable to expect that the full 1,000 gpm estimate by 2015 has not been achieved. Therefore, the pump station should have more than adequate capacity to accommodate the proposed annexation.

Should current pump station flow data become available and it is determined that there's insufficient pumping capacity, then this can be remedied by the installation of higher rated pumps and potentially controllers. This is best determined at the time of subdivision development application so that more accurate flow estimates can be prepared. In any event, this is not an insurmountable issue.



Legend

- USGS derived 10' contour intervals
- Urban Growth Boundary
- Newberg City Limits
- 2007_URA_adopted_Oct_15_07



Community Development Department

P.O. Box 970 ▪ 414 E First Street ▪ Newberg, Oregon 97132

503-537-1240. Fax 503-537-1272 www.newbergoregon.gov

NOTIC OF PLANNING COMMISSION HEARING ANNEXATION AND ZONING AMENDMENT

A property owner in your neighborhood submitted an application to the City of Newberg for an annexation and zoning amendment. The Newberg Planning Commission will hold a hearing on **May 12, 2016** at 7pm at the Newberg Public Safety Building, 401 E. Third Street, Newberg, OR, to evaluate the proposal. You are invited to take part in the City's review of this project by sending in your written comments or testifying before the Planning Commission. For more details about giving comments, please see the back of this sheet.

The application would annex three tax lots into the city and amend the zoning from the Yamhill County designation of VLDR-1 to City designation of MDR (R2)

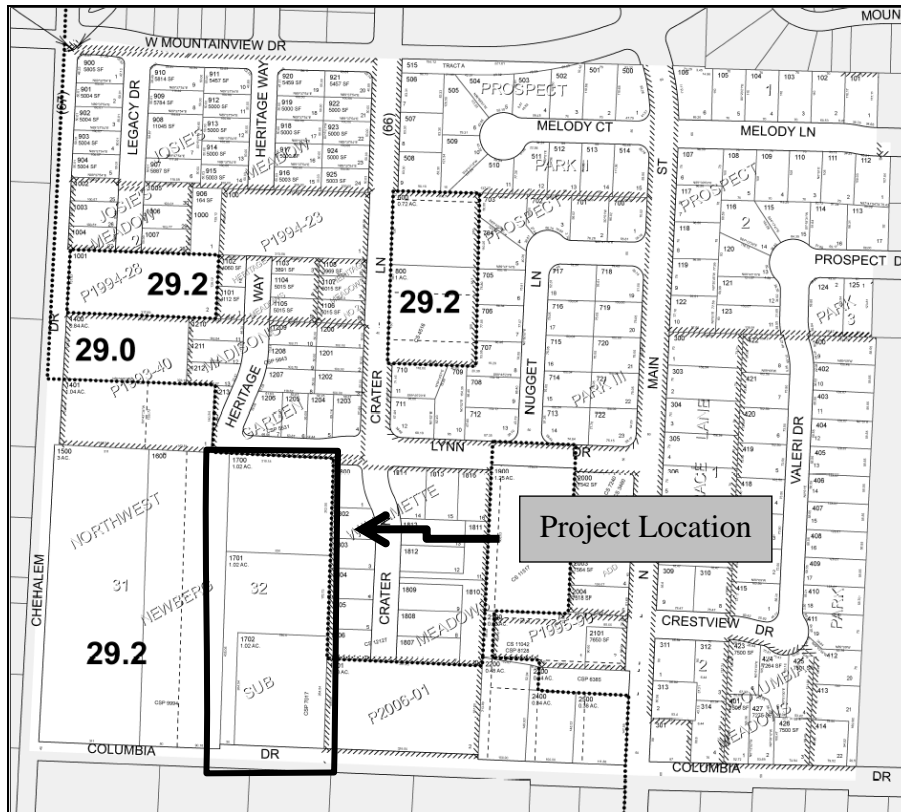
APPLICANT: *Del Boca Vista, LLC*

TELEPHONE: *503 590-8600*

PROPERTY OWNERS: *Jo Daklin (TL 1700 and 1701)*
Richard and Merrilee Lee (Tax Lot 1702)

LOCATION: *See map below*

TAX LOT NUMBER: *Yamhill County Tax Map 3218AB Tax Lot Numbers 1700, 1701 and 1702*



Working Together For A Better Community-Serious About Service"

Z:\Danicic\Newberg - Columbia Drive\Application data\Type III Mailed Notice - Partition.doc

We are mailing you information about this project because you own land within 500 feet of the proposed historic review. We invite you to participate in the land use hearing scheduled before the Planning Commission. If you wish to participate in the hearing, you may do so in person or be represented by someone else. You also may submit written comments. Oral testimony is typically limited to five minutes per speaker.

If you mail your comments to the City, please put the following information on the outside of the envelope:

Written Comments: File ***ANX-15-001***
City of Newberg Community Development Department
PO Box 970 Newberg, OR 97132

All written comments must be received by 4:30 p.m. on ***May 5, 2016***. Written information received after this time will be read out loud at the hearing subject to time limits for speakers, and will be included in the record if there are further proceedings.

You can look over all the information about this project or drop comments off at Newberg City Hall, 414 E. First Street. You can also buy copies of the information for a cost of 25 cents a page. A staff report relating to the proposal will be available for inspection at no cost seven days prior to the public hearing. If you have any questions about the project, you can call the Newberg Planning Division at 503-537-1240.

Any issue which might be raised in an appeal of this case to the Land Use Board of Appeals (LUBA) must be raised during the public hearing process. You must include enough detail to enable the decision maker an opportunity to respond. The applicable criteria used to make a decision on this application for a historic review are found in Newberg Development Code Section 15.344.030 (A) (3).

Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence, arguments or testimony regarding the application through a continuance or extension of the record. Failure of an issue to be raised in the hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes appeal to the State Land Use Board of Appeals based on that issue.

The Planning Commission will make a decision at the end of the public hearing process. If you participate in the public hearing process, either by testifying at the public hearing, or by sending in written comments, we will send you information about any decision made by the City relating to this project.

Date Mailed: ***April 5, 2016***

DRAFT POSTED NOTICE

Land Use Notice

FILE # ANX-15-001

PROPOSAL: Annexation and Zoning Amendment

FOR FURTHER INFORMATION, CONTACT:

City of Newberg
Community Development Department
414 E First Street
Phone: 503-537-1240

3'

2'

Notice must be white with black letters, and must be landscape orientation, as shown above.
The notice must be lettered using block printing or a "sans-serif" font, such as Arial.



Community Development Department

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

PLANNING COMMISSION STAFF REPORT 520 W. THIRD STREET ANNEXATION/ZONE CHANGE

HEARING DATE: May 12, 2016

FILE NO: ANX-16-002

REQUEST: Annex 1.41 acres into the City of Newberg and change the zoning from Yamhill County HI to Newberg M-2.

LOCATION: Directly west of the current Newberg city limits at 520 W. Third Street, next to the Newberg Public Works – Maintenance yard.

TAX LOT: 3219BD-1000 (western part)

APPLICANT: City of Newberg – Public Works Maintenance

OWNER: Same as applicant

PLAN DISTRICT: IND (Industrial) with a Stream Corridor overlay on part of the site

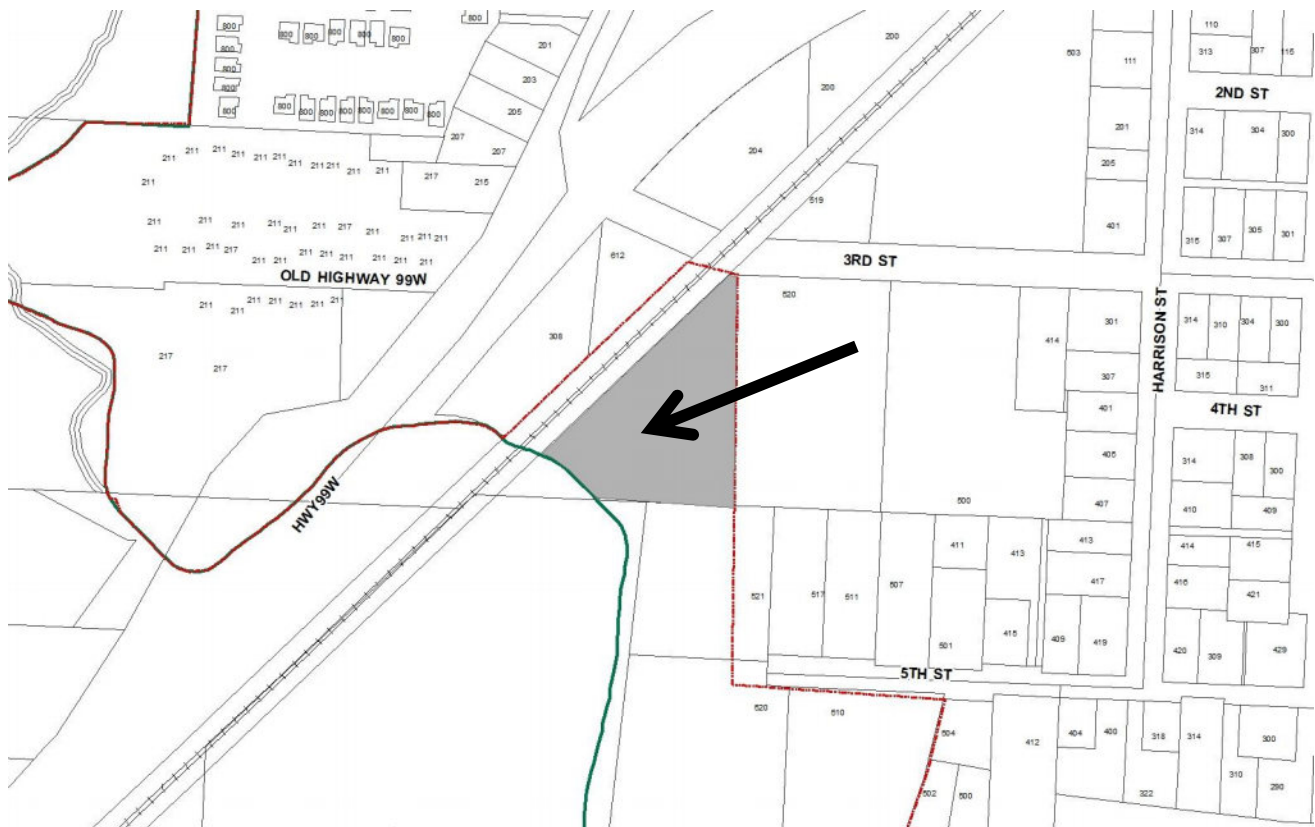
ATTACHMENTS:

Planning Commission Resolution 2016-318 with:

- Exhibit "A": Property Map
 - Exhibit "B": Legal Description
 - Exhibit "C": Findings
1. Aerial Photo
 2. Concept Development Plan
 3. Comprehensive Plan Map
 4. Zoning Map
 5. Public Comments
 6. Application

A. DESCRIPTION OF APPLICATION: The proposed annexation is for 1.41 acres located at 520 W. Third Street, directly west of the current city limits. The eastern part of the lot is already inside the city limits. This annexation would add the western part of the lot to the city limits, except for a small portion of the southwest corner that is outside of the urban growth boundary. The property is located within the Newberg urban growth boundary and has a Newberg Comprehensive Plan designation of IND (Industrial), with a Stream Corridor overlay on part of the site. The annexation would change the zoning of the property from Yamhill County HI (Heavy Industrial) to Newberg M-2 (Light Industrial), with a Stream Corridor zoning overlay on part of the site. The City Public Works Maintenance yard will expand into the site.

B. LOCATION MAP



C. SITE INFORMATION:

1. Location: Directly west of the current Newberg city limits at 520 W. Third Street
2. Size: 1.41 acres
3. Topography: Most of the property is relatively flat, with a steep slope to the stream in the southwest corner of the site
4. Current Land Uses: The flat part of the site was formerly used by CalPortland as a cement plant, and some storage buildings remain on the site. The remainder of the flat site is either graveled or paved for industrial use and outdoor storage.

5. Natural Features: The stream corridor area in the southwest corner was left undeveloped and contains some mature trees and heavy vegetation.
6. Adjacent Land Uses:
 - a. North: railroad tracks/commercial
 - b. East: Public Works maintenance yard
 - c. Southwest: Chehalem Creek stream corridor, vacant industrial land (outside city limits)
 - d. Southeast: large lot residential
 - e. West: railroad tracks/commercial
7. Access and Transportation: The property has access to W. Third Street.
8. Utilities:
 - a. There is a 12-inch water line in Third Street, and two existing ¾ inch water laterals to the property.
 - b. There is a 15-inch diameter wastewater line that runs north-south through the site along its eastern property line, and an 8-inch diameter wastewater line in Third Street.
 - c. A stormwater drain is located in Third Street at the north end of the site.

D. PROCESS: An annexation and zone change request is a Type III application and follows the procedures in Newberg Development Code 15.100.050. The Planning Commission will hold a quasi-judicial hearing on the application. The Commission makes a recommendation on the application based on the criteria listed in the attached findings. The Planning Commission’s recommendation is forwarded to the City Council, who will hold a hearing and render a final decision on the application. State law recently changed with the passage and adoption of Oregon Senate Bill 1573, which added language to ORS 222.111 preempting Newberg’s requirement that annexations go to a public vote, and instead directs the legislative body of a city to annex property without a public vote when the property meets certain requirements. Important dates related to this application are as follows:

- 4/22/16: The Community Development Director deemed the application complete.
- 4/19/16: The applicant mailed notice to the property owners within 500 feet of the site.
- 4/22/16: The applicant posted the site.
- 4/27/16: The *Newberg Graphic* published notice of the Planning Commission hearing.
- 5/12/16: The Planning Commission will hold a quasi-judicial hearing to consider the application.

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

Newberg School District: *Reviewed; no conflict.*
 PGE: *Reviewed, no conflict.*

Department of State Lands (summarized – the full comment is in Attachment 5): *The property*

includes a waterway, Chehalem Creek, which is designated essential salmonid habitat. Site work within the developed footprint of this tax lot should not impact jurisdictional wetlands or waters. DSL will require a permit for any impact to the creek and its associated wetlands. For future information, please contact DSL prior to any work outside of the developed footprint to determine if a permit and/or wetland inspection will be needed.

F. PUBLIC COMMENTS: As of the writing of this report, the city has received no written public comments.

G. ANALYSIS: This is an annexation request for 1.41 acres of property that is within the Newberg urban growth boundary. The property has a Comprehensive Plan designation of IND (Industrial), which corresponds with the requested zoning of M-2 (Light Industrial) per section 15.250.080 of the Newberg Development Code. There are existing utilities in place to serve the site.

State law recently changed with the passage and adoption of Oregon Senate Bill 1573, which added language to ORS 222.111 preempting Newberg's (and other cities) requirement that annexations go to a public vote, and instead directs the legislative body of a city to annex property without a public vote when the property meets certain requirements, including: being within the urban growth boundary; subject to the Comprehensive Plan of the city; contiguous to city limits; and meeting the city's adopted Development Code criteria for annexation. This property meets those criteria as outlined in the findings in Exhibit "C" and will not be sent to a public vote. The City Council will make the final local decision on this application for annexation.

H. PRELIMINARY STAFF RECOMMENDATION: The preliminary staff recommendation is made in the absence of public hearing testimony, and may be modified subsequent to the close of the public hearing. At this writing, staff recommends the following motion:

Move to adopt Planning Commission Resolution 2016-318, which recommends that the City Council approve the requested annexation and zone change.



PLANNING COMMISSION RESOLUTION 2016-318

A RESOLUTION RECOMMENDING THAT THE CITY COUNCIL APPROVE AN ANNEXATION OF 1.41 ACRES OF PROPERTY INTO THE CITY OF NEWBERG AND CHANGE THE ZONING FROM YAMHILL COUNTY HI TO NEWBERG M-2, FOR PROPERTY LOCATED AT 520 W. THIRD STREET, THE WESTERN PORTION OF TAX LOT 3219BD-1000

RECITALS

1. The City of Newberg Public Works Department submitted an application to annex 1.41 acres of property into the City of Newberg and change the zoning from Yamhill County HI to Newberg M-2. The annexation site is the western portion of 520 W. Third Street, Yamhill County tax lot 3219BD-1000.
2. After proper notice, the Newberg Planning Commission held a hearing on May 12, 2016, to consider the application. The Commission considered testimony, and deliberated.
3. The Newberg Planning Commission finds that the application, as conditioned, meets the applicable Newberg Development Code criteria as shown in the findings in Exhibit "C".
4. State law recently changed with the passage and adoption of Oregon Senate Bill 1573, which added language to ORS 222.111 that preempts Newberg's requirement that annexations go to a public vote, and instead directs the legislative body of a city to annex property without a public vote when the property meets certain requirements, including: being within the urban growth boundary; subject to the Comprehensive Plan of the city; contiguous to city limits; and meeting the city's adopted Development Code criteria for annexation. This property meets those criteria.

The Newberg Planning Commission resolves as follows:

1. The Planning Commission recommends that the City Council annex the property shown in Exhibit "A" and described in Exhibit "B", as conditioned, along with a zone change to M-2, and withdraw the property from the Newberg Rural Fire Protection District. Exhibits "A" and "B" are hereby adopted and by this reference incorporated.
2. This recommendation is based on the findings shown in Exhibit "C". Exhibit "C" is hereby adopted and by this reference incorporated.

Adopted by the Newberg Planning Commission this 12th day of May, 2016.

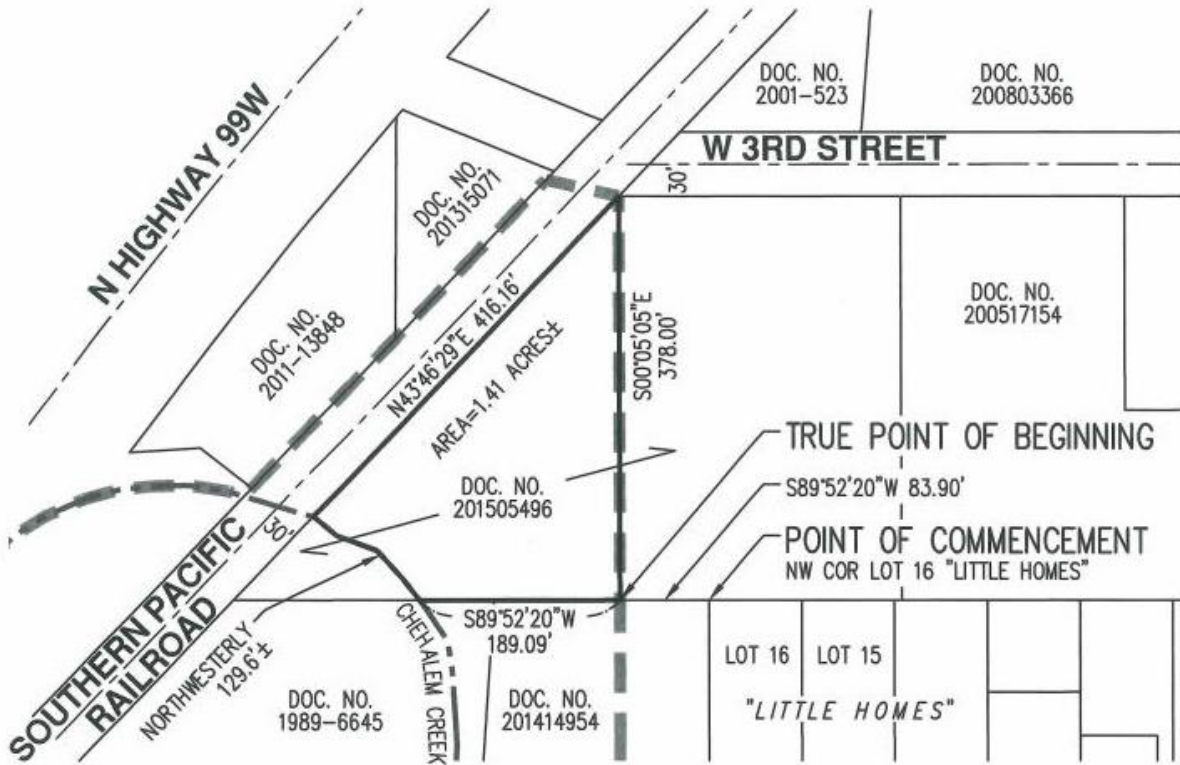
ATTEST:

Planning Commission Chair

Planning Commission Secretary

**Exhibit "A" to Planning Commission Resolution No. 2016-318
Annexation Map – 520 W. Third Street**

CITY OF NEWBERG ANNEXATION
A TRACT OF LAND LOCATED IN THE NORTHWEST 1/4 OF SECTION 19,
TOWNSHIP 3 SOUTH, RANGE 2 WEST, WILLAMETTE MERIDIAN,
CITY OF NEWBERG, YAMHILL COUNTY, OREGON



LEGEND

- URBAN GROWTH BOUNDARY
- CITY OF NEWBERG CITY LIMITS

03/14/2016

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Nick White

OREGON
JANUARY 9, 2007
NICK WHITE
70652LS

RENEWS: 6/30/16

PREPARED FOR

CITY OF NEWBERG
414 EAST FIRST STREET
NEWBERG, OR 97132

SCALE 1" = 150 FEET



ANNEXATION EXHIBIT 520 W 3RD STREET - NEWBERG		EXHIBIT B
AKS ENGINEERING & FORESTRY, LLC 12965 SW HERMAN RD, STE 100 TUALATIN, OR 97062 P: 503.563.6151 F: 503.563.6152 aks-eng.com		DRWN: WCB CHKD: NSW AKS JOB: 5157



**Exhibit “B” to Planning Commission Resolution No. 2016-318
Legal Description – 520 W. Third Street Annexation**

Annexation Legal Description for the City of Newberg

A tract of land located in the Northwest One-Quarter of Section 19, Township 3 South, Range 2 East, Willamette Meridian, City of Newberg, Yamhill County, Oregon and being more particularly described as follows:

Commencing at the northwesterly corner of Lot 16 of the plat “Little Homes”, said point being on the southerly line of Document Number 201505496, Yamhill County Records; thence along said southerly line South 89°52’20” West 83.90 feet to a point on the City of Newberg city limits line, and also being the True Point of Beginning of the tract of land herein described; thence continuing along said southerly line South 89°52’20” West 189.09 feet to the centerline of Chehalem Creek, and also being the Urban Growth Boundary line; thence along said Urban Growth Boundary line Northwesterly 129.6 feet, more or less, to the southeasterly right-of-way line of Southern Pacific Railroad (30.00 feet from centerline); thence along said southeasterly right-of-way line North 43°46’29” East 416.16 feet to the southerly right-of-way line of W 3rd Street (30.00 feet from centerline), and also being a point on the City of Newberg city limits line; thence along said city limits line South 00°05’05” East 378.00 feet to the True Point of Beginning.

The above described tract of land contains 1.41 acres, more or less.

3/14/2016



**Exhibit “C” to Planning Commission Resolution No. 2016-318
Findings & Conditions –File ANX-16-002 – 520 W. Third Street**

A. 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.

Finding: The site, located at 520 W. Third Street, is located within the urban growth boundary and is contiguous to the existing city limits on its east boundary.

B. 15.250.030 Quasi-judicial annexation criteria.

The following criteria shall apply to all annexation requests:

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

Finding: The property has a Comprehensive Plan designation of IND (Industrial), with a Stream Corridor overlay on the southwest corner. The applicant has requested M-2 (Light Industrial) zoning for the site. The M-2 zoning district is consistent with the IND comprehensive plan designation, and a Stream Corridor zoning overlay will be placed on the southwest corner of the site. This criterion is met.

The Department of State Lands (DSL) commented that Chehalem Creek, on the southwest side of the site, has been designated Essential Salmonid Habitat. Based on the information provided, work within the developed footprint of this tax lot should not impact jurisdictional wetlands or waters. DSL will require a permit for any impact to the creek and its associated wetlands; contact DSL prior to any work outside of the developed footprint of the site to determine if a permit and/or wetland inspection will be needed.

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

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

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

Finding: Adequate urban services are currently available to the property. There is a 15-inch diameter wastewater line that runs north-south through the site along its eastern property line, and an 8-inch diameter wastewater line in Third Street. A 12-inch water main and two ¾-inch laterals in Third Street provide water service to the site. Stormwater is currently connected via an existing main in Third Street.

The proposed use as part of the Public Works Maintenance yard is expected to generate fewer trips than the previous use as a cement plant. Future redevelopment of the property may require improvements to the street frontage along Third Street. This criterion is met.

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

Finding: The city sent the application information out to the Police and Fire Departments, Chehalem Parks and Recreation District (CPRD), and the Newberg School District, among other agencies, for comments prior to the staff report. No departments or agencies noted any problems with providing services to the proposed annexation site. The public services provided by the Public Works Maintenance Division support the services provided by these other public departments and agencies. Police, fire, parks and school services are found to be adequate for the proposed annexation.

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

Finding: The applicant submitted adequate information to allow the city to make findings to the applicable criteria.

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

overlay, that would limit development of the property until such time as the services become available.

Finding: This criterion is not applicable because adequate urban services are found to be available within the three year time frame.

C. 15.302.030 Procedures for comprehensive plan map and zoning map amendments.

A.3. Amendment Criteria. The owner must demonstrate compliance with the following criteria:

a. The proposed change is consistent with and promotes the goals and policies of the Newberg comprehensive plan and this code;

Finding: The property has a Comprehensive Plan designation of IND (Industrial), with a Stream Corridor overlay on the southwest corner of the site. The requested M-2 (Light Industrial) zoning designation, with a Stream Corridor zoning overlay on the southwest corner of the site, corresponds to the Comprehensive Plan designation. The proposed zone change is therefore consistent with the Newberg Comprehensive Plan, and this criterion is met.

b. Public facilities and services are or can be reasonably made available to support the uses allowed by the proposed change;

Finding: As demonstrated in the finding to 15.250.030.B. above, the applicant has demonstrated that adequate public facilities and services are available to the property.

c. Compliance with the State Transportation Planning Rule (OAR 660-012-0060) for proposals that significantly affect transportation facilities.

Finding: Annexation of the property complies with the State Transportation Planning Rule (TPR) (OAR 660-012-0060) because it meets the requirements for an amendment to a zoning map that does not significantly affect an existing or planned transportation facility as permitted by Subsection (9) of the TPR: the proposed zoning of M-2 is consistent with the existing comprehensive plan map designation of IND; the City of Newberg has an acknowledged TSP and the proposed zoning is consistent with the TSP; the TSP accounts for the future urbanization of this property.

OAR 660-012-0060(9) Notwithstanding section (1) of this rule, a local government may find that an amendment to a zoning map does not significantly affect an existing or planned transportation facility if all of the following requirements are met.

(a) The proposed zoning is consistent with the existing comprehensive plan map designation and the amendment does not change the comprehensive plan map;

(b) The local government has an acknowledged TSP and the proposed zoning is consistent with the TSP; and

(c) The area subject to the zoning map amendment was not exempted from this rule at the time of an urban growth boundary amendment as permitted in OAR 660-024-0020(1)(d), or the area was exempted from this rule but the local government has a subsequently acknowledged TSP amendment that accounted for urbanization of the area.

[Subsection (1) of OAR 660-012-0060]

(1) If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:

(a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);

(b) Change standards implementing a functional classification system; or

(c) Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.

(A) Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;

(B) Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or

(C) Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.

- D. Conclusion:** Based on the above-mentioned findings, the application meets the criteria of the Newberg Development Code, as conditioned.

