

Council Roundup for May 7, 2018

The Newberg City Council met on May 7, 2018 and took the following actions:

- Approved the following Resolutions:

- Resolution 2018-3464, IGA with Washington County Consolidated Communications Agency (WCCCA) – use of radio system for data and voice communication.

- Resolution 2018-3475, contracts for WCCCA project with Sabre Industries, Thermobond and Power Systems Plus.

- Resolution 2018-3468, Regional Solutions grant for Crestview Drive construction.

- Resolution 2018-3453, Transient Lodging Tax grant to Wolves & People.

- Approved Ordinance 2018-2826, Amending Comp Plan for R-3 zoning with large annexations and expansion of the Urban Growth Boundary.

- Approved Council Minutes from April 2 and 16, 2018.

- Council directed staff to bring back additional information on the water hardship issue.

In other business, the Council:

- Heard reports on Sportsman Airpark, the Cultural District, and Council Priorities.

- Heard from a citizen on the sale of the Newberg Animal Shelter.

- Proclaimed May 6-12th as Municipal Clerks Week.



**City Council Work Session
May 7, 2018 - 6:00 PM
Public Safety Building 401 East Third Street**

- I. CALL MEETING TO ORDER**
- II. ROLL CALL**
- III. REVIEW OF THE COUNCIL AGENDA AND MEETING**
- IV. COUNCIL BUSINESS ITEMS**
- V. COUNCIL PRIORITIES UPDATE**
- V.A Council Priorities Update
[Council Priorities - updated 2018-0507.pdf](#)
- VI. ADJOURNMENT**

PUBLIC COMMENT

WORK SESSIONS ARE INTENDED FOR DISCUSSION. NO ACTION WILL BE TAKEN ON THE AGENDA ITEMS AND NO DECISIONS WILL BE MADE. NO ORAL OR WRITTEN TESTIMONY WILL BE HEARD OR RECEIVED FROM THE PUBLIC.

GOAL 1: Maintain a state-of-the-art 911 dispatch center and 800 MHz radio communications system

STRATEGIES		TIMELINE (in months)			LEAD	PROGRESS
		Short-Term (0-12)	Mid-Term (12-24)	Long-Term (24-36)		
1.1	Agree on plan to upgrade the City's dispatch center					In partnership with Washington County consolidated Communications Agency (WCCCA), and in anticipation of Next Gen 911, the City has determined the furniture, equipment, software needs and preliminary costs required for the continuation of operations as a primary PSAP dispatch center in Newberg. Next Gen 911 anticipates dispatch center may/will receive test-to-911, smart phone videos, medical bracelet information sharing.
Actions	Replace 1998-era dispatch furniture with ergonomic functional furniture designed to withstand 24-hour operations.	X		X	Police Chief	Four quotes in process, with vendor decision anticipated 7/30/2017. 1/25/18: Preliminary quotes obtained. Anticipate approx. \$70,000, to include electrical work. 4/17/18: Budgeting/funding issue to be resolved.
Actions	Implement Text-To-911	X			Police Chief & IT Director	Office of emergency Management (OEM) approved ComTech identified, contract signed, FCC registration completed, carriers notified. Awaiting ComTech Project Manager Kickoff conference call. Note: paid b OEM with State 911 funds. 1/25/18: Installed, tested, and dispatchers trained. Media rollout; est. Mid-February. Roll out 4/17/18, following policy review and refresher training. Media Message: Call if you can; Text if you can't.
Actions	Agree on the plan to upgrade VisionAIR computer aided dispatch (CAD) to TriTech CAD as standalone or as part of WCCCA system	X			Police Chief & IT Director	Engineering conference call 7/10/17, quotes will be updated by 7/21/17. 11/8/17: No fiber available. CAD will be updated as a standalone system, with CAD-to-CAD capability. 1/25/18: Awaiting funding. Est. \$350,000; anticipated 1-year implementation after contract signing. 4/17/18: Budgeting/funding to be resolved.
Actions	Replace three CAD computers and three GIS/Camera computers.	X			Police Chief	Computers ordered and received, awaiting software installation. Operational 7/30/2017. 11/8/17: Computers installed and in operation. 1/25/18: Completed.
Actions	Determine value and feasibility of dispatch center being capable of stand-alone operation.	X			Police Chief & IT Director	11/8/17: No fiber available. CAD will be updated as a standalone system, with CAD-to-CAD capability. 1/25/18: To be determined by City Council as part of budget process.
1.2	As needed, design and install fiber link					
Actions	Determine the value and cost of fiber link from Newberg Dispatch to WCCCA/CCOM for live CAD connectivity between Newberg CAD and WCCCA CAD.	X			Police Chief & IT Director	Government fiber not available. Awaiting quotes from private vendors. 11/8/17: Fiber not needed as standalone operation. CAD-to-CAD will allow Newberg to push data to WCCCA (or other systems with CAD-to-CAD capability). 1/25/18: Done. Preliminary estimates procured by IT show fiber not a viable option. Wireless not approved by TriTech, so not an option either.
1.3	Upgrade Motorola 800 MHz radio system	X				
Actions	Update existing intergovernmental Agreement with Washington County	X			City Manager & Police Chief	Police Chief Scheduled conference call for discussion and finalization of details of IGA. Agree on radio upgrade and determine if upgrade should include simulcast capability independent of the WCCCA system (allowing for independent dispatch during downtime of WCCCA). Coordination meeting scheduled for 7/18/2017. 11/8/17: Contract signed.

GOAL 1: Maintain a state-of-the-art 911 dispatch center and 800 MHz radio communications system (continued)

STRATEGIES		TIMELINE (in months)			LEAD	PROGRESS
		Short-Term (0-12)	Mid-Term (12-24)	Long-Term (24-36)		
Actions	Council review/approval of contract with Motorola for Newberg radio project, including towers, microwaves, subscriber radios, etc.	X			Police Chief	Preliminary contract review in progress. Contract discussions weekly, with anticipated contract language mid-August. Anticipated Council review early September, 2017. 11/8/17: Resolution 2017-3411 adopted by Council on 9/18/17. 1/24/18: Contract signed. WCCA/C800/Newberg currently involved in final system design phase.
Actions	Tower location.	X		X	Police Chief	Tower location will be at new public works yard. Updated 11/8/17 location agreed upon, WCCA consultants conducting further soil testing. Next step pre-application meeting and likely submittal to Planning Commission for variance request approval. 4/16/18: FAA approved tower; Newberg Planning application to be submitted soon.
Actions	Subscriber radio needs identified for police.	X			Police Chief	Number of portable and mobile subscriber radios identified; anticipated order fall 2017. Goes towards bulk rate order for best cost savings. Updated 11/8/17: Radios ordered. 1/25/18: Radios in storage awaiting programming once code plugs/template prepared; estimated June 2018 distribution/installation. 4/16/18: Template survey out; once completed, final radio template will be developed and subscribers will be scheduled for radio programming.
Actions	Estimate costs and means to pay for upgrade		X		Finance Director	Communications upgrade costs are estimated at \$3.4 million, the 2017-18 budget includes financing for a portion of the cost to upgrade the 800 MHz radio communications system as part of the Washington County Consolidated Communication Agency. Computer Aided Dispatch upgrade costs still to be determined. Updated 11/8/17: Financing for the project is in progress, estimated to be wrapped up in January 2018. TVFR has given verbal agreement to fund costs of new antenna tower using proceeds of sale of unneeded fire equipment. Funding of balance of \$3.4 million proposed by staff to come from sale of surplus City property, Council asked to approved appraisal of Butler property at 11/20 meeting 1/18/18: Staff engaged financial advisor to evaluate additional options for financing, in addition to combining communications project with refunding existing debt to take advantage of lower debt costs. Timeline reset to complete in 3-4 months. Conducted two Long Range Financial Plan presentations in December 2017 and January 2018 to discuss various revenue sources, including a local option levy, increasing the internal franchise fee, and increasing the public safety fee, with the first two sources receiving the most interest from Council. Staff will prepare FY19 Proposed Budget accordingly. 4/30/18: The financing for the project was successfully completed on March 29, 2018, with a bank loan with Chase Bank for \$3.15 million over 10 years with the majority of the loan at a non-taxable rate of 2.76% and a small portion at a taxable rate of 3.6%.

GOAL 1: Maintain a state-of-the-art 911 dispatch center and 800 MHz radio communications system (continued)

STRATEGIES		TIMELINE (in months)			LEAD	PROGRESS
		Short-Term (0-12)	Mid-Term (12-24)	Long-Term (24-36)		
2.1	Determine desired level of services for City streets					
Actions	Determine the desired level of pavement condition based on the pavement condition index (PCI).	X			City Engineer	In 2014, the City evaluated and rated the street system. Using a Pavement Condition Index (PCI). In January, 2017, the City Council approved a desired, average PCI standard of 71 for city streets. Street conditions were updated in 2016. Updated 11/13/17 (inventory on City's website) 1/29/18: DONE.
2.2	Determine condition of City streets and sidewalks and estimate costs of repair, replacement and maintenance					
Actions	Prepare a street condition report	X			City Engineer	The City has 65.5 miles of paved streets and four miles of gravel roadways with a replacement value of approximately \$150 million. The condition of our roads range from poor to good. In 2014, the City determined that \$2 million per year for 10 years is required to upgrade the city street system and maintain the system at a PCI of 71. Updated 11/13/17 (inventory on City's website). Work done in 2017 included 1) Crack sealing (3.69 miles), 2) Slurry sealing (3.05 miles), and 3) Grind and inlay (0.50 miles as well as Elliott Road and Eighth Street. 1/18/18: Projects for 5-year road maintenance capital improvement plan has been updated. Plan assumes existing level of funding (about \$1.8 million/year). Pavement condition index model to be updated in near future to determine if PCI is being maintained. 4/17/19: A small update was completed as a part of the recent 5-year pavement maintenance plan. Additional updates to the street condition report are planned for next fiscal year.

GOAL 2: Repair and maintain City's streets and sidewalks and secure funding

STRATEGIES		TIMELINE (in months)			LEAD	PROGRESS
		Short-Term (0-12)	Mid-Term (12-24)	Long-Term (24-36)		
2.3	Develop and approve short term and long term finance strategy					
Actions	1. Identify potential source of street funding. 2. Implement Transportation Utility fee. 3. Work session to discuss other funding options (September, 2017).	X			City Engineer & Finance Director	The Newberg Pavement Maintenance and Funding Master Plan was developed in 2017 to identify new funding to maintain roads. Several funding sources were discussed with a Transportation Utility Fee approved to fund \$1.2 million of the \$2.5 million annual need. In April, 2017, the Council authorized a Transportation Utility Fee scheduled for implementation with the August, 2017 municipal services bills. Other funding sources are still to be determined and are scheduled to be discussed during Council work session September, 2017. The Council is also scheduled to consider a financing proposal to borrow against future TUF revenues to permit 2017/2018 construction. Staff is also monitoring the proposed State transportation bill for any additional revenue directed to cities. Updated 11/8/17: 3 sources of funding proposed: Transportation Utility Fee: Transportation Utility Fee adopted 5/25/17; implemented billing on 9/17 MSS statement. Local Gas Tax revenue increase with the passage of HB 2017, new gas revenue expected in 2018. Other sources considered: heavy vehicle tax and local improvement taxes. Council work session on 5 year Street Improvement Plan and funding recommendations scheduled for 3/19/18. 1/18/18: With the updated 5-year pavement maintenance CIP utilizing existing funding currently in-place, consultant will update the pavement condition index (PCI) model and determine if a funding gap still exists to adequately maintain the PCI. Staff has a work session scheduled with Council on March 19 th to discuss the information and review additional options for supplemental funding, if needed. HB2017 – Additional annual gas tax revenue \$560,000 (10 year averages) 4/17/2018: At the 3/19/18 Council Business meeting, Council concurred with staff to wait several years to evaluate the progress of pavement repairs utilizing the funding currently in place. 3/19/18: DONE.
2.4	Produce five year schedule of street restoration, repair and maintenance					
Actions	Develop a project list for 2018.	X			City Engineer	The Pavement Management/Street Conditions Report of 2014 (revised in 2016) identified street segments requiring maintenance, repair or replacement. Several streets have been identified for repair, maintenance (sealcoat or slurry seal) or complete rebuild in 2017. The award for the work is scheduled for 7/17/17. Updated 11/13/17. 1/30/18: DONE.
Actions	Develop a project list for the following 5 years will be developed by 6/30/18 and will be dependent on securing additional funding.	X			City Engineer	11/8/17: Council work session on 5 year Street Improvement Plan and funding recommendations scheduled for early Summer 2018. 1/18/18: The 5-year project list will be updated every year as capital improvement projects are completed and new projects are added to the list. The project list will also be updated if it is determined during the analysis of the city-wide pavement condition index (PCI) that additional/supplemental funding is needed

GOAL 2: Repair and maintain City’s streets and sidewalks and secure funding

						to maintain the PCI identified in section 2.1 above. 1/30/18: DONE. 5.1 miles of sidewalk been installed from 6/1/2017 – 3/6/2018
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GOAL 3: Facilitate Annexation to Tualatin Valley Fire and Rescue District

STRATEGIES		TIMELINE (in months)			LEAD	PROGRESS
		Short-Term (0-12)	Mid-Term (12-24)	Long-Term (24-36)		
3.1	Public vote on Annexation					
Actions	Council has stated its desire to schedule a public vote on whether to annex or not to Tualatin Valley Fire and Rescue	X			Finance Director & City Attorney	A resolution is scheduled for Council action on July 17, 2017 . Updated 11/8/17: Public vote held on Measure 36-190. Final unofficial results from Yamhill County on 11/8/2017 - 32.96% voted in favor. 11/28/17, Public hearing on Annexation request before Washington County Board of Commissioners if approved, the Board will hold the second required public hearing 12/17/17. Discussions will be held beginning after Thanksgiving on an annexation agreement details dealing with topics including transfer of records, personnel account reconciliation, facilities and equipment sale and transfer. 1/18/18: Voter's residing in TVF&R service area will be asked in the March 13, 2018 election, (Measures 34-280 & 34-281) to consider whether to allow annexation of City and Newberg rural Fire Protection District into TVF&R's service area. 4/30/18: Voters approved annexation at March 2018 election. Annexation scheduled for 7/1/18.
3.2	Reduce Tax Levy					
Actions	Present Tax Reduction Ordinance.	X			Finance Director & City Attorney	Updated 11/8/17: Public vote held on Measure 36-191 - 11. Final unofficial results from Yamhill County on 11/8/2017 – 32.96% voted in favor. 1/18/18: FY19 Proposed Budget will include reduced property tax rate from \$4.3827 to \$2.5000 per \$1,000 assessed value.

GOAL 4: Improve Newberg Employee Retirement Pension System (NERPS)

STRATEGIES		TIMELINE (in months)			LEAD	PROGRESS
		Short-Term (0-12)	Mid-Term (12-24)	Long-Term (24-36)		
4.1	Reduce cost and future funding burden through changes in plan design and membership					
Actions	Consider changes to future enrollment in NERPS.	X			Finance Director	Legal opinions have been requested. Bargaining units will be involved in any recommended changes. Discussion anticipated throughout Fall, 2017. 1/18/18: Successfully negotiated the AFSCME Contract Local 1569 for all “newly hired” employees as of 1-1-2018 to be PERS covered. 4/30/18: In accordance with 2018 union contract, no new City employees will be enrolled in NERPS. Currently 60 NERPS employees and 65 PERS.

GOAL 5: Utilize Technology to Improve and Economize City Services and within 3 years obtain functional software/hardware that reduces redundancies and duplications through the integration of departmental systems.

STRATEGIES		TIMELINE (in months)			LEAD	PROGRESS
		Short-Term (0-12)	Mid-Term (12-24)	Long-Term (24-36)		
5.1	Evaluate opportunities for expanded use of technology					Software packages to aid in staff communication and workflow have been identified and are awaiting funding.
Actions	By 12/31/17 develop a technology plan that addresses long term equipment and software needs of all departments and includes financial plan.	X			IT Director & Dept. Directors	Technology plan is complete. Equipment and software needs are identified and awaiting budget approval. 4/30/18: Council Study Session scheduled for 5/2/18. Individual meetings with directors scheduled for May 2018.
5.2	Streamline City permitting process					
Actions	Enhance City permitting processes.	X			City Engineer	eTrakit system went live 6/27/17. Six month evaluation scheduled for December, 2017. 1-18-18: The eTrakit vender is currently working on finalizing the configuration of several processes in the system. City staff has been trained to add additional workflows/processes in the future to the software system if the need arises. 4/17/18: Final implementation of all software features is near completion. Existing work flow processes are under evaluation and may be modified to streamline processes.
5.3	Evaluate expansion of fiber				IT Director	Government and commercial options are being evaluated.

GOAL 6: Complete a 5-Year Financial Plan and Fiscal Policies

STRATEGIES		TIMELINE (in months)			LEAD	PROGRESS
		Short-Term (0-12)	Mid-Term (12-24)	Long-Term (24-36)		
6.1	Complete a comprehensive five-year financial plan for operating and enterprise funds					
Actions	Five-year financial planning document for seven operating funds presented to Council by 11/20/17.	X			Finance Director	A citizens planning committee assisted in the development of a five-year planning document that was completed and used in preparation of 2017/18 budget. Formal presentation to City Council is scheduled for 12/2017. 1/18/18: Five-year financial projections for General Fund presented to Council at December 2017 and January 2018 Council meetings to generate robust discussion on various scenarios and receive input on strategic direction. Ongoing development of remaining operating funds expected to be presented with the FY19 Proposed Budget. 4/30/18: the long-range financial model was used in the development of the FY18-19 Proposed Budget. The long-range projection for the General fund and other operational funds will continue to be utilized in the summer and fall of 2018 as the City weighs options for meeting future funding needs. Financial policies are anticipated to be presented to Council within the summer of 2018.
Actions	Five-year financial planning document to enterprise funds presented to Council by 3/30/18	X			Finance Director	1/18/18: In conjunction with the 2017-18 Citizens' Rate Review Committee meetings, staff will be developing the five-year projections for the enterprise funds, including streets, water, wastewater, and storm water programs.
6.2	Adoption of financial policies for operating budget; revenues; capital improvement; accounting; debt; fund balance/reserve and long range planning					
Actions	Presentation of fund balance/reserve and operating budget policies to Council by 12/31/17.	X			Finance Director	1/18/18: These policies are being internally re-evaluated in conjunction with the long-range planning to ensure that the City balances compliance with flexibility to address future General Fund challenges. The policies will have additional importance as the City seeks financing for the Public Safety Communications Upgrade project.
Actions	Presentation of revenues, capital improvement, accounting, debt and long range financial planning to Council by 3/31/18.	X			Finance Director	1/18/18: Policies on track to be presenting in next couple months.

GOAL 7: Expand the City's Urban Growth Boundary

STRATEGIES		TIMELINE (in months)			LEAD	PROGRESS
		Short-Term (0-12)	Mid-Term (12-24)	Long-Term (24-36)		
7.1	Determine expansion needs					
Actions	Apply for and receive a State grant to evaluate expanding the urban growth boundary.	X			Community Development Director	A State grant was applied for and received. An initial Buildable Lands Inventory using OAR Chapter 660, Division 38 has been completed. 1/18/18 – A draft scope of work is being prepared with DLCD. 5/7/18 – Scope of work finalized, contract signed, in RFP process for consultant services.
Actions	Conduct a Buildable Lands Inventory to determine residential and employment land needs.	X			Community Development Director	A preliminary Buildable Lands Inventory using OAR Chapter 660, Division 38 has been completed with technical fixes identified to make this OAR useable. 2/5/18 – The draft scope of work for Phase 2 includes updating the Buildable Lands Inventory after DLCD/LCDC approve the technical fixes for OAR Chapter 660, Division 38. 5/7/18 – RFP out for consultant service to do BLI, DLCD delayed in initiating Division 38 Technical Fixes.
7.2	Determine appropriate process for UGB expansion request					
Actions	Evaluate options for the appropriate process to expand the Urban Growth Boundary.	X			Community Development Director	Options include: 1. Proceed with OAR Chapter 660, Division 38. 2. Request DLCD/LCDC make technical fixes to OAR Chapter 660, Division 38. Staff has requested the State make administrative changes to the Division 38 process. LCDC has added to their Policy agenda Minor amendments to Division 38. 3. Wait for another comparable sized city to work through Division 38 process before Newberg proceeds any further. 4. Abandon the Division 38 process and proceed with Division 24 (which will require an Economic Opportunity Analysis and Housing Needs Assessment). 1/18/18 – With the DLCD grant for Phase 2 and DLCD/LCDC working on technical fixes to the OAR the City is moving forward with OAR Chapter 660, Division 38 process. 5/7/18 – No change.
Actions	Work with the Department of Land Conservation and Development on modifications to OAR Chapter 660, Division 38.	X			Community Development Director	Coordination is scheduled to occur starting in January 2018 and run through June 2018. 1/18/18 – Staff met with DLCD staff to clarify the process, timing and what would be included in the technical fix process for the OAR Chapter 660, Division 38 process. DLCD is establishing a Rules Advisory Committee which should be formalized in March and developing an interested stakeholders list. 5/7/18 - DLCD delayed in initiating Division 38 Technical Fixes due to other work program priorities on housing needs directed by the Legislature.
Actions	Apply for a Department of Land Conservation and Development Technical Assistance Grant to conduct the Phase II UGN analysis	X			Community Development Director	A technical assistance grant has been applied for to use the Division 38 process. 1/18/18 – A draft scope of work is being prepared with DLCD. 5/7/18 – Scope of work finalized, contract signed, in RFP process for consultant services.

GOAL 7: Expand the City's Urban Growth Boundary

Actions	Work with the Yamhill County Assessor to fix assessment data for the Division 38 process.	X			Community Development Director	Initial discussions have been held with the County Assessor with additional discussions to be scheduled. 1/18/18 – A contract has been entered into with EcoNorthwest to work with the County Assessor on the assessment date issue identified in Phase 1 of the UGB process. A meeting with the County Assessor is scheduled for January 31.
Actions	If the Division 38 process cannot be corrected revert to the Division 24 process and conduct an Economic Opportunity Analysis and Housing Needs Assessment.		X		Community Development Director	1/18/18 – With the DLCD grant the City is moving forward with the OAR Chapter 660, Division 38 process. 5/7/18 – No change.
Actions	Advance selected Urban Growth Boundary selected process with consultant(s) and Citizens Advisory Committee.	X	X	X	Community Development Director	1/18/18 – Contact has been made with the Citizen Committee members who worked on Phase 1. A list is being developed of possible participants for Phase 2. 5/7/18 – Citizen Advisory Committee members have been indented and confirmed by the Mayor and City Council. RFP process underway to hire a consultant.