Conditions of approval

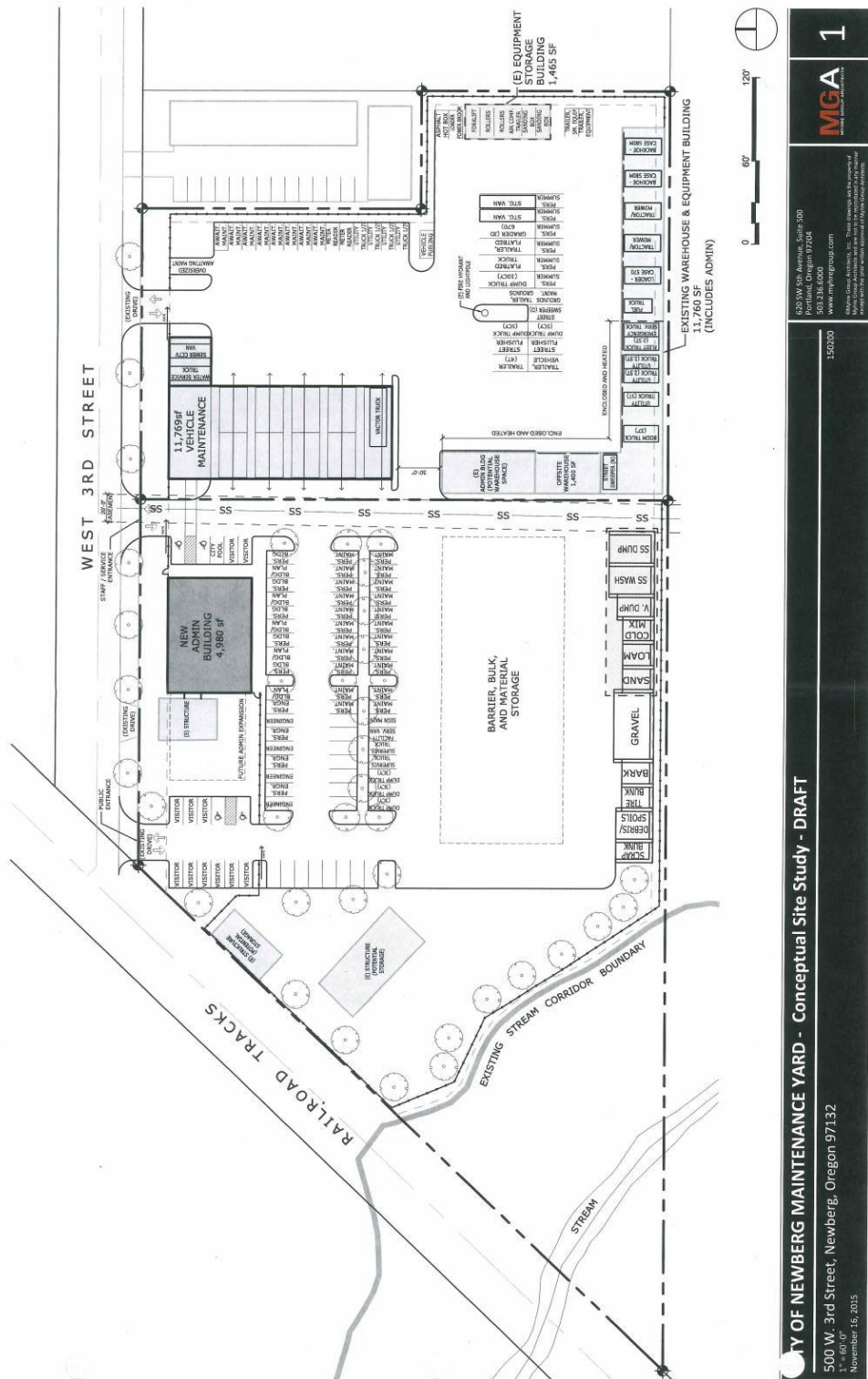
1. Department of State Lands: DSL will require a permit for any impact to the creek and its associated wetlands; contact DSL prior to any work outside of the developed footprint of the site to determine if a permit and/or wetland inspection will be needed.

Attachment 1: Aerial Photo



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Attachment 2: Concept Development Plan



CITY OF NEWBERG MAINTENANCE YARD - Conceptual Site Study - DRAFT

500 W. 3rd Street, Newberg, Oregon 97132

1" = 80' 0"

November 16, 2015

150200

MG&A

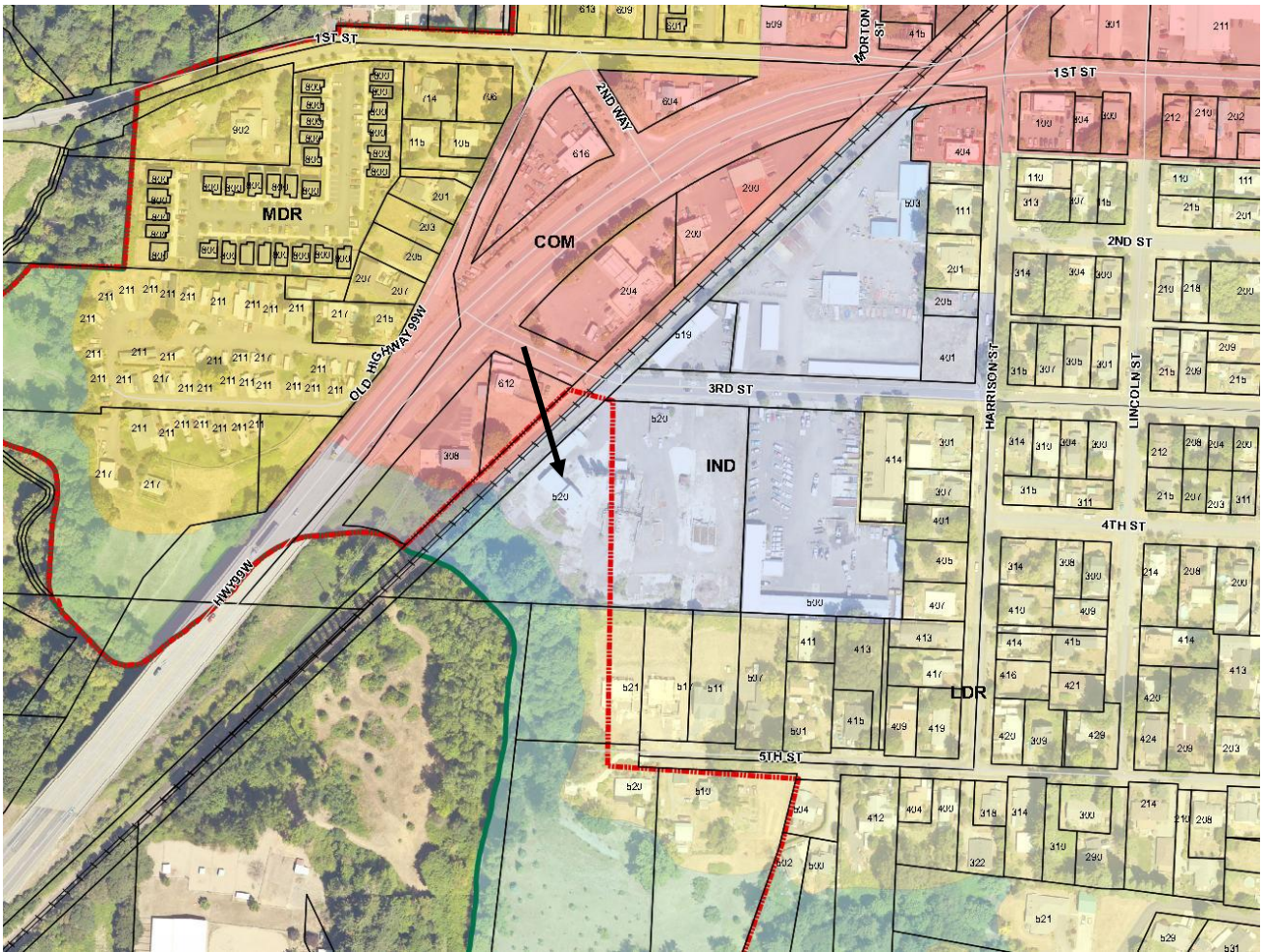
6235 SW 5th Avenue, Suite 500
Newberg, Oregon 97132
503.336.6000
www.mgaeng.com

MG&A is a registered professional engineering firm in the State of Oregon. License No. 100000000. This drawing is the property of MG&A. It is to be used only for the project and site identified on this drawing. No part of this drawing may be reproduced without the written permission of MG&A.

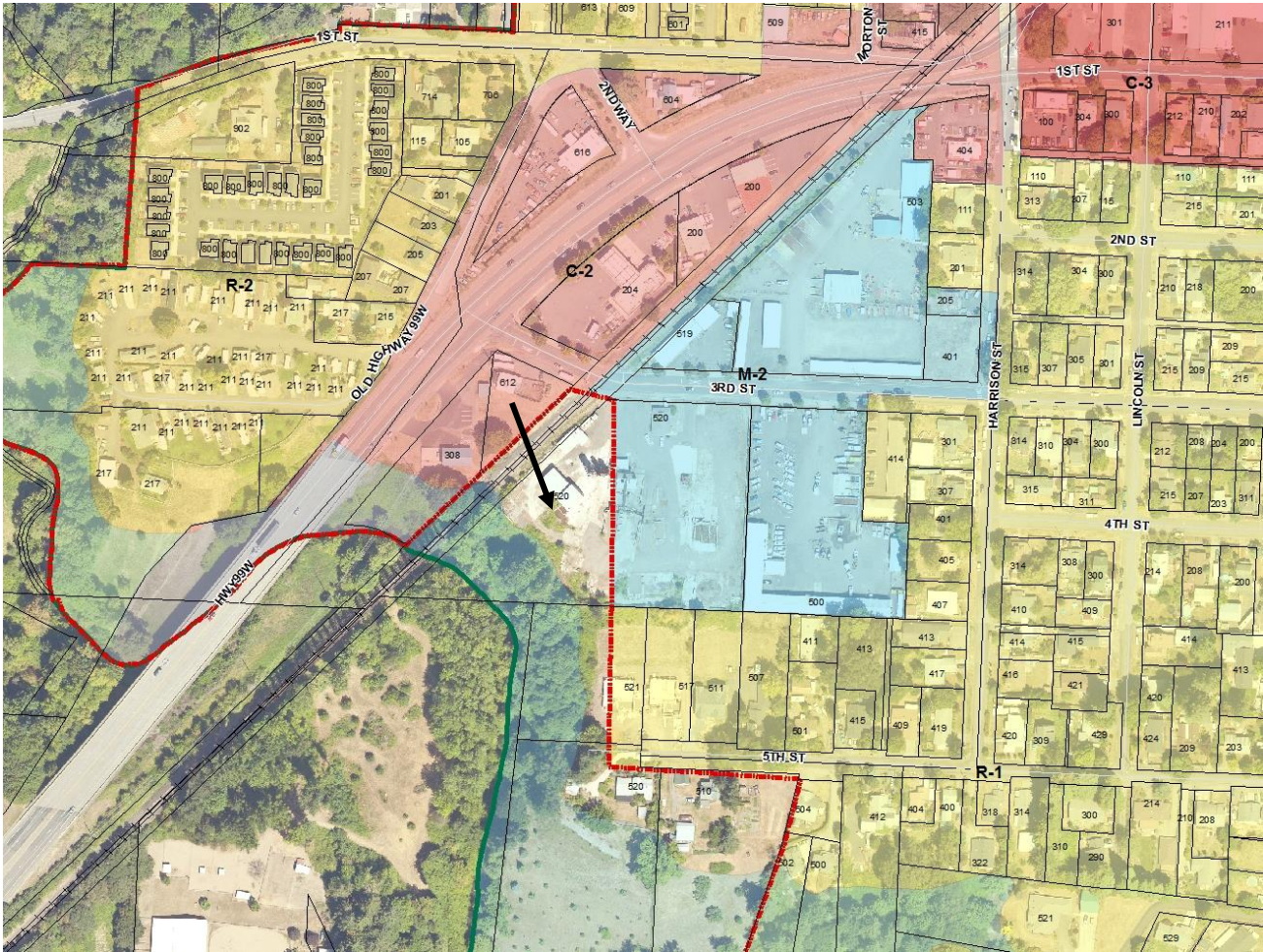
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Attachment 3: Comprehensive Plan Map IND (Industrial) with Stream Corridor overlay on SW corner



Attachment 4: Zoning Map
Existing County HI (Heavy Industrial), Proposed City M-2 (Light Industrial) with Stream
Corridor overlay on SW corner



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Attachment 5: Comments



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

DSL File Number: WN2016-0136

Cities and counties have a responsibility to notify the Department of State Lands (DSL) of certain activities proposed within wetlands mapped on the Statewide Wetlands Inventory. Steve Olson from city of Newberg submitted a WLUN pertaining to local case file # ANX-16-002.

Activity location:

township: 03N	range: 02W	section: 19	quarter-quarter section:
tax lot(s): 1000 (part)			
street address: 520 W Third St, Newberg			
city: Newberg	county: Yamhill		
latitude: 45.297951	longitude: -122.985329		

Mapped wetland/waterway features:

- The national wetlands inventory shows a wetland/waterway on the property.
- The property includes designated essential salmonid habitat.

Oregon Removal-Fill requirement (s):

- A state permit is required for any amount of fill, removal, and/or other ground alteration in essential salmonid habitat and within adjacent off-channel rearing or high-flow refugia habitat with a permanent or seasonal surface water connection to the stream.

Your activity:

- It appears that the proposed project may impact essential salmonid habitat and therefore may require a permit.

Contacts:

- For permit information and requirements contact DSL Resource Coordinator (see website for current list) http://www.oregonstatelands.us/DSL/contact_us_directory.shtml#Wetlands_Waterways
- For wetland delineation report requirements and information contact DSL Wetlands Specialist (see website for current list) http://www.oregonstatelands.us/DSL/contact_us_directory.shtml#Wetlands_Waterways
- For removal-fill permit and/or wetland delineation report fees go to http://www.oregon.gov/DSL/PERMITS/docs/ff_fees.pdf
- A permit may be required by the U.S. Army Corps of Engineers (503-808-4373).

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

Comments: Annexation of property does not fall within DSL's jurisdiction. However, based on a review of the available information, work within the developed footprint of this tax lot should not impact jurisdictional wetlands or waters. Chehalem Creek, on the western side has been designated Essential Salmonid Habitat. DSL will require a permit for any impact to the creek and its associated wetlands.

For future information, please contact DSL prior to any work outside of the developed footprint to determine if a permit and/or wetland inspection will be needed.

Response by: *Christie Stevenson* date: 04/25/2016

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ANNEXATION APPLICATION FOR 520 W. 3RD STREET

DATE: March 16, 2016

SUBMITTED TO: City of Newberg
Planning Department
414 E. First Street
Newberg, Oregon 97132

APPLICANT: City of Newberg Public Works Department
Kaaren Hofmann, P.E., City Engineer
414 E. First Street
Newberg, Oregon 97132



12965 SW Herman Road, Suite 100
Tualatin, OR 97062
P: (503) 563-6151
F: (503) 563-6152
www.aks-eng.com

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EXHIBITS

- Exhibit A:** Application Form
- Exhibit B:** City Application Checklists
- Exhibit C:** Public Notice Information
- Exhibit D:** Lot Book Service Title Report
- Exhibit E:** Annexation Consent Form
- Exhibit F:** Legal Description and Exhibit Map of Affected Territory
- Exhibit G:** Vicinity Map/General Land Use Plan of Area to be Annexed
- Exhibit H:** Concept Development Plan
- Exhibit I:** Transportation Planning Rule (OAR 660-012-0060) Analysis
- Exhibit J:** Property Owner Address List

ANNEXATION APPLICATION FOR 520 W. 3RD STREET

APPLICANT: City of Newberg Public Works Department
Kaaren Hofmann, P.E., City Engineer
414 E. First Street
Newberg, Oregon 97132
(503) 537-1273

PROPERTY OWNER: City of Newberg
414 E. First Street
Newberg, Oregon 97132

APPLICANT'S CONSULTANT: AKS Engineering & Forestry, LLC
12965 SW Herman Road, Suite 100
Tualatin, OR 97062
(503) 563-6151
Contact: Chris Goodell

PROPERTY ADDRESS: 520 W. 3rd Street
Newberg, Oregon 97132

**COUNTY ASSESSOR'S
MAP AND TAX LOT:** 3219BD-1000

PROPERTY SIZE: 1.41 acres

**COMPREHENSIVE PLAN
DESIGNATION:** Industrial

**YAMHILL COUNTY ZONING
DESIGNATION:** HI (Heavy Industrial)

CITY ZONING UPON ANNEXATION: M-2 (Light Industrial District)



APPLICATION DESCRIPTION

The City of Newberg Public Works Department is submitting for the annexation of approximately 1.41 acres of land at 520 W. 3rd Street. The City purchased this property, following the unanimous approval of Resolution No. 2015-3179 on April 8, 2015, for the purpose of improving and adding to the current Public Works Operations Facility located immediately east of this site to enhance services to the City's residents. This application does not involve redevelopment on the subject property.

SITE DESCRIPTION

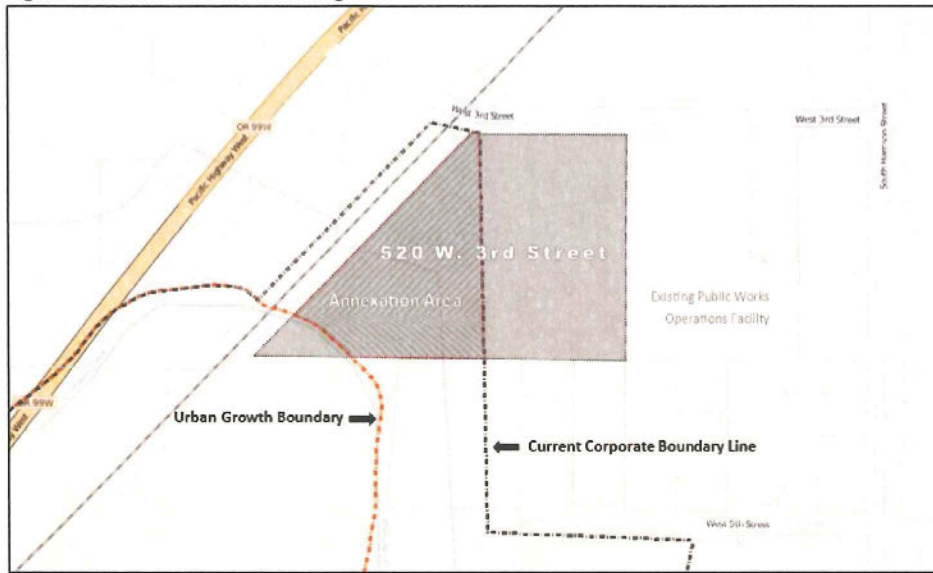
The subject property is located on the west end of the City of Newberg and is south and east of the intersection of Oregon State Highway 99 West and West 3rd Street. The property is approximately 3.8 acres in size and currently lies both within and outside of the City's corporate limits (see Figure 1, below). A small portion of the property (approximately 0.10 acres) also lies outside of the City's Urban Growth Boundary (UGB). This application includes annexation of the 1.6-acre portion of the property that is currently located outside of the City limits and inside of the UGB.

The property is bounded by Union Pacific-owned rail right-of-way and Chehalem Creek along its west end, W. 3rd Street right-of-way on its north end, the City's Public Works Operations Facility to the east, and a handful of single-family residences to the south.

Prior to the City's purchase of this property in April of 2015, the property was used as a cement manufacturing plant, most recently by Cal Portland. Materials processing facilities formerly located on this site were removed following the City's purchase of the property, however, storage buildings from the previous use remain.

The property has direct access to a full range of municipal utilities. A 15-inch diameter sewer main runs north and south through the site along its eastern property line and ties into an 8-inch main in W. 3rd Street and a 15-inch main in W. 5th Street. Two ¾-inch water laterals serve the property and are fed by a 12-inch main in W. 3rd Street. A stormwater drain is located in the W. 3rd Street right-of-way at the north end of the site. The property is served by Newberg Police and Newberg Fire, as well as the Newberg School District.

Figure 1: Annexation Area Diagram



Source: City of Newberg GIS, 2016

DESCRIPTION OF SURROUNDING AREA

Area	Jurisdiction	Zoning	Land Uses
North	City of Newberg	M-2	Small Engine Sales and Service
South	City of Newberg	R-1	Residential
East	City of Newberg	M-2	Newberg Public Works Operations
West	City of Newberg	C-2	Automotive Repair/Indoor Garden Supply

PUBLIC UTILITIES

Service	Provider	Size	Location	Distance from site
Water	City of Newberg	12"	W. 3 rd Street	Adjacent (N)
Sanitary Sewer	City of Newberg	15"	Along east property line	On-site
Storm Sewer	City of Newberg	Unknown	W. 3 rd Street	Adjacent (N)

TRANSPORTATION

The site is located south and east of OR Hwy 99W and west of OR Hwy 240 (Yamhill-Newberg Hwy). Under existing conditions, W. 3rd Street is a paved Minor Collector street with a 60-foot wide cross-section consisting of 5-foot wide sidewalks, 8-foot wide landscape strips, a concrete curb, and an 18-foot wide shared travel/parking lane on either side of the centerline. This segment of W. 3rd Street provides access to OR Hwy 99W to the west and downtown Newberg to the east. The site currently has access to W. 3rd Street at three points. As shown in the Applicant’s Conceptual Development Plan (Exhibit H), the Public Works Division may consolidate a number of these access points as part of a future project to improve the City’s operations/maintenance yard to the east, including this property. A new internal connection between this property and the existing operations/maintenance yard to the east will likely eliminate the need to use W. 3rd Street to move material and equipment between the two properties.

OR Hwy 99W is under the jurisdiction of ODOT and is generally a five-lane facility with a posted speed of 30 MPH near the site. Per the City's Transportation System Plan, in 2005, the intersection of OR Hwy 99W and W. 3rd Street operated at a LOS E during the evening peak hour, even though observed traffic volumes accounted for only one-fifth of available capacity. This relatively low LOS was due to traffic delays for vehicles making left turns from this unsignaled intersection onto OR Hwy 99W during the peak hour. Rather than encourage access to OR Hwy 99W from its intersection with W. 3rd Street, the TSP encourages these motorists to instead use the signaled intersection at OR Hwy 99W and Main Street; hence, the TSP does not identify specific capital projects planned for the intersection of W. 3rd Street and OR Hwy 99W.

The 2005 TSP does identify a preferred set of capacity and non-capacity improvements, including the Newberg-Dundee bypass currently under construction, that are anticipated to improve the performance at the intersection of W. 3rd Street and OR Hwy 99W to LOS C. As discussed in greater detail below, the future use of this site is projected to generate fewer peak hour vehicle trips than its former use and is, therefore, assumed to reduce the site's overall impact to the City's transportation system.

PROJECT DESCRIPTION

The property at 520 W. 3rd Street currently straddles the City of Newberg's corporate boundary. The property is approximately 3.8 acres in size, with approximately 2.3 acres in the City limits and 1.5 acres outside of the City limits. Additionally, approximately 0.1 acres of the 1.7-acre portion outside of the City limits is also outside of the Newberg Urban Growth Boundary (UGB). The City of Newberg Public Works Department is submitting this application to annex approximately 1.6 acres of this property that is currently outside of the City limits and within the UGB. This annexation will allow for a future project that can improve and integrate this property within the City's Public Works Operations/Maintenance Yard (Tax Lot 1100), immediately east of this site.

STATEMENT OF FINANCIAL SOLVENCY TO PROVIDE NECESSARY PUBLIC FACILITIES

The subject property is currently served by water, sanitary, and storm sewer facilities, as provided above. The Applicant does not anticipate additional public facilities will be necessary to serve the planned future use of this site.

POTENTIAL POSITIVE AND NEGATIVE PHYSICAL, AESTHETIC, AND RELATED SOCIAL EFFECTS OF THE PROPOSED DEVELOPMENT

This application will result in numerous physical, aesthetic, and social benefits to the City of Newberg, including:

- The site is planned to provide needed maintenance and related activities that are essential to ensure the continued availability of Newberg's police, fire, and parks services. Activities that will occur on this site include the periodic maintenance of emergency service vehicles, storage and operation of street cleaning and repair apparatus, and storage of parks maintenance equipment and materials, among other things. This site, and the activities that will be provided thereon, are essential in ensuring the long-term health and well-being of Newberg's residents by enhancing the City's ability to carry out these responsibilities.
- The property is already served by water, sanitary, and storm sewer facilities that will be necessary to accommodate the intended future use of this site. Therefore, annexation of the property represents an efficient use of land within the City's existing UGB.

-
- This application represents a proactive approach on behalf of the City to provide the infrastructure and services that will be necessary to accommodate future growth in the City of Newberg.
 - Currently, riparian areas on this site are not protected through Yamhill County's land use regulations. Once annexed to the City, the riparian corridor on this site will receive certain protections through the Newberg Development Code. Specifically, NMC Subtitle 15.342 includes provisions that limit development in and near open space, scenic, and natural resources.

CITY REVIEW CRITERIA

NEWBERG COMMUNITY DEVELOPMENT CODE

Subtitle 15.250 – 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 wastewater, 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 ensure 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.

Response: The Vicinity Map in Exhibit G illustrates that the subject property is located within the Newberg Urban Growth Boundary. Exhibit G further illustrates that the subject site abuts and is contiguous to (and is in fact partially within) the City limits. These conditions for annexation are met.

15.250.030 Quasi-judicial annexation criteria.

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

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

Response: This application will continue the City's M-2 Light Industrial Zoning District designation from the east onto the remaining piece of this property that is currently outside of the City limits but within the UGB. Per Newberg Municipal Code (NMC) Section 15.302.032.K., the M-2 district is intended to create, preserve, and enhance areas containing a range of manufacturing and related establishments and is typically appropriate to areas providing a wide variety of sites with good rail or highway access. The M-2 district is consistent with the Industrial (IND) designation of the Comprehensive Plan. This application is consistent with applicable goals and policies of the City's Comprehensive Plan as outlined below:

Newberg Comprehensive Plan Chapter II. Goals and Policies:

- A. Citizen Involvement:** Newberg's Citizen Involvement Goal strives to maintain a citizen involvement program that offers citizens the opportunity to be involved in all phases of the planning process.

The NMC implements this Goal through Subtitle 15.250.040, which establishes a robust process for public involvement during annexations. This process includes a public notice posted on site, mailed to nearby property owners, and published in the local newspaper; a public hearing before the Planning Commission; and a public hearing before the City Council. Additionally, the process allows for appeals where interested parties are not satisfied with the City's decision. Citizen involvement is further provided through a public election required for all annexations in the City of Newberg. The application is therefore consistent with the Citizen Involvement Goal of the Newberg Comprehensive Plan.

- B. Land Use Planning:** The Land Use Planning Goal memorializes the City's desire to maintain an ongoing land use planning program that implements State and local planning goals while respecting the City's natural and cultural resources.

The City's Comprehensive Plan, supporting documents (e.g., Transportation System Plan, Sanitary Sewer Master Plan, Water Master Plan, Drainage Master Plan, etc.), and Development Code establish the local land use planning program and implement State and local planning goals. These plans are periodically updated to reflect changes in the physical, economic, and social environment of the City. This application is consistent with this Goal as it is being administered through the process established for annexations and zoning map amendments in the Newberg Development Code.

Additionally, this annexation and zoning map amendment have been initiated for the purpose of facilitating future enhancement and incorporation of this site within the City's existing Public Works Operations/Maintenance yard. The site is particularly well suited to a future City operations/maintenance yard due to the fact that nearly one-half of the property is already zoned for such a use and the City's existing operations/maintenance yard is located immediately east. It is important to note that annexation does not approve future development on this site. Future improvements on this site will be subject to the City's Site Design Review process.

Finally, this application represents foresight and a proactive approach on behalf of the City in providing the infrastructure and services that will be necessary to accommodate future growth. These characteristics epitomize the land use values expressed in the Newberg Comprehensive Plan. The application is therefore consistent with the Land Use Planning Goal of the Newberg Comprehensive Plan.

- D. Wooded Areas:** This Goal and related policies seek to limit development in and near wooded and riparian areas to encourage the preservation of natural resources for habitat and recreational value.

As illustrated in Exhibit G, Chehalem Creek and its associated riparian corridor occupy the southwest corner of this property. Currently, riparian areas on this site are not protected through Yamhill County's land use regulations. Once annexed to the City, the riparian corridor on this site will receive certain protections through the Newberg Development Code. Specifically, NMC Subtitle 15.342 includes provisions that limit development in and near open space, scenic, and natural resources. As such, this application is consistent with the applicable Goals and policies stated herein.

- E. Air, Water, and Land Resource Quality:** This Comprehensive Plan Goal and related policies articulate the City's desire to limit impacts to the environment through successive phases of urbanization. Applicable policies from this Goal are implemented through NMC Subtitles 15.220 (Site Design Review), 15.303 (Use Categories), 15.342 (Stream Corridor Overlay District), and elsewhere.

Future conversion of this site from a cement manufacturing plant to a City maintenance/operations yard represents a less intensive reuse of this site in many respects and is likely to entail fewer noise, dust, vibration, and related impacts to surrounding properties. Additionally, reusing existing developed industrial lands reduces pressure on vacant land in the UGB and subsequently reduces pressure to urbanize farm and/or forest land outside of the existing UGB. Also, as mentioned above, annexation of this property into the City of Newberg will afford certain environmental protections to Chehalem Creek and its riparian corridor that are not in place under Yamhill County's zoning jurisdiction. This application is therefore consistent with the Air, Water, and Land Resource Quality Goal of the Comprehensive Plan.

- J. Urban Design, 2. Industrial Area Policies:** Industrial uses are encouraged by this Goal to provide good access, buffering from adjacent uses, and landscaping. Where they abut residential uses, industrial uses are encouraged to use special setback, screening, building height, and architectural feature standards appropriate for the site. The City's Development Code (15.220) includes provisions related to the design of industrial sites where they abut residential uses. Additionally, the Development Code promotes screening and buffering, as well as good access to transportation facilities. As mentioned above, this annexation in and of itself does not approve development on this site. Future development will be subject to the City's Site Design Review, Stream Corridor Overlay, and building permit provisions. This application is therefore consistent with the Industrial Area Policies of the Urban Design Goal of the Newberg Comprehensive Plan.

- K. Transportation:**

Goal 2: Establish consistent policies which require concurrent consideration of transportation/land use system impacts.

-
- d. The City shall maintain development regulations that provide adequate off-street parking and truck loading areas for commercial and industrial uses, especially in areas adjacent to arterial and collector routes, to promote efficient traffic movement through the city.

An analysis of the relative transportation impacts between the planned potential future use on this site and the former use of the site is included below. This application is therefore consistent with Transportation Goal 2 of the Newberg Comprehensive Plan.

L. Public Facilities and Services:

To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban development.

1. All Facilities & Services Policies

- a. The provision of public facilities and services shall be used as tools to implement the land use plan and encourage an orderly and efficient development pattern.
- b. The extension of publicly-owned facilities and services into currently undeveloped areas shall occur only in accordance with the Public Facilities and Service Plan.
- c. New public facilities and services shall be designed at levels consistent with planned densities and designated land uses for the area.
- d. Services shall be planned to meet anticipated community needs.
- e. Owners of properties which are located on unimproved streets should be encouraged to develop their streets to City standards.
- f. Maximum efficiency for existing urban facilities and services will be encouraged through infill of vacant City land.
- g. Public facilities and services necessary to meet the special needs of industrial activities should be planned for those areas designated industrial on the comprehensive plan map and should be provided at a level sufficient to support proposed activities, if public funds are available.

This application has been initiated for the purpose of enhancing and incorporating this site within the City's existing Public Works Operations/Maintenance yard and fulfills all of the policies stated above. This application furthers the City's desire to be proactive and efficient and to appropriately locate infrastructure and public facilities necessary to provide enhanced services to existing residents and businesses, as well as accommodate future growth in Newberg. The application is therefore consistent with the Public Facilities and Services Goal of the Newberg Comprehensive Plan.

N. Urbanization: This Goal seeks, “to provide for an orderly and efficient transition from rural to urban land uses.” The City’s Development Code implements this Goal and its related policies through criteria that require availability of adequate public facilities and services, financial means to provide public services where they are not available, consistency with the Comprehensive Plan, and consideration of impacts within the City’s TSP. As described throughout this narrative, the annexation and zoning map amendment included in this application will enhance and incorporate this site within the City’s existing operations/maintenance yard on Tax Lot 1000 (immediately east of this site) for the purposes of improving services to existing residents and businesses and accommodating future growth in the City of Newberg. This application is therefore consistent with the Urbanization Goal of 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 subsection (E) of this section. An “adequate level of urban services” shall be defined as:
1. Municipal wastewater and water service meeting the requirements enumerated in the Newberg comprehensive plan for provision of these services.
 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.

Response: Adequate urban services are currently available to the property. An 8-inch sewer line in W. 3rd Street and a 12-inch sewer line near the site’s east property line currently provide sanitary sewer service to the property. Additionally, a 12-inch water main and two ¾-inch laterals in W. 3rd Street provide water service to the site. Stormwater is currently conveyed via an existing main in W. 3rd Street.

As illustrated in Table 1, the anticipated future use of this site is expected to generate fewer vehicle trips and reduced impacts to the City’s transportation system than the previous use of the site.

Table 1: Approximate Trip Generation from Previous and Anticipated Future Uses at 520 W. 3rd Street

Use Category	Weekday PM Peak Hour Trip Generation Rate (per acre)	Estimated Weekday PM Peak Hour Trip Impact
Cement Plant (ITE Land Use Code 140 – Manufacturing)	8.35	31
Operations/Maintenance Yard (ITE Land Use Code 110 – Light Industrial)	7.62	28

Source: ITE Trip Generation Manual, 8th Edition

-
- 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.

Response: The City's operations/maintenance yard hosts maintenance related activities that are essential to the continued availability of police, fire, and parks services in the City of Newberg. From periodic maintenance to emergency service vehicles, to the storage and operation of street cleaning and repair apparatuses, to parks maintenance equipment and materials storage, this site and the work that occurs thereon must be considered a related piece of the above-listed public services. For this reason, this application is necessary to ensure the long-term health and well-being of Newberg's residents. The criterion is met.

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

Response: The responses in this narrative are provided by the Applicant in support of this application. The criterion is met.

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

Response: As detailed above, urban services are available to serve the property. The criterion does not apply.

Subtitle 15.302 – Districts and Their Amendment

15.302.030 Procedures for comprehensive plan map and zoning map amendments.

This section describes the procedures and criteria that apply to any application to amend the land use designations identified on the comprehensive plan map, zoning map and land use regulations.

- A. Type III Plan and Zoning Map Amendments – One Parcel or Small Group of Parcels.
 - 3. Amendment Criteria. The owner must demonstrate compliance with the following criteria:
 - a. The proposed change is consistent with and promotes the goals and policies of the Newberg comprehensive plan and this code;
 - b. Public facilities and services are or can be reasonably made available to support the uses allowed by the proposed change;

- c. Compliance with the State Transportation Planning Rule (OAR 660-012-0060) for proposals that significantly affect transportation facilities.

Response: The City’s Type III Land Use Application packet contains language that is contradictory to NMC 15.250.080(B) regarding the applicability of Subtitle 15.302 to this request. Page 19 of the City’s Land Use packet states that, “an application for a zoning map amendment is required to be submitted concurrently with an annexation application.” Conversely, NMC 15.250.080(B) states that, “Upon annexation, the area annexed shall be automatically zoned to the corresponding land use zoning classification which implements the Newberg comprehensive plan map designation. The corresponding designations are shown in the table below. The procedures and criteria of NMC 15.302.030 shall not be required.”

Classification	Appropriate Zoning Classification
IND	M-1, M-2, M-3, M-4, or AI

While the Applicant believes that the Municipal Code prevails in such a situation, responses to the applicable criteria in 15.302 are included below in the event that prior interpretations of this standard have proven otherwise.

This application will result in a change from Yamhill County’s Heavy Industrial (HI) designation to Newberg’s M-2 (Light Industrial) designation for an approximately 1.4-acre portion of this property, as shown in Exhibit G. Per NMC Subtitle 15.302.032.K., this zoning designation is consistent with the City’s IND Comprehensive Plan designation. Further, and as discussed above, this is consistent with and promotes applicable Goals and Policies in the Newberg Comprehensive Plan and its supporting documents. Also as described above, the property is served by the full range of public facilities and services necessary to accommodate the intended future use of this site; no public facility improvements are expected to be necessary.

Per Oregon Administrative Rule (OAR) 660-012-0060(9), a local government may find that an amendment to a zoning map does not significantly affect an existing or planned transportation facility if (a) the proposed zoning is consistent with the existing Comprehensive Plan Map designation (and the amendment does not change the Comprehensive Plan Map); (b) the proposed zoning is consistent with the City’s acknowledged TSP; and (c) the TSP accounts for urbanization of the subject property. The zoning map amendment included in this application is consistent with, and does not alter, the City’s Comprehensive Plan and is consistent with and accounted for in the City’s 2005 TSP. This zoning map amendment therefore satisfies all of the above-referenced conditions and the City can find that it does not significantly affect a transportation facility.

Further, OAR 660-012-0060(1) clearly defines those amendments to a plan or land use regulation that are considered to significantly affect a transportation facility. These amendments include plan or land use regulation amendments that would (a) change the functional classification of an existing or planned transportation facility; (b) change standards implementing a functional classification system; or (c) result in types or levels of travel or access that are inconsistent with the functional classification of an existing or

planned transportation facility; degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or Comprehensive Plan; or degrade the performance of an existing or planned transportation facility that is otherwise projected not to meet the performance standards identified in the TSP or Comprehensive Plan.

The zoning map amendment included in this application will not change the functional classification of any existing or planned roadways in the City of Newberg nor will it change the standards implementing a functional classification system. Finally, as shown in Table 1 above, and as described in more detail in the following paragraphs, the future zoning designation will not result in the degradation of performance of any transportation facilities that provide access to and from the property.

The property takes access from, and is intended to continue to take access from, W. 3rd Street, which is classified as a Minor Collector street in the City's TSP. In 2005, the intersection of OR Hwy 99W and W. 3rd Street operated at a LOS E during the evening peak hour, even though observed traffic volumes accounted for only one-fifth of available capacity. This relatively constrained LOS was due to traffic delays for vehicles making left turns from this unsignaled intersection onto OR Hwy 99W during the peak hour.

Rather than encourage access to OR Hwy 99W from its intersection with W. 3rd Street, the TSP encourages these motorists to instead use the signaled intersection at OR Hwy 99W and Main Street; hence, the TSP does not identify specific capital projects planned for the intersection of W. 3rd Street and OR Hwy 99W. Further, under the 2025 Preferred Network Alternative (which includes the Newberg-Dundee Bypass currently under construction), the TSP forecasts that this intersection will operate at a LOS C (which exceeds the LOS E performance standard).

The intended future use of this site creates fewer impacts to the City's transportation facilities than the former use of the site. The ITE Trip Generation Manual estimates a PM peak hour trip generation rate of 8.35 trips per acre for manufacturing uses (Land Use Code 140), such as the cement manufacturing plant that previously occupied this site. This equates to 31 PM peak hour trips for this approximately 3.8-acre property (see Table 1, above).

The ITE Trip Generation manual does not include a land use category for government operated maintenance yards, such as that intended for the future use of this site; the most similar use category listed in the ITE Trip Generation Manual is general light industrial (Land Use Code 110). ITE estimates a PM peak hour trip generation rate of 7.62 trips per acre for light-industrial uses. This equates to 28 PM peak hour trips for this approximately 3.8-acre property. Based on ITE estimates, PM peak hour trips generated from the intended use on this site will be slightly less than those previously generated on site. Because the trip impacts from the anticipated uses on this site are lower than those that existed on this site when the 2005 TSP was adopted and because the TSP accounted for all land within the UGB, we conclude this annexation will not significantly affect a transportation facility. The criteria are met.

CONCLUSION

The submittal requirements have been met and the required responses have been provided for all applicable approval criteria. These findings serve as the basis for the City of Newberg to approve the application and are supported by substantial evidence in the application materials. Therefore, the City can rely upon this information in its approval of the application.

EXHIBIT A: APPLICATION FORM



TYPE III APPLICATION - 2016
(QUASI-JUDICIAL REVIEW)

File #: _____

TYPES - PLEASE CHECK ONE:

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

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

APPLICANT INFORMATION:

APPLICANT: City of Newberg Public Works Department, Contact: Kaaren Hofmann, P.E.
ADDRESS: 414 E. First Street
EMAIL ADDRESS: Kaaren.Hofmann@newbergoregon.gov
PHONE: (503) 537-1273 MOBILE: FAX: (503) 537-1277
OWNER (if different from above): PHONE:
ADDRESS:
ENGINEER/SURVEYOR: AKS Engineering & Forestry, LLC, Contact: Chris Goodell PHONE: (503) 563-6151
ADDRESS: 12965 SW Herman Road, Suite 100, Tualatin, OR 97062

GENERAL INFORMATION:

PROJECT NAME: 520 W. 3rd Street Annexation PROJECT LOCATION: 520 W. 3rd Street
PROJECT DESCRIPTION/USE: Annexation to the City of Newberg and associated Zoning Map Amendment
MAP/TAX LOT NO. (i.e.3200AB-400): Portion of 3219BD-1000 ZONE: HI SITE SIZE: 1.58 SQ. FT. ACRE
COMP PLAN DESIGNATION: Industrial (IND) TOPOGRAPHY: Mostly flat with increasing slopes in Chehalem Creek Corridor
CURRENT USE: Cement Plant
SURROUNDING USES:
NORTH: Small engine repair and sales SOUTH: Vacant
EAST: City Public Works Operations Facility WEST: Automotive garage/servicing, Indoor/outdoor gardening supply

SPECIFIC PROJECT CRITERIA AND REQUIREMENTS ARE ATTACHED

General Checklist: Fees Public Notice Information Current Title Report Written Criteria Response Owner Signature

For detailed checklists, applicable criteria for the written criteria response, and number of copies per application type, turn to:

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

The above statements and information herein contained are in all respects true, complete, and correct to the best of my knowledge and belief. Tentative plans must substantially conform to all standards, regulations, and procedures officially adopted by the City of Newberg. All owners must sign the application or submit letters of consent. Incomplete or missing information may delay the approval process.

Applicant Signature: [Signature] Date: 2/29/16
Print Name: KAAREN HOFMANN

Owner Signature: [Signature] Date: 2/29/16
Print Name: STEVE RHODES

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

EXHIBIT B: CITY APPLICATION CHECKLISTS

ANNEXATION CHECKLIST

The following information shall be submitted with each application. Incomplete applications will not be processed. Incomplete or missing information may delay the review process. Check with the Planning Division staff regarding additional requirements for your project.

N/A FEES

PUBLIC NOTICE INFORMATION – Draft of mailer notice and sign; mailing list to all properties within 500’.

Submit one original 8-1/2" x 11" or 11" x 17" reproducible document together with 20 copies of the following information.

WRITTEN CRITERIA RESPONSE – Address the criteria listed on page 15.

CURRENT TITLE REPORT

N/A¹ MEASURE 49 WAIVER

ANNEXATION CONSENT FORMS

MAP AND LEGAL DESCRIPTION OF THE PROPERTY – Provide a map and a corresponding written legal description of the area to be annexed. The map and legal description must be capable of closure and be certified by a registered engineer or surveyor. If not certified, the map and description must be approved by the Department of Revenue per ORS 308.225.

GENERAL LAND USE PLAN – Indicate types and intensities of proposed development, transportation routes (for pedestrians and vehicles), watercourses, significant natural features, open space, significant stands of mature trees, wildlife travel corridors, and any development on adjacent properties.

DEVELOPMENT CONCEPT STATEMENT² – Provide a written statement about the overall development concept that addresses methods by which the physical and social environment of the site, surrounding area, and community will be enhanced by this project.

PUBLIC FACILITIES FINANCING STATEMENT² – Provide a written statement outlining the method and source of financing that will be used to provide public utilities to the site.

POSITIVE AND NEGATIVE EFFECTS STATEMENT² – Provide a written statement regarding the 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, along with proposed actions to mitigate the negative effects.

¹N/A per 2/24/2016 pre-application conference

²Included in body of application narrative

COMPREHENSIVE PLAN MAP/ZONING MAP AMENDMENT CHECKLIST

The following information shall be submitted with each application. Incomplete applications will not be processed. Incomplete or missing information may delay the review process. Check with the Planning Division staff regarding additional requirements for your project.

N/A FEES

PUBLIC NOTICE INFORMATION – Draft of mailer notice and sign; mailing list to all properties within 500’.

Submit one original 8-1/2" x 11" or 11" x 17" reproducible document together with 17 copies of the following information.

WRITTEN CRITERIA RESPONSE – Address the criteria listed on page 19. The written response should detail how the proposed comprehensive plan map/zoning map amendment meets the goals and policies of the Newberg Comprehensive Plan. The written response should also address the location and size of existing public utilities to serve the site, or if none are currently available, detail how public utilities will be extended to serve the site.

CURRENT TITLE REPORT

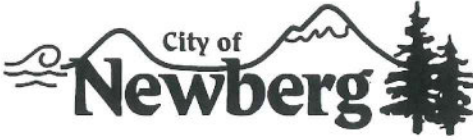
N/A MEASURE 49 WAIVER

MAP AND LEGAL DESCRIPTION OF THE PROPERTY – Provide a map and a corresponding written legal description of the area to be changed. The map and legal description must be capable of closure and be certified by a registered engineer or surveyor. If not certified, the map and description must be approved by the Department of Revenue per ORS 308.225.

GENERAL LAND USE PLAN – Indicate types and intensities of proposed development, transportation routes (for pedestrians and vehicles), watercourses, significant natural features, open space, significant stands of mature trees, wildlife travel corridors, and any development on adjacent properties.

TRAFFIC STUDY – A traffic study shall be submitted for any proposed change that would significantly affect a transportation facility, or that would allow uses that would increase trip generation in excess of 40 trips per p.m. peak hour. This requirement may be waived by the Director when a determination is made that a previous traffic study adequately addresses the proposal and/or when off-site and frontage improvements have already been completed, which adequately mitigate any traffic impacts and/or the proposed use is not in a location, which is adjacent to an intersection which is functioning at a poor level of service. A traffic study may be required by the Director for changes in areas below 40 trips per p.m. peak hour where the use is located immediately adjacent to an intersection functioning at a poor level of service. If required, the traffic study shall be conducted according to the City of Newberg design standards.

EXHIBIT C: PUBLIC NOTICE INFORMATION



Planning and Building Department
P.O. Box 970 • 414 E First Street • Newberg, Oregon 97132
503-537-1240. Fax 503-537-1272 www.newbergoregon.gov

Notice of a Planning Commission Hearing on an Annexation

A property owner in your neighborhood submitted an application to the City of Newberg for an Annexation and Zone Change (from Heavy Industrial – Yamhill County to Light Industrial – City of Newberg) for a portion of the property at 520 W. 3rd Street in Newberg. The Newberg Planning Commission will hold a hearing on **Date of Hearing** at 7 pm at the Newberg Public Safety Building, 401 E. Third Street, Newberg, OR, to evaluate the proposal. You are invited to take part in the City's review of this project by sending in your written comments or testifying before the Planning Commission. For more details about giving comments, please see the back of this sheet.

The application would: add 1.41 acres to the City of Newberg Corporate limits to allow for the enhancement and incorporation of the City of Newberg's existing Public Works Operations/Maintenance yard (on the property immediately east) onto this site to improve Public Works services for Newberg residents.

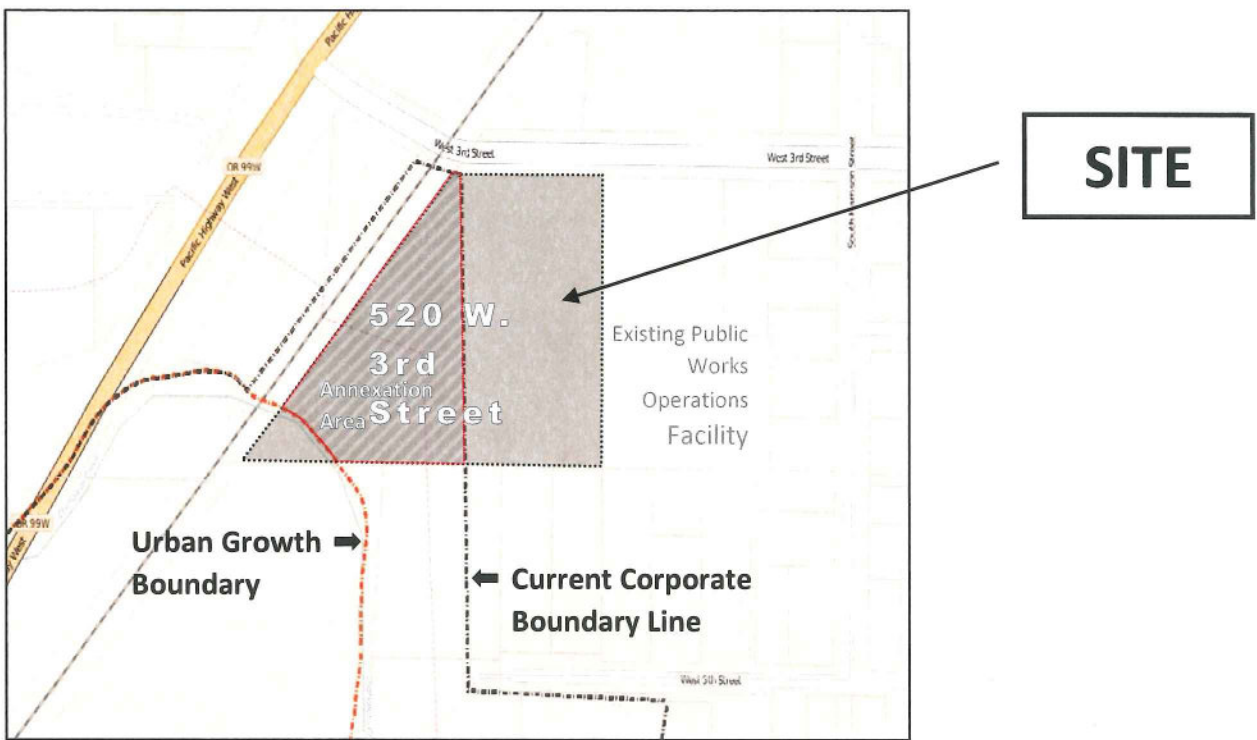
APPLICANT: City of Newberg Public Works

TELEPHONE: 503-537-1273

PROPERTY OWNER: City of Newberg

LOCATION: 520 W. 3rd Street, Newberg, OR 97132

TAX LOT NUMBER: Yamhill County 3219BD-1000



We are mailing you information about this project because you own land within 500 feet of the annexation. We invite you to participate in the land use hearing scheduled before the Planning Commission. If you wish to participate in the hearing, you may do so in person or be represented by someone else. You also may submit written comments. Oral testimony is typically limited to five minutes per speaker.

If you mail your comments to the City, please put the following information on the outside of the envelope:

Written Comments: **File No.XX**

City of Newberg
Planning & Building Department
PO Box 970
Newberg, OR 97132

The Planning Commission asks written testimony be submitted to the City Recorder before 5:00 p.m. on the preceding Thursday. Written testimony submitted after that will be brought before the Planning Commission on the night of the meeting for consideration and a vote to accept or not accept it into the record.

You can look over all the information about this project or drop comments off at Newberg City Hall, 414 E. First Street. You can also buy copies of the information for a cost of 25 cents a page. A staff report relating to the proposal will be available for inspection at no cost seven days prior to the public hearing. If you have any questions about the project, you can call the Newberg Planning Division at 503-537-1240.

Any issue which might be raised in an appeal of this case to the Land Use Board of Appeals (LUBA) must be raised during the public hearing process. You must include enough detail to enable the decision maker an opportunity to respond. The applicable criteria used to make a decision on this application for a comprehensive plan map and zone change are found in Newberg Development Code Section 15.302.030(A) (3).

Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence, arguments or testimony regarding the application through a continuance or extension of the record. Failure of an issue to be raised in the hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes appeal to the State Land Use Board of Appeals based on that issue.

The Planning Commission will make a decision on the application at the end of the public hearing process. If you participate in the public hearing process, either by testifying at the public hearing, or by sending in written comments, you will be sent information about any decision made by the City relating to this project.

Date Mailed: **Date notice is mailed**



Planning and Building Department
P.O. Box 970 • 414 E First Street • Newberg, Oregon 97132
503-537-1240. Fax 503-537-1272 www.newbergoregon.gov

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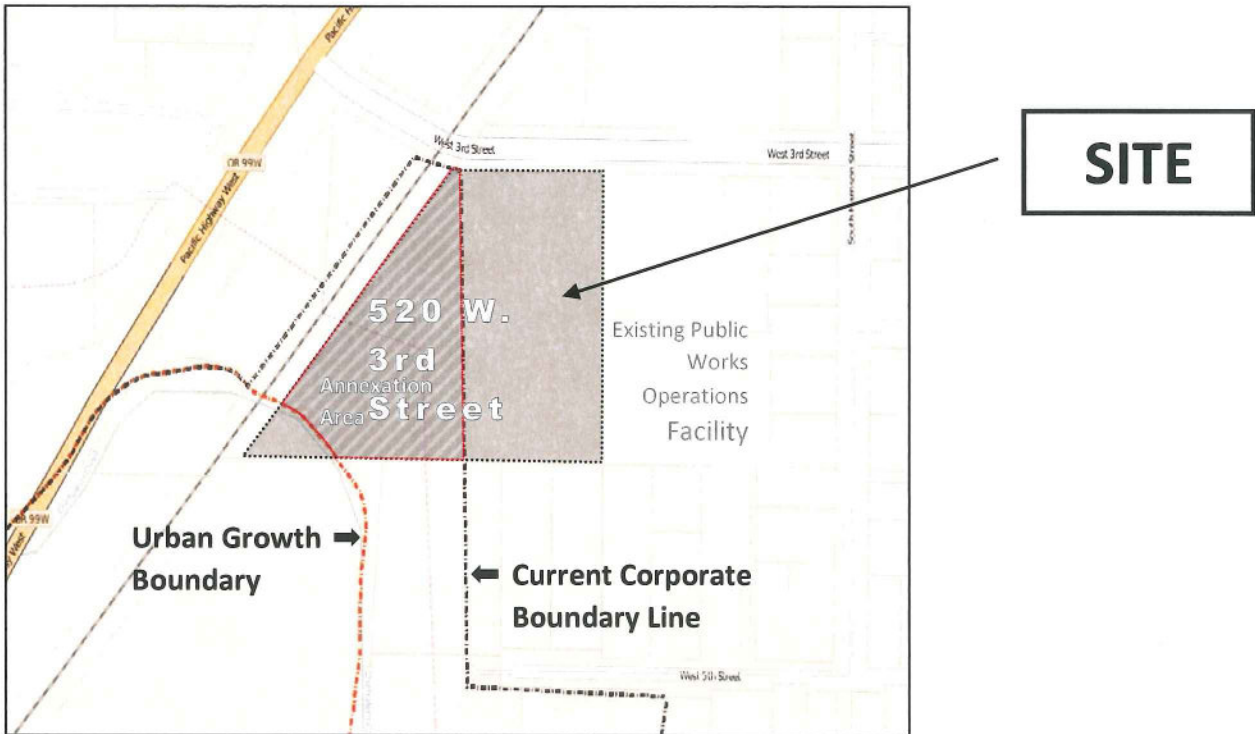
APPLICANT: City of Newberg Public Works

TELEPHONE: 503-537-1273

PROPERTY OWNER: City of Newberg

LOCATION: 520 W. 3rd Street, Newberg, OR 97132

TAX LOT NUMBER: Yamhill County 3219BD-1000



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Planning & Building Department
PO Box 970
Newberg, OR 97132

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Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence, arguments or testimony regarding the application through a continuance or extension of the record. Failure of an issue to be raised in the hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes appeal to the State Land Use Board of Appeals based on that issue.

The City Council will make a decision on the application at the end of the public hearing process. If you participate in the public hearing process, either by testifying at the public hearing, or by sending in written comments, you will be sent information about any decision made by the City relating to this project.

Date Mailed: **Date notice is mailed**

**520 W. 3rd Street Annexation
SAMPLE POSTED NOTICE**

Land Use Notice

FILE # (insert the file number assigned to you at the time of application)

PROPOSAL: Annex approximately 1.41 acres of land into the City of
Newberg

FOR FURTHER INFORMATION, CONTACT:

City of Newberg
Planning & Building Department
414 E First Street
Phone: 503-537-1240

2'

3'

Notice must be white with black letters, and must be landscape orientation, as shown above.
The notice must be lettered using block printing or a "sans-serif" font, such as Arial.

EXHIBIT D: LOT BOOK SERVICE TITLE REPORT



First American

First American Title Company of Oregon

825 NE Evans Street
McMinnville, OR 97128
Phn - (503)376-7363
Fax - (866)800-7294

YAMHILL COUNTY TITLE UNIT

FAX (866)800-7294

Title Officer: **Clayton Carter**

(503)376-7363

ctcarter@firstam.com

LOT BOOK SERVICE

AKS Engineering & Forestry LLC
12965 SW Herman RD STE 100
Tualatin, OR 97062

Order No.: 1039-2611644

March 08, 2016

Attn: Jacki Herb
Phone No.: (503)925-8799 - Fax No.: (503)925-8969
Email: herbj@aks-eng.com

Re:

Fee: \$125.00

We have searched our Tract Indices as to the following described property:

The land referred to in this report is described in Exhibit A attached hereto.

and as of March 03, 2016 at 8:00 a.m.

We find that the last deed of record runs to

City of Newberg, an Oregon Municipal Corporation

We find the following apparent encumbrances within ten (10) years prior to the effective date hereof:

1. Taxes, including the current fiscal year, not assessed because of ORS Exemption. If the exempt status is terminated an additional tax may be levied. Account No. 52908.
2. The rights of the public in and to that portion of the premises herein described lying within the limits of streets, roads and highways.
3. Reservations in deed, including the terms and provisions thereof:
Recording Information: August 23, 1950, Book 158, Page 482, Deed Records
Reserved By: United States of America

4. Easement, including terms and provisions contained therein:
Recording Information: June 27, 1962, Film Volume 23, Page 421, Deed and Mortgage
Records
In Favor of: City of Newberg
For: Sewer

We have also searched our General Index for Judgments and State and Federal Liens against the Grantee(s) named above and find:

NONE

We find the following unpaid taxes and city liens:

THIS IS NOT a title report since no examination has been made of the title to the above described property. Our search for apparent encumbrances was limited to our Tract Indices, and therefore above listings do not include additional matters which might have been disclosed by an examination of the record title. We assume no liability in connection with this Lot Book Service and will not be responsible for errors or omissions therein. The charge for this service will not include supplemental reports, rechecks or other services.

Exhibit "A"

Real property in the County of Yamhill, State of Oregon, described as follows:

TRACT I:

Part of Lots 4 and 5 of HURLEY'S FRUITLAND SUBDIVISION of the City of Newberg, Yamhill County, State of Oregon, being a part of the Original Donation Land Claim of John H. Hess and Seby Hess, his wife, Claims No. 39 and 60 in Township 3 South, Range 2 West of the Willamette Meridian in said County and State, said part being bounded and particularly described as follows:

BEGINNING at the Northwest corner of Lot 5, said point being on the South line of Third Street in Newberg, Oregon; thence East along the South line of Third Street, 165 feet; thence South parallel to the West line of said Lot 5, a distance of 378 feet to the South line of Lot 4 of HURLEY'S FRUITLAND SUBDIVISION; thence West along the South line of Lots 4 and 5, 165 feet to the Southwest corner of Lot 5; thence North along the West line of Lot 5, a distance of 378 feet to the POINT OF BEGINNING.

TRACT II:

That portion of the South half of the Original Donation Land Claim of John H. Hess and Seby Hess, his wife, being Claims No. 39 and 60 in Township 3 South, Range 2 and 3 West of the Willamette Meridian in Yamhill County, Oregon, lying or being bounded on the East by the West line of Tract 5 of HURLEY'S FRUITLAND SUBDIVISION, being also designated upon the plats and maps as Lot 5, HURLEY'S & LARGE'S ADDITION to the Town (now city) of Newberg, as platted and of record in the office of the County Clerk of said County and State, on the West by the Southern Pacific Railroad right of way; on the South by the line of said Claim and on the North by Third Street in said City; the above described tract being also recorded as Lot 6 of said subdivision.