GOAL 8: Encourage Affordable Housing

STRATEGIES		TIMELINE (in months)			LEAD	PROGRESS
		Short-Term (0-12)	Mid-Term (12-24)	Long-Term (24-36)		
8.1	Define need and potential strategies to address the affordable housing need					
Actions	Consider the recommendation of the community citizens committee Housing Newberg to explore several different areas to help provide affordable housing in Newberg including:	X	X	X	Community Development Director	The City Council is scheduled to hear Housing Newberg's recommendations 7/17/17. 1/18/18 – Council met in three Work Sessions and one Business Session on Housing Newberg proposals.
	1. Annexations Policies applying a mixture of zoning, to include some R-3 zoned lands					Annexations Policies applying a mixture of zoning, to include some R-3 zoned lands. 1/18/18 – City Council identified the annexation action to advance forward on December 18, 2017. A proposal is anticipated to come back to City Council in April 2018. 5/7/18 – Planning Commission recommended approval of new R-3 regulations. City Council held first hearing on the proposed Comprehensive Plan and Development Code changes with the second reading scheduled for 5/7/18.
	2. Accessory Dwelling Units (ADUs)					Accessory Dwelling Units (ADUs) - Make ADU's permitted uses in all zones with no systems development charges (SDCs). 1/18/18 – City Council identified the ADU action to advance forward on December 18, 2017. A proposal is anticipated to come back to City Council in June 2018. 5/7/18 – The Planning Commissions has held two workshops and the Affordable Housing Commission two workshops to develop a proposal. The Planning Commission will hold a third workshop in May followed by a public hearing on May 24. City Council is scheduled for a public hearing on the proposal on June 18, 2018.
	3. Construction Excise Tax					Construction Excise Tax - Assess a 1% of permit valuation construction excise tax on new residential, commercial and industrial construction. The proceeds of the levy directed to the existing Affordable Housing Trust Fund for such things as developer incentives, land acquisition, consultant fees, to replenish waived SDC fees, to finance a City-wide bond campaign and other actions to develop a range of affordable housing in our community. 1/18/18 – City Council identified the Construction Excise Tax action to advance forward on December 18, 2017. A proposal timeline has not been developed. 5/7/18 – No change.
	4. Subsidized Work and Living Spaces					Subsidized Work and Living Spaces - City should contract with a consultant to assess the City's appropriateness for artist work and living space and hopefully for development. Economic Development Loan funds should be used for this purpose. 1/18/18 - City Council did not identify the Subsidized Work and Living Spaces action to advance forward on December 18, 2017. 5/7/18 – No change.
	5. Housing Ombudsman (Education/Community Awareness)					Education/Community Awareness - City staff publicize programs available including but not limited to 1) SDC fee financing 2) use of the economic development fund 3) manufactured

GOAL 8: Encourage Affordable Housing

						housing repair 4) ADU regulations and the application process 5) annexation opportunities and 6) the Housing Trust Fund small grant program. City's Community Development Director or designee shall serve as the community's ombudsman for housing and make efforts to educate the public on the need for a range of housing types in Newberg. 5/7/18 – No change.
	6. Missing Middle Level Housing					Missing Middle Level Housing - Housing of the type between high density and single family is a missing component to our current market. Action: duplexes or triplexes shall be allowed on corner lots in R-1 zones. 1/18/18 – City Council identified the Missing Middle Level Housing action to advance forward on December 18, 2017. A proposal timeline has not been developed. 5/7/18 – No change.
	7. Expedited Review and Permitting					For qualifying affordable housing projects the City of Newberg should offer expedited review and permitting from the Building, Engineering, and Planning Divisions. Understanding the potential strain on City staff, funds to retain third-party consulting for the review of affordable housing projects should be directed from the proposed Construction Excise Tax (CET). 1/18/18 – City Council did not identify the Expedited Review and Permitting action to advance forward on December 18, 2017. 5/7/18 – No change.
	8. Public Street Standards					Reduce the public street right-of-way width standard to that allowed by the Fire Department. 1/18/18 - City Council did not identify the Public Street Standards action to advance forward on December 18, 2017. 5/7/18 – No change.
	9. System Development Charge Deferrals/Loans					Deferrals – The City of Newberg should allow qualifying affordable projects to defer payment of SDCs until time of ownership transfer or one year from the date of deferral; whichever comes first. No interest should be charged during the deferral period. CET funds might be used to offset costs. 1/18/18 - City Council did not identify the System Development Charge Deferrals/Loans action to advance forward on December 18, 2017. 5/7/18 – No change.
Actions	Areas for future review		X	X	Community Development Director	1. Decrease time from substantial completion of utilities to final plat approval. 2. Reduce complexity, maintenance requirements and cost of storm water treatment. 3. Lift building height restrictions outside of downtown. 4. Allow sharing of utility lines (sewer, water) for more than one 5. Staff is working with Newberg High School Design Class to consider any ordinance changes needed to implement school construction of two tiny homes by June 2018. 5/7/18 – No change.

GOAL 9: Develop a Riverfront Master Plan

STRATEGIES		TIMELINE (in months)			LEAD	PROGRESS
		Short-Term (0-12)	Mid-Term (12-24)	Long-Term (24-36)		
9.1	Establish parameters for updating the Riverfront Master Plan					
Actions	Apply for planning grant and negotiate a scope of work and consultant contract to update the Riverfront Master Plan.	X			Community Development Director	Study area has been defined as 450 acres. Planning process estimated at 18 months. Waterfront Committee has been appointed by Mayor which includes the County, Chamber of Commerce, Downtown Coalition, neighborhood representatives and other community interest groups including holding a position for new owners of WestRock mill site. First Riverfront Master Plan Meeting February/March 2018. Negotiations on the Statement of Work with the Transportation Growth Management continue. Negotiations on the Statement of Work continue. 1/18/18 – A statement of work is close to being finalized, going through TGM program internal review. 5/7/18 – Statement of Work finalized, Intergovernmental Agreement executed. Program work activities have commenced with a kickoff meeting, Initiation meeting including a tours of the study area, and an Orientation meeting with the Citizens Advisory Committee is scheduled for April 30, 2018.
9.2	Conduct existing conditions analysis and Community Outreach					
Actions	Modeled on the Economic Development Strategy Plan it is desirable to identify and interview stakeholders, neighborhood representatives and interested community members to identify interests concerns and topics for study. An analysis of infrastructure conditions and needs is needed.	X			Community Development Director	With the Governor's Regional Solutions assistance, eight State agencies gathered and reported on regulatory, environmental, transportation, land use, energy and economic development issues related to the Riverfront. 5/7/18 – Information on the WestRock site has been compiled, project consultant will be schedule stakeholder meetings. Infrastructure analysis will be part of the overall work program.
9.3	Develop Master Plan and financing of the Master Plan					
Actions	Develop financing plan for development and re-development in the planning area such as tax increment financing, property tax abatement programs and infrastructure capital improvement funding.		X		Community Development Director	5/7/18 – Financing options will be a part of the overall work program. Analysis on the feasibility of a Tax Increment District is being re-budgeted to FY 201-2019.
9.4	Comprehensive Plan and Zoning Changes					

GOAL 9: Develop a Riverfront Master Plan

Actions	Based on the work of the Riverfront Citizens Advisory Committee it is likely to require Comprehensive Plan and Zoning changes.		X		Community Development Director	
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GOAL 10: Implement Emergency Preparedness and Response Program

STRATEGIES		TIMELINE (in months)			LEAD	PROGRESS
		Short-Term (0-12)	Mid-Term (12-24)	Long-Term (24-36)		
10.1	Develop an effective emergency program that plans, trains and coordinates public, non-profit and private efforts in emergency response, mitigation and recovery.					
Actions	Organize and train city organizations for emergency response and mitigation	X			City Manager or Designee	<p>11/8/17:</p> <ul style="list-style-type: none"> • A monthly Emergency Management meeting schedule has been prepared. • Department Heads are discussing Emergency Preparedness concerns on a regular basis. • Department Heads are evaluating the needs of their departments and setting minimum ICS training standards. • Staff is compiling training certificates and will coordinate necessary additional training to meet those standards. City Management team has committed to monthly meetings to plan and prepare for disaster responses and recovery. The effort includes revision to the emergency operations plan, commitment to enhanced FEMA training, scheduling of regular training activation of the City's Emergency Operations Center, evaluation of seismic resiliency of city facilities. The City's department directors are organizing around the Incident Command system for emergency response and are developing strategies for preparing individual employees and their families to respond to a disaster and are planning for extended disaster response as well as organizing with a goal of staff backup to each emergency response function. Staff is reviewing and revising the City Emergency Operations Plan (EOP) and will assist other government agencies and private-sector entities in the preparation of standard operating procedures (SOP's) in support of the EOP. Reviews and recommendations will extend to businesses, industry, hospital, and nursing homes on the preparation of their emergency plans to ensure they are workable within the framework of the city, county, and state plans. 1/18/18: City has an accurate record of what employees have completed NIMS training. Employees that were found to need additional coursework have been completing the online training, which should be completed in the coming months. Training records will be tracked by the HR Department moving forward, rather than by each individual department. <p>4/17/18: Nine people attended ICS 300/400 training earlier this month. Approximately 35 staff and Councilors need to complete additional FEMA coursework (started with 80+ needing training).</p>
Actions	Update City Emergency Operations Plan		X		City Manager or Designee	

GOAL 10: Implement Emergency Preparedness and Response Program (continued)

STRATEGIES		TIMELINE (in months)			LEAD	PROGRESS
		Short-Term (0-12)	Mid-Term (12-24)	Long-Term (24-36)		
Actions	Plan and operate, maintain, and upgrade a multi-tiered emergency communication system that includes an 911 call center, emergency operations center land lines, satellite phones, citizens band radios, ham radios, cell phones, email system, and city-wide code red alert system.		X		City Manager or Designee	
Actions	Coordinate fire and medical communications and response protocols with Tualatin Valley Fire & Rescue.	X			City Manager or Designee	11/8/17: Communication with TVFR to 1) Help us in setting up EOC and, 2) Participate in a mock exercise. 1/18/18: A training exercise with TVF&R is in the planning stage and is tentatively scheduled for late spring.
10.2	Develop, foster, and maintain private sector interest in the emergency program. Emergency partners in the private sector range from businesses and industry to civic organizations and individuals.					
Actions	Coordinate Emergency Preparedness programs with GFU, A-dec, CPRD, and the School District.		X		City Manager or Designee	Updated 11/8/17: Obtained copies of Emergency Operations Plans from <ul style="list-style-type: none"> • GFU • Tualatin Hills Country Club • Newberg School District • City of Dundee • PNMC The City components consist of police, emergency communications, public works, support departments (such as finance, planning, logistics, public information, etc.) and the coordination of volunteers and other groups contributing to the management of emergencies. Organize and coordinate local training for public safety and volunteer first responders. 4/17/18: No update
10.3	Maintain the Emergency Operations Center (EOC) in a continuous state of readiness.					
Actions	Setup storage area for needed supplies for primary and secondary EOC locations.	X			City Manager or Designee	1/18/18: Bids for storage cupboards were acquired. Installation is being postponed due to current year budget constraints and will be proposed to be completed in the FY 18/19 budget. 4/17/18: Cupboards in Council Chambers are budgeted in FY 18/19.

GOAL 10: Implement Emergency Preparedness and Response Programs (continued)

STRATEGIES		TIMELINE (in months)			LEAD	PROGRESS
		Short-Term (0-12)	Mid-Term (12-24)	Long-Term (24-36)		
Actions	Review/modify/upgrade needed equipment and infrastructure to effectively operate the EOC.		X		City Manager or Designee	1/18/18: City staff recently prepared and submitted a State of Oregon Homeland Security grant application for \$17,000 for EOC items: 2 pallets of meals ready to eat, 2 fuel transport bladders, and a storage container installed on a gravel pad. In June the State will provide notice of grants that were funded. 4/25/18: A seismic upgrade grant for \$877,000 was submitted to Business Oregon for the Public Safety Building in February. The city was awarded 100% of the requested funds, staff will be working on finalizing the acceptance of the grant in the next couple of months.
Actions	Train city staff in the operations of EOC positions (provide redundancy).	X			City Manager or Designee	11/8/17: Public Works - Jill Dorrell coordinating monthly meetings - response planning & training. 4/17/18: Nine staff members recently attended ICS 300/400, which provides high level of training for all of the positions in the EOC. 4/17/18: DONE.
Actions	Ensure adequate staffing to operate the EOC is available.	X			City Manager or Designee	1/18/18: A large number of employees have recently completed the NIMS coursework and will add to the pool of staff available to staff the EOC. With the tracking of required training for most city employees, adequate staffing to operate the EOC should not be an issue in the future. 4/17/18: Nine staff members recently attended ICS 300/400, which provides high level of training for all of the positions in the EOC. 4/17/18: DONE.
10.4	Establish and maintain coordination with other Cities, Counties, and State governmental departments and agencies, utilities, and the private sector during any type of emergency.					11/8/17: Met with Providence Hospital, GFU, PGE & Yamhill County - updated coordination efforts.
Actions	Reach out to the Yamhill County Sheriff Office Emergency Management office in partnership.	X			City Manager or Designee	11/8/17: Several communications with County Emergency Manager. 1/18/18: Staff have attended the monthly County emergency management meetings. The Yamhill County Emergency Manager, Brian Young, has been attending the monthly City emergency management coordination meetings. City staff will be participating in the all-county emergency management tabletop exercise this spring. 4/17/18: A robust relationship has been created with Yamhill County Emergency Management. Brian Young from Yamhill County attends the end of the month City Department Head emergency management coordination meetings. City Staff is also attending the monthly emergency management meeting held at Yamhill County and attending County drills/exercises. 4/17/18: DONE.

GOAL 11: Implement Newberg Economic Development Strategy

STRATEGIES		TIMELINE (in months)			LEAD	PROGRESS
		Short-Term (0-12)	Mid-Term (12-24)	Long-Term (24-36)		
10.5	Facilitate Disaster planning, response and recovery in partnership with Newberg's faith community					
Actions	Invite faith community to partner with the City	X			City Manager or Designee	<p>The City has sponsored two introduction and planning meetings with churches introducing concept to disaster response and recovery partnerships. The Mayor offered to preposition water filtration equipment at churches interested in participating and asked for congregations interested in further planning with the city. The City is actively seeking surplus state and federal equipment and supplies that might be prepositioned at churches in addition to seeking supplies for the City's response efforts. The concept is to ultimately engage all of the community's church congregations to plan for disaster response and recovery and for the City to facilitate training, exercises and individual facility planning and to relocate emergency supplies at the churches.</p> <p>One church has volunteered to become the first pilot church to jointly develop an agency response plan for church congregation and to accept prepositioned emergency equipment and supplies. A memorandum of Understanding between the City and Church is being drafted.</p>
Actions	Identify three churches to become pilot response and recovery partners.	X			City Manager or Designee	<p>The initial goal is for three pilot churches to do joint planning. As of 7/1/17, one congregation has stepped forward and two others are considering their level of participation. Pilot churches: Seventh Day Adventist, LDA & Newberg Christian.</p>
Actions	Organize and coordinate local training for public safety and volunteer first responders.		X		City Manager or Designee	<p>LDS Fair was done in October 2017. Newberg Christian will take place Spring of 2018.</p> <p>4/17/18: City staff attended the Prepare Out Loud event held by Newberg Christian. Staff had a table of city emergency management materials and gave presentations on the City water purification systems. Links to the presentation will be forwarded to city staff. All city staff will be receiving an all-weather grab and go bag from the City at the yearly city recognition breakfast. The city will be over the next few years will be assisting employees in filling the bags with needed emergency supplies.</p>

GOAL 11: Implement Newberg Economic Development Strategy

STRATEGIES		TIMELINE (in months)			LEAD	PROGRESS
		Short-Term (0-12)	Mid-Term (12-24)	Long-Term (24-36)		
11.1	Implement Economic Development Strategy					
Actions	Continue implementation of the Newberg Economic Development Strategy and its implementing actions. Update the Strategy in FY 2018–2019.	X	X	X	Community Development Director	<p>In 2016, the City Council, Chamber of Commerce and Downtown Coalition approved the Economic Development Strategy with an accompanying action plan. The Newberg Economic Development Strategy is based on four pillars of activity:</p> <ol style="list-style-type: none"> 1. Industrial Sector. 2. Commercial Sector. 3. Business Development and Workforce. 4. Tourism and Hospitality. <p>Under each pillar there are identified strategies and actions. The Industrial Sector has nine strategies, the Commercial Sector has seven strategies, Business Development and Workforce has eight strategies, and Tourism and Hospitality has three strategies. The first annual Economic Development Strategy progress report was held on July 25, 2017. Meetings are occurring monthly with the core group on action updates. 1/18/18 – The Newberg Economic Development Strategy group meets on a monthly bases to report on activities over the past month. No meeting was held in December. The next meeting is January 23. 5/7/18 - The Newberg Economic Development Strategy group meets on a monthly bases to report on activities over the past month.</p>
11.2	Implement Newberg Downtown Improvement Plan					
Actions	Implement the identified actions that support the 10 Big Ideas contained in the Newberg Downtown Improvement Plan adopted City Council in December, 2016 as a guiding document for future planning efforts and investments downtown.	X	X	X	Community Development Director	<p>The Downtown Improvement Plan includes an incremental implementation strategy identifying actions, programs and projects needed to carry out the Plan. Not all of these can be done at once. The Incremental Implementation Strategy is a renewable/rolling, short-term action plan that is annually updated with a regularly-scheduled monitoring and updating process and a supporting budget. Included below are charts with action items and timelines for each strategy identified in the adopted plan. 1/18/18 – An appraisal is being prepared for the property, the McCann apartment project at the corner of Second St and Edwards St received land use approval and building permits have been submitted, discussions on a hotel downtown continue, discussions on repurposing and new buildings have been discussed for the properties at the corner of First St and Blaine St, Chapters completed its front façade improvement, Tesmer & Emery LLC completed the façade improvement for the old Cancun building, the food cart pod is operational on first street, a pre-application meeting was held for a new commercial bldg.. on Second St., a meeting was held on possible apartments on</p>

GOAL 11: Implement Newberg Economic Development Strategy

						Second Street. 5/7/18 – A report on activities in the downtown area over the past year was presented to the City Council on March 5, 2018.
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STRATEGIES		TIMELINE (in months)			LEAD	PROGRESS
		Short-Term (0-12)	Mid-Term (12-24)	Long-Term (24-36)		
11.3	Implement Newberg Strategic Tourism Plan					
Actions	Implement the identified actions that support Organizational Development, Destination Development and Marketing adopted City Council in June, 2016 as a guiding document for future tourism efforts with the city.	X	X	X	Community Development Director	<p>The Small Grant Program for FY 2016-2017 awarded five grants totaling \$20,000.</p> <p>The Destination Development – Marketing Grant program applications closed in October and six applications are under review by the TLT Ad Hoc Committee.</p> <p>The Small Grant Program for FY 2017-2018 will begin its solicitation on November 15, 2017 for up to \$20,000 in available funds.</p> <p>1/18/18 – The TLT Ad Hoc Committee reviewed and recommended three Destination Development-Marketing grants to City Council. City Council awarded two grants and referred one recommendation back the Committee for further consideration. Five Small Grant applications are under review by the Committee. The marketing Subcommittee has developed a marketing proposal the TLT Committee will discuss in February.</p> <p>5/7/18 – The TLT Ad Hoc Committee revised and recommended funding four Small grants and City Council approved the grants. The TLT Ad Hoc Committee reconsidered the Wolves & People Destination Development-Marketing Grant as requested by City Council and it and will be back before the City Council on May 7, 2018. The TLT Ad Hoc Committee and Marketing Subcommittee have been discussing the organizational structure of the tourism program and a focus on marketing rather than grants.</p>

GOAL 12: Complete community visioning process and communication plan to engage Newberg residents

STRATEGIES		TIMELINE (in months)			LEAD	PROGRESS
		Short-Term (0-12)	Mid-Term (12-24)	Long-Term (24-36)		
12.1	Determine what constitutes a Community Vision and who should be involved in developing a Community Vision					
Actions	Evaluate models for community visioning processes that reflect Newberg's values, trends and issues.	X			Community Development Director	The Community Engagement Specialist has interviewed several councilmembers, commission volunteers and staff who have revealed patterns and desires for a city communications effort. Research has also been conducted to determine best practices of other public agencies on effective communications plans. Staff has reviewed the International Association of Public Participation (IAP2) model along with the City of Hillsboro, City of Sherwood and City of Tualatin programs. 1/18/18 - None
Actions	Identify key stakeholders to gauge level of engagement in a community visioning process.	X			Community Development Director	
Actions	Hold briefings with other communities that have engaged a community visioning process to gather best practices and lessons learned.	X			Community Development Director	
12.2	Develop community vision and actionable plan					
Actions	Secure a facilitator for the community visioning process.		X		Community Development Director	Initial conversations have been held with the Sustainable Cities Initiative (SCI) program out of the University of Oregon about possible facilitation support. 5/7/18 – A Resource Assistance for Rural Environments (RARE) application has been submitted to the University of Oregon to have a RARE participant work with the City to develop a Community Visioning program. Emails went to Chehalem Valley Chamber of Commerce, Newberg School District, Chehalem Park and Recreation District, Newberg Downtown Coalition, Tualatin Valley Newberg Fire & Rescue, George Fox University, Portland Community College, Newberg City Club, Newberg Rotary, Newberg Kiwanis, Providence Newberg Medical Center, Chehalem Cultural Center, Yamhill County seeking their support in a Community Visioning process and program.
Actions	Reach out to Newberg residents and stakeholders in listening sessions and public forums. 2-4 community sessions, 5 stakeholder sessions and 3 large community wide sessions (modeled after process used to create		X	X	Community Development Director	

GOAL 12: Complete community visioning process and communication plan to engage Newberg residents

	Economic Development Strategy and Downtown Plan).					
Actions	Based on listening sessions and stakeholders meetings develop series of values community values, emerging trends and issues.		X	X	Community Development Director	
Actions	Develop a community visioning plan and actions		X	X	City Manager or Designee	

GOAL 12: Complete community visioning process and communication plan to engage Newberg residents (continued)

STRATEGIES		TIMELINE (in months)			LEAD	PROGRESS
		Short-Term (0-12)	Mid-Term (12-24)	Long-Term (24-36)		
12.3	Develop Communications Plan and Strategy					
Actions	Create a Communications Plan based on interviews and research of best practices for public agencies.	X	X	X	Community Development Director	<p>A draft communications plan has been developed based on the following themes and guiding principles:</p> <ol style="list-style-type: none"> 1. Engage the community. 2. Ensure City of Newberg has a positive image with all stakeholders. 3. Ensure consistent and proactive external communication. 4. Enhance internal communication to increase awareness, coordination and participation of City employees in City goals. Open Two-Way Communication - Ensure that information is shared throughout the community and the organization emphasizing two-way informational flow. <p>Community Problem Solving - Provide citizens with complete, accurate and timely information enabling them to make informed judgments.</p> <p>Proactive - The plan attempts to give the City the opportunity to tell its story rather than rely exclusively on others to interpret the City's actions, issues and decisions.</p> <p>Inclusive - Including everyone in the process builds teamwork and a feeling of belonging, breaking down feelings of us vs. them, which are common in many city governments and in many relationships of city government with citizens. The goal is to include everyone who cares to participate and to motivate those who are not currently engaged.</p> <p>Strong and Consistent Messages -The communication plan should support, reinforce and reflect the goals of the City government as established by the City Council and the City management, thus underscoring the idea of an organization with one common purpose: the citizens.</p> <p>A draft communications plan with an implementation schedule will be presented to Council for comments in August, 2017. Joe need s to fix the date as August came and went.</p>

GOAL 13: Improve the Transit System in and out of Newberg

STRATEGIES		TIMELINE (in months)			LEAD	PROGRESS
		Short-Term (0-12)	Mid-Term (12-24)	Long-Term (24-36)		
13.1	Actively contribute to development of Yamhill County's Transit Plan for Newberg					
Actions	Appoint Council member to Yamhill County Transit Master Plan study group.	X			Mayor	Councilor Essin is the appointed City Council representative.
Actions	Appoint staff member to support Yamhill County Transit Master Plan.	X			Community Development Director	Brad Allen is the City staff member assisting Councilor Essin.
Actions	Recommend Newberg residents to participate in the County Committee reviewing the Transit Master Plan.	X	X		Mayor & City Manager	The City assisted in outreach efforts in Newberg for residents to participate in Yamhill County Transit Area workshops in Newberg and surveys on the existing transit system and possible modifications to the system.
Actions	Periodic updates on the Transit Plan development to the City Council.	X	X			Councilor Essin provided material from the draft technical memorandums prepared for the Transit Master Plan with the City Council on October 5, 2017. 5/7/18 – The City Council and Yamhill County Board of Commissioners on March 19, 2018 and discussed Newberg's transit needs and desires. City submitted recommendations to the County Transit Advisory Committee for Newberg Transit improvements including modified routes, new signage and downtown Newberg Transit Center. Committee incorporating recommendation in their plan submitted to Commissioners, May 2018.