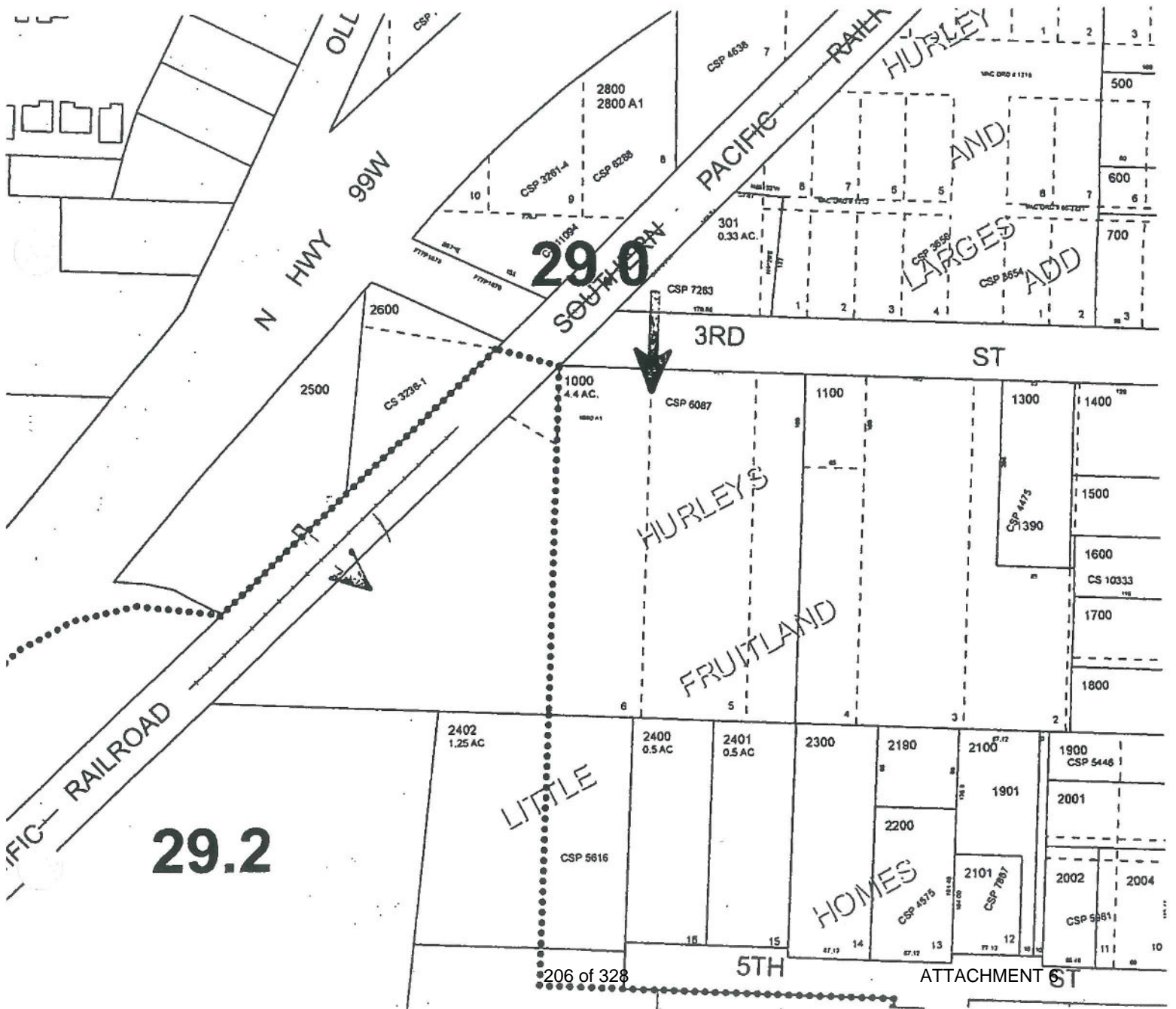
NOTE: This Legal Description was created prior to January 01, 2008.



First American



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



VOL 23 421
GRANT OF EASEMENT

THIS INDENTURE, made and entered into this 8 day of ^{JUNE}~~MAY~~, 1962, by and between JOHN P. MACAULAY and ELSIE T. MACAULAY, husband and wife, hereinafter referred to as the Parties of the First Part, and the CITY OF NEWBERG, a municipal corporation of Yamhill County, State of Oregon, hereinafter referred to as the Party of the Second Part,

WITNESSETH:

That for and in consideration of the sum of TEN AND NO/100 DOLLARS, cash in hand paid to the parties of the First Part, the receipt of which is hereby acknowledged, and for other valuable considerations, the Parties of the First Part have this day bargained and sold, and by these presents do bargain, sell, convey, transfer and deliver unto the Party of the Second Part, its successors and assigns, a permanent easement and right of way for a sewer, as hereinafter described, including the perpetual right to enter upon the real estate hereinafter described, at any time that it may see fit, and construct, maintain and repair underground sewer lines and works, including both sanitary sewer lines and storm sewer lines, together with such connections and equipment as may be necessary or desirable to be used in connection therewith, for the purpose of conveying sewage and storm drainage through and under the land hereinafter described, together with the right to excavate and refill ditches and/or trenches for the location of said sewer lines and equipment and the further right to excavate and refill the same for the purpose of inspection, maintenance and repair of said sewer lines and equipment and the replacement thereof, and the further right to remove trees, bushes, undergrowth and other obstructions interfering with the location, construction, inspection, repair and maintenance of said sewer lines, equipment and connections.

The land affected by the grant of this Easement and Right of Way hereinafter described as the "Principal Tract", is located in the City of Newberg, County of Yamhill and State of Oregon, and is more particularly described as follows:

Page 1 - Grant of Easement - Macaulay

Yamhill County Tax Lot No. 1932-137-1, and being Lot No. 4 of Hurley's Fruit Land Subdivision in said City of Newberg.

The Easement and Right of Way hereby granted is more particularly described as follows, to-wit:

A part of a sewer easement 20 feet in width having the following described center line, to-wit:

Beginning at a point on an existing 10 inch sewer line approximately 442.5 feet West of the intersection of Third Street and Harrison Street in the City of Newberg, Oregon, said place of beginning being North of a point on the North line of Lot #4 of Hurley's Fruitland Subdivision, 155 feet Easterly of the Northwest corner of Lot 5 of said Subdivision; thence South 00°04' West, 668.0 feet to a point in Fifth Street; thence East 702.0 feet to the intersection of Fifth and Lincoln Streets; thence South 00°37' West, 205.0 feet to a point; thence South 22°33' West, 346.05 feet to a point; thence South 07°15' West, 306.7 feet; thence South 56°25' East, 101.3 feet to a point in Dayton Avenue, said point being 208.8 feet North 41°17' East from a city monument; thence South 56°25' East, 255.3 feet; thence South 43° East, 151 feet to the pumping station.

The part of said sewer easement hereby granted being the portion thereof which lies upon and across said "Principal Tract" as hereinabove defined and described.

TO HAVE AND TO HOLD said Easement and Right of Way unto the Party of the Second Part and unto its successors and assigns forever.

The Parties of the First Part have and do hereby covenant with the Party of the Second Part that they are lawfully seized and possessed of the real property above described and granted; and that they have a good and lawful right to convey it, or any part of it; and that it is free from all encumbrances except as hereinafter stated, and that they will forever warrant and defend title thereto against the lawful claims of all persons whomsoever, except as hereinafter stated.

ENCUMBRANCES AS FOLLOWS:

Reservations and Exceptions in Deed from the Reconstruction Finance Corporation to Cargo Lumber and Timber Corporation, recorded August 23, 1950 in Book 158, Page 482, Deed Records. Reserves fissionable minerals, if any.

The Parties of the First Part have and do hereby further remise, release and quitclaim unto the Party of the Second Part, its successors and assigns, all of their right, title and interest in and to any portion of the within described Easement and Right of Way running from said Third Street to said Pumping Station, not lying within the "Principal Tract",

as hereinabove defined and described.

IN WITNESS WHEREOF, we have hereunto set our hands the day and year first hereinabove written.

John P. Macaulay (SEAL)
Elsie T. Macaulay (SEAL)
Parties of the First Part

STATE OF Oregon }
County of Yamhill } ss.

BE IT REMEMBERED, That on this 8 day of ~~May~~ JUNE, 1962, before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named JOHN P. MACAULAY and ELSIE T. MACAULAY, husband and wife, known to me to be the identical individuals described in and who executed the within instrument and acknowledged to me that they executed the same freely and voluntarily.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.



W. Gilbert
NOTARY PUBLIC FOR OREGON
My Commission Expires:
the 13th day of Dec. 1963

ACCEPTED by the City of Newberg, a Municipal Corporation of the State of Oregon, this 27th day of JUNE, 1962, by Order of the Council.

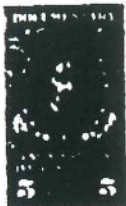
STATE OF OREGON

W. Gilbert
RECORDER

67917
27 day of June Beeds 62 3:54
35
LACK PUBLIC

QUITCLAIM DEED AND BILL OF SALE

KNOW ALL MEN BY THESE PRESENTS, That RECONSTRUCTION FINANCE CORPORATION, a Corporation created by Act of Congress, in consideration of SIX THOUSAND AND NO/100 DOLLARS (\$6,000.00) cash, receipt of which is hereby acknowledged, and the execution and delivery concurrently herewith of a Note in the sum of TWELVE THOUSAND AND NO/100 DOLLARS (\$12,000.00), secured by a Mortgage made by CAROO LUMBER & TIMBER CORP., a Corporation organized and existing under the Laws of the State of New York, does hereby remise, release and forever quitclaim to CAROO LUMBER & TIMBER CORP., its successors and assigns, all its right, title and interest in and to the following described real property, with the tenements, hereditaments and appurtenances, situate in the County of Yamhill, State of Oregon, bounded and described as follows, to-wit:



- (1) Part of Lots Numbered 4 and 5 of Hurley's Fruit Land Subdivision of the City of Newberg, Yamhill County, State of Oregon, being a part of the Original Donation Land Claim of John H. Hess and Selby Hess, his wife, Claims No. 39 and 40 in Township 3 South, Ranges 2 and 3 West of the Willamette Meridian in said County and State, said part being bounded and particularly described as follows:

Beginning at the Northwest corner of Lot Numbered 3, said point being on the South line of Third Street in Newberg, Oregon, thence East along the South line of Third Street 165 feet, thence South parallel to the West line of said Lot Numbered 3, 378 feet to the South line of Lot Numbered 4 of Hurley's Fruit Land Subdivision; thence West along the South line of Lots Numbered 4 and 5, 165 feet to the Southwest corner of Lot Numbered 3; thence North along the West line of Lot Numbered 3, 378 feet to the point of beginning.



- (2) That portion of the South Half of the original Donation Land Claim of John H. Hess and Selby Hess, his wife, being Claims No. 39 and 60 in Township 3 South, Ranges 2 and 3 West of the Willamette Meridian in Yamhill County, Oregon, lying or being bounded on the East by the West line of Tract 5 of Hurley's Fruit Land Subdivision, being also designated upon the plat and map as Lot 5, Hurley & Large's Addition to the Town (now City) of Newberg as platted and of record in the office of the County Clerk of said County and State; on the West by the Southern Pacific Railroad Right-of-way; on the South by the line of said Claim and on the North by Third Street in said City; the above described tract being also recorded as Lot 6 of said Subdivision. - -



And excepting from this conveyance and reserving to the United States of America, in accordance with Executive Order 9908, approved on December 5, 1947, (12 Fed. Reg. 8223), all uranium, thorium, and all other materials determined pursuant to section 5 (b) (1) of the Atomic Energy Act of 1946 (60 Stat. 761), to be peculiarly

essential to the production of fissionable material, contained, in whatever concentration, in deposits in the lands covered by this instrument are hereby reserved for the use of the United States, together with the right of the United States through its authorized agents or representatives at any time to enter upon the land and prospect for, mine, and remove the same, making just compensation for any damage or injury occasioned thereby. However, such land may be used, and any rights otherwise acquired by this disposition may be exercised, as if no reservation of such materials had been made; except that, when such use results in the extraction of any such material from the land in quantities which may not be transferred or delivered without a license under the Atomic Energy Act of 1946, as it now exists or may hereafter be amended, such material shall be the property of the United States Atomic Energy Commission, and the Commission may require delivery of such material to it by any possessor thereof after such material has been separated as such from the ores in which it was contained. If the Commission requires the delivery of such material to it, it shall pay to the person mining or extracting the same, or to such other person as the Commission determines to be entitled thereto, such sums, including profits, as the Commission deems fair and reasonable for the discovery, mining, development, production, extraction, and other services performed with respect to such material prior to such delivery, but such payment shall not include any amount on account of the value of such material before removal from its place of deposit in nature. If the commission does not require delivery of such material to it, the reservation hereby made shall be of no further force or effect.

RECONSTRUCTION FINANCE CORPORATION further transfers, sells, delivers and conveys to CARGO LUMBER & TIMBER CORP. the mill machinery and equipment located on the above described premises in its present condition and location without any representations or warranties whatsoever, either expressed or implied, which mill machinery and equipment includes the following:

- 1 Goulds Pump - 2" V-belt drive, no motor, Figure 7769 - broken castings
- 1 Ponds Saw - Iron Frame, 8' blade with friction clutch. Powered by G. E. 5 h.p. Motor No. 593506 with starter switch
- 1 Iron-saw Filing Frame
- 3 Peavies
- 1 8' Power Saw Blade
- 2 Pike Poles - 10' Aluminum Handle
- 1 Log Haul Drum with Line and Hook, 10" x 30", Gear Reduction, Friction Drive, from Head Rig
- 1 Log Turner, Drum and Cable with Hook, Friction Drive from Head Rig
- 1 Kicker and Turner, Friction Drive, H.M.
- 1 24' Carriage, S.M., 3 Block 48" opening with Electric Set Works, Cleveland Gear Reducer Size 50 AT - 29-1 ratio, No. 46-94829 and 5 h.p. G.E. Motor

- 1 Friction Feed Works, Chain driven from Head Rig
- 1 Head Rig, 2 52" Saws, Mandrels, Shafting Bearings, Wood Frame with Belt Drive to Top Saw. Powered by G. E. 150 h.p. Motor No. 323508 - 440 volt, with Counter Shaft, Sheaves and Bearing and 150 h.p. Allis-Chalmers Starter and Switch
- 1 6-line Roll-off Bearer Chain Driven by G.E. Gear Motor, 3 h.p. Model K28401629, Speed 1150 - No. 105577
- 1 Iron Frame 3-chain Transfer Chain to Edger, Gear Drive
- 1 Set 5-line Rolls, Belt Drive, 6" x 30" Rolls
- 1 3-saw Edger, Newport No. 3
- 1 3-chain Transfer to Trim Saw, Iron Frame, S.M., Driven by Master Gearhead 2 h.p. Motor No. TDL2802 with Starter and Control Station
- 5 3" x 14" Rollers in Wood Case
- 1 Fay & Egon Swing Mandrel Saw
- 1 7-1/2" x 30" Rolls in Iron Case
- 1 3-chain Green Chain, 75' long, Wood Frame, with Shafting, Sprockets, Bearings and Chain Drive; driven by 7-1/2 h.p. G.E. Gear Motor No. 6360672
- 1 Swing Mandrel Saw, S.M., Steel Frame, Belt Drive, driven by 10 h.p. Westinghouse Motor, no number, Gibbs Electric Co.
- 1 Wood Roll Case, 16 Rolls, 6" x 20"
- 1 Wood Conveyor to Bunker, 50' long with Shafting, Sprockets and #2 Chain
- 1 Trim Conveyor, 30' with Chain, Sprockets, Shafting and Bearings, driven by Master Gearhead Motor, 2 h.p., No. GA5369 - 48 r.p.m. Chain Drive
- 1 Sawdust Conveyor, 40' long with Chain, Shafting, Bearings and Sprockets, driven from Head Rig
- 1 American No. 80 Planer, driven by 40 h.p. Allis Chalmers Motor No. R16X60194-33 and 50 h.p. G.E. Motor No. XG6681430 with 2 Trumbull Master Switches No. 243554 and G.E. Starter, 35 h.p. No. 1537905 and 50 h.p. Starter, no number
- 1 Blower - 60" Archer, with Ducts and Pipe to Pit, approx. 225', Powered by 50 h.p. Skeen Electric Motor, no number
- 1 Double Drum Yarding Donkey, powered by Ford V-8 Motor, no number, with Cable, Yarding Blocks, Log Tongs and Cold Deck and Unloading Rigging
- 1 Chevrolet Truck, 1941 - 1-1/2 ton
- 1 Trailer, 1941 Trombley Dual Axle
- 7 Lengths 4" Irrigation Pipe
- 1 3" Pump, Centrifugal with Foot Valve and Pipe - Broken Casing and Rotor
- 1 Willamette Carrier, Model G.P. 2 - No. 612, 1940 Model
- 1 4" B.S. Vise
- 1 52" Hoe Saw
- 1 Dismantled 6' Chain Saw, Parts Only

The following items of machinery and equipment are expressly excluded from the foregoing list, and are subject to any or all claims that one J. N. HESS, as a Sublessee, may assert with respect thereto, arising out of the installation thereof by the said J. N. HESS, or otherwise, upon the above described premises:

- 1 Cutler Hammer 50 H.P. Starter
- 1 Planer Feeder H.M., Belt driven by 2 H.P. G.E. Motor 5K221V88 with controls
- 2 2" 4 blade side heads
- 2 4" 6 knife blades
- 1 short portable green chain w/1/2 H.P. Motor

TO HAVE AND TO HOLD the same to the said CARGO LUMBER & TIMBER CORP. and to its successors and assigns forever.

This DEED AND BILL OF SALE is without warranty and representation as to

location, as to title, quantity or condition of real and personal property, or in any other respect whatsoever.

IN WITNESS WHEREOF, RECONSTRUCTION FINANCE CORPORATION has executed this instrument this 16th day of August, 1950, by WILLIAM KENNEDY, its Attorney in Fact, hereto fully authorized by power of attorney, duly executed and recorded.

RECONSTRUCTION FINANCE CORPORATION

By William Kennedy

Attorney in Fact

STATE OF OREGON)
) ss
County of Multnomah)

On this 18th day of August, 1950, before me personally appeared

WILLIAM KENNEDY, who, being duly sworn, did say that he is the Attorney in Fact for RECONSTRUCTION FINANCE CORPORATION, and that he executed the foregoing instrument by authority of, and on behalf of said principal; and he acknowledged said instrument to be the act and deed of said principal.

Before me:

Olga Ester

Notary Public for Oregon

My Commission Expires: 1-25-54

(Notarial Seal)

25759

STATE OF OREGON,) ss.

County of Yamhill,)
I, A. R. McLAUGHLIN, County Clerk in and for said County and State, do hereby certify that the within Instrument of Writing was received and has been by me duly recorded on Page _____ of Volume _____ of the Records of _____ A. D. 1950, at _____ o'clock, A.M.

23 day of Aug A.D. 1950, at 8:40
In testimony whereof, I have hereto subscribed my name and affixed my Official Seal.
A. R. McLAUGHLIN, County Clerk
By Olga Ester Deputy

CISTOT000004MAR0716

NEXT ACTIVITY

YAMHILL COUNTY

STATEMENT OF ACCOUNT

PIN#: R3219BD 01000 001 ACCOUNT 52908 INT/DISC TO: 03152016 EXT PIN

START YEAR: 2009

03/15/2016

YEAR	LEVIED TAX	UNPAID TAX	FEE(S)	INT/DISC	PAYMENTS	AMOUNT DUE
2015						
2014	5960.99+				5960.99-	
2013	5766.63+				5766.63-	
2012	5581.71+				5581.71-	
2011	5405.01+				5405.01-	
2010	5547.74+				5547.74-	
2009	5357.27+				5357.27-	

TOTAL DUE:

---- ACTIONS ----

SI: 520 W 3RD ST

NEWBERG CITY OF
414 E 1ST ST
NEWBERG OR 97132

TXBL: 372099+

PEN: M#:

OMIT/HIST:

DQTX: LEVY CODES: 29.0 29.2

LEGAL: HURLEY & LARGE'S ADDITION = 4.40 ACRES 4.4 AC IN LT 5 & 6 & P

XMT | NEXT | BACK |

PARI T000005MAR0716

NEXT ACTIVITY:

EXEMPT
CITY OF NEWBERG

YAMHILL COUNTY
REAL PROP ASSESSMENT INQUIRY #1

PIN#: R3219BD 01000

1 ACCOUNT#: 52908

LEVY CODE(S): 29.0 29.2

PCA: 9413 STAT CLASS: 680 NBRHOOD: INW3

OWNER: NEWBERG CITY OF
BUYER:
AGENT:
ADDRESS: 414 E 1ST ST
NEWBERG OR 97132 -

EXEMPTION-ORS #: 307.090
 EXEMPT: X
 1/4 %:
 SR CIT:
 DISABLED CIT:

CURRENT YR (2015) ASS'D VALUES		CURRENT YR RMV:	PRIOR YR (2014) VALUES		
ASSESSED VALUE:	372,099+	LAND:	261,244	RMV:	877,782
TOTAL EXEMPTIONS:	372,099+	IMPS:	616,538	TAXABLE:	361,264
TOTAL TAXABLE:		TOTL:	877,782		

SPECIAL ASSESSMENTS

PERSONAL PROP: P13074 *MORE PP*

-TYPE- -UNITS-

RELATED PIN'S: R3219BD 01000 00A0

RELATED MFD STR:

DISQ TAX:
DISQ REASON:

DISQ DATE:

XMT | NEXT | BACK

PAR2 T000006MAR0716

NEXT ACTIVITY

EXEMPT
CITY OF NEWBERG

YAMHILL COUNTY
REAL PROP ASSESSMENT INQUIRY #2

PIN#: R3219BD 01000

1 ACCOUNT#: 52908

SITUS:	HOUSE #:	520	STREET:	W 3RD ST
	UNIT:		CITY:	NEWBERG

LEGAL: HURLEY & LARGE'S ADDITION = 4.40 ACRES
4.4 AC IN LT 5 & 6 & PT LT 4

VOL/PAGE:	/ 0000	INSTR YR/NBR:	2015/05496	PARENT PIN#:
COURT DEC:				PAR1 MH#:
REVIEW:				MH PIN#:
BOPTA:				MH PIN#:
MAGISTRATE:				MH PIN#:
D OF R:				
TAX CT:				

NOTES: AFF #9788 & AFF #9789
AFF #11180 1996 INCORRECT
VALUES ENTERED

ZONES: M2

AFFIDAVITS:

SPECIAL CONDITION CODE:

LAST UPDATE: 07/13/2015

XMT	NEXT	BACK
-----	------	------

LEGAL000007MAR0716

NEXT ACTIVITY

EXEMPT
CITY OF NEWBERG

YAMHILL COUNTY
LEGAL DESCRIPTION

PIN#: R3219BD 01000

001 ACCOUNT #: 52908

EXT PIN

LOT/BLOCK/SUBDIV:

HURLEY & LARGE'S ADDITION

ACREAGE: 4.40

SQUARE FOOTAGE: 0 NEXT LEGAL 0'

A/C/D	DESCRIPTION	LINE
	4.4 AC IN LT 5 & 6 & PT LT 4	1
		2
	#2010/04377 RE-RECORDED AS #2010/005654	6
A		0
A		0
A		0
A		0
A		0
A		0
A		0
A		0
A		0
A		0
A		0

CARTOG NOTES: NO
 YES
 GO

REVISION REMARKS: NO
 YES
 GO

XMT | NEXT | BACK

EXHIBIT E: ANNEXATION CONSENT FORM

ANNEXATION CONSENT

TO THE HONORABLE MAYOR AND COUNCIL OF THE CITY OF NEWBERG, OREGON:

The undersigned City of Newberg

being the sole owner of the real premises described in Exhibit A attached hereto and incorporated by reference herein, and generally known as (address) a portion of 520 W. 3rd Street and (tax lot) a portion of 3219BD-1000, does hereby consent to the annexation of such territory above described to the City of Newberg, Oregon.

The undersigned does hereby respectfully petition that the real premises described in Exhibit A be annexed to the City of Newberg, Oregon, in the manner provided by the laws of the State of Oregon and the Charter and Ordinances of the City of Newberg, Oregon.

This consent is binding upon the heirs, successors, and assigns of the above listed property.

In construing this consent, the singular includes the plural as circumstances may require.

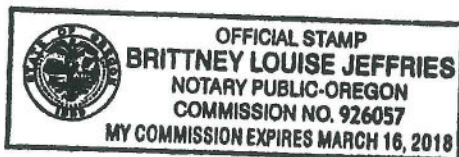
IN WITNESS WHEREOF, Petitioner has caused these presents to be executed this 29th day of Feb, 20 16.

Stephen A. Rhodes

STATE OF Oregon, County of Yamhill ss 2 / 29 / 2016
Month / day / year

Personally appeared the above named Stephen Rhodes, City Manager
Pro-Tem

and acknowledged the foregoing instrument to be his voluntary act and deed.



Before me:

Brittny Jeffries

Notary Public for City of Newberg

My commission expires 3/16/2018

EXHIBIT F: LEGAL DESCRIPTION AND EXHIBIT MAP OF AFFECTED TERRITORY



AKS ENGINEERING & FORESTRY, LLC
12965 SW Herman Road, Suite 100, Tualatin, OR 97062
P: (503) 563-6151 F: (503) 563-6152

AKS Job #5157

OFFICES IN: TUALATIN, OR - VANCOUVER, WA - SALEM-KEIZER, OR

EXHIBIT A

Annexation Legal Description for the City of Newberg

A tract of land located in the Northwest One-Quarter of Section 19, Township 3 South, Range 2 East, Willamette Meridian, City of Newberg, Yamhill County, Oregon and being more particularly described as follows:

Commencing at the northwesterly corner of Lot 16 of the plat "Little Homes", said point being on the southerly line of Document Number 201505496, Yamhill County Records; thence along said southerly line South 89°52'20" West 83.90 feet to a point on the City of Newberg city limits line, and also being the True Point of Beginning of the tract of land herein described; thence continuing along said southerly line South 89°52'20" West 189.09 feet to the centerline of Chehalem Creek, and also being the Urban Growth Boundary line; thence along said Urban Growth Boundary line Northwesterly 129.6 feet, more or less, to the southeasterly right-of-way line of Southern Pacific Railroad (30.00 feet from centerline); thence along said southeasterly right-of-way line North 43°46'29" East 416.16 feet to the southerly right-of-way line of W 3rd Street (30.00 feet from centerline), and also being a point on the City of Newberg city limits line; thence along said city limits line South 00°05'05" East 378.00 feet to the True Point of Beginning.

The above described tract of land contains 1.41 acres, more or less.