**City Council Business Session
May 7, 2018 - 7:00 PM
Public Safety Building 401 East Third Street**

I. CALL TO ORDER

II. ROLL CALL

III. PLEDGE OF ALLEGIANCE

IV. PRESENTATIONS

IV.a Chamber Quarterly Report

[RCA Information Chamber Report 2018-0507.doc](#)

[Chehalem Valley Chamber of Commerce Q3 Visitor Center Tourism Report 2018-0507.pdf](#)

[Chehalem Valley Chamber of Commerce Visitor Center Walk-in Analysis 2018-0507.pdf](#)

IV.b Presentation on Committee Activities for Newberg 2030 and Riverfront Master Plan.

[RCA Presentation CDD committees report](#)

V. CITY MANAGER'S REPORT

VI. PROCLAMATION - MUNICIPAL CLERKS WEEK

VI.a Proclamation - Municipal Clerks Week

[RCA Motion - Municipal Clerks Week.pdf](#)

[Municipal Clerks Week May 6 - 12_2018.pdf](#)

VII. PUBLIC COMMENTS

(30 minutes maximum which may be extended at the mayor's discretion; an opportunity to speak for not more than five (5) minutes per speaker allowed)

VIII. CONSENT CALENDAR

VIII.a Resolution No. 2018-3468, A Resolution to accept a grant award from Regional Solutions through Business Oregon for Crestview Drive and authorize the City Manager to execute all grant documents

[RCA 3468 RST Grant Crestview Drive.doc](#)

VIII.b Resolution 2018-3464, Authorize the City Manager to enter into an Intergovernmental Agreement (IGA) with Washington County Consolidated

Communications Agency (WCCCA) to utilize the WCCCA Radio System for Data and Voice communication.

[RCA Resolution 3464 WCCCA RADIO IGA](#)

[Resolution 3464 Exhibit A](#)

VIII.c Letter of Support - Newberg Dundee Bypass

[RCA Motion - Letter of Support Newberg Dundee Bypass.pdf](#)

[Newberg Dundee Bypass - Letter of Support.pdf](#)

VIII.d Resolution 2018-3475, A Resolution Ratifying Contracts with Sabre Industries, Thermobond, and Power Systems Plus relating to the Emergency Communications System Upgrade Project with Washington County Consolidated Communications Agency (WCCCA)

[RCA Res3475 rev.pdf](#)

VIII.e Council Minutes April 2, and April 16, 2018

[Council Minutes](#)

IX. PUBLIC HEARINGS

IX.a Ordinance No. 2018-2826, An Ordinance amending the text of the Newberg Comprehensive Plan and the Newberg Municipal Code to require large residential annexations or urban growth boundary expansions to include some R-3 multi-family residential land

[RCA ORD 2826.doc](#)

[Attachment 1 - PC Res_2017-329 signed.pdf](#)

[Attachment 2 - Resolution 2018-338 Approved.pdf](#)

X. NEW BUSINESS

X.a Resolution No. 2018-3453, A Resolution awarding Transient Lodging Tax Destination Development – Marketing Grant Funds to Wolves & People

[RCA Resolution 2018-3453doc.doc](#)

[Attachment 1 - David S. Wall 1-16-18.pdf](#)

[Attachment 2 - Vicki Sheppard 1-16-18.pdf](#)

[Attachment 3 - Tim Fitchett 1-16-18.pdf](#)

[Attachment 4 - David Wall 2-5-18.pdf](#)

[Attachment 5 - David Wall 2-7-18.pdf](#)

[Attachment 6 - David Wall 2-9-18.pdf](#)

[Attachment 7 - YC CUP Brewey & Tasting Room.pdf](#)

[Attachment 8 - Yamhill County Board Commissioners Order 17-74.pdf](#)

[Attachment 9 - Wolves & People Vines to Steins Trail.pdf](#)

[Attachment 10 TLT Dev-Marketing Grant App Packet.pdf](#)

[Attachment 11 - Summary Scores and Evaluations.pdf](#)

[Attachmnet 12 - TLT Minutes 2018-0307.pdf](#)

X.b 2006 Sportsman Airpark Land Use Master Plan Annual Review

[RCA Information Sportsman Airpark.doc](#)

[sportsman20airpark20master20plan20part1.pdf](#)

X.c Council Priority Update on Goal 5

[RCA IT report on Goal 5 2018-0507.pdf](#)

X.d Annual Report on Cultural District
[RCA Cultural District annual report 2018-0507.doc](#)

XI. COUNCIL BUSINESS

XII. EXECUTIVE SESSION ORS 192.660 (2) I PERFORMANCE EVALUATIONS OF PUBLIC OFFICERS AND EMPLOYEES

XIII. ADJOURNMENT

COMMENTS

Council accepts comments on agenda items during the meeting. Fill out a form identifying the item you wish to speak on prior to the agenda item beginning and turn it into the City Recorder. Speakers who wish the Council to consider written material are encouraged to submit written information in writing by 12:00 p.m. (noon) the day of the meeting.

ADA STATEMENT

ACCOMMODATION OF PHYSICAL IMPAIRMENTS: In order to accommodate persons with physical impairments, please notify the City Recorder's Office of any special physical or language accommodations you may need as far in advance of the meeting as possible and no later than two business days prior to the meeting. To request these arrangements, please contact the City Recorder at (503) 537-1283. For TTY services please dial 711.

ORDER

The Mayor reserves the right to change the order of items to be considered by the Council at their meeting. No new items will be heard after 11:00 p.m., unless approved by the Council.

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: May 7, 2018

Order ____ No.	Ordinance ____ No.	Resolution ____ No.	Motion ____	Information <u>XX</u>
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**SUBJECT: Chehalem Valley Chamber of
Commerce quarterly report**

**Contact Person (Preparer) for this
Item: Carr Biggerstaff, Chehalem Valley Chamber
of Commerce**

See attached for the quarterly report from the Chehalem Valley Chamber of Commerce.

CHEHALEM VALLEY CHAMBER OF COMMERCE Q3 VISITOR CENTER & TOURISM PROMOTION REPORT

Visitor Center	Q1	Q2	Q3
Walk-in Visitors	1,572	1,555	1,572

Tourism Website	Q1	Q2	Q3
Website Sessions	1,200	407	485
Duration (minutes & seconds)	1.47	2.42	1.53
Bounce Rate*	63%	62%	60%

*Bounce rate = the percentage of visitors that leave the website after visiting only 1 page.

Visitor website page rankings

Most Visited Page:	Home Page	Home Page	Home Page
2nd Most Visited Page:	Plan Your Visit	Plan Your Visit	Plan Your Visit
3rd Most Visited Page:	Wine Tours	Wine Tours	Tie: Accommodations & Things to do

Visitor Center & Tourism	Q1	Q2	Q3	YTD Budget	YTD Actual
Revenue:					
City of Newberg	\$ 34,971.50	\$ 34,971.50	\$ 34,971.50	\$ 139,886.00	\$ 104,914.50
City of Dundee	\$ -	\$ 2,500.00		\$ 2,500.00	\$ 2,500.00
Total Revenues:	\$ 34,971.50	\$ 37,471.50	\$ 34,971.50	\$ 142,386.00	\$ 107,414.50
Expense:					
Personnel	\$ 16,873.53	\$ 15,042.16	\$ 9,170.42	\$ 62,000.00	\$ 41,086.11
Tourism Marketing	\$ 9,584.62	\$ 9,105.25	\$ 9,105.25	\$ 42,000.00	\$ 27,795.12
Overhead, Utilities, etc.	\$ 11,055.73	\$ 12,307.76	\$ 12,307.76	\$ 47,979.00	\$ 35,671.25
Total Expenses:	\$ 37,513.88	\$ 36,455.16	\$ 30,583.43	\$ 151,979.00	\$ 104,552.47
Net Income:	\$ (2,542.38)	\$ 1,016.34	\$ 4,388.07	\$ (9,593.00)	\$ 2,862.03

Q3 TLT Tourism Marketing Expense	Q3
Expense Category:	
Advertising-Print	\$ 118.00
Advertising-Design	\$ 250.00
Dues-Travel Portland	\$ 550.00
Dues-Oregon Destination Mktg Org.	\$ 420.00
Sponsorship-Camellia Festival	\$ 4,000.00
Sponsorship-Oregon Truffle Festival	\$ 3,000.00
Visitor Website	\$ 767.25
Total Expenses:	\$ 9,105.25

NOTE:

Personnel costs down due to CEO's absence. Tourism work being filled in with BOD volunteers.

VISITOR CENTER WALK-IN ANALYSIS						
Chamber	Executive	Annual Visitor Center OH	Annual Staffing Cost	Annual Walk-ins	Avg Cost/Walk-in	Notes
Newberg	TBD	\$ 24,000.00	\$ 23,856.00	6,900	\$ 6.94	2017 count. Actual staffing cost & OH allocation for visitor center only (tourism staffing & OH allocation not included). The last dial-in count was 838 phone calls, collected in 2013. Using that number, the estimated number of customers served would be 7,738 in 2017 at our current location, so \$6.18/customer.
Grants Pass & Joseph County	Colene Martin	\$ 67,000.00	\$ -	10,000	\$ 6.70	Staff is all volunteers.
McMinnville	Gioia Goodrum	\$ -	\$ 16,500.00	1,500	\$ 11.00	The annual walk-in count also includes call-ins. Funded by the chamber (the city does not provide any direct funding). Visit McMinnville reimburses the chamber for sending out visitor packets since Visit McMinnville does not have a visitor center (\$8 per packet).
Medford	Brad Hicks	\$ 10,800.00	\$ 55,000.00	30,000	\$ 2.19	An retired mayor gave a long-term, "sweetheart deal" lease to the chamber at \$900/month, located at the Harry & David Plaza for the primary visitor center. The second visitor center location is the visitor counter at the airport, provided at no charge. A full-time staff person manages 30-40 volunteers for the 2 visitor centers.
Eugene	Brittany Quick-Warner				N/A	No visitor center at the chamber. It is a separate organization (Travel Lane County), which services Eugene, the Cascades, and the coast.
Bend	Katy Brooks				N/A	No visitor center at the chamber. It is a separate organization (Visit Bend). The chamber charges a fee to stock brochures for businesses and other organizations.
NOTE: Oregon State Chamber of Commerce does not track/provide Visitor Center metrics.						

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: May 7, 2018

Order ____ No.	Ordinance ____ No.	Resolution ____ No.	Motion ____	Information <u>XX</u>
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**SUBJECT: Riverfront Master Plan and Newberg
2030 Committee Updates**

**Contact Person (Preparer) for this
Item: Doug Rux
Dept.: Community Development Department**

Time is reserved under Presentations on the agenda for an update on Council Committees working with the Community Development Department.

These relate to Goal 9: Develop a Riverfront Master Plan and Goal 12: Complete community visioning process & communication plan to engage Newberg residents.

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: May 7, 2018

Order ___ Ordinance ___ Resolution ___ Motion XX Information ___
No. No. No.

SUBJECT: Adopt a Proclamation declaring May 6, 2018 to May 12, 2018, as Municipal Clerks Week.

**Contact Person (Preparer) for this
Motion: DawnKaren Bevill
Dept.: City Manager**

RECOMMENDATION:

Adopt a Proclamation declaring May 6, 2018 to May 12, 2018, as Municipal Clerks Week.

EXECUTIVE SUMMARY:

One of local government's oldest positions is the Municipal Clerk. "The true worth of the Municipal and Deputy Clerk is often not realized," said International Institute of Municipal Clerks President Mary Kayser. "But Clerks perform some of the principal functions of the democratic process. One of the most important responsibilities Clerks administer is advising their municipality's council of the legislative restrictions that apply to the ordinances and resolutions they wish to enact," said Kayser.

In 1984 and in 1994, Presidents Ronald Reagan and Bill Clinton, respectively, signed a Proclamation officially declaring Municipal Clerks Week the first full week of May and recognizing the essential role Municipal Clerks play in local government.

FISCAL IMPACT:

None.

STRATEGIC ASSESSMENT:

The City Recorder supports all goals of the City.



PROCLAMATION

A PROCLAMATION RECOGNIZING MUNICIPAL CLERKS WEEK – MAY 6th THROUGH MAY 12th, 2018

WHEREAS, The Office of the Municipal Clerk, a time honored and vital part of local government exists throughout the world; and

WHEREAS, The Office of the Municipal Clerk is the oldest among public servants; and

WHEREAS, The Office of the Municipal Clerk provides the professional link between the citizens, the local governing bodies and agencies of government at other levels; and

WHEREAS, Municipal Clerks have pledged to be ever mindful of the neutrality and impartiality, rendering equal service to all; and

WHEREAS, The Municipal Clerk serves as the information center on functions of local government and community; and

WHEREAS, Municipal Clerks continually strive to improve the administration of the affairs of the Office of the Municipal Clerk through participation in education programs, seminars, workshops and the annual meetings of their state, province, county and international professional organizations; and

WHEREAS, it is most appropriate that we recognize the accomplishments of the Office of the Municipal Clerk.

NOW, THEREFORE, IT IS PROCLAIMED, by the Mayor and City Council, and on behalf of the citizens of the City of Newberg, Oregon, that **we proclaim May 6th - May 12th as Municipal Clerks Week**, and further extend appreciation to our **City Recorder Sue Ryan** and to all Municipal Clerks for the vital services they perform and their exemplary dedication to the communities they represent.

IN WITNESS WHEREOF, I have hereunto set my hand and cause the Seal of the City of Newberg to be affixed on this 7th day of May, 2018.

Bob Andrews, Mayor

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: May 7, 2018

Order ____	Ordinance ____	Resolution <u>XX</u>	Motion ____	Information ____
No.	No.	No. 2018-3468		

SUBJECT: A Resolution to accept a grant award from Regional Solutions through Business Oregon for Crestview Drive and authorize the City Manager to execute all grant documents

**Contact Person (Preparer) for this Motion: Doug Rux, Director
Dept.: Community Development
File No.: GR-15-003**

RECOMMENDATION:

Adopt Resolution No. 2018-3468.

EXECUTIVE SUMMARY:

In December 2015 Regional Solutions awarded the City of Newberg a \$740,000 grant for construction of Crestview Drive from Highway 99W to N Springbrook Road. Since December of 2015 we have been coordinating with JT Smith Companies, Gramor, and Springbrook Properties on the project as our funding partners. Identified funding consists of \$1,100,000 in City System Development Charges, \$740,000 from Regional Solutions and the balance from Springbrook Properties and JT Smith Companies. JT Smith Companies would construct Crestview Drive from Highway 99W north to the Yamhill County line. The City would construct from the Yamhill County line as far to the east as our funding allows and Springbrook Properties would construct from the termination point of the City project to N Springbrook Road. The total estimated project cost for design and construction is \$5,000,000.

Business Oregon is acting as the fiscal agent for the grant. Staff has been preparing contract information and we are at the point needing authorization to accept the grant. This requires authorization of grant acceptance and authorizing the City Manager to execute all grant documents.

FISCAL IMPACT:

The Transportation System Development Charge Fund budget includes receiving the grant and budgeted transfers to the Street Capital Fund. The project will be funded out of the Street Capital Fund and is budgeted in FY17/18 and FY18/19.

STRATEGIC ASSESSMENT (RELATE TO COUNCIL PRIORITIES FROM SEPTEMBER 2017):

Not applicable.



RESOLUTION No. 2018-3468

A RESOLUTION TO ACCEPT A GRANT AWARD FROM REGIONAL SOLUTIONS THROUGH BUSINESS OREGON FOR CRESTVIEW DRIVE AND AUTHORIZE THE CITY MANAGER TO EXECUTE ALL GRANT DOCUMENTS

RECITALS:

1. In December 2015 Regional Solutions notified the City of Newberg on the award of a \$740,000 grant for construction of Crestview Drive from Highway 99W to N Springbrook Road.
2. Funding partners in the construction of the transportation improvement include JT Smith Companies, Springbrook Properties, City of Newberg and Regional Solutions.
3. Staff is working with Regional Solutions and Business Oregon on grant documents that will require City acceptance and a contract approving the grant award.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. The City accepts the grant from Regional Solutions, being administered through Business Oregon, in the amount of \$740,000.
2. The City Manager is granted the authority to negotiate and execute all necessary documents related to this grant award, including agreements with Regional Solutions and Business Oregon.

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: May 8, 2018.

ADOPTED by the City Council of the City of Newberg, Oregon this 7th day of May, 2018.

Sue Ryan, City Recorder

ATTEST by the Mayor this 10th day of May, 2018.

Bob Andrews, Mayor

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: May 7, 2018

Order ____ No.	Ordinance ____ No.	Resolution <u>X</u> No. 2018-3464	Motion ____	Information ____
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SUBJECT: Authorize the City Manager to enter into an Intergovernmental Agreement (IGA) with Washington County Consolidated Communications Agency (WCCCA) to utilize the WCCCA Radio System for Data and Voice communication.

Contact Person (Preparer) for this Motion: Chief Brian Casey, and Support Services Manager Mary Newell
Dept.: Police Department
File No.:

RECOMMENDATION: Approve Intergovernmental Agreement (IGA) between the City of Newberg and WCCCA, allowing/ensuring the City of Newberg continued use of the WCCCA radio system for data and voice communication use.

EXECUTIVE SUMMARY: Resolution No. 2009-2875 authorized the City Manager to enter into an intergovernmental agreement for the purpose of connecting to and obtaining use of the Washington County Consolidated Communication Agency's Motorola 800 MHz radio system.

On March 4, 2009, the City of Newberg and WCCCA, entered into an Intergovernmental Agreement providing the authority, conditions, and costs for the City of Newberg to access the WCCCA Motorola 800 MHz radio system. The IGA identified Newberg Users as: Newberg-Dundee Police Department, the Newberg Fire Department and the City of Dundee Fire Department. This IGA has been in effect since 2009. Newberg went live on the WCCCA radio system in June 2010.

Operational changes, a change in methodology for cost allocation, and housekeeping clarifications dictate the need to update the existing Intergovernmental Radio Agreement between the City of Newberg and WCCCA:

- Newberg no longer dispatches for Dundee Fire, and Newberg's IGA with TVF&R, and requires the 2009 IGA be updated to reflect these changes.
- WCCCA modified their cost formula for the system access fee, which was adopted by the WCCCA Board of Commissioners and became effective FY 2017-18. The methodology uses the direct technical services costs of the 800 MHz Radio Communications System, to include personnel, materials and services, capital outlay, and administrative overhead. Costs associated with the dispatch side of WCCCA operations are not included in the formula. Costs are then apportioned between WCCCA, C800, and Newberg by their percentage of radios on the system.
- WCCCA maintains all system components, including Newberg console equipment.

As with the previous IGA, this update provides that the annual radio system access fee will be reviewed and may be adjusted annually in March of each calendar year. In FY 2017-18, Newberg-Dundee Police Department had 87 radios on the system, representing 1.4% of the total 6,437 radios on the 800 MHz radio system for a cost of \$32,613. FY 2018-19, there are 86, representing 1.3% of 6,847 radios on the system at a cost of \$31,267.

FISCAL IMPACT: No substantial change in costs as Newberg currently budgets for the radio system access fee. The new formula has resulted in reduced costs.

- Old Formula: FY 16-17, 86 police/dispatch radios for annual cost \$37,752
- New Formula: FY 17-18, 87 police/dispatch radios for annual cost \$32,613.

Technical service fees for shop work and programming will continue to be billed by actual time spent based on the current Maintenance Billing rate.

This IGA will need to be updated by amendment/addendum or replaced upon the completion of the WCCCA/C800/Newberg Communications Upgrade Project to reflect the additional maintenance needs for the City-owned Newberg Public Works Tower.

STRATEGIC ASSESSMENT (RELATE TO COUNCIL PRIORITIES FROM SEPTEMBER 2017):

Goes directly to Goal 1: Maintain a state-of-the-art 911 dispatch center and 800 MHz radio communication system.

This IGA allows the Newberg-Dundee Police Department and the 9-1-1 Dispatch center to utilize the 800 MHz radio and data system in all day-to-day operations. Access to this radio network provides all users with a large and growing geographic radio coverage area, as well as provide Newberg with radio technical experts to maintain the system.



RESOLUTION No. 2018-3464

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH WASHINGTON COUNTY CONSOLIDATED COMMUNICATIONS AGENCY (WCCCA) TO UTILIZE THE WCCCA RADIO SYSTEM FOR DATA AND VOICE COMMUNICATION.

RECITALS:

1. On March 4, 2009, the City of Newberg and WCCCA, entered into an Intergovernmental Agreement (IGA) providing the authority, conditions, and costs for the City of Newberg to access the WCCCA Motorola 800 MHz radio system; and
2. City of Newberg wishes to continue to utilize the WCCCA Radio System for data and voice communications; and
3. An update of the existing IGA is necessary to recognize operational and fee structure changes which have occurred since March 4, 2009, to include Newberg's IGA with and subsequent annexation of Newberg Fire Department by TVF&R; loss of Dundee Fire Department as a dispatch user; the modified cost formula for the system access fee, effective Fiscal Year 2017-18, as well as expanding WCCCA's responsibility to include maintaining Newberg's dispatch consoles.
4. Intergovernmental Radio Agreement is attached as Resolution No. 2018-3464 Exhibit A.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. The City Council, acting as contract review board for the City, does hereby authorize the City Manager to enter into an Intergovernmental Agreement with Washington County Consolidated Communications Agency (WCCCA) to utilize the WCCCA radio system for data and voice communication.

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: May 7, 2018.

ADOPTED by the City Council of the City of Newberg, Oregon, this ____ day of _____, 2018.

Sue Ryan, City Recorder

ATTEST by the Mayor this ____ day of _____, 2018.

Bob Andrews, Mayor

INTERGOVERNMENTAL RADIO AGREEMENT

This Agreement is entered into this ____ day of _____ by and between Washington County Consolidated Communications Agency (hereinafter "WCCCA"), an ORS 190 organization and the City of Newberg, a municipality (hereinafter "Newberg").

RECITALS

WHEREAS, WCCCA has implemented a Public Safety Voice and Data Communications System (the "WCCCA Radio System" or "System"); and

WHEREAS, Newberg desires to connect to and utilize the WCCCA Radio System to effect economies in development and operating cost; and

WHEREAS, WCCCA is willing to allow Newberg to utilize the WCCCA Radio System and it is in the interest of the parties to enable such use of the System for Data and Voice communications use;

NOW, THEREFORE, pursuant to the authority provided in ORS 190.010 and in consideration of the mutual promises contained herein, the parties agree as follows:

1. DEFINITIONS

The terms used in this Agreement have the following definitions:

- a. "Newberg Users" means the Newberg-Dundee Police Department
- b. "System Maintenance" means the maintenance of the WCCCA Voice and Data System backbone or infrastructure as defined herein.
- c. "Master Site" means the physical location of the WCCCA Voice and Data System primary system controller which is located at WCCCA, 17911 NW Evergreen Parkway Beaverton, Oregon.
- d. "Program," "programmed" and "programming" means the process of coding particular Subscriber Units to transmit and receive specified voice and or data communications.
- e. "Communications Sites" means the physical remote radio site where the voice and data transmitters and receivers are housed and includes such items as the building, grounds, antenna tower, electrical systems (including battery backup, generator, UPS, or utility), environmental control systems, and the like.
- f. "WCCCA System" or "System" means the WCCCA Communications System backbone, voice and data network including but not limited to: the Prime Sites, and remote radio sites housing radio transmitters, receivers, antennas, combiners, microwave systems, and associated radio equipment.
- g. "Simulcast System" means multiple communications sites with multiple radios at each

site, each radio on a different frequency at an individual site but then duplicated at all the other sites, with full System features, transmitting on a single frequency at the same time and providing optimum coverage for primary coverage area with minimum frequency use.

h. "ASTRO P25 Controller" means the Motorola device located at WCCCA that is the call data processing hub for the WCCCA Voice and Data System and its associated "Audio Switch" or audio processing hub, which allows multiple radio subsystems to interoperate.

i. "Subscriber Radio Unit" means a radio that is capable of transmitting and receiving voice and data communications over the System.