3/14/2016

REGISTERED
PROFESSIONAL
LAND SURVEYOR

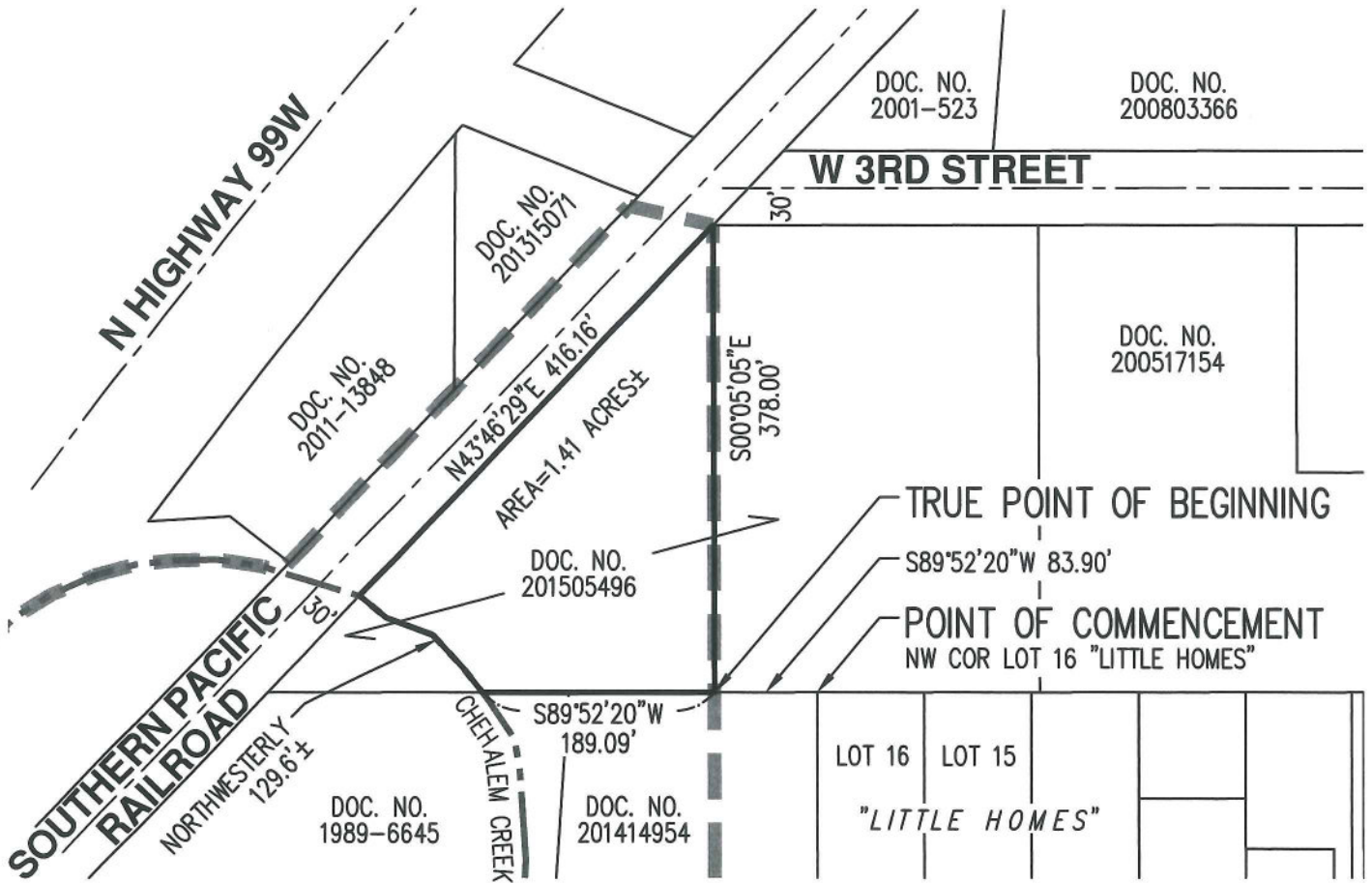
OREGON
JANUARY 9, 2007
NICK WHITE
70652LS

RENEWS: 6/30/16

EXHIBIT B

CITY OF NEWBERG ANNEXATION

A TRACT OF LAND LOCATED IN THE NORTHWEST 1/4 OF SECTION 19,
TOWNSHIP 3 SOUTH, RANGE 2 WEST, WILLAMETTE MERIDIAN,
CITY OF NEWBERG, YAMHILL COUNTY, OREGON



LEGEND

- URBAN GROWTH BOUNDARY
- CITY OF NEWBERG CITY LIMITS

03/14/2016

PREPARED FOR

CITY OF NEWBERG
414 EAST FIRST STREET
NEWBERG, OR 97132

SCALE 1" = 150 FEET



REGISTERED
PROFESSIONAL
LAND SURVEYOR

Nick White

OREGON
JANUARY 9, 2007
NICK WHITE
70652LS

RENEWS: 6/30/16

ANNEXATION EXHIBIT
520 W 3RD STREET - NEWBERG

AKS ENGINEERING & FORESTRY, LLC
12965 SW HERMAN RD, STE 100
TUALATIN, OR 97062
P: 503.563.6151 F: 503.563.6152 aks-eng.com



EXHIBIT
B

DRWN: WCB
CHKD: NSW

AKS JOB:
5157

**EXHIBIT G: VICINITY MAP/GENERAL
LAND USE PLAN OF AREA TO BE ANNEXED**



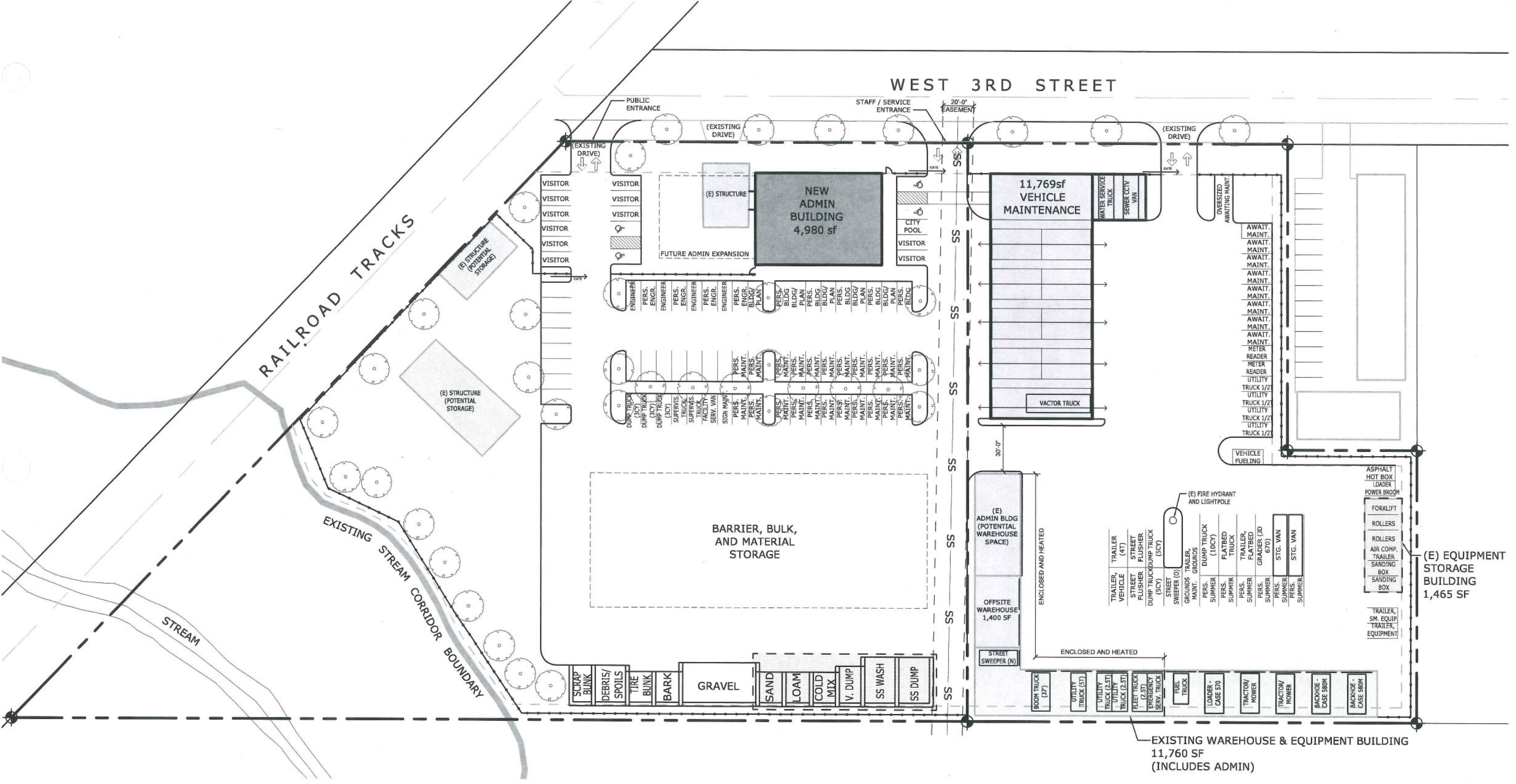
NOTES:

1. THIS MAP IS FOR PLANNING PURPOSES ONLY AND DOES NOT CONSTITUTE A PROPERTY BOUNDARY SURVEY.
2. THE PROPERTY LINES SHOWN HEREON ARE DERIVED FROM YAMHILL AND COUNTY ASSESSOR'S INFORMATION.
3. THE CONTOURS SHOWN HEREON ARE PER NOAA NAD83 LIDAR DATED 2007 WITH AN INTERVAL OF 1 FOOT.
4. THE AERIAL PHOTOGRAPH IS FROM GOOGLE EARTH.

LEGEND

- - - - - ZONING BOUNDARIES
- - - - - NEWBERG CITY LIMITS
- - - - - URBAN GROWTH BOUNDARY

EXHIBIT H: CONCEPT DEVELOPMENT PLAN



CITY OF NEWBERG MAINTENANCE YARD - Conceptual Site Study - DRAFT

500 W. 3rd Street, Newberg, Oregon 97132
 1" = 60'-0"
 November 16, 2015

150200

620 SW 5th Avenue, Suite 500
 Portland, Oregon 97204
 503.236.6000
 www.myhregroup.com

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MGA
 MYHRE GROUP ARCHITECTS

1

ATTACHMENT 6

**EXHIBIT I: TRANSPORTATION PLANNING
RULE (OAR 660-012-0060) ANALYSIS**

March 16, 2016

Steve Olson, AICP
Senior Planner
City of Newberg
414 E. First Street
Newberg, OR 97132

RE: Transportation Planning Rule Analysis – 520 W. 3rd Street

Dear Mr. Olson,

We are submitting this analysis of Oregon Administrative Rule 660-012-0060, more commonly known as the Oregon Transportation Planning Rule, as it relates to the annexation of an approximately 1.4 acre portion of the property at 520 W. 3rd Street.

Per Oregon Administrative Rule (OAR) 660-012-0060(9), a local government may find that an amendment to a zoning map does not significantly affect an existing or planned transportation facility if, (a) the proposed zoning is consistent with the existing comprehensive plan map designation (and the amendment does not change the comprehensive plan map); (b) the proposed zoning is consistent with the City's acknowledged TSP; and (c) the TSP accounts for urbanization of the subject property. The zoning map amendment included in this application seeks to change the current Yamhill County Heavy Industrial (HI) designation to Newberg's Light Industrial (M-2) designation and is consistent with, and does not alter, the City's Comprehensive Plan. Further this property was included in the Urban Growth Boundary and was accounted for in the City's 2005 TSP. This zoning map amendment therefore satisfies all of the above-referenced conditions and the City can find that it does not significantly affect a transportation facility.

Further OAR 660-012-0060(1) clearly defines those amendments to a plan or land use regulation that are considered to significantly affect a transportation facility. These amendments include, plan or land use regulation amendments that would: (a) Change the functional classification of an existing or planned transportation facility; (b) Change standards implementing a functional classification system; or (c) result in (A) types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility; (B) Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or (C) Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.

The zoning map amendment included in this application will not change the functional classification of any existing or planned roadways in the City of Newberg nor will it change the standards implementing a functional classification system. Finally, as shown in Table 1 below, and as described in more detail in the following paragraphs, the future zoning designation will not result in the degradation of performance of any transportation facilities that provide access to and from the property.

Table 1 Approximate Trip Generation from Previous and Anticipated Future Uses at 520 W. 3rd Street

Use Category	Weekday PM Peak Hour Trip Generation Rate (per acre)	Estimated Weekday PM Peak Hour Trip Impact
Cement Plant (ITE Land Use Code 140 – Manufacturing)	8.35	31
Operations/Maintenance Yard (ITE Land Use Code 110 – Light Industrial)	7.62	28

Source: ITE Trip Generation Manual, 8th Edition

The property takes access from and is intended to continue to take access from W. 3rd Street, which is classified as a minor collector street in the City’s TSP. In 2005, the intersection of OR Hwy 99W and W. 3rd Street operated at a LOS E during the evening peak hour even though observed traffic volumes accounted for only one-fifth of available capacity. This relatively constrained LOS is due to delay for vehicles making left turns from this unsignalized intersection onto OR Hwy 99W during the peak hour.

Rather than encourage access to OR Hwy 99W from its intersection with W. 3rd Street, the TSP encourages these motorists to instead use the signalized intersection at OR Hwy 99W and Main Street, hence the TSP does not identify specific capital projects planned for the intersection of W. 3rd Street and OR Hwy 99W. Further, under the 2025 Preferred Network Alternative (which includes the Newberg-Dundee Bypass that is currently under construction), the TSP forecasts that this intersection will operate at a LOS C (which exceeds the LOS E performance standard).

The intended future use of this site creates fewer impacts to the City’s transportation facilities than the former use of the site. The ITE Trip Generation Manual estimates a Weekday PM peak hour trip generation rate of 8.35 trips per acre for manufacturing uses (Land Use Code 140), such as the cement manufacturing plant that previously occupied this site. This equates to 31 PM peak hour trips for this approximately 3.8 acre property (see Table 1, above).

The ITE Trip Generation manual does not include a land use category for government operated maintenance yards, such as that intended for the future use of this site; the most similar use category listed in the ITE Trip Generation Manual is general light industrial (Land Use Code 110). ITE estimates a Weekday PM peak hour trip generation rate of 7.62 trips per acre for light-industrial uses. This equates to 28 PM peak hour trips for this approximately 3.8 acre property. Based on ITE estimates, PM peak hour trips generated from the intended use on this site will be slightly less than those previously generated on-site. Because the trip impacts from the anticipated uses on this site are lower than those which existed on this site when the 2005 TSP was adopted and because the TSP accounted for all land within the UGB, we conclude this annexation will not significantly affect a transportation facility. Please feel free to contact me anytime to discuss this matter.

Sincerely,
AKS ENGINEERING & FORESTRY, LLC

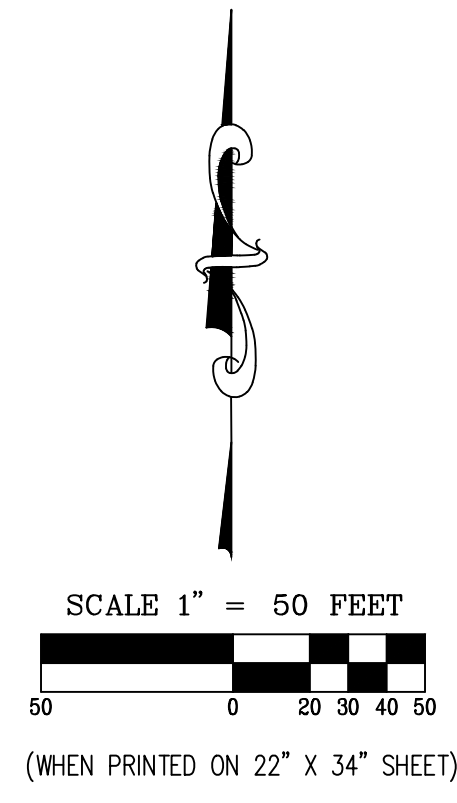


Chris Goodell, AICP, LEED^{AP}

**EXHIBIT J: PROPERTY OWNER ADDRESS
LIST**

520 W. 3rd Street Annexation
City of Newberg
Property Owners within 500-ft of Subject Site

First Name	Last Name	Address	City	State	ZIP
Apolinar	Perez	4205 SE Riverside Lp	McMinnville	OR	97128
Todd	Albertson	400 W 5th St	Newberg	OR	97132
Danika	Porter	3221 SW Primrose St	Portland	OR	97219-5314
Lawrence & Gracia	Landes	420 S Harrison St	Newberg	OR	97132
Ronald & Patricia	Hamilton	414 S Harrison St	Newberg	OR	97132
Eric	Hanson	416 S Harrison St	Newberg	OR	97132
Gary & Nancy	Mehlhoff	1150 NE 17th St	McMinnville	OR	97128
Roger & Katherine	Muckey	13650 NW Willis Rd	McMinnville	OR	97128
Carol	Miller	314 W 3rd St	Newberg	OR	97132
Angela	Vachter	315 W 4th St	Newberg	OR	97132
	Us Bank	115 Old Highway 99w	Newberg	OR	97132-4604
Ray & Janet	Goedel	201 Old Highway 99w	Newberg	OR	97132
Cong Ly	Voong	105 Old Highway 99w	Newberg	OR	97132
Ray & Janet	Goedel	201 Old Highway 99w	Newberg	OR	97132
Derek & Nicholette	McGraw	15048 Swallow Ct	Klamath Falls	OR	97601
Scott	Johnson	205 Old Highway 99w	Newberg	OR	97132
	Jsh LLC	23167 NE Sunnycrest Rd	Newberg	OR	97132
Jose	Pena	215 Old Highway 99w	Newberg	OR	97132
James & Carolyn	Keller	217 Old Highway 99w No 36	Newberg	OR	97132
	Nwt Development LLC	PO Box 490	Newberg	OR	97132
Adam	Drew	800 W 1st St No 7	Newberg	OR	97132
	Hurl Bros LLC	720 NW Michelbook Ct	McMinnville	OR	97128
Donald & Patricia & Samuel	Hulse	1203 N Main St	Newberg	OR	97132
Jason & Emanuela	Martin	111 S Harrison St	Newberg	OR	97132
Gary	Peters	201 S Harrison St	Newberg	OR	97132
Joyce	Colling	959 SW 7th St	Dundee	OR	97115
	Hurl Bros LLC	720 NW Michelbook Ct	McMinnville	OR	97128
	Newberg City Of	414 E 1st St	Newberg	OR	97132
	Dto LLC	18467 Ballinger Way NE	Lake Forest Park	WA	98155
	Yamhill County	434 NE Evans St	McMinnville	OR	97128
John & Lalonie	Self	301 S Harrison St	Newberg	OR	97132
	Triangle Holdings II LLC	3121 SW Moody Ave	Portland	OR	97239
Nancy	Fox	20805 NE Highway 240	Newberg	OR	97132
Gary & Karen	Burkholder	405 S Harrison St	Newberg	OR	97132
Leatrice	Wyatt	407 S Harrison St	Newberg	OR	97132
Cecelia	Glaser	5136 Perth Glen Dr	Antelope	CA	95843
Mario	Sanchez	560 SE Locust St	Dundee	OR	97115-9693
Donald & Orpha	Thumler	3558 Bursell Rd	Central Point	OR	97502
Alfred & Karen	Littau	409 W 5th St	Newberg	OR	97132
Brian	Behner	419 S Harrison St	Newberg	OR	97132
Mario	Sanchez	560 SE Locust St	Dundee	OR	97115-9693
Jorge Fonseca	Reyes	411 W 5th St	Newberg	OR	97132
Silvio	Carbone	8253 Tivoli Cove Dr	Las Vegas	NV	89128
Reed	Burch	501 W 5th St	Newberg	OR	97132
Brian	Fox	507 W 5th St	Newberg	OR	97132-2505
Lucas & Michelle	Buyas	517 W 5th St	Newberg	OR	97132
Melanie	Harrison	511 W 5th St	Newberg	OR	97132
James & Mary	Forkner	521 W 5th St	Newberg	OR	97132
	Sewatt Properties LLC	7881 SW Peters Rd	Tigard	OR	97224
	Pacwest Energy LLC	3450 Commercial Ct	Meridian	ID	83642
	Newberg Marine Center LLC	12128 NE Honey Ln	Newberg	OR	97132
Joseph & Joseph	Clements	604 W 1st St	Newberg	OR	97132
Jamie	Nibler	616 W 1st St	Newberg	OR	97132
John & Janice	Bertoglio	412 W 5th St	Newberg	OR	97132
Adrian & Marnie	Kole	504 W 5th St	Newberg	OR	97132
Jonathan & Laura	Umfleet	502 W 5th St	Newberg	OR	97132
Wendy	Ross	1205 W Highland Ave No A2	Hermiston	OR	97838
Dwight & Carolyn	Hageman	510 W 5th St	Newberg	OR	97132
Allen	King	520 W 5th St	Newberg	OR	97132
Jimmy & Mary	Parrack	24400 NE Zard Ln	Newberg	OR	97132
James & Carolyn	Keller	217 Old Highway 99w No 36	Newberg	OR	97132



NOTES:

1. THIS MAP IS FOR PLANNING PURPOSES ONLY AND DOES NOT CONSTITUTE A PROPERTY BOUNDARY SURVEY.
2. THE PROPERTY LINES SHOWN HEREON ARE DERIVED FROM YAMHILL AND COUNTY ASSESSOR'S INFORMATION.
3. THE CONTOURS SHOWN HEREON ARE PER NOAA NAD83 LIDAR DATED 2007 WITH AN INTERVAL OF 1 FOOT.
4. THE AERIAL PHOTOGRAPH IS FROM GOOGLE EARTH.

LEGEND

- ZONING BOUNDARIES
- - - NEWBERG CITY LIMITS
- - - URBAN GROWTH BOUNDARY

DESIGNED BY:
 DRAWN BY:
 CHECKED BY: NW
 SCALE: AS NOTED
 DATE: 03/15/2016

PRELIMINARY

REVISIONS

JOB NUMBER
5157
 SHEET
01



Community Development Department

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

PLANNING COMMISSION STAFF REPORT

Nova Grace Subdivision

Subdivision Tentative Plan/Variance to maximum building height application

FILE NUMBER: SUB3-16-001/VAR-16-001

REQUEST: Application for a subdivision tentative plan to divide a 1.99 acre parcel into 14 lots for single-family detached homes, and for a variance to increase the maximum building height from 30 feet to 33 feet.

APPLICANT: Del Boca Vista, LLC

OWNER: Darby Family Trust

LOCATION: 900 Wynooski Street (tax lot 3220CA-900)

DESIGNATION: Comprehensive Plan designation of MDR (Medium Density Residential); Zoning designation of R-2 (Medium Density Residential), with a Stream Corridor overlay on the northeast corner of the parcel

CODE CRITERIA: Newberg Development Code § 15.235.060(A) and 15.215.040

HEARING DATE: Planning Commission Hearing on May 12, 2016

ATTACHMENTS:

Planning Commission Order 2016-21 with:

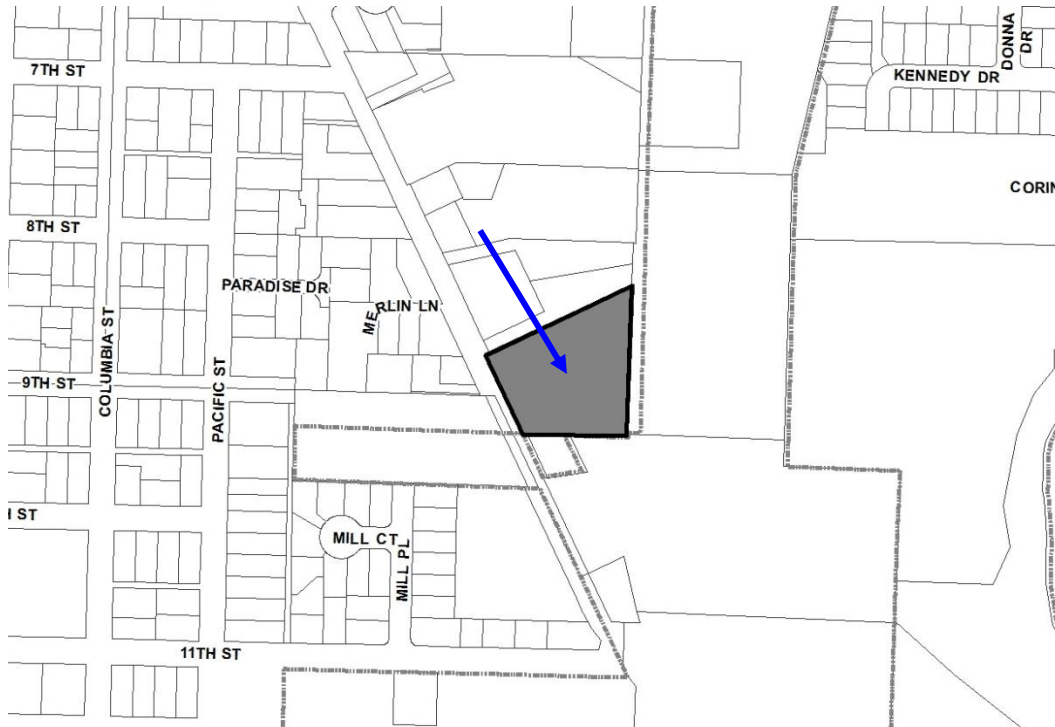
Exhibit A: Findings

Exhibit B: Conditions of approval

Exhibit C: Tentative plan

1. Aerial photo
2. Zoning map
3. Public & Agency Comments
4. Application
5. Newberg Development Code & Comprehensive Plan (by reference)

Location Map: 900 Wynooski Street



Proposal

The applicant has requested a Subdivision tentative plan approval for Nova Grace subdivision. The application would divide a 1.99 acre site into 14 lots for single-family detached homes. The existing home on the site will be removed. Part of the site is in the Stream Corridor overlay zone, which requires that the subdivision application be reviewed by the Planning Commission. The applicant has also requested approval of a variance which would increase the maximum building height from 30 feet to 33 feet.

Process

This is a Type III application for a Subdivision tentative plan, due to the Stream Corridor overlay on the site. The Planning Commission will hear this proposal on May 12, 2016 at 7 p.m. at the Newberg Public Safety Building (401 E Third Street). This will be a quasi-judicial hearing, and after taking public testimony the Planning Commission will make a decision on the application based on the criteria listed in the attached findings.

Noticing: Important dates related to this application are:

1. 4/18/16: The Community Development Director deemed the application complete.
2. 4/18/16: The applicant mailed notice to the property owners within 500 feet of the site.
3. 4/18/16: The applicant posted notice on the site.
4. 4/27/16: The Newberg Graphic published notice of the Planning Commission hearing.

5. 5/12/16: The Planning Commission will hold a quasi-judicial hearing to consider the application.

Site Information

The site is located on the east side of Wyooski Street above Hess Creek. Most of the site has only a slight slope, although the stream corridor is fairly steep. It currently contains a single-family home. There are many mature trees around the house and in the stream corridor.

Surrounding uses:

- North: Single-family residential
- East: Stream corridor - undeveloped
- West: Single-family residential – one large lot with a single house, and some smaller lots.
- South: Single-family residential

Access and Transportation: The property is located on Wyooski Street which is a 2-lane major collector and under the jurisdiction of Yamhill County. The applicant must obtain an access permit from Yamhill County.

Utilities:

- a. Wastewater: A 10-inch wastewater line currently exists on Wyooski Street which can be used for the development of the site.
- b. Water: An 18-inch water line currently exists on Wyooski Street which can be used for the development of the site.
- c. Stormwater: A public stormwater ditch exists on Wyooski Street.

Agency Comments:

The application was routed to several public agencies for review and comment. Comments and recommendations from city departments have been incorporated into the findings and conditions. The findings are jointly written by the Planning Division and Engineering Department. As of the writing of this report, the city received the following agency comments (summarized below – the full text is in Attachment 3):

- **PGE:** *Reviewed, no conflict.*
- **Newberg School District:** *Reviewed, no conflict.*
- **Oregon Dept. of State Lands (summarized):** *The national wetlands inventory shows a wetland/waterway on the property. This is a preliminary jurisdictional determination and is advisory only. A permit may be required by the US Army Corps of Engineers. DSL will require a permit for 50 cubic yards or greater of impacts below the Ordinary High Water of Hess Creek and/or onsite wetlands. Since some of the lots are within the stream corridor, please contact Aquatic Resource Coordinator Mike De Blasi at 503-986-5226 to discuss this project and determine if a permit will be required.*

Public Comment:

As of the writing of this staff report, the city has received no written public comments.

Issues & Analysis summary:

1. **Parking:** The subdivision will be for single family homes, each of which will have at least two off-street parking spaces. There will be little on-street parking in the subdivision, and there is no on-street parking on Wynooski Street. The proposal meets the Development Code, but the applicant is encouraged to arrange driveway locations to create as much on-street parking as possible.
2. **Variance:** – Building height in the R-2 zone is limited to 30 feet. In the Development Code, building height is measured to the midpoint of the highest roof gable. The applicant has submitted a three story house plan with a building height of 33 feet, and has submitted a variance request to allow 3 additional feet of building height.

PRELIMINARY STAFF RECOMMENDATION: The preliminary staff recommendation is made in the absence of public hearing testimony, and may be modified subsequent to the close of the public hearing. At this writing, staff recommends the following motion:

Move to adopt Planning Commission Order 2016-21, which approves the requested subdivision tentative plan/variance with the attached conditions.



PLANNING COMMISSION ORDER NO. 2016-21

**AN ORDER APPROVING SUB3-16-001/VAR-16-001 FOR THE NOVA GRACE
SUBDIVISION TENTATIVE PLAN & BUILDING HEIGHT VARIANCE AT 900 WYNOOSKI
STREET, YAMHILL COUNTY TAX LOT 3220CA-0900.**

RECITALS

1. Del Boca Vista, LLC, submitted an application for tentative plan approval for a 14-lot subdivision tentative plat and a variance to increase the building height limit from 30 feet to 33 feet at 900 Wynooski Street, Yamhill County tax lot 3220CA-0900.
2. After proper notice, the Newberg Planning Commission held a hearing on May 12, 2016, to consider the application. The Commission considered testimony and deliberated.
3. The Newberg Planning Commission finds that the application, as conditioned, meets the applicable criteria as shown in the findings shown in Exhibit "A".

The Newberg Planning Commission orders as follows:

1. The tentative subdivision plan application SUB3-16-001 and variance application VAR-16-001 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 May 27, 2016 unless appealed prior to that date.
4. This order shall expire two years after the effective date above if the applicant does not 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 12th day of May, 2016.

ATTEST:

Planning Commission Chair

Planning Commission Secretary

List of Exhibits:

- Exhibit "A": Findings
- Exhibit "B": Conditions
- Exhibit "C": Tentative plan

**Nova Grace: Subdivision tentative plan & building height variance
SUB3-16-001/VAR-16-001**

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 applicant is dividing all of tax lot 900. Tax lot 1000 is located east of the site and is owned by the same owner as tax lot 900, but is almost entirely outside city limits and within the stream corridor. Tax lot 1000 has no significant development potential. As conditioned, 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 sections A-C.

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 be completed prior to final plat approval.

A. 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:

2. In the R-2, R-3, and RP districts, each lot or development site shall have a minimum area of 3,000 square feet or as may be established by a subdistrict. In the R-2 and R-P districts, the average size of lots in a subdivision intended for single-family development shall not exceed 5,000 square feet.

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

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

Finding: The proposed lots range in size from 2,420 sf to 11,017 sf. The average lot size is 4,518 sf, which exceeds the 3,000 sf per lot minimum for average lot size. The average lot size without the stream corridor area included is 3,189 sf. The average lot size does not exceed the 5,000 sf maximum. The lot area does not include land within public or private streets. The maximum lot area calculation did not include land within stream corridors. This criterion is met.

B. 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.

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: All of the lots in the subdivision have at least 25 feet of frontage on a street or through an access easement, and are at least 30 feet wide at the front building line. This criterion is met.

C. 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.

Findings: Engineering permit general comment: The Public Works (PW) Design and Construction Standards require that the applicant submit engineered construction plans for review and approval of all utilities, public street improvements, and any new public streets being constructed. Please note that additional Engineering Department plan review application and fees apply for review of plans. Submit any required easements for review and approval, and record approved easements. No construction of, or connection to, any existing or proposed public utility/improvements will be permitted until all plans are approved and all necessary permits have been obtained

There is an existing 18-inch public water line on Wyooski Street. The applicant is proposing to utilize the line for service to the development. As required by PW Design and Construction Standards (Section 3.2.2) the applicant must provide an 8-inch public water line as the primary feeder line to the subdivision. The applicant is proposed an 8-inch public water line from Wyooski Street to the subdivision. This requirement is met.

The utility plan provided by the applicant shows utility lines that may not meet the separation requirements of PW Design and Construction Standards Section 3.2.4. The applicant must provide a revised utility plan and profile sheets showing utility line separation that meets the requirements of PW Design and Construction Standards Section 3.2.4.

Public water lines must meet alignment requirements as specified in PW Design and Construction Standards Section 3.2.3 and Drawing 103. The utility plan provided by the applicant may not meet these alignment requirements. The applicant must provide a revised utility plan that meets the alignment requirements of PW Design and Construction Standards Section 3.2.3 and Drawing 103.

The utility plan provided by the applicant shows water service lines greater than 80 feet in length. PW Design and Construction Standards Section 3.1 requires a minimum pressure of 40 psi as measured at the meter. The applicant must provide domestic flow calculations showing that the minimum pressure of the service lines meets the requirements of PW Design and Construction Standards Section 3.1.

PW Design and Construction Standards Section 3.3.9, require that water service lines terminate in front of the property to be served and be located 18 inches each side of a common property line. The utility plan provided by the applicant does not meet the requirements of this section. The applicant must provide a revised utility plan showing water service lines that meet the requirements of PW Design and Construction Standards Section 3.3.9

A public fire hydrant is located within 500 feet of the proposed development. Show existing hydrants on drawings; new hydrants may be necessary to comply with the Fire Code. PW Design and Construction Standards Section 3.1 require a minimum fire flow of 1,000 gpm with a 20 psi residual. The applicant must provide fire flow calculations that meeting the requirements of PW Design and Construction Standards (Section 3.1) to Engineering Services for review and approval.

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.

Findings: There is an existing 10-inch public wastewater line on Wyooski Street. The applicant is proposing to utilize the line for service to the development. The City of Newberg Sewerage Master Plan (2007), shows that Tax Lot 3220CA 00900 at 900 Wyooski Street is served by a septic system. The applicant must abandon and remove the existing septic system as required by NMC 13.10.050 to NMC 13.10.070 or provide written confirmation from Yamhill County that it has previously been decommissioned and appropriately removed from the site.

Public wastewater lines must meet alignment requirements as specified in PW Design and Construction Standards Section 2.4 and Drawing 103. The utility plan provided by the applicant does not appear to

not meet these alignment requirements. The applicant must provide a revised utility plan that meets the alignment requirements of PW Design and Construction Standards Section 2.4 and Drawing 103.

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.

Findings: More than 1 acre will be disturbed by the project which requires that the applicant obtain a 1200-C permit from the Oregon Department of Environmental Quality (DEQ). PW Design and Construction Standards 1.8.7 and the City of Newberg's Erosion and Sediment Control Manual requires that the applicant provide a copy of the DEQ 1200-C permit to the City for review.

The applicant shows public stormwater easements on the utility plan. The easements may conflict with the requirements for easements which are shown in PW Design and Construction Standards Drawing 109. The applicant must provide the Engineering Department with the proposed language and final locations of the public easement for review and approval prior to recording the easement. The easement must comply with the requirements of PW Design and Construction Standards Drawing 109.

The applicant shows a large stormwater outfall, and a small stormwater outfall for lot 8, on the eastern boundary of the property. PW Design and Construction Standards Section 4.1 states that stormwater cannot flow over adjacent public or private property in a volume, velocity, or location materially different from that which existed before development occurred. The applicant must provide a revised stormwater report with calculations that show volumes and velocities that meet PWDCS requirements. A private stormwater easement is required over tax lot 1000 for the stormwater flow; provide a draft easement for review and approval prior to recording the easement.

The applicant shows a stormwater outfall on the eastern boundary of the property. PW Design and Construction Standards Section 4.1 and Section 4.5.11 require that stormwater exiting a property be discharged at the natural location with adequate flow control and energy dissipation to prevent flooding, erosion, and sedimentation. The stormwater report submitted with the applications shows an outfall area but does not provide calculations showing that stormwater exiting will have non-erosional velocities. The applicant must provide a revised stormwater report with calculations that show the energy dissipater will reduce stormwater velocity to a non-erosional level.

PW Design and Construction Standards Section 4.3 and Drawing 103 specify the alignment and cover requirements of the stormwater system. The utility plan submitted by the applicant may not adhere to these requirements. The applicant must provide a revised utility plan that complies with PW Design and Construction Standards Section 4.3 and Drawing 103.

PW Design and Construction Standards Section 4.4 specifies the location of structures such as inlets, catch basins, and manholes. The utility plan submitted by the applicant may not adhere to these requirements. The applicant must provide a revised utility plan that complies with PW Design and Construction Standards Section 4.4.

PW Design and Construction Standards Section 4.5 specifies the information that must be contained within the stormwater report. The stormwater report submitted by the applicant does not provide the level of information required by Section 4.5. The applicant must provide a revised stormwater report that provides the information required by PW Design and Construction Standards Section 4.5.

PW Design and Construction Standards Section 4.5 requires that a plan be submitted for maintaining private stormwater facilities. The maintenance plan submitted by the applicant cannot be reviewed by the City because of the type of stormwater facilities is not readily apparent from the stormwater report and the utility plan. The applicant must provide a revised maintenance plan to the City, for review and approval, that is appropriate for the type of stormwater facilities that will be constructed at the site.

PW Design and Construction Standards Section 4.5.1 requires engineering calculations for sizing stormwater facilities. The applicant has submitted a stormwater report that uses a simplistic (SIM) form for sizing the stormwater facilities and provides insufficient information to provide a qualified review. The applicant must provide a revised stormwater report that meets the requirements and provides the engineering calculations required by PW Design and Construction Standards Sections 4.5 to 4.9.

PW Design and Construction Standards 4.5 requires a minimum time of concentration of 5 minutes. The utility plan submitted by the applicant does not appear to provide a minimum time of concentration of 5 minutes for all lots prior to discharge. The applicant must provide a revised stormwater report that uses a calculated minimum time of concentration of 5 minutes.

PW Design and Construction Standards 4.6.5 requires City access to all public stormwater facilities. The applicant shall provide construction plans that comply with the requirements of PW Design and Construction Standards 4.6.5.

The stormwater outfall is within the Stream Corridor overlay. Development Code section 15.342.060 requires a restoration plan for the disturbed area. The applicant shall provide a restoration plan for review and approval for the disturbed area that uses a combination of native trees, shrubs and grasses from the Newberg stream corridor plant list. The disturbed area shall be replanted to achieve 90 percent cover in one year. All disturbed areas shall be protected with erosion control devices prior to construction activity. The erosion control devices shall remain in place until 90 percent cover is achieved.

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

Findings: The proposed development is accessed by Wyooski Street which is under the jurisdiction of Yamhill County. The applicant must obtain an access permit from Yamhill County for improvements to Wyooski Street.

Wynooski Street is a major collector and a critical bike route as determined by the City of Newberg's ADA/Pedestrian/Bike Route Improvement Plan and PW Design and Construction Standards Section 5.15. The information submitted by the applicant does not show bike lanes. The applicant must provide revised plans that show that bike lanes will be constructed on the Wynooski Street frontage and that comply with the requirements of PW Design and Construction Standards Section 5.15.

PW Design and Construction Standards Section 5.16 specifies the requirements for driveways. The information submitted by the applicant is insufficient to determine whether the development will meet the requirements for driveways. The applicant must submit revised plans that comply with the requirements of PW Design and Construction Standards Section 5.16.

PW Design and Construction Standards Section 5.23 specifies the intersection sight distance for streets within the City of Newberg and requires a sight distance report. The information submitted by the applicant did not address sight distances. The applicant must provide a sight distance report that complies with the requirements of PW Design and Construction Standards Section 5.23.

Per PWDCS, the developer shall be responsible for the repair and replacement of any off-site city infrastructure, including streets, which are damaged by construction activities.

Per the Fire Code, the access road to lots 8, 9, and 10 is required to be a 20 foot wide driveable surface with "No Parking, Fire Lane" signs installed on both sides of the access.

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.

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.

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).

15.430.010 Underground utility installation.

A. All new utility lines, including but not limited to electric, communication, natural gas, and cable television transmission lines, shall be placed underground. This does not include surface-mounted transformers, connections boxes, meter cabinets, service cabinets, temporary facilities during construction, and high-capacity electric lines operating at 50,000 volts or above.

B. Existing utility lines shall be placed underground when they are relocated, or when an addition or remodel requiring a Type II design review is proposed, or when a developed area is annexed to the city.

C. The director may make exceptions to the requirement to underground utilities based on one or more of the following criteria:

- 1. The cost of undergrounding the utility is extraordinarily expensive.***
- 2. There are physical factors that make undergrounding extraordinarily difficult.***

3. Existing utility facilities in the area are primarily overhead and are unlikely to be changed.

Finding: Wyooski Street does not meet current street width standard of 15.505.060. The applicant proposes to provide an additional 10 feet of right-of-way to improve the street to the required width. This requirement is met.

Wyooski Street currently contains sidewalks that are of inadequate width and that are in poor condition. The applicant is proposing 5-foot setback sidewalks for the Wyooski Street frontage and within the proposed development. This requirement is met.

Street tree plan: Provide a landscape plan that identifies all planned tree species for street trees and common landscaping in accordance with NDC 15.420.010. A landscape bond will be required for installation of street trees.

Utility undergrounding: All new utility lines shall be placed underground, and the existing utility lines along Wyooski shall be undergrounded when they are relocated.

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 inconsistent with the objectives of the zoning ordinance.

Finding: The R-2 zone limits the height of main buildings to 30 feet. Building height is measured from grade to the midpoint of the highest gable on a pitch roof. The applicant has submitted a variance request to increase the height limit to 33 feet, due to the site constraints that impact the property. They have submitted a drawing of the proposed houses. The highest gable on the house is approximately 31 feet tall at its lowest point, and 34 feet 9-1/2 inches at its highest point; the midpoint of the highest gable is slightly less than 33 feet above grade.

The stream corridor constrains development on 18,608 sf of the site. In order to meet the R-2 density standard for the site the developer has to create small narrow lots, which creates a practical difficulty. The developer has stated that it would be impracticable to develop the site to R-2 standards without a height variance to allow tall narrow buildings.

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: The stream corridor comprises approximately 21% of the entire 1.99 acre parcel, which does create an unusual or exceptional circumstance on this property which does not generally apply to other R-2 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: The developer has argued that strict enforcement of the height limit would require small houses on these small, narrow lots, which would then be impracticable to develop at R-2 densities. It is true that owners of other properties in the R-2 district which do not have large stream corridor areas would have a simpler time developing to the R-2 density standard, and the variance request for a 10% height increase is not an overly large increase.

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: The proposed 10% height increase (from 30 feet to 33 feet) is not a large increase, and granting it would not constitute a grant of special privilege inconsistent with the limitations on other properties in the R-2 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: The height increase from 30 to 33 feet is not a large increase, and would have no effect on the public health, safety or welfare. The houses would continue to meet all required setback and lot coverage standards, and the height increase would not be materially injurious to properties or improvements in the vicinity.

Conclusion: Based on the above-mentioned findings, the application meets the required criteria within the Newberg Development Code, subject to completion of the attached conditions.

**Nova Grace tentative subdivision plan
SUB3-16-001**

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

1. Construction Plans must be submitted for all infrastructure per the requirements below.

General Requirements for engineering permit:

The Public Works Design & Construction Standards require that the applicant submit engineered construction plans for review and approval of all utilities, public street improvements, and any new public streets being constructed. Please note that additional Engineering Department plan review application and fees apply for review of plans. Submit any required easements for review and approval, and record approved easements. No construction of, or connection to, any existing or proposed public utility/improvements will be permitted until all plans are approved and all necessary permits have been obtained.

The plans must note the following:

Utilities:

1. Water Requirements
 - a. The applicant must provide a revised utility plan and profile sheets showing utility line separation that meets the requirements of PW Design and Construction Standards Section 3.2.4.
 - b. The applicant must provide a revised utility plan that meets the alignment requirements of PW Design and Construction Standards Section 3.2.3 and Drawing 103.
 - c. The applicant must provide a revised utility plan showing water service lines that meet the requirements of PW Design and Construction Standards Section 3.3.9.
 - d. The applicant must provide domestic flow calculations showing that the minimum pressure of the service lines meets the requirements of PW Design and Construction Standards Section 3.1.
 - e. The applicant must provide fire flow calculations that meet the requirements of PW Design and Construction Standards (Section 3.1) to Engineering Services for review and approval. Show existing hydrants on drawings; new hydrants may be necessary to comply with the Fire Code.

2. Wastewater Requirements
 - a. The applicant must abandon and remove the existing septic system as required by NMC 13.10.050 to NMC 13.10.070 or provide written confirmation from Yamhill County that it has previously been decommissioned and appropriately removed from the site.
 - b. The applicant must provide a revised utility plan that meets the alignment requirements of PW Design and Construction Standards Section 2.4 and Drawing 103.
3. Stormwater Requirements:
 - a. PW Design and Construction Standards 1.8.7 and the City of Newberg's Erosion and Sediment Control Manual requires that the applicant provide a copy of the DEQ 1200-C permit to the City for review.
 - b. The applicant must provide a revised utility plan that complies with PW Design and Construction Standards Section 4.3 and Drawing 103.
 - c. The applicant must provide a revised utility plan that complies with PW Design and Construction Standards Section 4.4.
 - d. The applicant must provide a revised stormwater report that provides the information required by PW Design and Construction Standards Section 4.5.
 - e. The applicant must provide a revised stormwater report that meets the requirements and provides the engineering calculations required by PW Design and Construction Standards Sections 4.5 to 4.9.
 - f. The applicant must provide a revised stormwater report with calculations that show volumes and velocities that meet PWDCS requirements.
 - g. The applicant must provide a revised stormwater report that uses a calculated minimum time of concentration of 5 minutes.
 - h. The applicant must provide a revised stormwater report with calculations that show the energy dissipater will reduce stormwater velocity to a non-erosional level.
 - i. The applicant must provide the Engineering Department with the proposed language and final locations of the public easement for review and approval prior to recording the easement. The easement must comply with the requirements of PW Design and Construction Standards Drawing 109.
 - j. A private stormwater easement is required over tax lot 1000 for the stormwater flow; provide a draft easement for review and approval prior to recording the easement.
 - k. The applicant must provide a revised maintenance plan to the City, for review and approval, that is appropriate for the type of stormwater facilities that will be constructed at the site.
 - l. The applicant shall provide construction plans that comply with the requirements of PW Design and Construction Standards 4.6.5.
 - m. Stormwater outfall in Stream Corridor: The applicant shall provide a restoration plan for review and approval for the disturbed area that uses a combination of native trees, shrubs and grasses from the Newberg stream corridor plant list. The disturbed area shall be replanted to achieve 90 percent cover in one year. All disturbed areas shall be protected with erosion control

devices prior to construction activity. The erosion control devices shall remain in place until 90 percent cover is achieved.

4. Streets:

- a. The applicant must obtain an access permit from Yamhill County for improvements to Wynooski Street.
- b. Developer shall be responsible for the repair and replacement of any off-site city infrastructure, including streets, which are damaged by construction activities.
- c. The applicant must provide revised plans that show that bike lanes will be constructed on the Wynooski Street frontage and that comply with the requirements of PW Design and Construction Standards Section 5.15.
- d. The applicant must submit revised plans that comply with the requirements of PW Design and Construction Standards Section 5.16.
- e. The applicant must provide a sight distance report that complies with the requirements of PW Design and Construction Standards Section 5.23.
- f. Per the Fire Code, the access road to lots 8, 9, and 10 is required to be a 20 foot wide driveable surface with “No Parking, Fire Lane” signs installed on both sides of the access.

2. **Street Tree Plan:** Provide a landscape plan that identifies all planned tree species for street trees and common landscaping in accordance with NDC 15.420.010. A landscape bond will be required for installation of street trees.
3. **Utility undergrounding:** All new utility lines shall be placed underground, and the existing utility lines along Wynooski shall be undergrounded when they are relocated.

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 Department (503-537-1273).
 - a. Construct all public streets according to city standards for local residential streets.
 - b. Construct all approved public utility lines, including stormwater facilities.

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 Services Department. The City Engineer 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, wastewater, water and stormwater easements to the City.
 - ii. 10 ft utility easements along all frontages.
 - b. Dedications of Right-Of-Way as shown on the tentative plat and required by these conditions.
 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.
 4. **Final Mylar Copies of the Subdivision Plat:** Submit two final mylar copies of the corrected final subdivision plat (after red-line corrections have been made). 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.

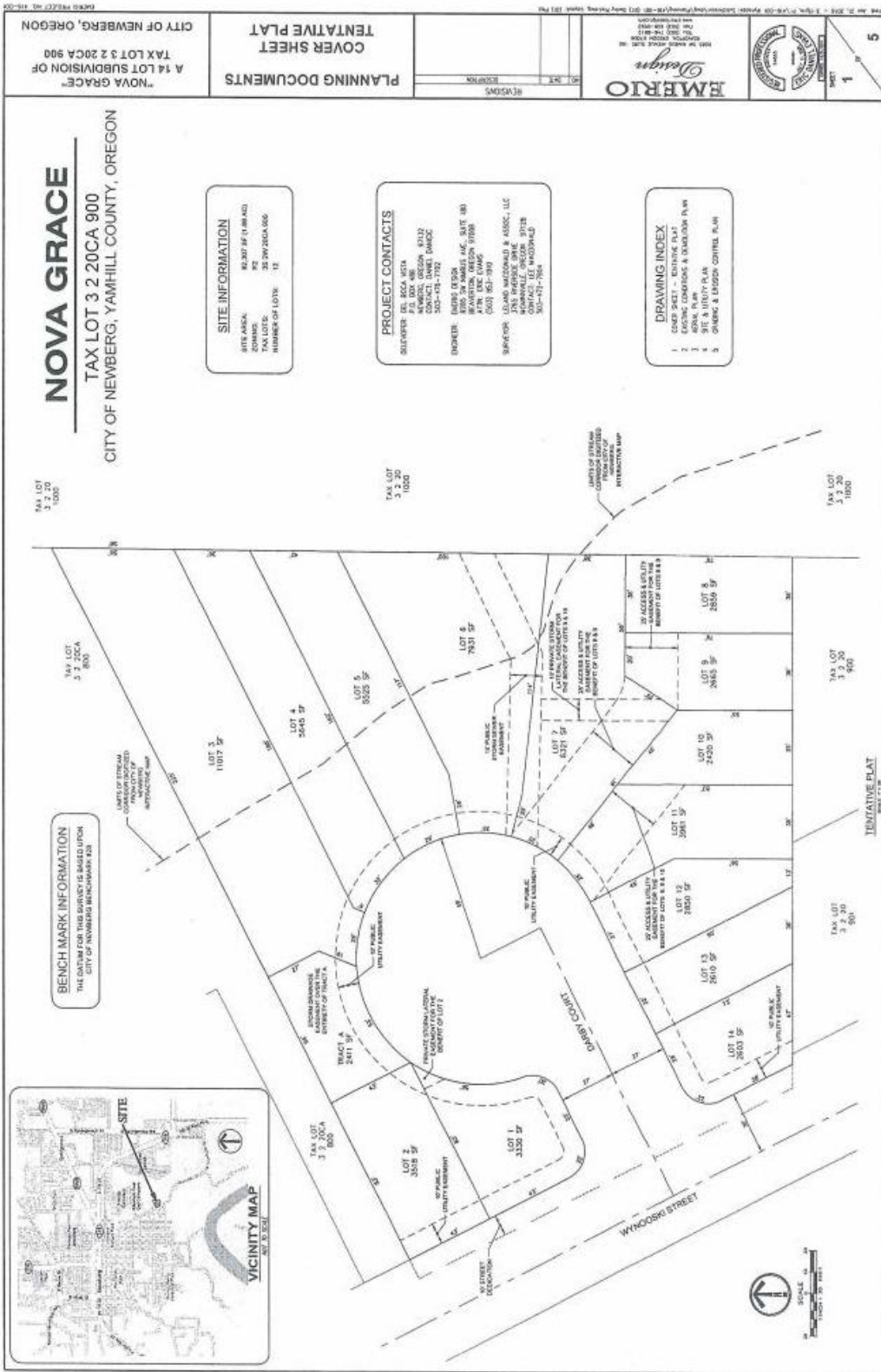
- f. There will exist an adequate quantity and quality of water and an adequate sewage disposal system to support the proposed use of the land described in the plat.
 - g. Either:
 - i. Improvements as required by this code or as a condition of tentative plan approval have been filed with the Director; or
 - 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. Community Development 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 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.
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.
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.

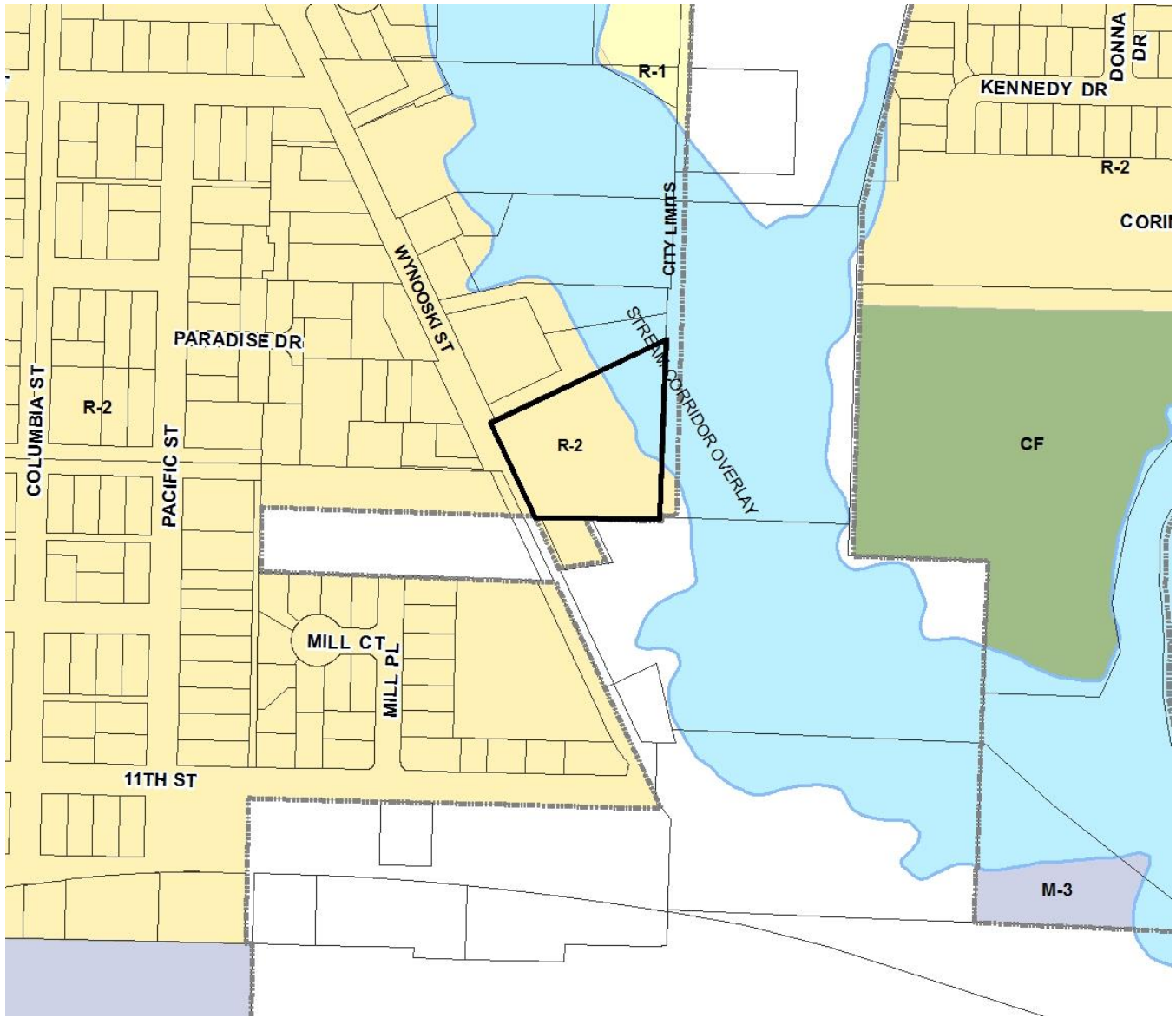
Exhibit C: Tentative Plan



Attachment 1: Aerial photo



Attachment 2: Zoning Map



Attachment 3: Comments



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

DSL File Number: WN2016-0142

Cities and counties have a responsibility to notify the Department of State Lands (DSL) of certain activities proposed within wetlands mapped on the Statewide Wetlands Inventory. Steve Olson from city of Newberg submitted a WLUN pertaining to local case file #: SUB3-16-001.

Activity location:

township: 03S range: 02W section: 20 quarter-quarter section: CA

tax lot(s): 900

street address: 900 Wynooski St

city: Newberg

county: Yamhill

latitude: 45.292967

longitude: -122.961583

Mapped wetland/waterway features:

The national wetlands inventory shows a wetland/waterway on the property.

Oregon Removal-Fill requirement (s):

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

Your activity:

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

Contacts:

For permit information and requirements contact DSL Resource Coordinator (see website for current list) http://www.oregonstatelands.us/DSL/contact_us_directory.shtml#Wetlands_Waterways

For removal-fill permit and/or wetland delineation report fees go to

http://www.oregon.gov/DSL/PERMITS/docs/rf_fees.pdf

A permit may be required by the U.S. Army Corps of Engineers (503-808-4373).

This is a preliminary jurisdictional determination and is advisory only.

Comments: DSL will require a permit for 50 cubic yards or greater of impacts below the Ordinary High Water of Hess Creek and/or onsite wetlands. Since some of the lots are within the stream corridor,

please contact Aquatic Resource Coordinator Mike De Blasi at (503) 986-5226 to discuss this project and determine if a permit will be required.

Response by: Cherie Stevenson date: 04/26/2016

Nova Grace Subdivision

Amended Subdivision Application
(Narrative portion and engineering report only)

March 31, 2016

Development Application – Nova Grace Subdivision

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B	CC&Rs
C	Tentative Plan
D	Storm Drainage Report

Development Application – Nova Grace Subdivision

DATA SHEET

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

PROJECT OVERVIEW

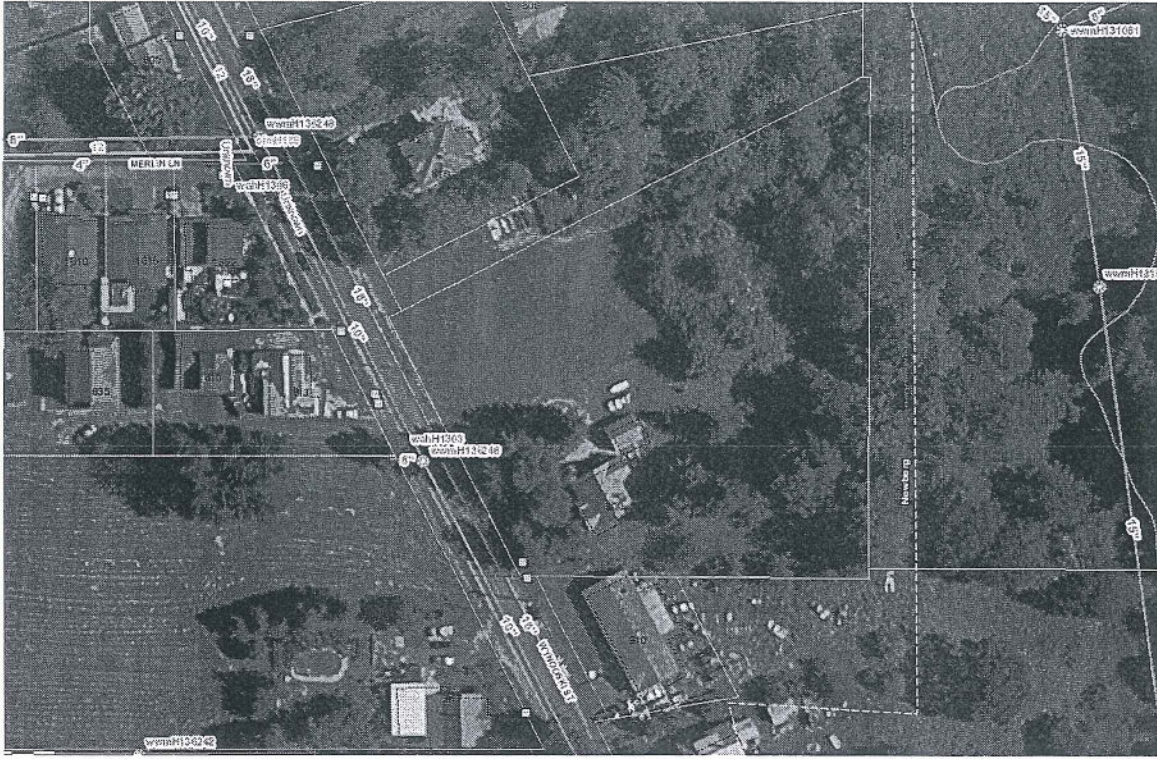
Del Boca Vista, LLC is proposing a 14-lot subdivision on for detached single-family residential development. This subdivision will occur on tax lot 3320CA-0900 whose site address is 900 Wynooski Street Newberg, OR 97132.