J. "Talk group" means a group of Subscriber Radio Units programmed to effect all communications directed to/from subscriber units in that group.

k. "Subscriber Radio Unit Maintenance" means repair of Subscriber Radio Units or replacement of such Subscriber Radio Units with spares purchased by Newberg pursuant to this Agreement.

l. "Sub-system" means Simulcast, Intelli-repeater, Dispatch communications consoles, and Mobile Data Systems.

m. "Mobile Data System" means multiple communications sites with one or more Database installed."

2. FUNCTIONALITY

Through programming of subscriber units, the Newberg User community will have access and use of all primary and secondary communications systems within the WCCCA Radio System. WCCCA will strive to provide the maximum availability of the System for the Newberg user community.

Although WCCCA neither warrants nor guarantees System up time, it is anticipated that System up time will exceed 98%.

3. ACCESS

WCCCA will afford the Newberg User community access to its System/Sub-systems. Such access shall be by means of equipment that is purchased and installed at the Newberg User's expense, so long as the placement and operation of such equipment does not materially interfere with the WCCCA System and or Sub-system's operation or maintenance. Prior to implementation, the specific equipment needed for Newberg User access will be identified and both parties to this agreement will mutually determine a method for procurement and payment of any amount due WCCCA for purchase and installation. In managing effective use of the system/Sub-system capacity, it may become necessary to establish a priority system of access providing public safety users from either WCCCA or Newberg Users priority access over non-public safety subscribers.

4. EQUIPMENT PURCHASE

Backbone/Infrastructure: WCCCA has developed and constructed the System backbone or infrastructure at its cost. This Agreement does not transfer ownership or any interest in those assets to Newberg, and WCCCA and Newberg hereby agree that the System backbone/infrastructure remains at all times in the ownership of WCCCA.

Subscriber Radios: Newberg shall purchase any model of Subscriber Radio Units, compatible with the System, directly from the manufacturer of such units, including the manufacturer or manufacturers that supply Subscriber Radio Units to WCCCA. (Newberg understands that due to WCCCA Radio System architecture, Subscriber Radio Units utilize proprietary software to enable them to be utilized on the Radio System.) WCCCA must approve any Subscriber Radio Unit to be utilized on the Radio System.

Newberg may make arrangements with the manufacturer(s) to deliver new Subscriber Radio Units to WCCCA for initial programming or Newberg will deliver Subscriber Radio Units to WCCCA for programming.

Newberg may purchase extra Subscriber Radio Units to be left with WCCCA for quick replacement of Subscriber Radio Units brought in for repair.

5. PROGRAMMING

All programming of Subscriber Radio Units acquired by Newberg pursuant to Section 4 above shall be performed solely by WCCCA at a location or locations to be specified by WCCCA. Newberg shall pay all costs, as provided herein, incurred by WCCCA for programming the Subscriber Units. WCCCA shall program and return any Subscriber Unit as soon as reasonably possible. If the programming is expected to take longer than 10 business days from receipt of the Subscriber Units, WCCCA will provide a timeline and explanation for any delay. All programming of Subscriber Units to be installed in Newberg vehicles shall be performed prior to such installation.

Newberg shall pay all costs, as provided herein, incurred by WCCCA for programming between Newberg's communications equipment, CAD system and the Radio Network Controller.

WCCCA shall maintain lists of the individual address codes of each Newberg User subscriber Unit programmed.

WCCCA shall charge Newberg for programming services at its regular technical service hourly fee and any actual cost incurred from vendors if applicable.

6. SUBSCRIBER RADIO UNIT MAINTENANCE

If Newberg wishes WCCCA to coordinate maintenance of a Subscriber Unit, Newberg shall notify WCCCA Technical Support staff before bringing the Subscriber Unit to WCCCA. WCCCA's Technical Support regular hours of operation are Mondays through Fridays from 8:00 a.m. through 4:00 p.m., and at other times as may be mutually agreeable. WCCCA shall submit the Subscriber Unit for repair as quickly as reasonably possible and shall notify Newberg when the repaired and reprogrammed Subscriber Unit is ready to be picked up. Unless otherwise specified by WCCCA and Newberg through mutual agreement, coordination and repair shall be provided by WCCCA at the technical service hourly fees

identified within this agreement.

7. COMMUNICATIONS SYSTEM MAINTENANCE

WCCCA shall maintain System components such as radios, handsets, microwave, and associated accessories and appurtenances including maintenance of the physical Communications Sites including such items as generators, buildings, and towers; including Newberg Gold Elite dispatch center including but not limited to communication consoles, Central Electronics Banks, Dispatch Terminals, 800 MHz Base/Control Stations, and associated Gold Elite network. WCCCA will not support any equipment not directly related to the WCCCA Voice and Data system such as the VHF or UHF systems and or related equipment.

8. RADIO LOSS

If Newberg loses a Subscriber Unit, or believes that a Subscriber Unit has been stolen, Newberg shall immediately upon discovering the loss, inform the WCCCA Technical Support staff.

9. FEES

Annual WCCCA System Access Fee: The Annual communications System Access Fee for the use and maintenance of the System and as provided herein shall be set forth in the WCCCA annual fee schedule (July 1 to June 30), as approved by the WCCCA Board of Commissioners. The Annual communications System Access Fee may be adjusted annually on or before March 1st of each year for the following fiscal year, as shown in Exhibit "A" fees. Subscriber Units added during the fiscal year shall be billed commencing at the beginning of the next quarterly billing cycle following the programming of the added Subscriber Unit.

Technical Services Fee: Programming, installation, repair, and maintenance fees for Subscriber Unit repair and any work requested beyond the scope of work as outlined in Exhibit A shall be pursuant to the current fiscal year fee schedule as approved by the WCCCA Board of Commissioners plus any actual out of pocket costs incurred and any mark up as set forth in Exhibit A.

10. PAYMENT

Newberg agrees to pay the respective Annual communications System Access Fee for all Newberg Users and any other fees and charges incurred for services provided the Newberg Users during the term of this Agreement

Payments for Annual communications System Access Fee shall be made in advance on a quarterly basis. The first payment shall be due at the signing of this Agreement. WCCCA shall submit an itemized invoice, indicating the number of Subscriber Units assigned to each participating entity, to Newberg not less than thirty (30) days prior to the due date

for Annual communications System Access Fee. Other fees and charges shall be paid within 30 days of invoice for such fees and charges. Newberg shall be liable for any and all fees incurred by Newberg Users if not paid directly to WCCCA as invoiced.

11. EFFECTIVE DATE AND RIGHT TO TERMINATE

This Agreement shall become effective on the last date signed by one of the parties and shall continue thereafter on an annual July 1 to June 30 term, until terminated consistent with the provisions below. It is understood that as stated under Section 9 above, the annual radio system fees will be adjusted and such an adjustment will not constitute reason for re-signing the agreement on an annual basis.

Either party may terminate this Agreement on July 1st of any year, providing written notice of intent to terminate the Agreement is received on or before April 1st of the previous calendar year in which the party wants to terminate.

12. INDEMNIFICATION:

WCCCA and Newberg shall hold harmless and indemnify the other for the negligent acts, actions or omissions to act of their respective participating jurisdictions, participating users, officials, employees, agents and contractors in the performance of their respective responsibilities and duties under this Agreement, subject to limits of the Oregon Tort Claims Act and the Oregon Constitution.

13. REMEDIES

WCCCA shall notify Newberg in writing of any violation of term or provisions of this Agreement. Newberg shall have 10 calendar days from the date of its receipt of notification to cure the violation of terms or provisions. If Newberg does not cure such violations WCCCA may disable the Newberg's non-complying Subscriber Units.

Further WCCCA may notify Newberg verbally and subsequently in writing of system users who access restricted talk groups or of actions that affect normal operations, or normal resources of the communications System. Newberg shall cause such activity to cease as soon as they are notified, whether verbally or in writing. If any Newberg User continues with such activity or repeats such activity WCCCA may, upon verbal and subsequent written notice, immediately disable the specific Subscriber Unit or units associated with such activity

A decision to disable a Newberg Subscriber Unit shall be made by the Director of WCCCA and subject only to review by the WCCCA Board of Commissioners.

IN WITNESS THEREOF, the parties have executed this Agreement this day of _____.

WCCCA, Beaverton, Oregon

City of Newberg, Oregon

EXHIBIT "A"

1. WCCCA Communications System Access Contract Pricing:

The methodology developed uses the full costs for the 800MHz Radio Communication System in the each fiscal year budget (subject to change annually): to include personnel, materials & services, capital outlay, and administrative overhead.

- The percentage of costs for Newberg of the system is factored on the number of radios used on the system.
- The costs included to calculate Newberg's portion are limited to those which are part of the system which services the Newberg/Dundee PD area.
- Billing is prepared in advance of and due prior to the beginning of each quarter of the fiscal year.
- Annual budget, costs and radio count used on the system will be reviewed for changes and updated each March of the calendar year for billing beginning on July 1st of each fiscal year.

2. Technical Service Fees

- a. Shop work: Repairs and programming billed upon actual time spent at the current Maintenance Billing rate posted on the WCCCA website <http://www.wccca.com/users/fees/>
- b. Materials: Billed at cost plus 5%; plus cost of shipping.

Resolution 2018-3464 Exhibit A

WCCCA FY 2018/19		800 System Maintenance Cost		2/9/2018			
Description	Approved WCCCA Budget		WCCCA Allocation		C800		Newberg PD
Personnel: Radio Services	1,188,193		57.30% \$ 680,777		41.4% \$492,492		1.3% \$ 14,924
Materials & Services					% of Radios		% of Radios
Radio Department							
Facility/ Tower Department							
Subtotal Radio Services M&S Budget	\$ 753,854		\$ 696,822		\$ 47,563		\$ 9,469
Contingency for Battery replacements	20,000		11,459		41.4% 8,290		1.3% 251
Total Capital Outlay	\$ 20,000		\$ 11,459		\$ 8,290		\$ 251
WCCCA Radio System Overhead Allocation	\$ 523,950		\$ 300,198		41.4% 217,171		1.3% \$ 6,581
on-related Administrative Overhead Backout of C800	3,398		3,355		(3,398)		1.3% 43
<i>Legal, Business Misc, Adv. Com.Ed</i>							
TOTALS	\$ 2,485,997		\$1,692,612		\$762,118		\$ 31,267
			SubLease Re: \$ (113,300)				
System Cost per Radio	\$ 363		Maint. Rev \$ (33,000)				
			WCCCA to Recover \$1,546,312				
1/12/2018 RADIO COUNTS					C800 Cost		Newberg PD
WCCCA	3,923	57.3%			FY 18/19 \$762,118		FY 18/19 \$ 31,267
C800	2,838	41.4%			Qtrly Bills \$190,529		Qtrly Bills \$ 7,817
Newberg PD	86	1.3%					
Total System Radio Count	6,847	100.0%					

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: May 7, 2018

Order ____	Ordinance ____	Resolution ____	Motion <u>XX</u>	Information ____
No.	No.	No.		

SUBJECT: Newberg Dundee Letter of Support

**Contact Person (Preparer) for this
Motion: Joe Hannan
Dept.: City Manager**

RECOMMENDATION:

The City Council approve the attached letter of support for Newberg-Dundee Bypass.

EXECUTIVE SUMMARY:

The Newberg-Dundee Bypass Phase 1 opened in January and Phase 2 (Highway 219 to Highway 99W at Rex Hill) received a financial boost on June 16, 2016 by the Oregon Transportation Commission. The Oregon Transportation Commission approved amending the 2015-2018 Statewide Transportation Improvement Program by adding the Newberg-Dundee Bypass Phase 2 to the project list and allocating \$18 million in Phase 1 savings to go towards right-of-way acquisition. The Legislature also provided \$22 million to move the project toward being shovel ready.

The City of Newberg along with the cities of Dundee and McMinnville, the Yamhill County Board of Commissioners and the Confederated Tribes of the Grand Ronde are asked to provide letters of support to the Oregon Transportation Commission to support the construction of Phase 2 and to ultimately complete the entire Bypass.

The cities of McMinnville and Dundee as well as Yamhill County and the Confederated Tribes of the Grand Ronde have signed the attached letter of support. The goal is to present a unanimously supported letter to the Oregon Transportation Commission at their May, 2018 meeting.

YAMHILL COUNTY PARKWAY COMMITTEE

MAILING ADDRESS
P.O. BOX 480
McMINNVILLE, OR 97128
PHONE: (503) 472-5141
FAX: (503) 472-4713

DAVID C. HAUGEBERG, CHAIR
DAVID RUSS, MAYOR-DUNDEE
TED CRAWFORD, COUNCILOR-DUNDEE
KELLIE MENKE, COUNCILOR-MCMINNVILLE
BOB ANDREWS, MAYOR-NEWBERG
SCOTT HILL, MAYOR-MCMINNVILLE
STAN PRIMOZICH-YAMHILL COUNTY COMMISSIONER

MIKE RAGSDALE
JIM SNELL
BRETT BAKER
CURTIS WALKER
SCOTT ESSIN, COUNCILOR NEWBERG
DENISE HARVEY, COUNCIL MEMBER-
THE CONFEDERATED TRIBES OF GRAND RONDE

STATEMENT OF SUPPORT

The Cities of Dundee, McMinnville and Newberg, Yamhill County, The Confederated Tribes of Grand Ronde and the Yamhill County Parkway Committee have for decades supported the development and construction of an eleven mile expressway (Bypass) extending current Hwy 18 from Dayton to Dundee and continuing around Dundee and Newberg to connect with Hwy 99W at the east end of Newberg. This support has included a voluntary financial investment of \$20 million by these entities.

Phase I of the Bypass which goes from Hwy 99W at Dundee to Hwy 219 on the east side of Newberg has been completed. A portion of the cost thereof was paid for from the \$20 million invested by the foregoing entities. As a result of Phase I cost savings, a portion of this \$20 million was not expended for Phase I and the foregoing entities authorized these savings to be used for the development of Phase II of the Bypass.

Phase II of the Bypass will extend the Bypass from Hwy 219 northeasterly and reconnect with Hwy 99W at the northeast end of Newberg. The Oregon Legislature passed and the Governor signed legislation in 2017 providing \$22 million for Phase II design and engineering to go with approximately \$18 million of Phase I savings for Phase II right of way and Hwy 219 interchange construction. The Oregon Transportation Commission has included the \$22 million in the Statewide Transportation Improvement Program with a designation of making the project "shovel ready."

The undersigned entities acknowledge and agree that the full benefits of the Bypass have not and will not be achieved with the construction of Phase I. The parties further agree that Phase II is the next critical component of the Bypass and that the entire Bypass must be completed.

Therefore, the Cities of Dundee, McMinnville and Newberg, Yamhill County, The Confederated Tribes of Grand Ronde and the Yamhill County Parkway Committee affirm their continuing support for the construction of Phase II and ultimate completion of the Bypass.

City of Dundee

Yamhill County

Mayor

Commission Chair

City of McMinnville

The Confederated Tribes of Grand Ronde

Mayor

Council Member

City of Newberg

Yamhill County Parkway Committee

Mayor

Chair

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: May 7, 2018

Order ____	Ordinance ____	Resolution <u>xx</u>	Motion ____	Information ____
No.	No.	No. 2018-3475		

SUBJECT: A Resolution Ratifying Contracts with Sabre Industries, Thermobond, and Power Systems Plus relating to the Emergency Communications System Upgrade Project with Washington County Consolidated Communications Agency (WCCCA)

Contact Person (Preparer) for this Motion: Matt Zook
Dept.: Finance
File No.:

RECOMMENDATION: Approve Resolution 2018-3475

EXECUTIVE SUMMARY:

The Emergency Communication System Upgrade Project was approved on September 18, 2017 via Resolution 2017-3391, and the Memorandum of Understanding (MOU) calls for procurement exceeding \$50,000 to be approved by the City Council. The following contracts are presented to the City Council as either an amendment to a contract already in place between WCCCA and the vendor (Sabre Industries and Power Systems Plus) or as a new contract between the City and the vendor (Thermobond). WCCCA staff serves as project manager on behalf of the City of Newberg and as such has coordinated the procurement process in accordance with WCCCA procurement policies.

Sabre Industries will provide the communications tower and accessories for an amount not to exceed \$105,000, although the current quote is for \$86,896. The contract amendment and quote is presented as Exhibit A to Resolution 2018-3475.

Thermobond will provide the communications shelter for \$86,774. The contract between the City and Thermobond is presented as Exhibit B to Resolution 2018-3475

Power Systems Plus will provide the backup generator, propane, tank, and installation for an amount not to exceed \$59,225, although the current quote is for \$53,841.80. The contract amendment and quote is presented as Exhibit C to Resolution 2018-3475.

FISCAL IMPACT: The combined fiscal impact of these three contracts is \$250,999, although the anticipated cost is \$227,511.80. These costs are within the scope of the entire project budget of \$3.15 million. This is also within the scope of the FY17-18 Adopted Budget.

STRATEGIC ASSESSMENT (RELATE TO COUNCIL PRIORITIES FOR 2017-2018):

Maintain a state-of-the-art 911 dispatch center and 800 MHz radio communications system.

A RESOLUTION RATIFYING CONTRACTS WITH SABRE INDUSTRIES, THERMOBOND, AND POWER SYSTEMS PLUS FOR WORK UNDERTAKEN ON THE EMERGENCY COMMUNICATIONS SYSTEM UPGRADE PROJECT IN CONJUNCTION WITH WASHINGTON COUNTY CONSOLIDATED COMMUNICATIONS AGENCY (WCCCA) ON BEHALF OF THE CITY OF NEWBERG AND AUTHORIZING PAYMENT

RECITALS:

1. The City of Newberg approved a Memorandum of Agreement (MOU) with Washington County Consolidated Communications Agency (WCCCA) pertaining to the Emergency Communications System Upgrade Project on September 18, 2017 via Resolutions 2017-3391.
2. As part of the project management provided by WCCCA, existing contracts previously entered into by WCCCA with various contractors may require modification to incorporate the City of Newberg's portion of the project. In addition, WCCCA also negotiates new contracts on behalf of the City.
3. WCCCA and Sabre Industries entered into Contract Amendment 1.0 on or about February 22, 2018, adding the Newberg Public Works tower to the underlying contract, for an amount not to exceed \$105,000.
4. City of Newberg and Thermobond seek to enter directly into a contract between the two parties in the amount of \$86,744 for a communications shelter based on the Thermobond proposal in response to the WCCCA/C800 Group invitation to bid in December 2017.
5. WCCCA and Power Systems Plus entered into Contract Amendment 1.0 on or about February 27, 2018, adding the Newberg generator and related equipment and services to the underlying contract, for an amount not to exceed \$59,225.
6. City staff have reviewed the contract documents detailed above.
7. Under the terms of the MOU, and in compliance with Newberg's public contracting regulations, the City Council must review and approve contracts exceeding \$50,000.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. To ratify Contract Amendment 1.0 between Sabre Industries and Washington County Consolidated Communications Agency (WCCCA) as it pertains to the inclusion of the City of Newberg's portion of the overall Emergency Communications System Upgrade Project in the amount not to exceed \$105,000, a copy of which is attached as Exhibit A and incorporated by this reference.
2. To ratify the contract between Thermobond and the City of Newberg as it pertains to the

inclusion of the City of Newberg's portion of the overall Emergency Communications System Upgrade Project in the amount not to exceed \$86,774, a copy of which is attached as Exhibit B and incorporated by this reference.

3. To ratify Contract Amendment 1.0 between Power Systems Plus and Washington County Consolidated Communications Agency (WCCCA) as it pertains to the inclusion of the City of Newberg's portion of the overall Emergency Communications System Upgrade Project in the amount not to exceed \$59,225, a copy of which is attached as Exhibit C and incorporated by this reference.
4. To authorize payment to each vendor pursuant to the contract after receipt of goods and services. Payments are conditioned upon confirmation of receipt of such goods and services and receipt of an invoice(s) in conformance with the MOU.
5. To authorize the City Manager to execute, after review and approval by the City Attorney, all documents necessary to those contracts attached as Exhibits A, B, and C. The City Manager is further authorized to negotiate the terms of these contracts, exclusive of price, to ensure such terms are in the interest of the City.

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: May 8, 2018.

ADOPTED by the City Council of the City of Newberg, Oregon, this 7th day of May, 2018.

Sue Ryan, City Recorder

ATTEST by the Mayor this _____ day of May, 2018.

Bob Andrews, Mayor

EMERGENCY COMMUNICATION SYSTEM PROJECT

**Washington County Consolidated Communications Agency
WCCCA-911
Communications Tower Procurement Contract**

CONTRACT REFERENCE NUMBER 17-129

CONTRACT DATE: JUNE 20, 2017

Amendment 1.0

This Contract Amendment is made and entered into by and between:

Vendor: Sabre Industries 7101 Southridge Drive Sioux City, Iowa 51102 Attention: Andy Van Rockel	WCCCA: Washington County Consolidated Communications Agency (WCCCA) 17911 NW Evergreen Pkwy Beaverton, Oregon 97006 Attention: Ron Polluconi
---	--

This amendment revises the allocated costs associated with the addition of one (1) additional tower to be added to the overall contract for the City of Newberg, Oregon.

This amendment also adds one (1) additional Site for the City of Newberg. Sabre Industries shall bill for the Newberg tower aka "Newberg PW" / "N-1" as a separate entity but send all invoices to WCCCA for processing and tracking.

This amendment does not change the Scope of Work, terms or deliverables related to the original contract dated June 20, 2017 other than to add the additional tower for the City of Newberg Oregon.

SUPERSEDING EFFECT.

There are no covenants, promises, agreements, conditions or understandings between the Parties, either oral or written, other than those contained in the June 20, 2017 Contract between the parties. All attachments hereto together constitute the entire agreement between the Parties (listed in order of precedence):

- 1) Original Contract
- 2) Sabre Industries proposal #18-3598-AMV-R2

CONSIDERATION.

Vendor shall perform the current, agreed upon, WCCCA Scope of Work in consideration of the Not to Exceed sum(s) of **\$768,000.00** for which WCCCA has agreed to pay for the Work in a manner further described in this Contract. Vendor will track cost for each site as is reasonably feasible.

Vendor shall perform the incremental Newberg Scope of Work in consideration of the Not to Exceed sum(s) of **\$105,000.00** for which the City of Newberg agrees to pay for the Work in a manner further described in this Contract. Vendor will track and report actual cost for each site as is reasonably feasible.

CONTRACT PERIOD.

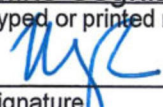
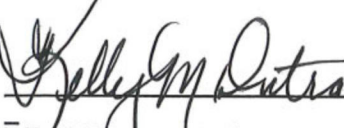
The contract period shall begin upon signing of this Agreement by both parties, and shall terminate on the Completion Date, unless earlier terminated or later extended by the parties hereto.

COMPLETION DATE: Original contract and this amendment – February 15, 2019 – which may be adjusted once process schedules are finalized.

WCCCA REPRESENTATIVE.

WCCCA Representative for this contract is: Ron Polluconi, 503-490-4911 ext. 266 (phone),
rpolluconi@wccca.com

In consideration of the mutual covenants, stipulations and agreements, the Parties hereto do Contract and acknowledge that they have read and understand this Contract and agree to be bound by its terms and conditions:

<p>Vendor: <u>Mike Coghlan</u> (typed or printed name of officer)</p> <p> _____ Signature</p> <p><u>VP and GM of Telecom</u> Title</p> <p><u>712-224-1642</u> Phone</p> <p><u>42-1078988</u> Employer Id Number or Social Security Number</p>	<p>Washington Consolidated Communication Agency</p> <p> <u>2/22/18</u> _____ WCCCA Representative Date Director, Kelly Dutra</p> <p>Not a valid Contract until all signatories are complete</p>
---	--

This contract is pursuant to Oregon Revised Statutes (ORS 279 A, B and C) and WCCCA Procurement and Purchasing Rules

EXHIBIT A – Terms and Conditions

1. **ASSIGNMENT.** The Vendor may not assign, sell, dispose of, or transfer rights or subcontract Work under the Contract, either in whole or in part, without WCCCA's prior written consent.
2. **AUTHORITY.** The Vendor represents and warrants that it has the power and authority to enter into and perform the Contract and that the signer of this Contract has the authority to bind and obligate the Vendor.
3. **CHANGES.** The terms and conditions contained in this Contract may not be added to, modified, superseded or otherwise altered except by a written modification signed by an authorized representative of WCCCA and Vendor.
4. **COMPLIANCE WITH LAWS.** If the Vendor fails to comply WCCCA shall have the right to terminate this Contract pursuant to Section 24 below.
 - a. Vendor shall comply with all federal, state and local laws, regulations, executive orders and ordinances as applicable, including but not limited to the Oregon laws specifically listed in Section 19 of this Contract. All laws, regulations and executive orders applicable to the Contract are incorporated by reference where so required by law.
 - b. Vendor expressly agrees to comply with: (i) Title VI and VII of Civil Rights Act of 1964, as amended; (ii) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Americans with Disabilities Act of 1990, as amended, and ORS 659.425; (iv) Executive Order 11246, as amended; (v) The Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (vi) The Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; (vii) ORS Chapter 659, as amended; (viii) all regulations administrative rules established pursuant to the foregoing laws; (ix) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations; and (x) all federal and state laws governing the handling, processing, packaging, storage, labeling, and delivery of food products, if applicable.
5. **CONTINUING OBLIGATION.** Notwithstanding the Completion Date of this Contract, the Vendor is obligated to fulfill its responsibilities until warranty, guarantee, maintenance, and parts availability requirements have completely expired.
6. **DELAYS IN DELIVERY; FORCE MAJEURE.** Neither WCCCA nor Vendor shall be held responsible for delay or default caused by fire, riot, acts of God, terrorism, war or any other cause which is beyond the party's reasonable control.
7. **DRUG STATEMENT.** The use of drugs, alcohol, or any tobacco products is prohibited on all WCCCA property.
8. **FOREIGN CONTRACTOR.** If the amount of the Contract exceeds ten thousand dollars (\$10,000), and if the Vendor is not domiciled in or registered to do business in Oregon, the Vendor shall promptly provide the Oregon Department of Revenue all information required by that Department.
9. **GOVERNING LAW/VENUE.** The laws of the State of Oregon shall govern this contract. Any action or suit commenced in connection with this contract shall be in the Circuit Court of Washington County or the Federal Court for Oregon. The prevailing party shall be entitled to reasonable attorney fees and costs as awarded by the Court, including any appeal. All rights and remedies of WCCCA and Vendor shall be cumulative and may be exercised successively or concurrently.
10. **IDENTIFICATION OF EMPLOYEES.** Vendor shall ensure that its employees have identifying uniforms or other designation of identity (ID badge, hat, coat with Vendor logo/name) while on WCCCA property.
11. **INDEMNIFICATION AND HOLD HARMLESS.** Except for claims arising out of acts caused by the sole negligence of WCCCA, its Administrators or employees, the Vendor agrees to indemnify and hold harmless WCCCA and its board members, administrators, employees and agents, from acts or omissions of any nature whatsoever of the Vendor, its agents, servants and employees, causing injury to or death of person(s) or damage to property during the term of this contract, and from any expense incident to the defense of WCCCA therefrom.
12. **INSPECTION AND ACCEPTANCE.** The quality of Work shall be subject to inspection by WCCCA. If, in WCCCA's reasonable discretion, the quality of the Work is not satisfactory, and that the requirements of the specifications are not being met, WCCCA shall insist on compliance and will provide the Vendor with a 'cure date'. If the Vendor does not comply WCCCA may terminate the contract pursuant to Section 24 of this Contract. Within a reasonable time, all goods delivered are subject to final inspection and acceptance after delivery or completion at WCCCA's facility. If any goods or services are

EXHIBIT A – Terms and Conditions

defective in material or workmanship or otherwise not in conformity with the requirements of this Contract or specifications, WCCCA shall have the right to require correction or replacement at no additional cost to WCCCA.

13. **INSURANCE** Before commencing work, Vendor shall procure and maintain:

- a. **WORKER'S COMPENSATION** as required by law.
 - b. **EMPLOYER'S LIABILITY** in the minimum amount of \$500,000 when the Vendor has employees performing services under the contract.
 - c. **COMPREHENSIVE AUTOMOBILE LIABILITY** including owned, non-owned and hired vehicles: \$500,000 Combined Single Limit Bodily Injury and Property Damage any one occurrence and a minimum of \$1,000,000 in the aggregate. WCCCA shall be named additional insured on auto and liability policies and shall be provided a copy of the additional insured endorsement. May be waived if Vendor has no vehicle while providing work under the contract.
 - d. **COMPREHENSIVE GENERAL LIABILITY** to include premises operations, independent Vendors, products/completed operations, and blanket contractual: \$700,000 Combined Single Limit Bodily Injury, Property Damage, and personal injury any one occurrence and \$1.5 million in the aggregate.
 - e. **PROFESSIONAL LIABILITY.** Provider shall maintain in force during the duration of this agreement (and, if it is a claims made policy, for a year following completion of the project) a professional liability policy, in the minimum amount of \$1,000,000.
 - f. WCCCA, its employees, officials and agents shall be named as an Additional Insured on general liability and auto and be provided a copy of the additional insured endorsement. Such insurance shall be primary. Certificates of Insurance shall be issued, prior to the commencement of the contract, to WCCCA, Attn: Elizabeth Comfort, 17911 NW Evergreen Pkwy, Beaverton, OR 97006. The Vendor agrees to pay for the insurance specified and agrees to provide WCCCA with a 30 days' notice of cancellation if non-renewal occurs during the contract period. Insurance companies must have an A rating.
 - g. WCCCA reserves the right to require additional insurance coverage, limits, and terms which will be delineated in an attachment to this agreement.
 - h. This insurance shall be considered as primary insurance and exclusive of any insurance carried by WCCCA, and the insurance evidenced by the required certificates shall be exhausted first, notwithstanding the fact that WCCCA may have other valid and collectible insurance covering the same risk.
14. **INVOICING AND PAYMENT.** Vendor shall issue invoice(s) for each Work segment as mutually agreed upon or progress payment(s) as acceptable to WCCCA. Payment shall not be made prior to receipt of a valid invoice. Credit and discount periods will be computed from the date of receipt of the invoice to the date WCCCA's check is mailed. Payment will be made within thirty (30) days after the acceptance of a proper invoice. Final payment shall be made upon completion and acceptance of the Work. WCCCA will not pay any additional charges unless pacifically agreed to in writing by WCCCA. The invoice(s) shall be submitted to WCCCA, Accounts Payable Department, 17911 NW Evergreen Pkwy, Beaverton, OR 97006. Each invoice must include the project work authorization number, purchase order number or contract number, an itemized list of the pricing elements that match the Pricing Schedule and/or the quote provided for the individual project (if applicable), the project name/number and WCCCA Contract Manager's name.
15. **MANUFACTURER'S WARRANTIES.** Manufacturer's warranties received by the Vendor which are applicable to any material equipment, parts, property and services furnished by the Vendor under this Contract shall survive acceptance and payment, shall run to WCCCA, its successors and assigns, and shall not be deemed to be exclusive.
16. **STANDARD OF CARE.** The services provided by the Vendor under this Contract will be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances.
17. **PERMITS AND RESPONSIBILITIES.** Without additional expense to WCCCA, the Vendor shall be responsible for maintaining any necessary licenses and permits.
18. **PRICES.** All pricing is considered fixed and firm for the Contract term. The Vendor warrants that the price of the Goods and Services covered by this Contract are not in excess of the Vendor's lowest prices in effect on the date of this Contract for comparable quantities of similar Goods or Services.

EXHIBIT A – Terms and Conditions

19. **PUBLIC CONTRACTS.** This Contract requires compliance with the following Oregon Revised Statutes (ORS) as applicable:
 - a. 279B.020 Conditions concerning maximum hours of labor on public contracts.
 - b. 279B.220 Conditions concerning payment, contributions, liens, withholding.
 - c. 279B.225 Condition concerning salvaging, recycling, composting or mulching yard waste material.
 - d. 279B.230 Condition concerning payment for medical care and providing workers' compensation.
 - e. 279B.235 Condition concerning hours of labor.
 - f. 305.385 Compliance with Oregon tax laws.
20. **SECURITY CHECK:** The Vendor agrees that each of its employees, sub-vendors' employees and principals/owners involved in the Work may, at the option of WCCCA, be subject to a security check, at any time, through the Washington County Sheriff's Department or other venue. WCCCA retains the option to require the immediate removal of any sub vendor, employee or agent. Notwithstanding the foregoing, Vendor, and not WCCCA, remains solely responsible for performing background checks on, and screening for public safety all sub-vendors and employees, and, to the extent allowed by law, shall provide such screening methodologies and information to WCCCA upon request.
21. **SEVERABILITY.** If any provision of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall be construed and enforced as if the Contract did not contain the particular provision held to be invalid.
22. **Not Used.**
23. **TAXES.** WCCCA is exempt from Federal, State, and Local taxes.
24. **TERMINATION.**
 - a. **Terminate For Convenience.** This Contract may be terminated at any time by mutual written consent of the parties, or WCCCA may, at its sole discretion, terminate this Contract, in whole or in part, upon 30 days' notice to Vendor.
 - b. **WCCCA's Right to Terminate For Cause.** WCCCA may terminate this Contract, in whole or in part, immediately upon notice to Vendor, or at such later date as WCCCA may establish in such notice, upon the occurrence of any of the following events:
 - i. WCCCA fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient to pay for Vendor's Work;
 - ii. Federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the Work under this Contract is prohibited or WCCCA is prohibited from paying for such Work from the planned funding source;
 - iii. Vendor no longer holds any license or certificate that is required to perform the Work; or
 - iv. Vendor commits any material breach or default of any covenant, warranty, obligation or agreement under this Contract, fails to perform the Work under this Contract within the time specified herein or any extension thereof, or so fails to pursue the Work as to endanger Vendor's performance under this Contract in accordance with its terms, and such breach, default or failure is not cured within 10 business days after delivery of WCCCA's notice, or such longer period as WCCCA may specify in such notice.
 - c. **Vendor's Right to Terminate for Cause.** Vendor may terminate this Contract upon 30 days' notice to WCCCA if WCCCA fails to pay Vendor pursuant to the terms of this Contract and WCCCA fails to cure within 30 business days after receipt of Vendor's notice.
 - d. **Enforcement.** Termination under any provision of this Contract shall not extinguish or prejudice WCCCA's right to enforce this Contract with respect to any breach of a Vendor warranty or any defect in or default of Vendor's performance that has not been cured, including any right of WCCCA to indemnification by Vendor. If this Contract is so terminated, Vendor shall be paid in accordance with the terms of the contract for services rendered and accepted.
 - e. **Remedies.** In the event of termination pursuant to above, Vendor's sole remedy shall be a claim for the sum designated for accomplishing the Work multiplied by the percentage of Work completed and accepted by WCCCA, less previous amounts paid. If previous amounts paid to Vendor exceed the amount due to Vendor under this subsection, Vendor shall pay any excess to WCCCA upon demand.
 - f. **Vendor's Tender Upon Termination.** Upon receiving a notice of termination of this

EXHIBIT A – Terms and Conditions

Contract, Vendor shall immediately cease all activities under this Contract, unless WCCCA expressly directs otherwise in such notice of termination. Upon termination of this Contract, Vendor shall deliver to WCCCA all documents, information, works-in-progress and other property that are or would be deliverables had the Contract been completed. Upon WCCCA's request, Vendor shall surrender to anyone WCCCA designates, all documents, research or objects or other tangible things needed to complete the Work.

- g. Limitation of Liabilities. Neither party shall be liable for (i) any indirect, incidental, consequential or special damages under the contract or (ii) any damages of any sort arising solely from the termination of this contract in accordance with its terms.
25. **TRANSPORTATION.** The Vendor is responsible for transportation of its employees to and from the Work site.
26. **WAIVER.** No failure of either party to exercise any power given to it hereunder or to insist upon strict compliance by the other party with its obligations hereunder, and not custom or practice of the parties at variance with the terms hereof, nor any payment under this agreement shall constitute a waiver of either party's right to demand exact compliance with the terms hereof.

END

Attachments / Reference:

Contract: Reference Contract with Saber Industries Reference number 17-129 Dated: June 20, 2017

Saber Quote (attached below):

NOTE: If there are conflicts in the terms and conditions shown in these documents and the foregoing terms and conditions the Agreement Terms and Conditions shall prevail.



February 9, 2018

CITY OF NEWBERG, OR

Attn: Ken Seymour

Dear Mr. Seymour:

Per your recent request, please find following our revised quotation for a 250' Sabre Model S3TL self-supporting tower.

If you have any questions or require further information, please feel free to contact me at (800) 369-6690, ext. 11642.

Sincerely,
SABRE COMMUNICATIONS

A handwritten signature in blue ink, appearing to read "Andy Van Roekel", is written over the printed name.

Andy Van Roekel
Government Sales Manager

Enclosure: Per Above

AMV: rr



PROPOSAL

Prepared for: CITY OF NEWBERG, OR

Proposal No.: 18-3598-AMV-R3

Date: 02/09/18

Page 1 of 4

Reference: 250' S3TL/Newberg, OR

Freight: Origin

Attn: Mr. Ken Seymour

SABRE MODEL S3T-L SELF-SUPPORTING TOWER

Quantity of one (1) 250' Sabre Model S3TL self-supporting tower.

The tower will be triangular in design with a base width of 27' - 0" tapering to 5' - 0" at the top. The tower will utilize tubular steel for tower legs and angular steel for bracing.

The tower will be designed for a basic wind speed of 94 mph with 0" of radial ice, and 30 mph with ¾" of radial ice, in accordance with ANSI/TIA-222-G.

This structure will also meet the requirements for an Ultimate Wind Speed of 130 mph (Risk Category III), in accordance with the 2014 Oregon Structural Specialty Code.

Revision G Parameters:

- Structure Class III
- Exposure Category C
- Topographic Category 1

*****Refer to Notes section for definitions of Revision G parameters.***

The tower will be designed to support the following equipment:

	ANTENNA MODEL NUMBER (QTY)	RADOME		ELEVATION C.O.R.	TX. LINE SIZE & TYPE	FREQUENCY	AZIMUTH TO NORTH	ANTENNA MOUNT (DESIGN)	MOUNT PROVIDED	
		YES	NO						YES	NO
1	(2) SC479- HF1LDF(D00) Antenna		X	250' At Base	(5) LDF4-50A	N/A	Unknown	One (1) 12' V-Boom Sector Mount with 3' Standoff w/ Work Platforms	X	
2	(1) 884-70HDB Antenna			250' At Base	(1) AVA5-50	N/A	Unknown	Same as above	X	
3	(1) 784-70HDB Antenna			250' At Base	(1) AVA5-50	N/A	Unknown	Same as above	X	
4	(2) 437-831-01-T TTA's			250'	N/A	N/A	Unknown	Same as above	X	
5	(2) SC479- HF1LDF(D00) Antenna		X	220' At Base	(5) LDF4-50A	N/A	Unknown	One (1) 12' V-Boom Sector Mount with 3' Standoff w/ Work Platforms	X	
6	(1) 884-70HDB Antenna		X	220' At Base	(1) AVA5-50	N/A	Unknown	Same as above	X	
7	(1) 784-70HDB Antenna		X	220' At Base	(1) AVA5-50	N/A	Unknown	Same as above	X	
8	(3) Rocket M5			200'	(4) CAT 6	N/A	Unknown	Three (3) Flush Mounts 2-3/8" O.D. Pipe	X	
9	(1) 4' H.P. Dish		X	160'	(1) EW90	11 GHz	63°	One (1) 4-1/2" O.D. Leg-type Dish Mount	X	
10	(1) 4' H.P. Dish		X	150'	(1) EW90	11 GHz	250°	One (1) 4-1/2" O.D. Leg-type Dish Mount	X	
11	(1) 4' H.P. Dish		X	150'	(2) EW90	11 GHz	358°	One (1) 4-1/2" O.D. Leg-type Dish Mount	X	

****This structure has been designed with a 25% increase in antenna and line loading.***

*****This tower, as designed, holds twist and sway as specified for 6', 18.7 GHz dish antennas.***

******This tower has been designed with parabolic antenna ice shields above the dishes***



PROPOSAL

Prepared for: CITY OF NEWBERG, OR

Proposal No.: 18-3598-AMV-R3

Date: 02/09/18 Page 2 of 4

Reference: 250' S3TL/Newberg, OR

Attn: Mr. Ken Seymour

Freight: Origin

ITEM I	TOWER MATERIALS	\$66,915.00
	Materials to be provided include:	
	Complete tower steel and hardware	
	Anchor bolts and templates	
	Construction step bolts (see notes)	
	Inside climbing ladder	
	Three (3) waveguide support ladders (to support thirty-six (36) initial lines) <i>-3ft rung spacing</i>	
	One (1) 12' V-Boom sector mount with 3' standoff w/ work platforms with two (2) 5' pipes at the 250' elevation	
	One (1) 12' V-Boom sector mount with 3' standoff w/ work platforms with three (3) 5' pipes at the 220' elevation	
	Three (3) flush mounts each with one (1) 2-3/8" O.D. pipe at the 200' elevation	
	One (1) 4-1/2" O.D. leg dish mount at the 160' elevation	
	One (1) 4-1/2" O.D. leg dish mount with one (1) stiffarm mounting assembly at the 150' elevation	
	Required lighting mounts	
	Safety cable kit <u>without</u> harness (250')	
	8' Ladder Gate	
	Three (3) waveguide bridges 2-leg 2' x 10' (13' direct burial) with nine (9) 2 level trapeze kits	
	One (1) 2-7/8" x 15' lightning rod extension	
	270' 2/0 ground wire poly-coated stranded	
	One (1) 8' x 3/4" lightning rod copper clad and stiffener	
	P.E. certified tower profile and foundation drawings	
	Final erection drawings	
ITEM II	LIGHTING SYSTEM	\$ 9,686.00
	One (1) Flash (E1) Dual LED Vanguard II (Avian Compliant) - FTS 370d - Lighting System	
	200'-350' Dry Contact (C30047002) designed in accordance with FAA and FCC specifications.	
ITEM III	PAINT	
	Factory Applied Aliphatic Polyurethane Paint (See Notes).....	\$13,170.00
	TOWER FREIGHT TO YANHILL COUNTY, OREGON	\$ 9,871.00
	ANCHOR BOLT FREIGHT TO YANHILL COUNTY, OREGON	\$ 424.00
OPTIONS:	One (1) 4' Parabolic Antenna Ice Shield for the 150' elevation.....	\$ 890.00
	One (1) 4-1/2" O.D. Leg Dish Mount for the 150' Elevation.....	\$ 230.00

Total = \$86,896



PROPOSAL

Prepared for: CITY OF NEWBERG, OR

Proposal No.: 18-3598-AMV-R3

Date: 02/09/18

Page 3 of 4

Reference: 250' S3TL/Newberg, OR

Attn: Mr. Ken Seymour

Freight: Origin

NOTES: Terms will be reviewed upon receipt of order.

If a different paint is requested, additional charges may be incurred.

Classification of Structure:

- Class Three
Structures used primarily for essential communications such as: civil or national defense, emergency, rescue or other disaster operations, military and navigation facilities.

Exposure Categories:

- Exposure C
Open terrain with scattered obstructions having heights generally less than 30 feet. This category includes flat, open country, grasslands and shorelines in hurricane prone regions. *Exposure C is the standard default for exposure categories.*

Topographic Categories:

- Category 1
No abrupt changes in general topography, e.g. flat or rolling, no wind speed-up consideration shall be required. *Category one is the standard default for the topographic categories.*

The permit package includes a profile drawing of the structure with member sizes; anchor bolt details; descriptive notes; structural calculations; a table of supported antennas, mounts and feedlines; and a foundation sketch and calculations (if applicable).

This quotation is based on ANSI/TIA-222-G and Customer provided specifications. Any information not provided by ANSI/TIA-222-G or the Customer has not been considered.

Foundation and anchor bolt designs are based strictly on ANSI/TIA-222-G. Any additional requirements may result in increased foundation size and price.

Dimensional information is preliminary only; it may change based on final engineering.

All Sabre mounts are quoted with support pipes of appropriate length for most applications if not otherwise specified. If different support pipe lengths are required at the time of the order, additional costs may be incurred.

Cable type safety climbing device provided does not include harness.

Freight charges quoted are for provided materials only. Additional freight charges may be incurred with the order of additional items.

All antennas, transmission lines, jumpers, ground kits, hangers, and hardware are to be provided and installed by others.

All tower materials will be hot dip galvanized as outlined in ASTM A-123.

Construction step bolts have been quoted to the 120' elevation on all three legs for safety and ease of construction. Step bolts should not be used for climbing without the use of a safety climbing device or fall protection equipment.

This proposal does not include any sales, use, excise, contractors or any other taxes not specifically detailed in this proposal.

If a Customer requests to pick up a tower, a \$300.00 per truck charge may apply for dunage and loading.

Storage charges of \$350.00 per month may apply starting sixty (60) days after original scheduled ship date.



PROPOSAL

Prepared for: CITY OF NEWBERG, OR

Proposal No.: 18-3598-AMV-R3

Date: 02/09/18

Page 4 of 4

Reference: 250' S3TL/Newberg, OR

Freight: Origin

Attn: Mr. Ken Seymour

Due to material price fluctuations, Sabre reserves the right to review all material pricing prior to accepting any order. Any structure order placed on hold is subject to a price review at the time of its release from hold status.

Due to freight price fluctuations, Sabre reserves the right to review all freight pricing prior to accepting any order.

The lighting system quoted assumes that there will be an unobstructed view of the beacons in all directions. It is the Customer's responsibility to ensure that the lighting kit quoted meets all Federal, State, and Local ordinances for tower height and lighting type.

Prices are valid for 30 days.

Title, ownership, risk of loss, risk of material obsolescence and risk of material market value decline shall pass to the Customer upon invoicing or shipment to Customer, whichever occurs earlier in time.

Delivery will be approximately 4 to 6 weeks after receipt of required information and contingent upon backlog at the time of order.

Please allow an additional 2 weeks for tower delivery if factory-applied paint is required.

This proposal is based on the terms and conditions proposed above including the attached standard terms and conditions and is subject to our review and final acceptance of your order. No other terms are valid unless signed by an authorized officer of Sabre Communications.

Submitted By: Sabre Communications Corporation

Acceptance of Customer:


 Andy Van Roekel
 Government Sales Manager

Please enter our order for the above items
 in accordance with this proposal.