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

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

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

PUBLIC SERVICES



Sanitary Sewer

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

Water Supply

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

Storm Drainage

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

Development Application – Nova Grace Subdivision

Transportation

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

SUBDIVISION CRITERIA

1. FUTURE USE

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

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

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

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

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

2. APPLICABLE SUBDIVISION CRITERIA

15.342 STREAM CORRIDOR OVERLAY SUB DISTRICT

15.342.020 Where these regulations apply.

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

- A. New structures, additions, accessory structures, decks, addition of concrete or other impervious surfaces;
- B. Any action requiring a development permit by this code;
- C. Changing of topography by filling or grading;
- D. Installation or expansion of utilities including but not limited to phone, cable TV, electrical, wastewater, storm drain, water or other utilities;
- E. Installation of pathways, bridges, or other physical improvements which alter the lands within the stream corridor overlay subdistrict. [Ord. 2451, 12-2-96. Code 2001 § 151.466.]

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

15.342.030 General information.

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

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

15.342.040 Activities exempt from these regulations

RESPONSE: No exempt activities are proposed.

15.342.050 Activities requiring a Type I process.

Development Application – Nova Grace Subdivision

15.342.060 Restoration standards for Type I process.

RESPONSE: Neither of these provisions apply.

15.342.070 Activities requiring a Type II process.

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

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

RESPONSE: These provisions do not apply.

15.342.080 Plan Submittal Requirements for Type II activities

15.342.090 Mitigation requirements for Type II activities.

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

15.342.100 Type III process for exceptions and variances.

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

15.342.120 Density Transfer

RESPONSE: No density transfer is requested.

15.342.130 Procedure for adjusting and amending the delineated stream corridor

RESPONSE: No stream corridor adjustments are requested.

15.342.140 Stream corridor impact report and review criteria

RESPONSE: Not applicable

15.405 LOT REQUIREMENTS

15.405.010 Lot area – Lot areas per dwelling unit.

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

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

2. In the R-2, R-3, and RP districts, each lot or development site shall have a minimum area of 3,000 square feet or as may be established by a subdistrict. In the R-2 and R-P districts, the average size of lots in a subdivision intended for single-family development shall not exceed 5,000 square feet.

3. In the AI, AR, C-1, C-2, and C-3 districts, each lot or development site shall have a minimum area of 5,000 square feet or as may be established by a subdistrict.

4. In the M-1, M-2 and M-3 districts, each lot or development site shall have a minimum area of 20,000 square feet.

5. Institutional districts shall have a minimum size of five contiguous acres in order to create a large enough campus to support institutional uses; however, additions to the district may be made in increments of any size.

6. Within the commercial zoning district(s) of the riverfront overlay subdistrict, there is no minimum lot size required, provided the other standards of this code can be met.

B. Lot or Development Site Area per Dwelling Unit.

1. In the R-1 district, there shall be a minimum of 5,000 square feet per dwelling unit.

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

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

Development Application – Nova Grace Subdivision

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

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

RESPONSE:

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

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

Development Application – Nova Grace Subdivision

15.405.030 Lot dimensions and frontage.

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

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

D. Frontage.

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

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

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

15.405.040 Lot coverage and parking coverage requirements.

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

1. Maximum Lot Coverage.

b. R-2 and RP: 50 percent.

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

3. Combined Maximum Lot and Parking Coverage.

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

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

15.410 YARD SETBACK REQUIREMENTS

15.410.020 Front yard setback.

15.410.030 Interior yard setback.

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

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

15.410.060 Vision clearance setback.

15.410.070 Yard exceptions and permitted intrusions into required yard setbacks.

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

15.415 BUILDING AND SITE DESIGN STANDARDS

15.415.010 Main buildings and uses as accessory buildings.

15.415.020 Building height limitation.

15.415.030 Building height exemptions.

15.415.040 Public access required.

15.415.050 Rules and exceptions governing single-family attached dwellings.

15.415.060 Home occupation.

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

15.420 LANDSCAPING AND OUTDOOR AREAS

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

Chapter 15.425 EXTERIOR LIGHTING

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

15.430 UNDERGROUND UTILITY INSTALLATION

Sections:

15.430.010 Underground utility installation.

15.430.010 Underground utility installation.

A. All new utility lines, including but not limited to electric, communication, natural gas, and cable television transmission lines, shall be placed underground. This does not include surface-mounted transformers, connections boxes, meter cabinets, service cabinets, temporary facilities during construction, and high-capacity electric lines operating at 50,000 volts or above.

B. Existing utility lines shall be placed underground when they are relocated, or when an addition or remodel requiring a Type II design review is proposed, or when a developed area is annexed to the city.

C. The director may make exceptions to the requirement to underground utilities based on one or more of the following criteria:

1. The cost of undergrounding the utility is extraordinarily expensive.
2. There are physical factors that make undergrounding extraordinarily difficult.
3. Existing utility facilities in the area are primarily overhead and are unlikely to be changed.

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

Chapter 15.435 SIGNS

RESPONSE: No signs are proposed for this development.

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

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

15.505 STREET AND TRANSPORTATION IMPROVEMENTS DESIGN STANDARDS

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

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

B. In areas where the transportation system plan or future street plans do not show specific transportation improvements, roads and streets shall be laid out so as to conform to subdivisions, partitions, and developments previously approved for adjoining property as to width, general direction and in other aspects, unless it is found in the public interest to modify these patterns. In addition, transportation improvements shall conform to the standards within this code.

RESPONSE: Not applicable.

15.505.030 Construction of new streets and alleys.

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

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

15.505.040 Improvements to existing streets.

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

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

15.505.060 Street width and design standards.

Development Application – Nova Grace Subdivision

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

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

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

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

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

RESPONSE: Not applicable.

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

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

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

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

H. Planter Strips. Except where infeasible, a planter strip shall be provided between the sidewalk and the curb line. This strip shall be landscaped in accordance with the standards in NMC 15.420.020. Curb-side sidewalks may be allowed on limited residential streets. Where curb-side sidewalks are allowed, the following shall be provided where possible:

Development Application – Nova Grace Subdivision

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

RESPONSE: Not applicable

15.505.090 Intersections of streets.

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

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

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

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

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

15.505.110 Future extension of streets.

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

RESPONSE: Not applicable.

15.505.120 Cul-de-sacs.

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

Development Application – Nova Grace Subdivision

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

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

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

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

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

15.505.130 Street names and street signs.

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

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

15.505.140 Grades and curves.

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

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

Development Application – Nova Grace Subdivision

15.505.200 Vehicular access standards.

A. Purpose. The purpose of these standards is to manage vehicle access to maintain traffic flow, safety, roadway capacity, and efficiency. They help to maintain an adequate level of service consistent with the functional classification of the street. Major roadways, including arterials, and collectors serve as the primary system for moving people and goods within and through the city. Access is limited and managed on these roads to promote efficient through movement. Local streets and alleys provide access to individual properties. Access is managed on these roads to maintain safe maneuvering of vehicles in and out of properties and to allow safe through movements. If vehicular access and circulation are not properly designed, these roadways will be unable to accommodate the needs of development and serve their transportation function.

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

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

F. Shared Driveways.

1. The number of driveways onto arterial streets shall be minimized by the use of shared driveways with adjoining lots where feasible. The city shall require shared driveways as a condition of land division or site design review, as applicable, for traffic safety and access management purposes. Where there is an abutting developable property, a shared driveway shall be provided. When shared driveways are required, they shall be stubbed to adjacent developable parcels to indicate future extension. "Stub" means that a driveway temporarily ends at the property line, but may be accessed or extended in the future as the adjacent parcel develops. "Developable" means that a parcel is either vacant or it is likely to receive additional development (i.e., due to infill or redevelopment potential).

RESPONSE: Not applicable.

2. Access easements (i.e., for the benefit of affected properties) and maintenance agreements shall be recorded for all shared driveways, including pathways, at the time of final plat approval or as a condition of site development approval.

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

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

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

Development Application – Nova Grace Subdivision

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

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

5. Where three lots or three dwellings share one driveway, one additional parking space over those otherwise required shall be provided for each dwelling. Where feasible, this shall be provided as a common use parking space adjacent to the driveway.

RESPONSE: Not applicable.

15.505.210 Sidewalks.

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

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

Development Application – Nova Grace Subdivision

VARIANCE REQUEST

- 1) Height of residential structure

15.415.020 Building height limitation.

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

15.215.040 Type II variance criteria.

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

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

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

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

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

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

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

Development Application – Nova Grace Subdivision

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

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

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

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

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

Summary

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

NOVA GRACE SUBDIVISION APPLICATION

Supplemental Engineering Information

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

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

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

Response:

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

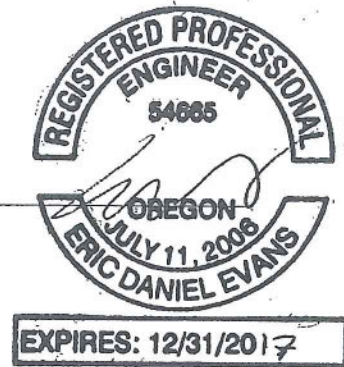
Draft/Preliminary Stormwater Report

EMERIO *Design*

CIVIL ENGINEERS & PLANNERS

TECHNICAL MEMORANDUM

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



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

Proposed Project Description:

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

Proposed Treatment & Conveyance:

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

Public Facility

Impervious ROW Area $18100 \text{ SF} \times .06 = 1086 \text{ SF} = \text{Required Planter Area}$

Private Facilities

Impervious Lot Area $2877 \text{ SF} \times .06 = 173 \text{ SF} = \text{Required Planter Area per lot}$

Downstream Analysis:

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

Operations and Maintenance:

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

Engineering Conclusions:

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

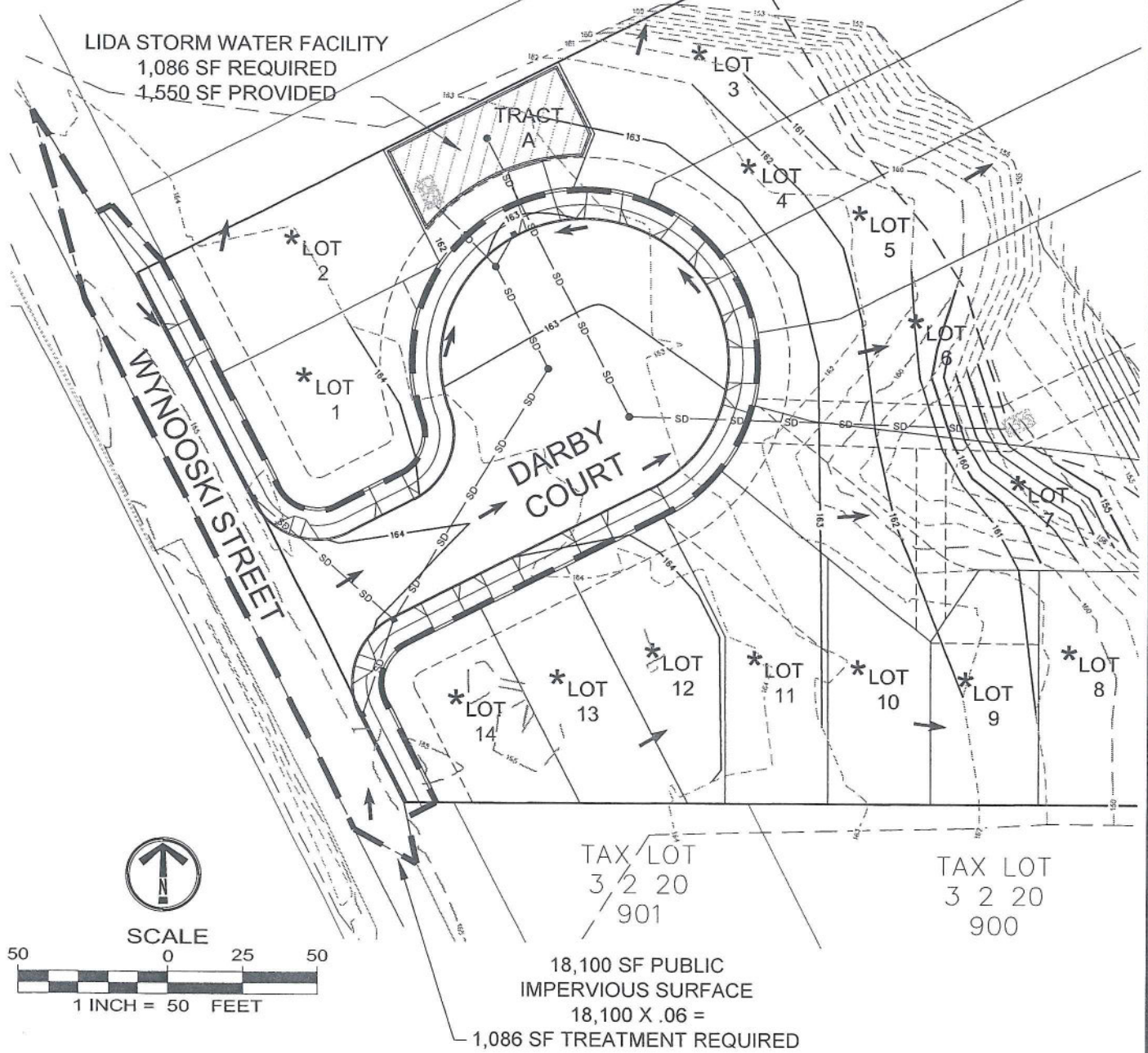
List of Attachments:

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

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

TAX LOT
3 2 20CA
800

LIDA STORM WATER FACILITY
1,086 SF REQUIRED
4,550 SF PROVIDED



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

IMPERVIOUS AREA MAP NOVA GRACE SUBDIVISION

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

EMERIO
Design

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

City of Newberg LIDA Sizing Form

(Include this form with plan submittal)

Project Title: Nova Grace Subdivision

Project Address: _____

Project Taxlot/ Taxmap#: 3 2 20CA 900

Project Location: _____

Contact Name/Title/Company: _____

Phone/e-mail: _____

STEP 1: Determine Impervious Area Requiring Treatment

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

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

(PA) = (Y) - (X)

STEP 2: Deduct Impervious Area LIDA Credits

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

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

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

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

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

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

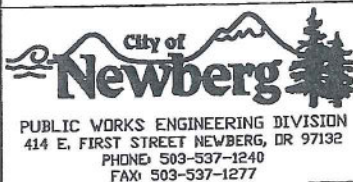
(IA) = (PA) - (C)

STEP 3: Size LIDA Facilities for Remaining Impervious Area

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

1550 SF Provided,
standard met

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



REVISIONS:

LIDA SIZING FORM

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

City of Newberg LIDA Sizing Form

(Include this form with plan submittal)

Project Title: Nova Grace Subdivision

Project Address: _____

Project Taxlot/ Taxmap#: 3 2 20CA 900

Project Location: _____

Contact Name/Title/Company: _____

Phone/e-mail: _____

STEP 1: Determine Impervious Area Requiring Treatment

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

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

(PA)= (Y) - (X)

STEP 2: Deduct Impervious Area LIDA Credits

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

Green Roof (sq. ft): (G)

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

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

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

Impervious Area Requiring Treatment (sq. ft.): (IA)

(IA)= (PA) - (C)

STEP 3: Size LIDA Facilities for Remaining Impervious Area

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

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



REVISIONS:

LIDA SIZING FORM

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

Draft O&M Plan for Public Stormwater Facility

<p align="center">Table 2: Maintenance of Stormwater Ponds</p> <p align="center">Stormwater ponds should retain water and slowly release by either infiltration or outflow.</p>			
Maintenance Component	Defect or Problem	Condition When Maintenance is Needed	Recommended Maintenance to Correct Problem
General	Follow applicable Guidance from Table 1 AND applicable guidance from this table.		
	Vegetation growth in dry ponds (mowing and brushing)	<p>Vegetation growth restricts access, limits sight distance, obstructs water flow, or interferes with maintenance activity.</p> <p>Collected water should drain.</p>	<p>Dry ponds need vegetation on the bottom and sides. Vegetation management typically occurs around and within the facility.</p> <p>Mow access, berms, bottom, and side-slopes as noted in the District Integrated Vegetation Management (IVM) Plan. (typically annually)</p> <p>Heavy equipment is allowed on dry pond bottoms unless access restrictions are listed in the O&M Manual.</p>
	<p>Vegetation growth in wet ponds (mowing and brushing)</p> <p>NOTE: Wet ponds are not typical.</p>	<p>Vegetation growth restricts access, limits sight distance, obstructs water flow, or interferes with maintenance activity.</p> <p>Water may be stored year-round without draining.</p>	<p>Wet ponds need vegetation on the bottom and sides. Vegetation management typically occurs around the facility.</p> <p>Mow access and berms as noted in the District Integrated Vegetation Management (IVM) Plan.</p> <p>Ponds bottoms are intended to capture and store water. Vegetation removal from pond bottoms is infrequent.</p>
	<p>Sediment accumulation in pre-treatment features (e.g. forebays, basins, or fully exposed impermeable liners)</p> <p>NOTE: Exposed liners are not typical.</p>	<p>Sediment affects flow.</p> <p>Sediment jeopardizes infrastructure.</p>	<p>Remove sediment from ponds and pipe ends as needed to ensure adequate drainage into treatment pond (grassy or wet pond).</p> <p>Use methods that minimize disturbance to surrounding vegetation.</p> <p>Heavy equipment is allowed on dry pond bottoms unless access restrictions are listed in the O&M Manual.</p> <p>Sediment may contain oil and other pollutants, especially in areas with high ADT. Refer to the ODOT Maintenance Environmental Management System (EMS) Manual for the disposal of contaminated sediment. Note: Pollutant concentrations may increase if sediment is not routinely removed.</p>

Table 2: Maintenance of Stormwater Ponds

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

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

Table 2: Maintenance of Stormwater Ponds

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

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

Table 2: Maintenance of Stormwater Ponds

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

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

Table 2: Maintenance of Stormwater Ponds

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

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

Draft O&M Plan for Private Onsite Rain Gardens

Routine Maintenance for Rain Gardens

Routine Maintenance Activities for Rain Gardensⁱ

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

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

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

Routine Maintenance for Rain Gardens

1. Plant Care

1.1 TRIMMING, PRUNING, AND THINNING

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

1.2 MOWING

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

1.3 WEEDING

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

1.4 WATERING

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

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

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

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

Routine Maintenance for Rain Gardens

1.5 FERTILIZING

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

1.6 PEST MANAGEMENT

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

1.7 PLANT REPLACEMENT

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

2. Infiltration Maintenance

2.1 PONDING AND DRAINAGE PROBLEMSⁱⁱ

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

2.2 TRASH AND DEBRIS REMOVAL

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

2.3 COMPOSTING

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

Routine Maintenance for Rain Gardens

2.4 MULCHING

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

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

- Shredded hardwood mulch (recommended)
- Chipped hardwood mulch

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

- Fresh grass clippings
- Animal waste
- Compost

2.5 PET WASTE REMOVAL

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

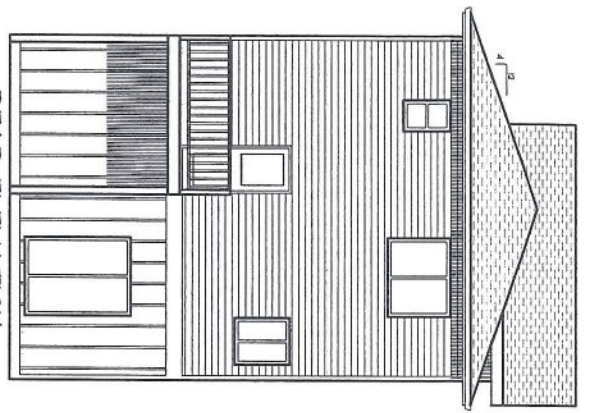
2.6 SNOW REMOVAL

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

2.7 DE-ICING

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

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



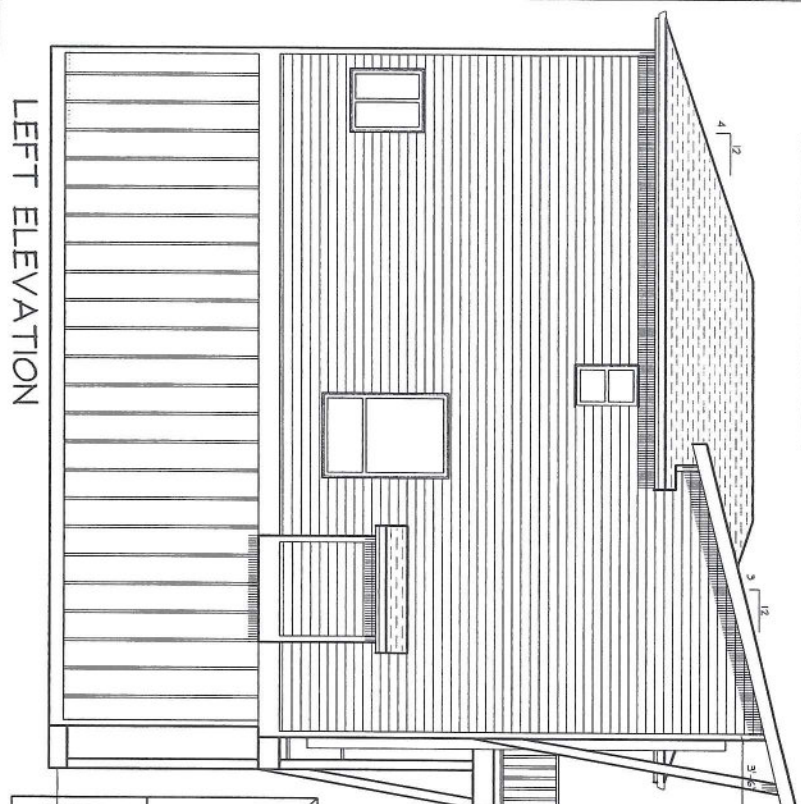
REAR ELEVATION

GLAZING CALCULATION:

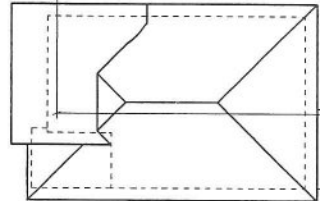
1ST FLOOR	GLAZING SQ FT : 3335 SQ FT
	WALL SQ FT : 792.97 SQ FT
	% : 4.0%
2ND FLOOR	GLAZING SQ FT : 91 SQ FT
	WALL SQ FT : 123.37 SQ FT
	% : 7.30%
3RD FLOOR	GLAZING SQ FT : 66 SQ FT
	WALL SQ FT : 983.89 SQ FT
	% : 5.97%
TOTAL	GLAZING SQ FT : 19035 SQ FT
	WALL SQ FT : 3184.20 SQ FT
	% : 5.98%

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

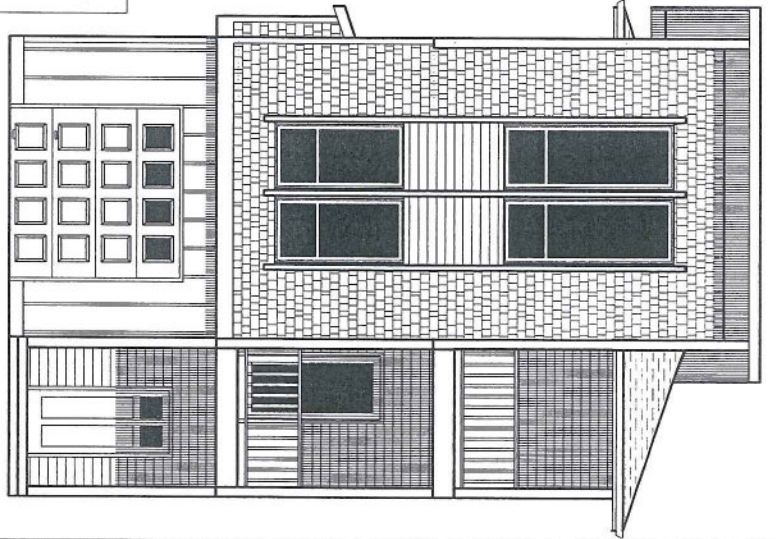
WIND, SEISMIC & SNOW DESIGN LOADS
 Wind Analysis for Exp. "C", 10 mph 3 sec gust.
 Seismic Zone (DI)
 Based on soil pressure of 1500 psf.
 Ground Snow load of 50 psf.



LEFT ELEVATION

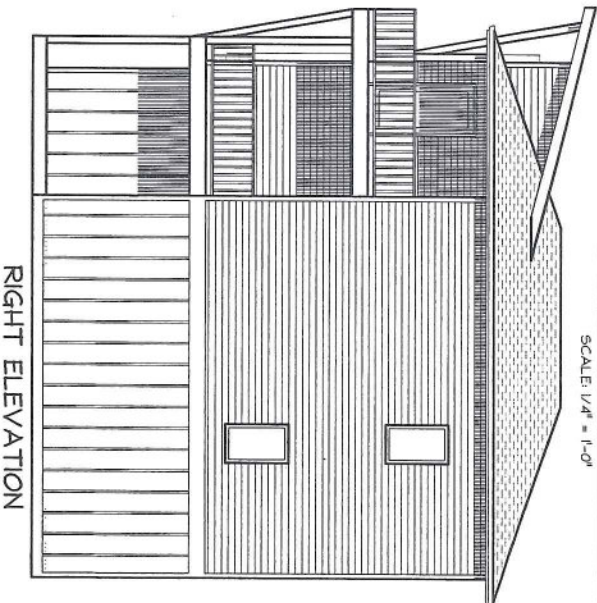


34'-9 1/2"



FRONT ELEVATION

SCALE 1/4" = 1'-0"



RIGHT ELEVATION

PLAN NO.
 CELILO3

SHEET : 1
 OF : 5

ELEVATIONS

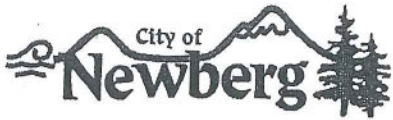
Greg Larson
 DRAFTING & DESIGN
 805 Liberty St NE #4
 Salem, Oregon 97301
 Phone: (503) 364-8577
 Fax: (503) 364-3256
 E-MAIL: homedezine@aol.com

DATE

GLL

C:\Users\CLAD\Desktop\New\Design\CE\CELLILO3\1748.dwg - 11/27/2011 - 11:03 AM - Sheet 1 of 4

Exhibit A



TYPE III APPLICATION - 2015
(QUASI-JUDICIAL REVIEW)

File #: _____

TYPES - PLEASE CHECK ONE:

- Annexation
Comprehensive Plan Amendment (site specific)
Zoning Amendment (site specific)
Historic Landmark Modification/alteration
Conditional Use Permit
Type III Major Modification
Planned Unit Development
Other: (Explain) Subdivision Type III

APPLICANT INFORMATION:

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

GENERAL INFORMATION:

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

SPECIFIC PROJECT CRITERIA AND REQUIREMENTS ARE ATTACHED

General Checklist: Fees Public Notice Information Current Title Report Written Criteria Response Owner Signature

For detailed checklists, applicable criteria for the written criteria response, and number of copies per application type, turn to:

- Annexation p. 15
Comprehensive Plan / Zoning Map Amendment (site specific) p. 19
Conditional Use Permit p. 21
Historic Landmark Modification/Alteration p. 23
Planned Unit Development p. 26

The above statements and information herein contained are in all respects true, complete, and correct to the best of my knowledge and belief. Tentative plans must substantially conform to all standards, regulations, and procedures officially adopted by the City of Newberg. All owners must sign the application or submit letters of consent. Incomplete or missing information may delay the approval process.

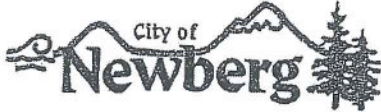
Applicant Signature: [Signature] Date: 11-12-15

Print Name: Daniel Danicic

Owner Signature: [Signature] Date: 11-12-15

Print Name: Joseph R. DARBY

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



TYPE II APPLICATION (LAND USE) -- 2016

File #: _____

TYPES - PLEASE CHECK ONE:

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

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

APPLICANT INFORMATION:

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

GENERAL INFORMATION:

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

SPECIFIC PROJECT CRITERIA AND REQUIREMENTS ARE ATTACHED

General Checklist: Fees Public Notice Information Current Title Report Written Criteria Response Owner Signature

For detailed checklists, applicable criteria for the written criteria response, and number of copies per application type, turn to:

Design Review	p. 12
Partition Tentative Plat	p. 14
Subdivision Tentative Plat	p. 17
Variance Checklist	p. 20

The above statements and information herein contained are in all respects true, complete, and correct to the best of my knowledge and belief. Tentative plans must substantially conform to all standards, regulations, and procedures officially adopted by the City of Newberg. All owners must sign the application or submit letters of consent. Incomplete or missing information may delay the approval process.