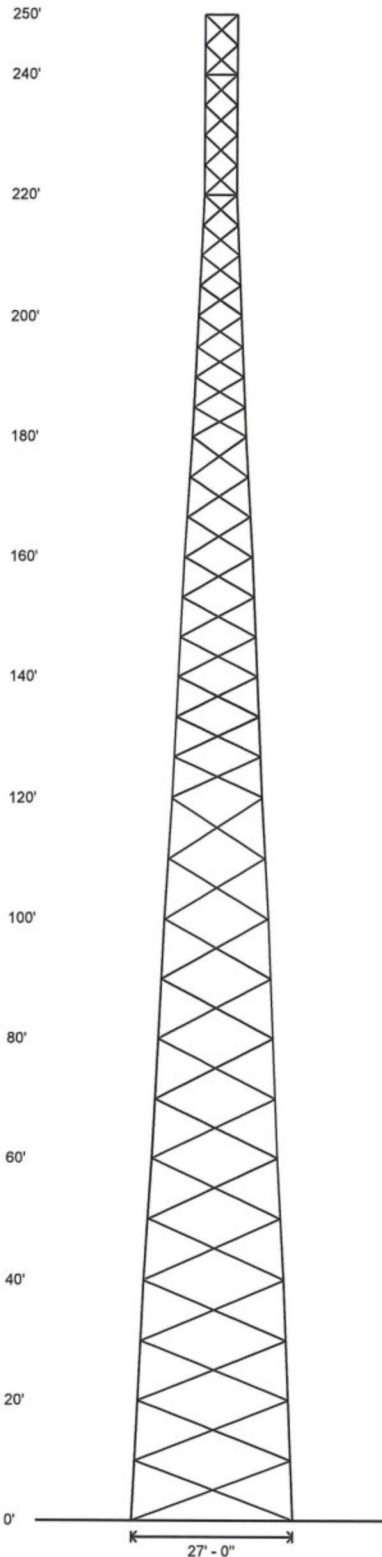
Signature 

Name (print) Ron Polluconi

Title Tech Services Date Feb 26, 2018

Purchase Order No. _____

SIZES ARE PRELIMINARY AND MAY CHANGE UPON FINAL DESIGN											
Legs	8.625 OD X .500	8.625 OD X .322	5.563 OD X .500	A	B	C	D	E	F	G	
Diagonals	L 4 X 4 X 1/4		L 3 X 3 X 1/4	L 3 X 3 X 3/16	J	L 2 X 2 X 3/16		L 2 X 2 X 1/8			
Horizontals											
Brace Bolts	(2) 5/8"		(1) 3/4"								
Top Face Width	25'	23'	21'	19'	17'	15'	13'	11'	9'	7'	5'
Panel Count/Height	5466	5253	4089	3730	3616	3028	2572	1910	1734	1256	987
Section Weight											399



Base Reactions

Total Foundation		Individual Footing	
Shear (kips)	67.57	Shear (kips)	40.19
Axial (kips)	165.26	Compression (kips)	390
Moment (ft-kips)	8728	Uplift (kips)	339
Torsion (ft-kips)	29.45		

Material List

Display	Value
A	5.563 OD X .375
B	5.563 OD X .258
C	4.500 OD X .337
D	3.500 OD X .300
E	3.500 OD X .216
F	2.875 OD X .203
G	2.375 OD X .154
H	L 3 1/2 X 3 1/2 X 1/4
I	L 4 X 3 1/2 X 1/4 (SLV)
J	L 2 1/2 X 2 1/2 X 3/16
K	L 2 X 2 X 1/8
L	NONE

Notes

- 1) All legs are A500 (50 ksi Min. Yield).
- 2) All braces are A572 Grade 50.
- 3) All brace bolts are A325-X.
- 4) The tower model is S3TL Series HD1.
- 5) Transmission lines are to be attached to standard 12 hole waveguide ladders with 3ft rung spacing.
- 6) Azimuths are relative (not based on true north).
- 7) Foundation loads shown are maximums.
- 8) (6) 1 1/2" dia. F1554 grade 105 anchor bolts per leg. Minimum 58" embedment from top of concrete to top of nut.
- 9) All unequal angles are oriented with the short leg vertical.
- 10) Weights shown are estimates. Final weights may vary.
- 11) This tower was designed for a basic wind speed of 94 mph with 0" of radial ice, and 30 mph with 3/4" of radial ice, in accordance with ANSI/TIA-222-G, Structure Class III, Exposure Category C, Topographic Category 1.
- 12) The foundation loads shown are factored loads.
- 13) The tower design meets the requirements for an Ultimate Wind Speed of 130 mph (Risk Category III), in accordance with the 2014 Oregon Structural Specialty Code.
- 14) This structure has been designed with a 25% increase in antenna loading.

Sabre Industries
Towers and Poles

Sabre Communications Corporation
7101 Southbridge Drive
P.O. Box 658
Sioux City, IA 51102-0658
Phone: (712) 258-6690
Fax: (712) 279-0814

Information contained herein is the sole property of Sabre Communications Corporation, constitutes a trade secret as defined by Iowa Code Ch. 550 and shall not be reproduced, copied or used in whole or part for any purpose whatsoever without the prior written consent of Sabre Communications Corporation.

Quote:

18-3598-AMV-R2

Customer:

CITY OF NEWBERG, OR

Site Name:

Newberg, OR

Description:

250' S3TL

Date:

1/31/2018

By: RKR

Page: 1

Designed Appurtenance Loading

Elev	Description	Tx-Line	Elev	Description	Tx-Line
259.9	3.97 sq. ft. EPA		220	0.01 sq. ft. EPA	(6) LDF4-50A
259.9	(1) 884-70		220	1V-Boom - 12ft Face - 3ft Standoff w/ Work Platforms	
257.2	(2) SC479-HF1LDF(D00)		220		(2) AVA5-50
255.3	2.77 sq. ft. EPA		200	(3) Flush Mount	
255.3	(1) 774-70		200	(3) Rocket M5	(4) CAT 6
250	11.9 sq. ft. EPA	(1) 1"	163	(1) 4' Ice Shield	
250	1V-Boom - 12ft Face - 3ft Standoff w/ Work Platforms		160	Leg Dish Mount	
250		(3) AVA5-50	160	(1) 4' H.P. Dish	(1) EW90
250		(5) LDF4-50A	154	(1) 4' Ice Shield	
250	(2) 12" x 13" x 7" TMA	(4) LDF4-50A	154	(1) 4' Ice Shield	
229.9	3.97 sq. ft. EPA		150	Leg Dish Mount	
229.9	(1) 884-70		150	Leg Dish Mount	
227.2	(2) SC479-HF1LDF(D00)		150	(1) 4' H.P. Dish	(1) EW90
225.3	2.77 sq. ft. EPA		150	(1) 4' H.P. Dish	(2) EW90
225.3	(1) 774-70				



Sabre Communications Corporation
 7101 Southbridge Drive
 P.O. Box 658
 Sioux City, IA 51102-0658
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Quote:

18-3598-AMV-R2

Customer:

CITY OF NEWBERG, OR

Site Name:

Newberg, OR

Description:

250' S3TL

Date:

1/31/2018

By:

RKR

Page:

2



No.: 18-3598

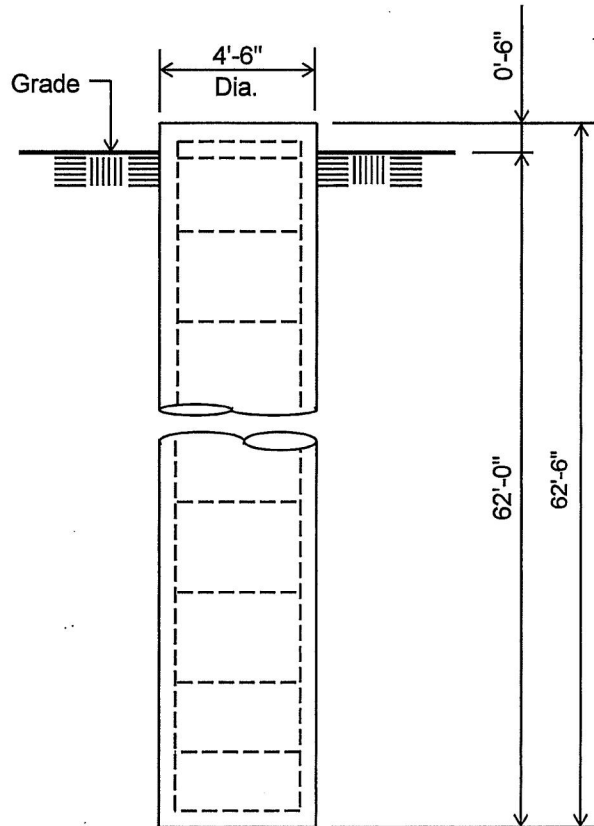
Date: 1/31/18

By: MH

Revision 2

Customer: CITY OF NEWBERG, OR**Site: Newberg, OR**

250 ft. Model S3TL Series HD1 Self Supporting Tower At
94 mph Wind with no ice and 30 mph Wind with 0.75 in. Ice per ANSI/TIA-222-G.

PRELIMINARY -NOT FOR CONSTRUCTION-**ELEVATION VIEW**

(36.82 Cu. Yds. each)

(3 REQUIRED; NOT TO SCALE)

Notes:

1). Concrete shall have a minimum 28-day compressive strength of 4500 PSI, in accordance with ACI 318-11.

2). Rebars to conform to ASTM specification A615 Grade 60.

3). All rebar to have a minimum of 3" concrete cover.

4). All exposed concrete corners to be chamfered 3/4".

5.) The foundation design is based on the geotechnical report by Black Mountain Consulting Project No. 170117-GEO, dated: 12/31/2017.

6). See the geotechnical report for drilled pier installation requirements, if specified.

7). The foundation is based on the following factored loads:

Factored uplift (kips) = 339

Factored download (kips) = 390

Factored shear (kips) = 40

Rebar Schedule per Pier	
Pier	(24) #7 vertical rebar w/#4 ties, two (2) within top 5" of pier then 12" C/C

Washington County Consolidated Communications Agency NEWBERG 9-1-1
 17880 NW Evergreen Place
 Beaverton, Oregon 97006
 Business Line: 503-690-4911

FAX: 503-531-0186

City of Newberg Communications Shelter Procurement Contract

CONTRACT REFERENCE NUMBER 18-106

CONTRACT DATE: April 2, 2018

This Contract (Order) is made between:

Thermobond 109 E Pleasant St Elk Point, South Dakota 57025 Attention: Mike Pottebaum	City of Newberg, Oregon Care of Washington County 911 17911 NW Evergreen Place Beaverton, Oregon 97006 Attention: Ron Polluconi
---	--

In consideration of the mutual covenants, stipulations and agreements, the Parties hereto do Contract and acknowledge that they have read and understand this Contract and agree to be bound by its terms and conditions:

SUPERSEDING EFFECT: This Procurement Contract supersedes all prior oral or written agreements, if any, between the Parties. All attachments hereto (if any) constitute the entire agreement between the Parties with respect to the Work to be performed under this Contract. Thermobond Buildings proposal dated January 2, 2018 Quotation 1702-55 is hereby included by reference along with WCCCA/C800 Group Invitation to bid dated December 15, 2017.

CONSIDERATION: The Vendor shall furnish all services and materials necessary to provide communication shelters (the Work). The Contractor, in consideration of the sum of \$86,744.00 to be paid to the Vendor by CITY OF NEWBERG in the manner and at the time provided, hereby agrees to perform all Work described and reasonably inferred from the Contract documents.

Communications Shelters - \$86,774.00 each x QTY. 1	\$ 86,774.00
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Total	\$ 86,744.00
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CONTRACT DATES: PROJECT START DATE: Upon all signatures to this agreement COMPLETION DATE: Upon delivery and acceptance of the last order placed for manufacture by and successfully delivered to CITY OF NEWBERG.

CONTRACT ADMINISTRATOR: CITY OF NEWBERG representative, Ron Polluconi, rpolluconi@wccca.com is authorized in the administration of this Contract. The representative shall be the initial point of contact for all matters related to order placement, inspection and acceptance of delivered goods and products, performance, payment and to represent and carry out the responsibilities of CITY OF NEWBERG.

INSURANCE. Before commencing work, Vendor shall procure and maintain insurance with an insurance carrier satisfactory to CITY OF NEWBERG. Certificates of such insurance issued by the Vendor's insurance carrier shall be filed with CITY OF NEWBERG before commencement of work. CITY OF NEWBERG shall be named an additional named insured on auto and liability policies, such insurance shall be primary, and CITY OF NEWBERG shall be provided a copy of the additional insured endorsement with the certificate of insurance:

- a. COMMERCIAL GENERAL LIABILITY to include premises operations, independent Vendors, products/completed operations, and blanket contractual: **\$1,000,000** Combined Single Limit Bodily Injury, Property Damage, and personal injury – any one occurrence and **\$1,000,000** in the aggregate.
- b. This insurance shall be considered as primary insurance and exclusive of any insurance carried by CITY OF NEWBERG, and the insurance evidenced by the required certificates shall be exhausted first, notwithstanding the fact that CITY OF NEWBERG may have other valid and collectible insurance covering the same risk.

INDEMNIFICATION AND HOLD HARMLESS. Except for claims arising out of acts caused by the sole

CITY OF NEWBERG Procurement Contract Additional Terms and Conditions

negligence of CITY OF NEWBERG or its employees, the Vendor agrees to indemnify and hold harmless CITY OF NEWBERG and its City Council members, administrators, employees and agents, from acts or omissions of any nature whatsoever of the Vendor, its agents, servants and employees, causing injury to, or death of person(s) or damage to property during the term of this contract, and from any expense incident to the defense of CITY OF NEWBERG there from. The Vendor agrees to indemnify and hold harmless CITY OF NEWBERG and its city council members, administrators, employees and agents harmless from and to defend it against, any and all claims arising from the purchase, installation, delivery, and/or use of the equipment, articles and/or materials which are the subject of this Contract.

INVOICING AND PAYMENT. Invoice(s) shall be issued for each Work segment as mutually agreed upon or progress payment(s) as acceptable to CITY OF NEWBERG through the end of the calendar month. Payment will be made within thirty (30) days after the acceptance of a proper invoice. Final payment shall be made upon completion and acceptance of the work. CITY OF NEWBERG will not pay any additional charges unless specifically agreed to in writing by CITY OF NEWBERG. The Contract Reference Number shall be indicated on all invoices and correspondences.

City of Newberg	Thermobond Shelters
Signature	Signature
Ron Polluconi Project Manager	Name & Title: Mike Pottebaum
Date:	Phone: 800-356-2686
Phone: 503-690-4911 x266	Date 2/23/2018
	Employer Identification Number 26-3740666

CITY OF NEWBERG Procurement Contract Additional Terms and Conditions

CHANGES. The terms and conditions contained in this Contract may not be added to, modified, superseded or otherwise altered except by a written modification signed by an authorized representative of Newberg and Vendor.

CLEAN UP. The Vendor shall keep the premises free from accumulation of waste materials rubbish caused by operations under this Order. At completion of the Work, the Vendor shall remove all tools, equipment and waste/surplus and clean all surfaces. If Vendor fails to perform this clean up operation CITY OF NEWBERG after 24 hour notice to the Vendor may perform this function with cost being borne by the Vendor and deduct from monies due.

COMPLIANCE WITH GOVERNMENT LAWS

- a. Vendor shall comply with all federal, state and local laws, regulations, executive orders and ordinances as applicable. All laws, regulations and executive orders applicable to the Order are incorporated by reference where so required by law.
- b. Vendor expressly agrees to comply with: (i) Title VI and VII of Civil Rights Act of 1964, as amended; (ii) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Americans with Disabilities Act of 1990, as amended, and ORS 659.425; (iv) Executive Order 11246, as amended; (v) The Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (vi) The Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; (vii) ORS Chapter 659, as amended; (viii) all regulations administrative rules established pursuant to the foregoing laws; (ix) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations; and (x) all federal and state laws governing the handling, processing, packaging, storage, labeling, and delivery of food products, if applicable.
- c. Vendor shall comply with the provisions of ORS 279B.020 – Maximum hours of labor.
- d. Vendor shall be responsible for all federal or state taxes applicable to compensation or payments paid to Vendor under this Order. Vendor certifies that (i) it is not an employee of CITY OF NEWBERG; (ii) if Vendor is currently performing work for CITY OF NEWBERG or the federal government, Vendor's work to be performed under this Contract creates no potential or actual conflict of interest as defined by ORS 244.
- e. Vendor must certify compliance with the Oregon tax laws in accordance with ORS 305.385; and
- f. If the Vendor fails to comply CITY OF NEWBERG shall have the right to terminate this Contract.

FAIR LABOR STANDARDS ACT. Vendor agrees that goods shipped to CITY OF NEWBERG under this contract will be produced in compliance with the Fair Labor Standards Act.

DRUG STATEMENT. The use of drugs, alcohol, or any tobacco products is prohibited on all CITY OF NEWBERG property.

WARRANTY SPECIFICATIONS. Vendor expressly warrants for one year after acceptance that all labor, materials and articles covered by this order or other description or specification with such order, are free from defects in material and/or workmanship, and merchantable. Such warranty shall survive delivery, and shall not be deemed waived either by reason of CITY OF NEWBERG's acceptance of the materials or articles or by payment for them. Defective work shall be corrected at the Vendor's expense. Any deviations from this order or specifications furnished hereunder, or any other exceptions or alterations must be approved in writing by an authorized representative of CITY OF NEWBERG.

CANCELLATION. CITY OF NEWBERG reserves the right to cancel all or any part of the undelivered portion of this order if Vendor does not make deliveries or complete work as specified, time being of the essence of this Contract, or if Vendor breaches any of the terms hereof including, without limitation, the warranties of Vendor.

INSPECTION AND ACCEPTANCE. All goods and services shall be received subject to NEWBERG's right of inspection and rejection. Defective goods or Work or goods or Work not in accordance with NEWBERG's specifications will be held for Vendor's instruction at Vendor's risk and if Vendor so directs, will be returned at Vendor's expense; If inspection discloses that part of the goods received are not in accordance with NEWBERG's specifications, NEWBERG shall have the right to cancel any unshipped portion of the Contract. Payment for goods on this Contract prior to inspection shall not constitute acceptance thereof and is without prejudice to any and all claims that NEWBERG may have against the Vendor.

PATENTS. Vendor warrants the material purchased hereunder does not infringe any letters patent granted by the United States and covenants and agrees to save harmless and protect CITY OF NEWBERG, its successors, assigns, customers, and users of its product, against any claim or demand based upon users of its product, against any claim or demand based upon such Infringement, and after notice, to appear and defend at its own

CITY OF NEWBERG Procurement Contract Additional Terms and Conditions

expense any suits at law or in equity arising there from.

INTERPRETATION OF CONTRACT AND ASSIGNMENTS. This Contract shall be construed according to the laws of the State of Oregon. This Order may not be assigned by Vendor without CITY OF NEWBERG's written consent.

ACCEPTANCE. Acceptance of this Contract, Scope of Work and related Drawings must be strictly in accordance with the terms set forth herein. Any additional terms set forth in Vendor's acceptance shall be void.

PERMITS AND RESPONSIBILITIES. Without additional expense to CITY OF NEWBERG, the Vendor shall be responsible for obtaining and maintaining any necessary licenses and permits including an Oregon Gold Seal.

INDEPENDENT VENDOR. The service or services to be performed under this Order are those of an independent Vendor as defined in ORS 670.600. Vendor represents and warrants that it is not an officer, employee or agent of CITY OF NEWBERG.

PROTECTION OF PERSONS AND PROPERTY. The Vendor shall be responsible for all aspects of safety and safety precautions and programs in connection with the Work.

SEVERABILITY. If any provision of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall be construed and enforced as if the Contract did not contain the particular provision held to be invalid.

CITY OF NEWBERG Procurement Contract Additional Terms and Conditions

SECTION 7
PROJECT SPECIFICATIONS

CITY OF NEWBERG Procurement Contract Additional Terms and Conditions

PROJECT SPECIFICATIONS

1) SCOPE OF WORK

- i) The scope of work is to manufacture and deliver concrete communication shelters with **exterior** dimensions of 12'x24'x9'H and concrete generator shelters with **interior** dimensions of 10'x12'x9'H

2) COMMUNICATIONS SHELTERS:

i) WORK:

- (1) The Work includes the manufacture of (1) for NEWBERG, concrete communication shelter 12'x24'x9'H (**exterior** dimensions).
- (2) The Contractor is responsible to conform to all codes and standards as may be referred to in these specifications. All such referenced codes are, by such reference, incorporated into this Contract as is set forth herein in full.

3) Codes:

- 4) 2014 Oregon Structural Specialty Code (OSSC).
- 5) 2014 Oregon Electrical Specialty Code (OESC).

Reference Standards:

a) American Concrete Institute (ACI)

ACI 117, Standard Specifications for Concrete Construction and Materials.
 ACI 301, Structural Concrete for Buildings
 ACI 304, Measuring, Mixing, Transporting, and Placing Concrete.
 ACI 309, Consolidation of Concrete.
 ACI 318, Building Code Requirements for Reinforced Concrete

b) American Society Testing Materials (ASTM)

ASTM A36, Carbon Structural Steel
 ASTM A82, Steel Wire for Concrete Reinforcement
 ASTM A108, Steel Bars, Carbon, Cold-Finished, Standard Quality
 ASTM A153, Zinc Coating (Hot-Dip) on Iron and Steel Hardware
 ASTM A185, Welded Steel Wire Fabric for Concrete Reinforcement
 ASTM A497, Welded Deformed Steel Wire Fabric for Concrete Reinforcement
 ASTM A615, Deformed and Plain Billet-Steel Bars for Concrete Reinforcement
 ASTM C33, Concrete Aggregates
 ASTM C150, Portland Cement
 ASTM C494, Chemical Admixtures for Concrete
 ASTM C618, Coal Fly Ash for Use as a Mineral Admixture in Concrete

6)

CITY OF NEWBERG Procurement Contract Additional Terms and Conditions

American Welding Society (AWS)

AWS D1.1, Structural Welding Code – Steel

AWS D1.4, Structural Welding Code – Reinforcing Steel

7) Concrete Reinforcing Steel Institute (CRSI): CRSI Manual of Standard Practice

8) Precast/Prestressed Concrete Institute (PCI)

PCI MNL-116, Manual of Quality Control for Plants and Production of Precast and Prestressed Concrete Products

PCI MNL-120, Design Handbook: Precast and Prestressed Concrete

PCI MNL-123, Manual of Design Connections for Precast/Prestressed Concrete

PCI MNL-124, PCI Design for Fire Resistance of Precast/Prestressed Concrete

PCI MNL-127, Recommended Practice for Erection of Precast Concrete

9) Communication Facilities: Motorola R56 Dated September 1, 2005

10) The Vendor shall be responsible for delivering the shelter to the designated staging area and shall obtain any and all required permits, flagging, and escort services required.

11) EQUIPMENT SHELTER:

- a) NEWBERG one (1) Shelter - 12'x24'x10'h **exterior** Dimensions
- b) Shelters shall meet all applicable local and state building codes, Motorola R56 Standards, rules and regulation and have the Oregon Gold Seal stamp.
- c) Note: the design shall recognize this shelter as an “essential facility” as defined in the 2014 Oregon Structural Specialty Code (OSSC. Vendor shall submit an electronic copy of plans and specifications stamped by an Oregon registered structural engineer. Note: Vendor to provide wet stamped drawings if required by the permitting jurisdiction.
- d) The shelter shall be constructed of steel reinforced high strength concrete. Design basis: Wind Load: 110MPH Exp 'C' / Seismic: Design Category IV. Concrete: 5,000 PSI @28 days. Rebar ASTM A615 Grade 60. Mesh ASTM A-104
- e) The shelter shall be designed with a 300lb per square foot floor loading capability and a 150lb per square foot roof live load. Flat Roof Snow Load as required by the OSSC / IBC for the snow load requirements at the particular site (based on geographic coordinates) per the Structural Engineers Associations of Oregon (SNOWLOAD.SEO.ORG) website. Roof shall have a ¼” per foot slope and a 6” overhang on all sides.
- f) The exterior finish shall be exposed aggregate.
- g) Roof material shall be EDPM applied to concrete structure per manufactures instructions with required brown anodized aluminum flashing materials.
- h) The shelters shall be, bullet resistant to resist a 30.06 rifle from 15 feet per UL 752 level 4.
- i) The shelters shall provide a minimum of 2-hour fire rating per OSSC/IBC, shall be weather tight including wind and moisture, (Note: snow may accumulate to and beyond the roof line at some sites) and shall require minimal maintenance.
- j) The shelter shall have the following items:

CITY OF NEWBERG Procurement Contract Additional Terms and Conditions

- i) Exterior Door: 3'4" x 7' galvanized and painted steel- bullet resistant to resist a 30.06 rifle from 15 feet per UL 752 level 4 with:
- ii) 3 non corrosive / non-removable pin / 4.5"x4.5" hinges or a continuous hinge;
- iii) mortise lockset with deadbolt – Best Lock w/ construction core;
- iv) 6" Lock Guard;
- v) aluminum threshold and door sweep;
- vi) weather stripping;
- vii) door drip cap;
- viii) 3'x 3' Metal canopy over exterior door with a brown powder coat finish.
- ix) Interior Finish: ¾" ACX Plywood w/ an undercoat and 2 coats of white epoxy paint on walls and ceiling. Paint equal to Sherman Williams Pro Industrial™ Pre-Catalyzed Water Based Epoxy egg shell finish.
- x) Insulation: R 22 in ceiling and walls.
- xi) Flooring: 1/8" vinyl floor tile and cove molding.
- xii) Electrical System:
- k) 120/240 V/AC single phase 60 Hz;
- l) Electrical Service Provider Meter face and 200A main breaker. Meter bypass to be provided by vendor if specified at time of order. 179
- m) Branch Circuit Panel; (12) 1P 20A (dual duplex wall outlets) / (10) 1P 20A (twist lock duplex ceiling outlets) (6) 2P 30A (rectifiers feeds) / (2) 2P HVAC / (1) 1P 20A (lighting) / (1) 1P 20A (exhaust fan) / (1) 1P 20A (surge protector) (10) 1P 20A (spare) branch circuit breakers;
- n) 200A 3W 4pole exterior generator plug (Hubbell Style II HBL4200-RS2W w/ 15° angle adapter or approved equal)
- o) 200A / 600V / Type 1 / 3P Heavy Duty non-fused manual transfer switch (equal to a Square D C82344 or approved equal)
- p) 200A automatic Transfer Switch: Marathon/Thomson series TS870 or ASCO 300 series or approved equal.
- q) Panel Surge Protector: Transtector "Apex Imax" 1101-808-1 or equal by AC Data Systems, or MCG // Motorola R56 approved;
- r) Outlets as detailed on the attached drawings
- s) wall standard double duplex Spec HD grade (20A 120V)
- t) Ceiling twist lock equal to NEMA L5-20 3W Grounding provide an L5-20 cap at every location.
- u) One exterior GFCI 20A 120V duplex Spec HD outlet at HVAC unit.

CITY OF NEWBERG Procurement Contract Additional Terms and Conditions

- v) Rectifier circuits: extend (6) 30A 4W circuits to a 12"x12"x12" junction box (as shown) above the rectifiers with the opening to the side. Field installed drops (by others) to rectifiers will come from the bottom.
- w) Interior Lighting: (9) 4' / 4500 lumen / LED / wrap around / surface mounted lights with switch.
- x) Exterior Lighting: One each Hubbell LNC2-9LU-5K-3-1 door entry.
- y) Interior Grounding: To meet Motorola R56 standards dated September 1, 2005. In general, this includes a #2 green insulated stranded copper halo, a #6 tinned solid copper drops to door/frame, electrical panels (4), HVAC Grills (4), Cable ladder. Further a (1) 8 ft. pigtail, green insulated stranded peripheral equipment ground drop, master ground bar 1/4" x 4" x 20" interior.
- z) Alarms (Contact Closure Devices / Normally open / For Remote Monitoring): exterior proximity (mounted over door) / open door / high-low temperature / power failure / smoke / alarm terminal block.
- aa) CCTV: Provide a 1" schedule 80 PVC conduits 1' below ceiling / 1' in from the end wall on all four corners of the building terminated in a 4"x4"x2" junction box on each side of the wall w/a screw cover.
- bb) Cooling/Heating: Two (2) 35,200 BTU wall mount air conditioner with economizer and 5KW heat strips – equal to Bard WA3* and controls equal to Bard MC4002-BC; standard installation in factory on end walls
- cc) One each temperature controlled Exhaust Fan.
 - i) 1,000 CFM (in accordance with section 608 of the current Oregon fire code) with 1,000 CFM relief louvers with manual dampers mounted 8" below the ceiling.
- dd) Cable Entries: (1) 24 port waveguide (6x4) feed thru plate (2) 24 port waveguide openings with blank cover plate
- ee) Cable ladder: Approx. 20 lineal ft. 12" wide cable runway and approx. 68 lineal ft. 18" wide cable runway, and approx. 8 lineal ft. 24" wide cable runway CPI (Chatsworth Products) Black, UL Classified Cable Runway / utilizing CPI UL listed splices / black in color with safety endcaps.
- ff) Install 3/4" thick, 4"x4" plywood panel punch block mounted on Wall A per drawing. 2 coats of white epoxy paint to match interior color.
- gg) Install Dual Duplex outlet on upper Wall A **and** Wall C (2 total) for microwave dehydrator, per drawing
- hh) Fire Extinguisher, First Aid Kit, and Eye Wash kit to be installed on Wall A near door per drawing
- ii) LED Emergency Bug-Out Light for power loss, mounted per drawing on Wall D
- jj) Install Hydrogen Limit switch per drawing on Wall C for fan
- kk) Install 3' EGB (External Ground Bus) bar on exterior Wall B below the Port Entry.
- ll) All ports that may be removed for access into the building should be secured with security bolts or screws to limit access via vents

CITY OF NEWBERG Procurement Contract Additional Terms and Conditions

SECTION 8

Thermobond

Approved Reference Drawings

Drawing #AGB9871

Drawing #AGB9872

EMERGENCY COMMUNICATION SYSTEM PROJECT

**Washington County Consolidated Communications Agency
WCCCA-911
Generator, Transfer Switch, Controls, and Alarms
Procurement Contract**

CONTRACT REFERENCE NUMBER 17-1007

CONTRACT DATE: November 3, 2017

Amendment 1.0

This Contract Amendment is made and entered into by and between:

Vendor: Power Systems Plus PO Box 669 Forest Grove, Oregon 97116 Attention: Hope Kramer	WCCCA: Washington County Consolidated Communications Agency (WCCCA) 17911 NW Evergreen Pkwy Beaverton, Oregon 97006 Attention: Ron Polluconi
--	--

This amendment revises the allocated costs associated with the addition of one (1) additional generator and related equipment and services as detail in the Contract to be added to the overall contract for the City of Newberg, Oregon.

This amendment adds one (1) Generator, Tank, Transfer Switch Gear, and related materials and services for the City of Newberg. Power Systems Plus shall bill for the Newberg tower aka "Newberg PW" / "N-1" as a separate entity but all invoices shall be sent to WCCCA for approval, processing and tracking.

This amendment does not change the Scope of Work, terms or deliverables related to the original contract dated November 3, 2017 other than to add the addition of a Generator, Tank, Transfer Switch Gear, and related materials and services for the City of Newberg Oregon.

SUPERSEDING EFFECT.

There are no covenants, promises, agreements, conditions or understandings between the Parties, either oral or written, other than those contained in the November 3, 2017 Contract between the parties. All attachments hereto together constitute the entire agreement between the Parties (listed in order of precedence):

- 1) Original Contract
- 2) Price Quote for the City of Newberg

CONSIDERATION.

Vendor shall perform the agreed upon WCCCA Scope of Work in consideration of the Contracted Not to Exceed sum of **\$1,283,182.80** for which WCCCA agrees to pay for the Work in a manner further described in the original Contract. Vendor will track cost for each site as is reasonably feasible.

Vendor shall perform the incremental Newberg Scope of Work in consideration of the Not to Exceed sum(s) of **\$59,225.00** (the amended total contract price) for which the City of Newberg agrees to pay for the Work in a manner further described in this Contract. Vendor will track and report actual cost for each site as is reasonably feasible.

CONTRACT PERIOD.

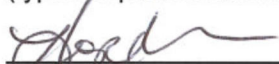

The contract period shall begin upon signing of this Agreement by both parties, and shall terminate on the Completion Date, unless earlier terminated or later extended by the parties hereto.

COMPLETION DATE: Original contract and this amendment – February 15, 2019 – which may be adjusted once process schedules are finalized.

WCCCA REPRESENTATIVE.

WCCCA Representative for this contract is: Ron Polluconi, 503-490-4911 ext. 266 (phone),
rpolluconi@wccca.com

In consideration of the mutual covenants, stipulations and agreements, the Parties hereto do Contract and acknowledge that they have read and understand this Contract and agree to be bound by its terms and conditions:

<p>Vendor: <u>Hope Kramer</u> (typed or printed name of officer)  Signature <u>CFO</u> Title Phone <u>503-357-3879</u> <u>45-0469923</u> Employer Id Number or Social Security Number</p>	<p>Washington Consolidated Communication Agency</p> <p> <u>2-27-18</u> _____ WCCCA Representative Director, Kelly Dutra Date</p> <p>Not a valid Contract until all signatories are complete</p>
--	--

This contract is pursuant to Oregon Revised Statutes (ORS 279 A, B and C) and WCCCA Procurement and Purchasing Rules

EXHIBIT A – Terms and Conditions

1. **ASSIGNMENT.** The Vendor may not assign, sell, dispose of, or transfer rights or subcontract Work under the Contract, either in whole or in part, without WCCCA's prior written consent.
2. **AUTHORITY.** The Vendor represents and warrants that it has the power and authority to enter into and perform the Contract and that the signer of this Contract has the authority to bind and obligate the Vendor.
3. **CHANGES.** The terms and conditions contained in this Contract may not be added to, modified, superseded or otherwise altered except by a written modification signed by an authorized representative of WCCCA and Vendor.
4. **COMPLIANCE WITH LAWS.** If the Vendor fails to comply WCCCA shall have the right to terminate this Contract pursuant to Section 24 below.
 - a. Vendor shall comply with all federal, state and local laws, regulations, executive orders and ordinances as applicable, including but not limited to the Oregon laws specifically listed in Section 19 of this Contract. All laws, regulations and executive orders applicable to the Contract are incorporated by reference where so required by law.
 - b. Vendor expressly agrees to comply with: (i) Title VI and VII of Civil Rights Act of 1964, as amended; (ii) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Americans with Disabilities Act of 1990, as amended, and ORS 659.425; (iv) Executive Order 11246, as amended; (v) The Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (vi) The Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; (vii) ORS Chapter 659, as amended; (viii) all regulations administrative rules established pursuant to the foregoing laws; (ix) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations; and (x) all federal and state laws governing the handling, processing, packaging, storage, labeling, and delivery of food products, if applicable.
5. **CONTINUING OBLIGATION.** Notwithstanding the Completion Date of this Contract, the Vendor is obligated to fulfill its responsibilities until warranty, guarantee, maintenance, and parts availability requirements have completely expired.
6. **DELAYS IN DELIVERY; FORCE MAJEURE.** Neither WCCCA nor Vendor shall be held responsible for delay or default caused by fire, riot, acts of God, terrorism, war or any other cause which is beyond the party's reasonable control.
7. **DRUG STATEMENT.** The use of drugs, alcohol, or any tobacco products is prohibited on all WCCCA property.
8. **FOREIGN CONTRACTOR.** If the amount of the Contract exceeds ten thousand dollars (\$10,000), and if the Vendor is not domiciled in or registered to do business in Oregon, the Vendor shall promptly provide the Oregon Department of Revenue all information required by that Department.
9. **GOVERNING LAW/VENUE.** The laws of the State of Oregon shall govern this contract. Any action or suit commenced in connection with this contract shall be in the Circuit Court of Washington County or the Federal Court for Oregon. The prevailing party shall be entitled to reasonable attorney fees and costs as awarded by the Court, including any appeal. All rights and remedies of WCCCA and Vendor shall be cumulative and may be exercised successively or concurrently.
10. **IDENTIFICATION OF EMPLOYEES.** Vendor shall ensure that its employees have identifying uniforms or other designation of identity (ID badge, hat, coat with Vendor logo/name) while on WCCCA property.
11. **INDEMNIFICATION AND HOLD HARMLESS.** Except for claims arising out of acts caused by the sole negligence of WCCCA, its Administrators or employees, the Vendor agrees to indemnify and hold harmless WCCCA and its board members, administrators, employees and agents, from acts or omissions of any nature whatsoever of the Vendor, its agents, servants and employees, causing injury to or death of person(s) or damage to property during the term of this contract, and from any expense incident to the defense of WCCCA therefrom.
12. **INSPECTION AND ACCEPTANCE.** The quality of Work shall be subject to inspection by WCCCA. If, in WCCCA's reasonable discretion, the quality of the Work is not satisfactory, and that the requirements of the specifications are not being met, WCCCA shall insist on compliance and will provide the Vendor with a 'cure date'. If the Vendor does not comply WCCCA may terminate the contract pursuant to Section 24 of this Contract. Within a reasonable time, all goods delivered are subject to final inspection and acceptance after delivery or completion at WCCCA's facility. If any goods or services are

EXHIBIT A – Terms and Conditions

defective in material or workmanship or otherwise not in conformity with the requirements of this Contract or specifications, WCCCA shall have the right to require correction or replacement at no additional cost to WCCCA.

13. **INSURANCE** Before commencing work, Vendor shall procure and maintain:

- a. **WORKER'S COMPENSATION** as required by law.
- b. **EMPLOYER'S LIABILITY** in the minimum amount of \$500,000 when the Vendor has employees performing services under the contract.
- c. **COMPREHENSIVE AUTOMOBILE LIABILITY** including owned, non-owned and hired vehicles: \$500,000 Combined Single Limit Bodily Injury and Property Damage any one occurrence and a minimum of \$1,000,000 in the aggregate. WCCCA shall be named additional insured on auto and liability policies and shall be provided a copy of the additional insured endorsement. May be waived if Vendor has no vehicle while providing work under the contract.
- d. **COMPREHENSIVE GENERAL LIABILITY** to include premises operations, independent Vendors, products/completed operations, and blanket contractual: \$700,000 Combined Single Limit Bodily Injury, Property Damage, and personal injury any one occurrence and \$1.5 million in the aggregate.
- e. **PROFESSIONAL LIABILITY.** Provider shall maintain in force during the duration of this agreement (and, if it is a claims made policy, for a year following completion of the project) a professional liability policy, in the minimum amount of \$1,000,000.
- f. WCCCA, its employees, officials and agents shall be named as an Additional Insured on general liability and auto and be provided a copy of the additional insured endorsement. Such insurance shall be primary. Certificates of Insurance shall be issued, prior to the commencement of the contract, to WCCCA, Attn: Elizabeth Comfort, 17911 NW Evergreen Pkwy, Beaverton, OR 97006. The Vendor agrees to pay for the insurance specified and agrees to provide WCCCA with a 30 days' notice of cancellation if non-renewal occurs during the contract period. Insurance companies must have an A rating.
- g. WCCCA reserves the right to require additional insurance coverage, limits, and terms which will be delineated in an attachment to this agreement.

h. This insurance shall be considered as primary insurance and exclusive of any insurance carried by WCCCA, and the insurance evidenced by the required certificates shall be exhausted first, notwithstanding the fact that WCCCA may have other valid and collectible insurance covering the same risk.

14. **INVOICING AND PAYMENT.** Vendor shall issue invoice(s) for each Work segment as mutually agreed upon or progress payment(s) as acceptable to WCCCA. Payment shall not be made prior to receipt of a valid invoice. Credit and discount periods will be computed from the date of receipt of the invoice to the date WCCCA's check is mailed. Payment will be made within thirty (30) days after the acceptance of a proper invoice. Final payment shall be made upon completion and acceptance of the Work. WCCCA will not pay any additional charges unless pacifically agreed to in writing by WCCCA. The invoice(s) shall be submitted to WCCCA, Accounts Payable Department, 17911 NW Evergreen Pkwy, Beaverton, OR 97006. Each invoice must include the project work authorization number, purchase order number or contract number, an itemized list of the pricing elements that match the Pricing Schedule and/or the quote provided for the individual project (if applicable), the project name/number and WCCCA Contract Manager's name.

15. **MANUFACTURER'S WARRANTIES.**

Manufacturer's warranties received by the Vendor which are applicable to any material equipment, parts, property and services furnished by the Vendor under this Contract shall survive acceptance and payment, shall run to WCCCA, its successors and assigns, and shall not be deemed to be exclusive.

16. **STANDARD OF CARE.** The services provided by the Vendor under this Contract will be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances.

17. **PERMITS AND RESPONSIBILITIES.** Without additional expense to WCCCA, the Vendor shall be responsible for maintaining any necessary licenses and permits.

18. **PRICES.** All pricing is considered fixed and firm for the Contract term. The Vendor warrants that the price of the Goods and Services covered by this Contract are not in excess of the Vendor's lowest prices in effect on the date of this Contract for comparable quantities of similar Goods or Services.

EXHIBIT A – Terms and Conditions

19. **PUBLIC CONTRACTS.** This Contract requires compliance with the following Oregon Revised Statutes (ORS) as applicable:
- 279B.020 Conditions concerning maximum hours of labor on public contracts.
 - 279B.220 Conditions concerning payment, contributions, liens, withholding.
 - 279B.225 Condition concerning salvaging, recycling, composting or mulching yard waste material.
 - 279B.230 Condition concerning payment for medical care and providing workers' compensation.
 - 279B.235 Condition concerning hours of labor.
 - 305.385 Compliance with Oregon tax laws.
20. **SECURITY CHECK:** The Vendor agrees that each of its employees, sub-vendors' employees and principals/owners involved in the Work may, at the option of WCCCA, be subject to a security check, at any time, through the Washington County Sheriff's Department or other venue. WCCCA retains the option to require the immediate removal of any sub vendor, employee or agent. Notwithstanding the foregoing, Vendor, and not WCCCA, remains solely responsible for performing background checks on, and screening for public safety all sub-vendors and employees, and, to the extent allowed by law, shall provide such screening methodologies and information to WCCCA upon request.
21. **SEVERABILITY.** If any provision of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall be construed and enforced as if the Contract did not contain the particular provision held to be invalid.
22. **Not Used.**
23. **TAXES.** WCCCA is exempt from Federal, State, and Local taxes.
24. **TERMINATION.**
- Terminate For Convenience.** This Contract may be terminated at any time by mutual written consent of the parties, or WCCCA may, at its sole discretion, terminate this Contract, in whole or in part, upon 30 days' notice to Vendor.
 - WCCCA's Right to Terminate For Cause.** WCCCA may terminate this Contract, in whole or in part, immediately upon notice to Vendor, or at such later date as WCCCA may establish in such notice, upon the occurrence of any of the following events:
 - WCCCA fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient to pay for Vendor's Work;
 - Federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the Work under this Contract is prohibited or WCCCA is prohibited from paying for such Work from the planned funding source;
 - Vendor no longer holds any license or certificate that is required to perform the Work; or
 - Vendor commits any material breach or default of any covenant, warranty, obligation or agreement under this Contract, fails to perform the Work under this Contract within the time specified herein or any extension thereof, or so fails to pursue the Work as to endanger Vendor's performance under this Contract in accordance with its terms, and such breach, default or failure is not cured within 10 business days after delivery of WCCCA's notice, or such longer period as WCCCA may specify in such notice.
 - Vendor's Right to Terminate for Cause.** Vendor may terminate this Contract upon 30 days' notice to WCCCA if WCCCA fails to pay Vendor pursuant to the terms of this Contract and WCCCA fails to cure within 30 business days after receipt of Vendor's notice.
 - Enforcement.** Termination under any provision of this Contract shall not extinguish or prejudice WCCCA's right to enforce this Contract with respect to any breach of a Vendor warranty or any defect in or default of Vendor's performance that has not been cured, including any right of WCCCA to indemnification by Vendor. If this Contract is so terminated, Vendor shall be paid in accordance with the terms of the contract for services rendered and accepted.
 - Remedies.** In the event of termination pursuant to above, Vendor's sole remedy shall be a claim for the sum designated for accomplishing the Work multiplied by the percentage of Work completed and accepted by WCCCA, less previous amounts paid. If previous amounts paid to Vendor exceed the amount due to Vendor under this subsection, Vendor shall pay any excess to WCCCA upon demand.
 - Vendor's Tender Upon Termination.** Upon receiving a notice of termination of this

EXHIBIT A – Terms and Conditions

Contract, Vendor shall immediately cease all activities under this Contract, unless WCCCA expressly directs otherwise in such notice of termination. Upon termination of this Contract, Vendor shall deliver to WCCCA all documents, information, works-in-progress and other property that are or would be deliverables had the Contract been completed. Upon WCCCA's request, Vendor shall surrender to anyone WCCCA designates, all documents, research or objects or other tangible things needed to complete the Work.

- g. **Limitation of Liabilities.** Neither party shall be liable for (i) any indirect, incidental, consequential or special damages under the contract or (ii) any damages of any sort arising solely from the termination of this contract in accordance with its terms.

25. **TRANSPORTATION.** The Vendor is responsible for transportation of its employees to and from the Work site.

26. **WAIVER.** No failure of either party to exercise any power given to it hereunder or to insist upon strict compliance by the other party with its obligations hereunder, and not custom or practice of the parties at variance with the terms hereof, nor any payment under this agreement shall constitute a waiver of either party's right to demand exact compliance with the terms hereof.

END

Attachments / Reference:

Contract:

Reference Contract with Power Systems Plus Reference number 17-1007 Dated: November 3, 2017

NOTE: If there are conflicts in the terms and conditions shown in these documents and the foregoing terms and conditions the Agreement Terms and Conditions shall prevail.

Newberg Price Quote:

Power Systems Plus, Inc.
 PO BOX 669
 Forest Grove, Oregon 97116
 P: 503-357-3839
 E: powersystemsplus@msn.com
 W: www.pspusa.net



Customer:

WCCCA - Washington County Consolidated Co

17911 NW Evergreen Pkwy
 Beaverton, Oregon 97006

QUOTE	
Date:	Feb-27-2018
Quotation #	849

Site Name: Newberg

Contact Name:

Newberg
 , Oregon

Quantity	Part Number	Description	Unit Price (\$)	Sub Total (\$)
1.00	Generator Install	Generator system installation. Includes: Generator propane tank and monitoring system concrete pads for generator and tank trenching and conduit install generator and propane tank install cable and electrical connection from new shelter ATS to generator. Testing and commissioning of the entire system.	53,841.80	53,841.80
				Total: \$ 53,841.80

Quote Description

Quote for generator, fuel system and ATS connection at Newberg Site.

Company Note

Prices are subject to change based on date of order. This estimate is valid for 30 days. This is an estimate only, actual parts and labor will be charged. PSP will do everything possible to perform these services as estimated however, variable factors may apply such as when the approval to perform the services is received and/or manufacturer parts increase.

In Signing, I agree to the estimate. This constitutes an offer to sell based on Power Systems Plus, Inc. Terms and Conditions.


 Signature

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: May 7, 2018

Order ____ Ordinance ____ Resolution ____ Motion XX Information ____
No. No. No.

SUBJECT: Council Minutes

**Contact Person (Preparer) for this
Motion: Sue Ryan
Dept.: City Recorder**

RECOMMENDATION: Approve Council Minutes for April 2nd and 16th, 2018.