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

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

Attachments: General Information, Fee Schedule, Criteria, Checklists

Exhibit B

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

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

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

RECITALS

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

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

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

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

COVENANTS CONDITIONS AND RESTRICTIONS

SECTION 1. INTRODUCTION

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

SECTION 2. DEFINED TERMS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 3. OWNERSHIP AND EASEMENTS

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 4. PROPERTY USE AND RESTRICTIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4.7 Limitations on Use

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 5. GENERAL PROVISIONS

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

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

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

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

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

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

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

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

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

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

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

5.8 Constructive Notice and Acceptance. By the recording of this Declaration, each Owner and Occupant shall be deemed to have consented and agreed to every term, covenant, condition, and restriction contained herein.

5.9 Joint and Several Liability. If an Owner consists of more than one Person, each such Person shall be jointly and severally liable for any assessment or charge and for the performance of any other obligation imposed pursuant to this Declaration.

5.10 Captions. The captions and headings of sections herein are for convenience only and are not intended in any way to define, limit, or describe the scope or intent of any section of this Declaration.

5.11 Notices. All notices under this Declaration shall be in writing. Any such notice shall be deemed effective on the earlier of the date of delivery or, if mailed, three (3) business days following the date of mailing, if addressed to the addressee at the address, if any, designated in the Owners' records.

5.12 Special Rights Retained by Declarant. Declarant has retained "Special Declarant Rights", as that term is defined in Oregon Revised Statutes 94.550(22), and these rights are set forth in Sections 3.5.3, 3.5.4, 4.3, 4.5.4, 4.7.6, 4.7.8, 4.7.11, 6.3 and 6.7.

IN WITNESS WHEREOF, the undersigned being the Declarant herein, has executed this Declaration on this ____th day of _____, 2016.

**DEL BOCA VISTA LLC,
AN OREGON LIMITED LIABILITY COMPANY**

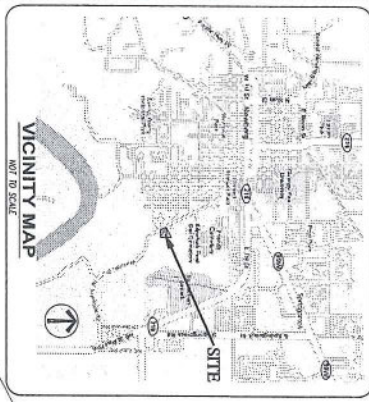
By: Marc Willcuts.
Its: Member

STATE OF OREGON)
) ss.
County of Yamhill)

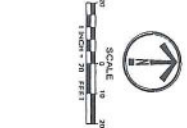
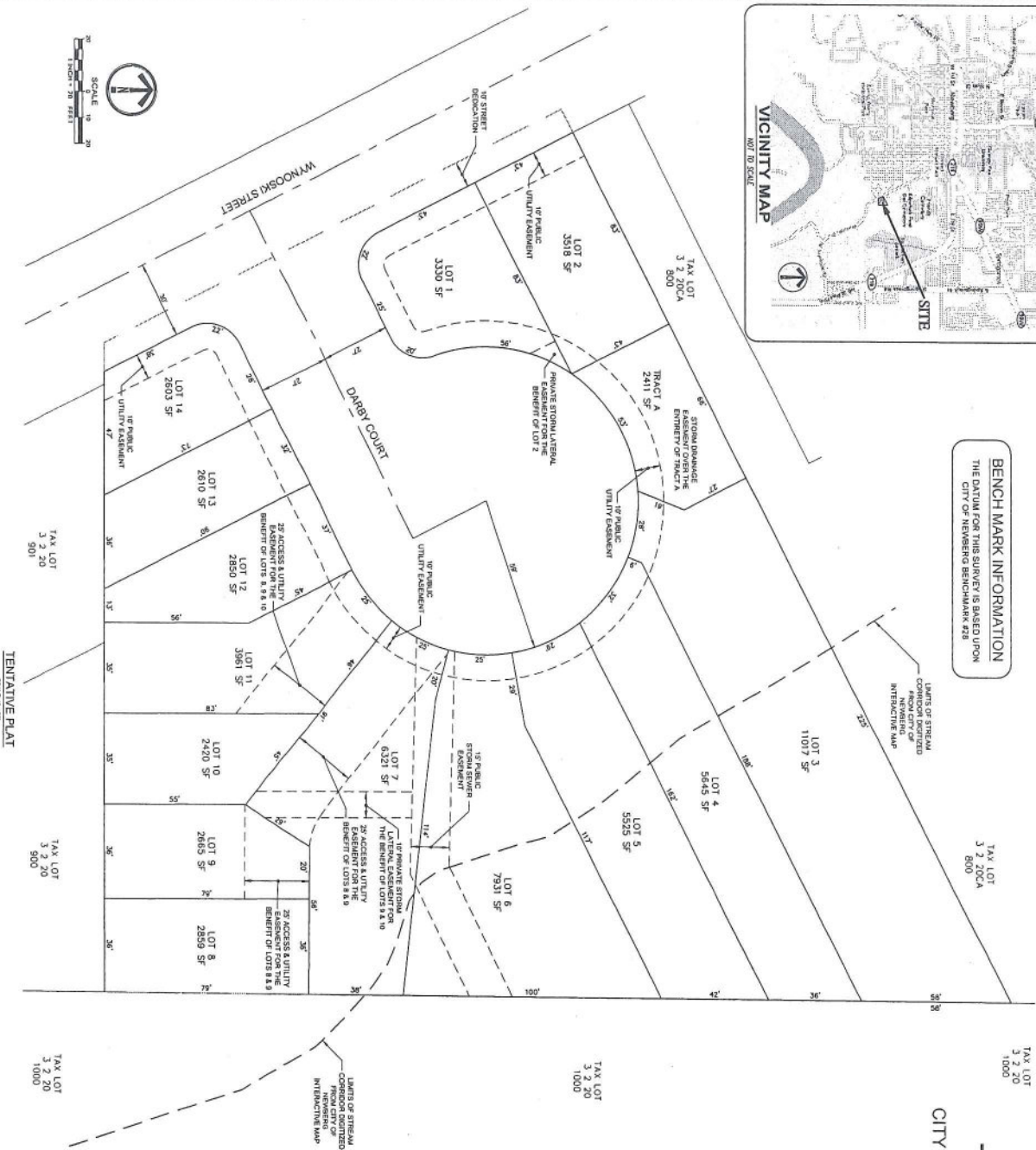
The foregoing instrument was acknowledged before me this ____th day of _____, 2016, by Marc Willcuts, as member of Del Boca Vista LLC, an Oregon limited liability company, who acknowledge the execution of the foregoing to be his voluntary act and deed.

Notary Public for Oregon
My Commission Expires _____

Exhibit C



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



NOVA GRACE

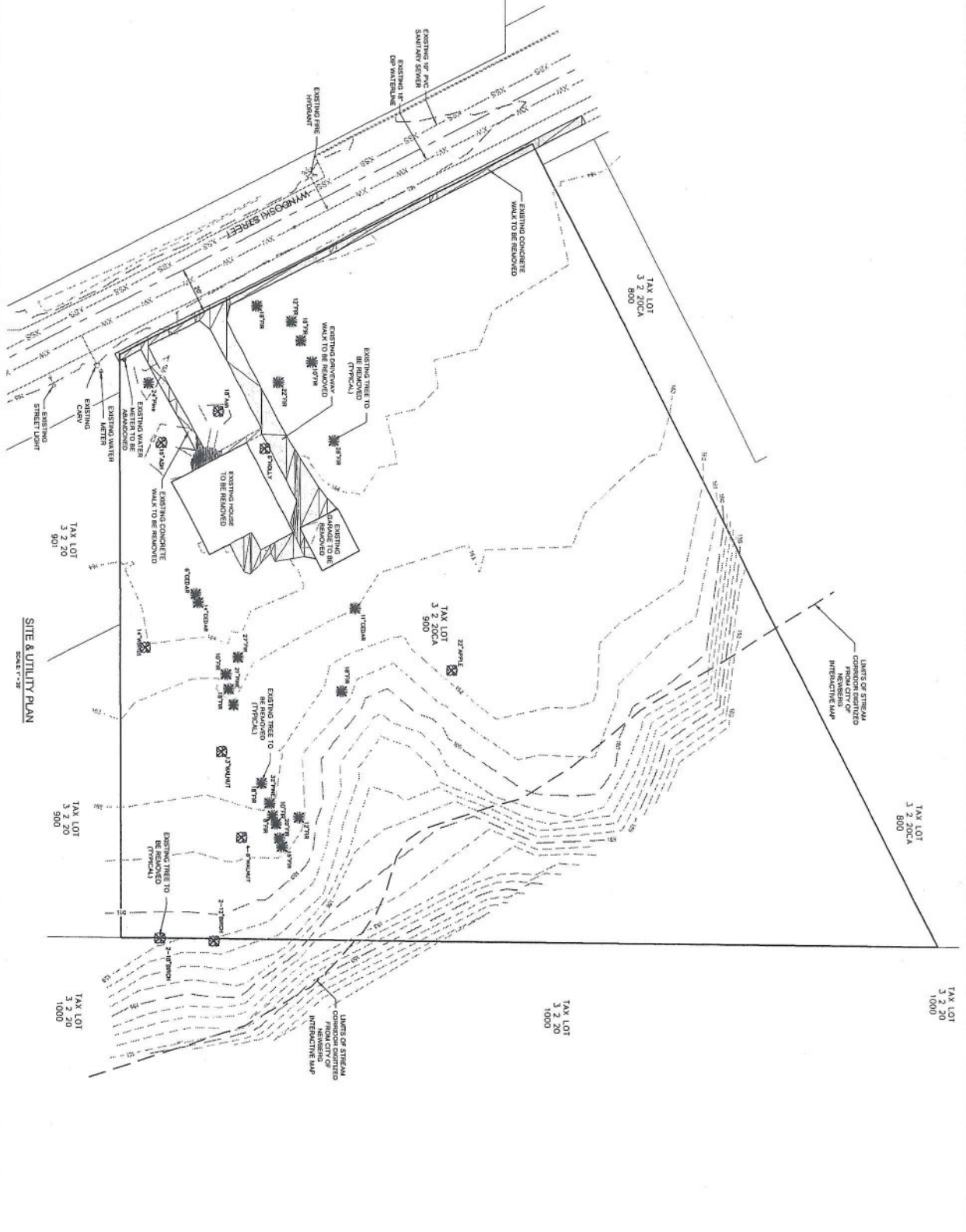
TAX LOT 3 2 20CA 900
 CITY OF NEWBERG, YAMHILL COUNTY, OREGON

SITE INFORMATION
 SITE AREA: 82,207 SF (1.88 AC)
 ZONING: RZ
 TAX MAP: 32 20CA 900
 NUMBER OF LOTS: 14

PROJECT CONTACTS
 DEVELOPER: DEL BOCA VISTA
 825 SW 15TH STREET
 NEWBERG, OREGON 97132
 CONTACT: DANIEL DAMICO
 503-726-7702
 ENGINEER: DAVID BISHOP
 8285 SW INBUSH AVE., SUITE 100
 BEAVERTON, OREGON 97008
 (503) 853-1900
 SURVEYOR: LELAND MACDONALD & ASSOC., LLC
 1200 NW HUNTERSBOURNE DRIVE
 WASHBURN, OREGON 97143
 CONTACT: LEE MACDONALD
 503-477-7904

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

	EMERIO Design 8285 SW INBUSH AVENUE, SUITE 100 BEAVERTON, OREGON 97008 TEL: (503) 416-3414 FAX: (503) 416-3414 WWW.EMERIODSIGN.COM	PLANNING DOCUMENTS COVER SHEET TENTATIVE PLAT	"NOVA GRACE" A 14 LOT SUBDIVISION OF TAX LOT 3 2 20CA 900 CITY OF NEWBERG, OREGON										
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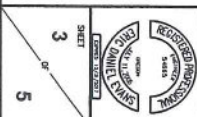
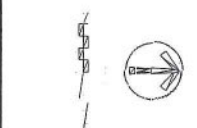
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CITY OF NEWBERG
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EMERIO
Design
2855 SW HUNTER AVENUE SUITE 100
SEASIDE, OREGON 97138
PHONE (503) 433-8812
FAX (503) 433-8811
www.emeriodesign.com

REVISIONS		
NO.	DATE	DESCRIPTION

PLANNING DOCUMENTS
EXISTING CONDITIONS & DEMOLITION PLAN

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



EMERIO Design

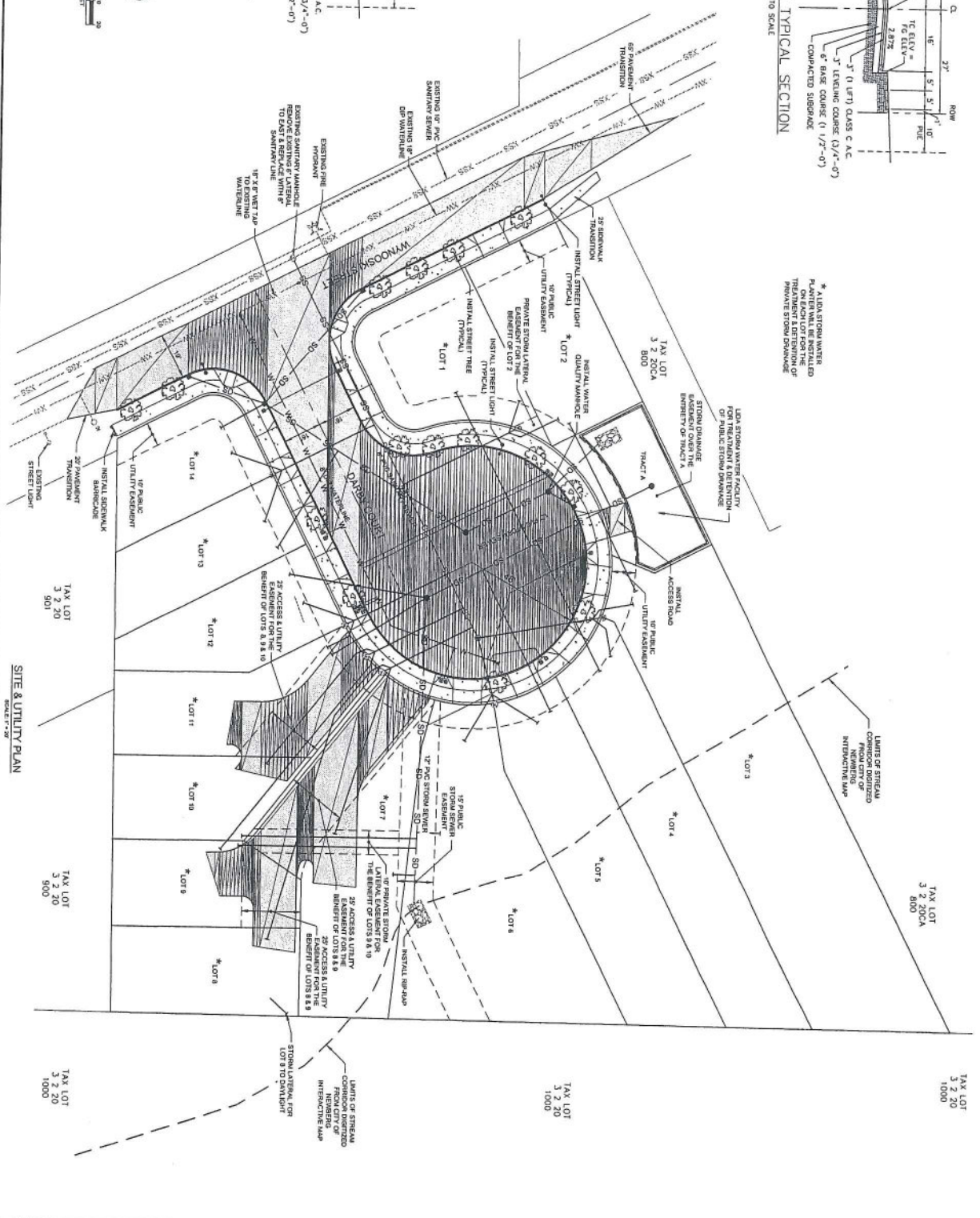
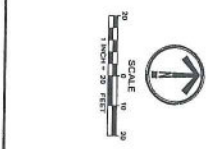
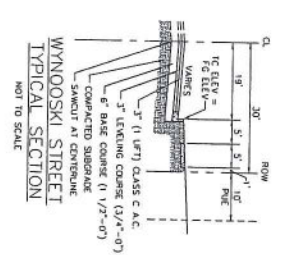
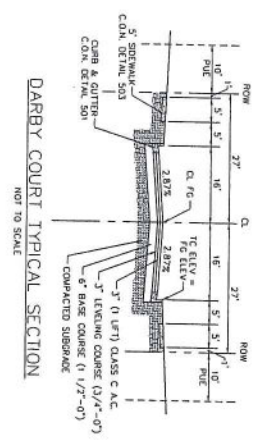
6285 SW WARDEN AVENUE SUITE 100
NEWBERG, OREGON 97132
TEL: (503) 746-8812
FAX: (503) 638-8392
www.emeriodesign.com

REVISIONS	
NO.	DESCRIPTION

PLANNING DOCUMENTS

AERIAL PLAN

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

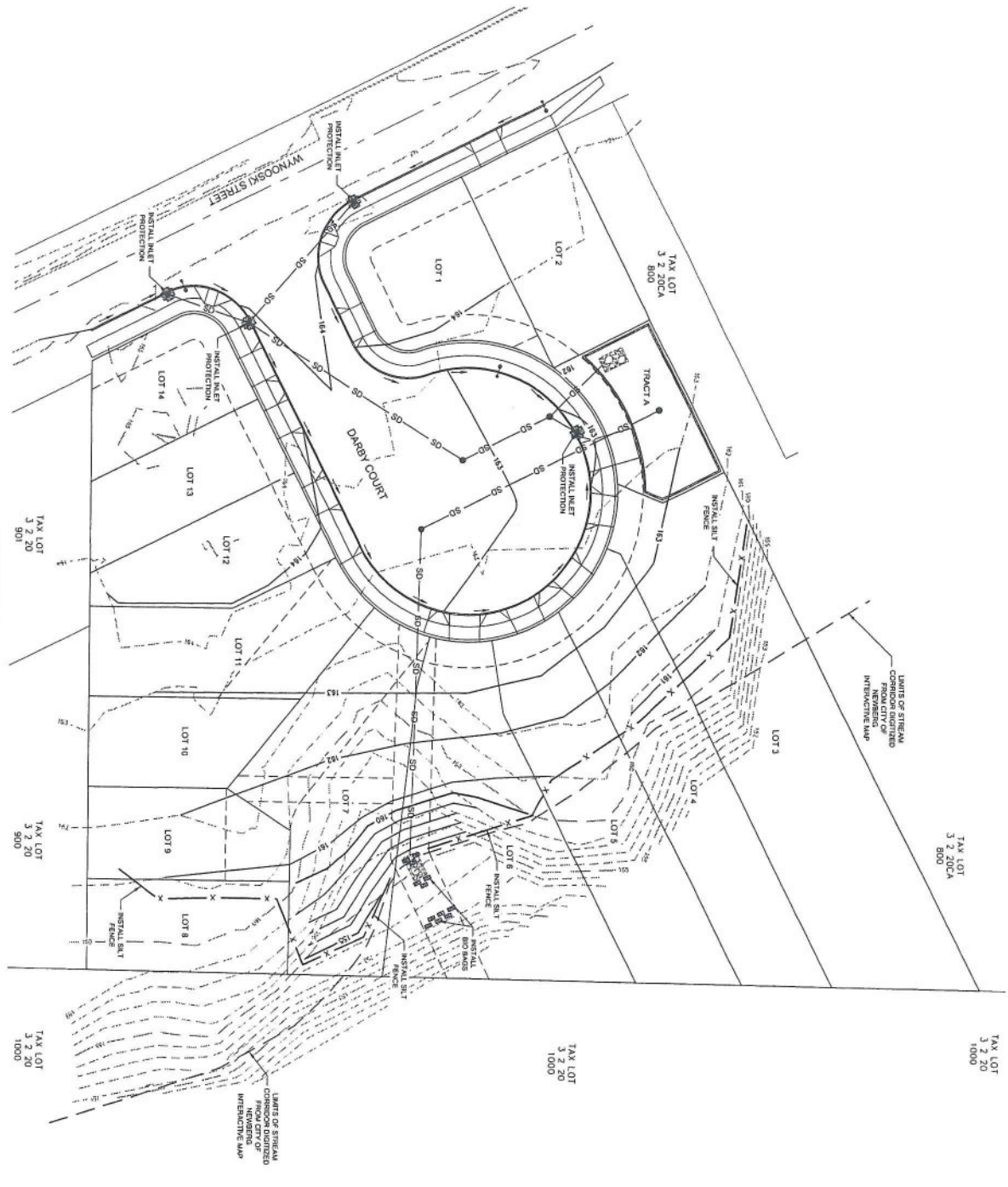


SITE & UTILITY PLAN
SCALE: 1" = 20'

	EMERIO Design 822 SW MARINA AVENUE SUITE 100 NEWBERG, OREGON 97132 TEL: (503) 538-1234 FAX: (503) 538-5678 www.emeriodesign.com		PLANNING DOCUMENTS SITE & UTILITY PLAN	"NOVA GRACE" A 14 LOT SUBDIVISION OF TAX LOT 3 2 20CA 900 CITY OF NEWBERG, OREGON					
	SHEET 4 OF 5	REVISIONS <table border="1"> <thead> <tr> <th>NO.</th> <th>DATE</th> <th>DESCRIPTION</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>	NO.	DATE	DESCRIPTION				EMERIO PROJECT NO. 416-001
NO.	DATE	DESCRIPTION							



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



	<p>EMERIO <i>Design</i></p> <p>8285 SW HAYWARD AVENUE, SUITE 100 BLAINE, OREGON 97008 TEL: (503) 742-8811 FAX: (503) 629-3252 WWW.EMERIODSIGN.COM</p>	<p>NO. DATE DESCRIPTION</p>	<p>PLANNING DOCUMENTS GRADING & EROSION CONTROL PLAN</p>	<p>"NOVA GRACE" A 14 LOT SUBDIVISION OF TAX LOT 3 2 20CA 900 CITY OF NEWBERG, OREGON</p>
		<p>REVISIONS</p>		

Plotted: Jan 21, 2016 - 3:15pm, P:\118-001 Wynoski Subdivision\Novas\118-001-001 (05) Grading.dwg, Layout: (05) Grading

Current Title Report



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

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

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

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

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

REPORT

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

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

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

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

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

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

Parcel 1:

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

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

Parcel 2:

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

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

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

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

EXHIBIT "B"
(Vesting)

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

EXHIBIT "C"
(Liens and Encumbrances)

1. Taxes for the year 2015-2016
Tax Amount \$ 1,587.43
Unpaid Balance: \$ 1,587.43, plus interest and penalties, if any
Code No.: 29.0
Map & Tax Lot No.: R3220CA 00900
Property ID No.: 58788
(Affects Parcel 1)

2. Taxes for the year 2015-2016
Tax Amount \$ 1,129.17
Unpaid Balance: \$ 1,129.17, plus interest and penalties, if any.
Code No.: 29.2
Map & Tax Lot No.: R3220 01000
Property ID No.: 55558
(Affects Parcel 2)

3. Taxes for the current fiscal year are reduced by reason of Veterans Exemption. If the exempt status is terminated under the statute prior to July 1, said property will be taxed at 100% of the assessed value.
(Affects Parcel 1)

4. The rights of the public in and to that portion of the premises herein described lying within the limits of streets, roads and highways.

5. Easement, including terms and provisions contained therein:
Recording Information: August 13, 2007 as Instrument No. 200717976
In Favor of: City of Newberg, a municipal corporation
For: Sanitary sewer line

DEFINITIONS, CONDITIONS AND STIPULATIONS

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

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

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

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

OFFICIAL YAMHILL COUNTY RECORDS
JAN COLEMAN, COUNTY CLERK



\$36.00

200717976

10:52:43 AM 8/13/2007

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

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

PUBLIC UTILITIES EASEMENT

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

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

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

It is further understood that:

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

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

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

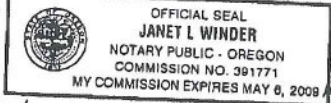
Ann M. Darby
Ms. Ann M. Darby
Trustee, Darby Living Trust

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

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

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

Janet L. Winder
Notary Public for Oregon
My Commission expires: 5/10/09



CITY OF NEWBERG
ACCEPTED:
Terrence D. Mahr (acting)

APPROVED AS TO FORM

James H. Bennett, City Recorder
Dated: 8/1/07

Terrence D. Mahr
City Attorney
Dated: 8/1/07

FIRST AMERICAN TITLE - C 2069

1/3

EXHIBIT "A"

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

Date: 11 June 2007

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

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

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

2/3

Everest Street

Exhibit "B"

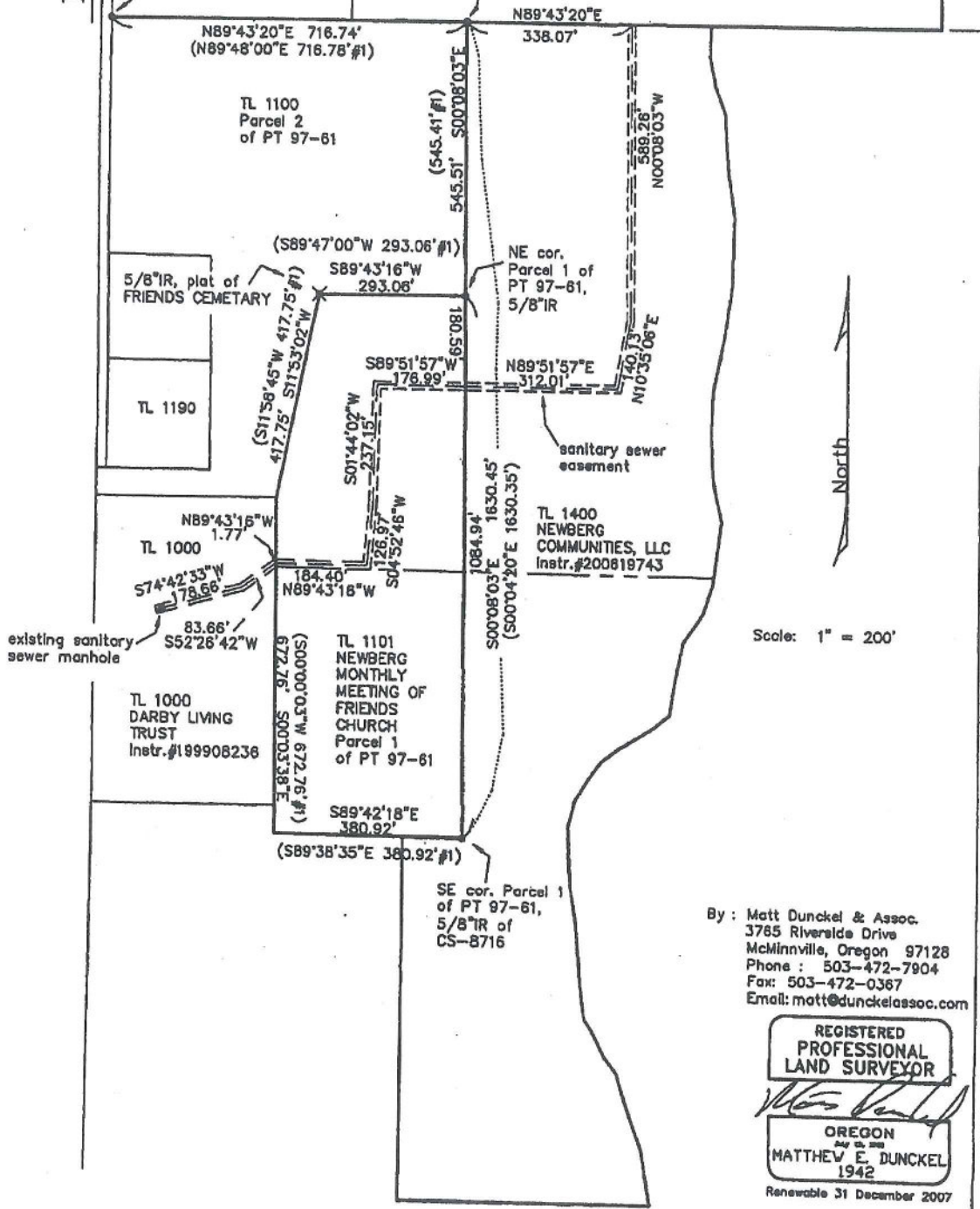
Location: SE 1/4 Section 20, T. 3 S., R. 2 W.,
WM., R. Everest DLC #, FRIENDS' CEMETARY, City
of Newberg, Yamhill County, OR

Tax Map: 3220

Date: 15 July 2007

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

NE cor. FRIENDS' CEMETARY
5/8"IR, CSP-8718 center of
the Everest DLC is N89°48'E
1152.43' & N00°04'E 1562.18'
per plat of FRIENDS' CEMETARY



North

Scale: 1" = 200'

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

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Matt Dunckel
OREGON
July 25, 2007
MATTHEW E. DUNCKEL
1942

Renewable 31 December 2007

5766

3/3



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