NEWBERG CITY COUNCIL MINUTES
REGULAR SESSION
April 2, 2018, 7:00 PM
PUBLIC SAFETY BUILDING (401 E. THIRD STREET)

A work session was held at 6:00 p.m. preceding the meeting. Present were Mayor Andrews, Councilors Patrick Johnson, Mike Corey, Scott Essin, Stephen McKinney, and Matt Murray. Council President Denise Bacon was excused. City staff present were City Manager Joe Hannan, City Recorder Sue Ryan, Community Development Director Doug Rux, Police Support Services Manager Mary Newell, 9-1-1 Supervisor Lauri Steinbeck, and Public Works Director Jay Harris. Also present were Planning Commission members including Chair Phil Smith, John Wuitschick, Jr., and Jason Dale. The Council met in a joint session with the Newberg Planning Commission.

Urban Growth Boundary Expansion Process: The earlier UGB expansion process in the southeast went through remediation, and the City withdrew it. Since then the state had a new process. The City found technical problems while trying to follow it. Staff worked with LCDC to fix technical issues, possibly by June 2018. Technical fixes were needed for what was considered vacant, and partially vacant land. There was discussion on the former mill site (Westrock/Smurfit) property and how it fit with the UGB work. CDD Rux said there was not just a need for more employment land, but also for residential land. Discussion ensued regarding population projections and UGB expansion.

Residential Parking Standards: The Planning Commission discussed guest parking in residential developments. The current requirements were for two off-street parking spaces, and garages could count for one space. However, most people used their garages for storage, not for vehicles. It might not be an issue in R-1 but it might be in R-2 and even more so on cul-de-sacs. There was discussion on how to solve the issue of parking requirements, possibly requiring people to park cars in garages, allowing developers some flexibility in lot usage, whether the Commission had talked with Traffic Safety Commission, and involving Homeowners Associations.

Riverfront Master Plan: A kick off meeting with the consultant was held. A tour of the entire site would be April 13. A citizens' advisory committee had been appointed. The work would take about 18 months. There was discussion on the percentages of riverfront ownership and future development.

Hearings Officer: Staff would be coming back in the fall with more information on the idea of using a hearings officer to deal with quasi-judicial issues. There was discussion on how the concept should work, and who should be involved.

CALL MEETING TO ORDER

Mayor Andrews called the business session to order at 7:00 p.m.

ROLL CALL

Members Present:	Mayor Bob Andrews	Stephen McKinney	Mike Corey
	Patrick Johnson	Matt Murray	
	Scott Essin	Stephen McKinney	

Members Absent: Denise Bacon (excused)

Staff Present:	Joe Hannan, City Manager	Truman Stone, City Attorney
	Sue Ryan, City Recorder	Doug Rux, Community Development Director
	Matt Zook, Finance Director	Jay Harris, Public Works Director
	Kaaren Hofmann, City Engineer	Leah Griffith, Library Director

PLEDGE OF ALLEGIANCE: The Pledge of Allegiance was performed.

PROCLAMATION: Mayor Andrews declared April 8-14, 2018 as National Library Week in Newberg. Library Director Griffith accepted the proclamation.

RECOGNITION OF 9-1-1 TELECOMMUNICATORS: Police Support Services Manager Mary Newell presented 9-1-1 Telecommunicators with a small gift and thank you cards for their work.

CITY MANAGER'S REPORT: City Manager Hannan reported working on the City's budget for upcoming meetings, evaluations on department directors, discussing an opportunity for a George Fox internship program, a County-wide tourism summit, the appraisal and sale of the animal shelter, potential buyers for the mill property, working with Downtown Coalition on a City Art brochure, working with a volunteer group on the renovation of the Cameo Theatre, a welcome luncheon for the new Dayton City Manager, possible options to finance a pump station for Veritas School the update of the Economic Development Strategy, and the Council Rules subcommittee. He announced more than 4.5 miles of new sidewalks built in the City. He asked the Council to read the employee newsletter, and to let staff know if they would attend the Economic Forum.

PUBLIC COMMENTS: None.

CONSENT CALENDAR:

MOTION: Corey/Essin moved to approve the Consent Calendar including the Council Minutes for March 5, 2018. Motion carried (6 Yes/0 No/1 Absent [Bacon]).

PUBLIC HEARINGS - Administrative: Resolutions 2018-3450, 2018-3451, and 2018-3452 Rates:
Mayor Andrews opened the public hearing and called for abstentions or conflicts of interest. There were none.

Finance Director Zook and Deb Galardi, consultant, gave the staff report. FD Zook discussed the work of the Citizens Rate Review Committee (CRRC) who had reviewed the water, wastewater, stormwater, and transportation utility rates. They met from October 2017 to March 2018. The recommended rates would go into effect January 1, 2019 and January 1, 2020.

Ms. Galardi discussed the process for their review of the rates. There had been moderate customer growth, and steady consumption which led to stronger revenues. The City did an excellent job of planning for capital improvements and building reserves. That helped keep rates down. Aging infrastructure had to be replaced. There was a backlog of improvements, and a large debt burden from prior improvements to water and wastewater systems. The CRRC recommended a 4% water rate increase, a 3.5% wastewater rate increase, and a 9% stormwater rate increase. They did not recommend increasing the Transportation Utility Fee. The CRRC also recommended increasing the fixed charge cost recovery for water and wastewater.

The benchmark in the industry was 40% for fixed cost recovery, and the recommendation was an incremental 2% to 4% increase in the fixed charge for water and wastewater to help stabilize the revenues. They had also discussed the appropriate level of reserves while balancing that with the desire to keep rate increases at a minimum. She summarized the bill impacts with the proposed rate increases. For a typical residential user, the increase was about \$5 per month in 2019, and another \$5 per month in 2020. Newberg's rates were moderating while others were still seeing significant increases. Over time she thought they would move toward the middle.

Councilor McKinney asked as Newberg moved to the middle would their bills go down or would the other cities' bills be coming up? Ms. Galardi said the latter. There were growing needs, and the capital requirements

would need to continue to be funded. Councilor McKinney asked if \$120 was their mean for the next 5-7 years? Ms. Galardi said in the five-year forecast, they were projecting similar rate increases that were slightly below inflation. They would need to raise rates to keep up with inflation and continue to meet the investment needs. She thought in the next few years the City's rates would go up slower than surrounding communities so their position regionally would improve.

Councilor Corey said Newberg running their own system made it more costly than other communities. He thought the 3.5 to 4% increases were justified to cover inflation, and the expenses for capital projects.

Councilor Johnson asked if the Wastewater Master Plan update was taken into account when these rates were being created. City Engineer Hofmann said they took into account the projects in the current Master Plan and projects that could easily be swapped out for the projects in the updated Master Plan. She said every year the five-year plan could change in priority and staff made sure to stay under the dollar amounts as new projects were picked from the updated Plan. He would like staff to compare cities that were in similar situations to Newberg. He also requested that in the future the Council receive the residential rates before the meeting.

Councilor Murray suggested using the Community Engagement Specialist to address the community and help them understand what a regional system was. The City had its own water and wastewater treatment plants, and that was why the rates were higher. It was fairer to compare Newberg to towns with their own plants of a similar size and to communicate that to citizens in social media.

Proponents: None

Opponents: None

Undecided: None

FD Zook recommended approval of the resolutions.

Mayor Andrews closed the public hearing.

MOTION: Corey/McKinney moved to approve Resolution 2018-3450, A Resolution adopting new monthly water rates for the City of Newberg effective January 1, 2019 and January 1, 2020. Motion carried (6 Yes/0 No/1 Absent [Bacon]).

MOTION: Murray/Corey moved to approve Resolution 2018-3451, A Resolution adopting new monthly wastewater rates for the City of Newberg effective January 1, 2019 and January 1, 2020. Motion carried (6 Yes/0 No/1 Absent [Bacon]).

MOTION: Corey/Murray moved to approve Resolution 2018-3452, A Resolution adopting new monthly stormwater rates for the City of Newberg effective January 1, 2019 and January 1, 2020. Motion carried (6 Yes/0 No/1 Absent [Bacon]).

PUBLIC HEARINGS - Legislative: Ordinance 2018-2829, Traffic Safety Commission

Mayor Andrews opened the public hearing and called for abstentions, conflicts of interest, or objections to jurisdiction. There were none.

CE Hofmann gave the staff report. The Municipal Code addressed the establishment, purpose, duties, authority, and decision making process of the Traffic Safety Commission. There had been discussion regarding changing the primary staff liaison from the Police Department to Engineering Services, and changing the decision making process to allow for more public involvement before decisions were made. Other changes included clarifying the duties of the Commission, modifying decision processes, and clarifying the process to appeal decisions to the City Council. The police authority for permits to close streets remained the same. Councilor Murray asked if

her department could handle this change. CE Hofmann said yes, the Commission was meeting less often than it was in the past and there was money in the budget for traffic counts or public information campaigns that the Commission might want to do.

Proponents: None

Opponents: None

Undecided: None

CE Hofmann said staff recommended approval of the ordinance.

Mayor Andrews closed the hearing. Mayor Andrews was in favor of these code changes.

MOTION: McKinney/Corey moved to waive the second reading for Ordinance 2018-2829. Motion carried (6 Yes/0 No/1 Absent [Bacon]).

MOTION: McKinney/Corey moved to approve Ordinance 2018-2829, An Ordinance amending Title 2 Chapter 15, Article V. Traffic Safety Commission of the Newberg Municipal Code, and read by title only. Motion carried (6 Yes/0 No/1 Absent [Bacon]).

Ordinance 2018-2826, R-3 zoning:

Mayor Andrews opened the public hearing and called for abstentions, conflicts of interest, or objections to jurisdiction. There were none.

CDD Rux gave the staff report on the process to define “some” and “large” when it came to residential annexation applications including R-3 zoning. The Planning Commission decided that the definition of “large” as 15 acres or more. This should only include net acres, with stream corridors taken out, and be an aggregate of all parcels. “Some” R-3 land was defined as 10% of the net size. He explained the new language proposed in the Comprehensive Plan under the housing policy, location policies, mixed policies, HDR zoning, definitions of “some” and “large,” and required analysis for the R-3 land.

Councilor Johnson asked if there was a mechanism to waive these requirements for emergency hook ups to water or sewer for wells that went dry or failing septic systems. CDD Rux said there were hardship provisions in the Code. He explained this would only be for parcels that were 15 acres or more. Councilor McKinney asked if annexation was required for those in a hardship situation. He was concerned about creating unintended consequences. CDD Rux explained the Planning Commission was trying to implement the mixed use policy that was separate from the issue of hardship.

Councilor Essin talked to a developer about providing R-3 zoning for mixed housing whom thought it would be cost prohibitive due to the extra analysis. He was concerned that this was not the right method and would make projects more expensive. CDD Rux discussed the possibility of a Construction Excise Tax that would be used to partner with developers to provide more affordable housing. This proposal was clarifying language in the Comprehensive Plan and Code, not addressing housing affordability. He explained what the Planning Commission considered in making these text amendments.

Councilor Johnson asked about tabling the ordinance until all the Council members were present. CDD Rux said it was not time sensitive. CDD Rux finished his presentation. He explained the new language proposed in the Municipal Code mirrored what was proposed in the Comprehensive Plan.

Mayor Andrews asked the City Attorney to weigh in on the hardship issue. He did not think annexation was a requirement. City Attorney Stone clarified there were cases in the past where the Council chose to grant exemptions that did not follow the City’s policy. These hardship waivers were granted with the property owner agreeing to annex at the earliest opportunity. That was prior to the State Statute that made annexing easier and

not a vote of the citizens. Some parcels were not contiguous to the City limits and it would be a long time before they could be annexed. There were two different issues, 1) They qualify for a hardship exemption as the City set it up, 2) If the only way for the resident to get water was to annex now because annexation was possible, then they would have to go through the land use process. They would not have to develop the property right away, but it would have to come in being subdivided to include the R-3 land.

Councilor Murray suggested staff come back with more information regarding hardships. What was before the Council tonight was adding the definitions that the Council requested. CA Stone pointed out a typo on Page 4 of the Ordinance.

Proponents: None

Opponents: None

Undecided: None

Mayor Andrews closed the public hearing.

MOTION: Johnson/Murray moved to waive the second reading for Ordinance 2018-2826. Motion tied and failed. (3 Yes/3 No [Andrews, Essin, McKinney]/1 Absent [Bacon]).

Ordinance 2018-2830, Front building width line:

Mayor Andrews opened the public hearing and called for abstentions, conflicts of interest, or objections to jurisdiction. There were none.

CDD Rux gave the staff report. He discussed the conflicting language in the Development Code regarding lot widths in residential zones. One of the issues was providing enough on-street parking for a development. This proposal did not change the minimum lot sizes or lot coverage requirements. What was being proposed was language stating each lot in R-2 would have a minimum width of 25 feet at the front building line and each lot in R-1 would have a minimum width of 35 feet at the front building line. This could create a narrower lot and a deeper back yard and could meet the City's density of 4.4 dwelling units per acre in R-1. He discussed examples of how the development pattern might look with these changes.

Councilor Johnson asked about the earlier discussion on residential parking. CDD Rux said the Planning Commission had looked at this proposal and recommended approval. The Commission had not found an answer to the residential parking issue yet. The position of the driveways became important in this proposal to allow for on-street parking.

Proponents: Dan Danicic and Jessica Cain, Del Boca Vista, concurred with the staff report and were open to any questions.

Councilor Essin asked if they had seen any of these development patterns and how had they worked. Ms. Cain discussed some communities where it did work. In one of the figures, it showed in R-1 there were 22 houses in a typical 400 foot block and there were 26 on-street parking spaces available if the driveways were spaced accordingly. In other figures it showed in R-2 that there were 30 houses in a typical 400 foot block and there were 28 on-street parking spaces. These were in addition to the required off-street parking spaces. When the lot sizes in R-1 and R-2 were reduced, the building width lot line was not and she thought this proposal should be approved. Councilor Corey asked if it was their intention to provide off-street and on-street parking. Ms. Cain said neighborhoods were more desirable when on-street parking was provided and they planned to maximize the ability to do so. Councilor Johnson asked about the price point for these homes. Ms. Cain explained the houses were not less in square footage. This proposal allowed for flexibility of product and the possibility of adding another house which might make the development more affordable. It allowed them to add product to the market that was not currently in the City.

Councilor McKinney asked if the developments would include CC&Rs and Homeowners Associations to create a requirement for people to park their cars in their garages. Ms. Cain said HOAs were typically undesirable to home buyers as they increased costs and created turmoil and they typically steered away from them. They usually put CC&Rs in place that were enforced by the neighbors. It would be difficult to enforce parking cars in garages. She thought defining a parking space in the code would be more effective.

Opponents: None
Undecided: None

CDD Rux recommended approval of the ordinance.
Mayor Andrews closed the public hearing.

MOTION: Essin/Corey moved to waive the second reading for Ordinance 2018-2830. Motion passed (5 Yes/1 No [McKinney] /1 Absent [Bacon]).

MOTION: Essin/Murray moved to approve Ordinance 2018-2830, An Ordinance amending the Newberg Municipal Code to reduce the front building width line in R-1 zones to 35 feet and in R-2 zones to 25 feet, and read by title only.

Deliberations: Councilor McKinney would be voting no because this was an unintended consequence to reducing lot sizes and it was not the best fit for those moving to Newberg and were looking for more space. Councilor Essin had seen these developments work well and it would help with affordability. Councilor Corey was in support. He would like to see the price points lowered for these homes.

Councilor Murray thought these developments would fit in the neighborhoods. The City was not driving the price, the market was, and he thought they should do what they could to support the builders in the community. Councilor Johnson was also in support. He thought it was a bookkeeping item because the lot sizes had already been reduced and this would match those reduced lot sizes. It would also help the City in the long run to maximize the use of the property in the City and Urban Growth Boundary. Mayor Andrews would be supporting the motion as well. This provided flexibility and it was not reducing lot size, but changing the configuration of the lot size.

Motion passed (5 Yes/1 No [McKinney]/1 Absent [Bacon]).

COUNCIL BUSINESS: Mayor Andrews announced a League of Oregon Cities regional meeting in Salem on Friday. Mayor Andrews and Councilor Johnson planned to attend. City Recorder Ryan said tours of Dispatch could be organized through Police Support Services Manager Newell.

ADJOURNMENT: The meeting was adjourned at 9:30 p.m.

ADOPTED by the Newberg City Council this 7th day of May, 2018.

Sue Ryan, City Recorder

ATTESTED by the Mayor this 7th day of May, 2018.

Bob Andrews, Mayor

NEWBERG CITY COUNCIL MINUTES
REGULAR SESSION
April 16, 2018, 7:00 PM
PUBLIC SAFETY BUILDING (401 E. THIRD STREET)

A work session was held at 6:00 p.m. preceding the meeting. Present were Mayor Andrews, Council President Denise Bacon, Councilors Patrick Johnson, Mike Corey, Scott Essin, Stephen McKinney, and Matt Murray. City staff present were City Manager Joe Hannan, City Recorder Sue Ryan, City Attorney Truman Stone, and Community Development Director Doug Rux.

The Council reviewed the Council agenda and then went into Executive Session.

EXECUTIVE SESSION PURSUANT TO ORS 192.660 (2) E REAL PROPERTY

Start: 6:05 p.m.

End: 6:57 p.m.

Staff present: City Manager Joe Hannan, City Attorney Truman Stone, Community Development Director Doug Rux, Finance Director Matt Zook.

Topic: Animal Shelter Appraisal

CALL MEETING TO ORDER

Mayor Andrews called the business session to order at 7:01 p.m.

ROLL CALL

Members Present:	Mayor Bob Andrews	Stephen McKinney	Mike Corey
	Patrick Johnson	Matt Murray	Denise Bacon
	Scott Essin	Stephen McKinney	

Staff Present:	Joe Hannan, City Manager	Truman Stone, City Attorney
	Sue Ryan, City Recorder	Doug Rux, Community Development Director
	Matt Zook, Finance Director	Jay Harris, Public Works Director
	Kaaren Hofmann, City Engineer	

PLEDGE OF ALLEGIANCE: The Pledge of Allegiance was performed.

CITY MANAGER'S REPORT: City Manager Hannan reported on his activities including attending a future focus group meeting, coordinating Economic Development, and new County Administrator search discussion, presenting at Newberg Christian Church's Community Emergency Preparedness Fair, serving as City Club facilitator, meeting regarding the Animal Shelter sale, attending Chamber of Commerce Greeters meeting, attending the TVF&R Coordinating Committee meeting about the draft Intergovernmental Agreement, Waterfront Master Plan meeting, starting a communications intern, working on available resources for the homeless in Newberg, helping to find a permanent location for Anvil Academy, storing the wood from the trees that had come down on Villa Road, attending the Chamber Board meeting, attending the Employee Recognition Committee meeting, attending the Lodging Tax Committee meeting, meeting with downtown business owners regarding 2nd Street, meeting with staff and the department heads, and meeting regarding the Cameo Theatre renovation. The Budget Committee would be meeting tomorrow.

COMMITTEE APPOINTMENT: Mayor Andrews said Elise Yarnell was being appointed to replace Budget Committee Member Megan Morris who had moved out of town.

MOTION: Andrews/Corey moved to approve the appointment by Mayor Andrews of Elise Yarnell as a new member to the Budget Committee for a term of April 16, 2018 to December 31, 2019. Motion carried (7 Yes/0 No).

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PUBLIC COMMENTS: None

CONSENT CALENDAR:

MOTION: Bacon/Johnson moved to approve the Consent Calendar including Resolution 2018-3461, authorizing an Intergovernmental Agreement between Yamhill County and the City of Newberg regarding dog control licensing revenue, and the Council Minutes for March 19, 2018. Motion carried (7 Yes/0 No).

PUBLIC HEARING – Resolution 2018-3459, Water Service Hardship request:

Mayor Andrews opened the public hearing and called for abstentions or conflicts of interest. There were none.

City Engineer Hofmann gave the staff report. This was a hardship request for water service to Tax Lot 3324AD-00600. This property was outside the Urban Growth Boundary. The applicant provided written findings relevant to the criteria. City staff did not concur with the findings as they did not meet the hardship criteria, specifically where the Newberg Municipal Code stated no new water users were to be connected to group customer lines, and the City would not serve or supply water to additional users outside of the City limits except for those in service or ready for service. The Code also stated that new or additional connections could only be used to supply water to existing structures, not new development. Currently the site was vacant. The applicant planned to build a new structure on it. They were proposing to hook up to a group line. In 2016 two hardship requests were denied due to connecting to group lines and not following the Code.

Proponents: Dan Danicic, Del Boca Vista, said they were trying to make use of a property that had been unused for many years. The hardship water connection was for an area that was notorious for poor water quality and quantity. The water was often brackish or salty. The hardship would mitigate these circumstances. The Council had discussed outside water connections in 2016; however, no policies had been created on this issue. He thought the application met all of the hardship criteria and one of the two eligibility criteria. They planned to construct a new home on the property, not a subdivision. It was within the boundaries of the current water district and was not being served. There was no other beneficial use for this property and without a water connection, nothing could be done with the property. Allowing the connection did not impose on the City as the City had plenty of capacity. The Water Master Plan showed a connection to this property, and he thought service was anticipated. They would pay their fair share of City SDCs and surcharge for water rates for being outside of the City limits. He asked Council to weigh all of the provisions of the hardship and asked that the hardship be granted.

Councilor McKinney asked if this land suffered any repercussions from the Bypass. Mr. Danicic said it had not. Councilor Bacon clarified if he could not connect, he would have to have water delivered to the site. Mr. Danicic said there had to be a buffer for the septic drain field and that buffer would encompass the entire lot. They could not put a well on the property. Councilor Murray asked if the applicant would pay all of the costs for the connection. Mr. Danicic said that was correct. Councilor Essin spoke about a septic system that did not use drain fields. Had Mr. Danicic looked into that option? Mr. Danicic had not. Councilor McKinney asked how long the line would have to be to connect. Mr. Danicic said it would be about 120 feet to gain access to the water district line.

Marc Willcuts, owner of Del Boca Vista, said he had been working on purchasing the property from the family whom had owned the property for a long time. They had worked with the County on the septic system, and they required a drain field site and a back-up site both on the lot that had to be 100 feet away from a well. They would be doing a state of the art drain field. He thought hardships needed to be reviewed including what could be allowed to be a hardship. If this application was not approved, this lot would remain vacant in an area with other homes. They were not creating new lots or extending any main lines. He thought the hardship should be approved.

Opponents: None Undecided: None Mayor Andrews closed the public hearing.

Mayor Andrews asked if there was any reason this lot needed to be developed right now. CE Hofmann was not aware of any reason.

Councilor McKinney said due to the lack of developable residential land, would this land be annexable to help fill the need for buildable land? CDD Rux said this property was outside the Urban Growth Boundary. It would not count towards the Buildable Lands Inventory. It was not in an urban reserve either. It was within the Urban Growth Boundary expansion study area. He explained the expansion process. Councilor McKinney asked if the County could develop the property. CDD Rux said that was a County decision.

Councilor Essin asked about other applications denied in the past. CE Hofmann gave a history of those applications. Based on the Code and in consultation with the City Attorney, staff did not think the application met the eligibility requirements.

City Attorney Stone reminded the Council of the policy created in 1965 that the City would no longer hook up new properties to group lines. This policy was revisited in 1978, 1988, and 1989. There had been hook ups since that time, but he was not with the City when those occurred and could not speak to those. He thought the Code should be changed if it was not meeting the purposes of the City or its citizens.

Councilor Murray asked what was at risk by supplying water to this lot. CA Stone said if they did not qualify under Code and the Council approved it, it set a precedent. The larger land use policy decision was allowing parcels outside of the City to develop as it limited the City's ability to grow. Councilor Bacon thought the water district required the property annex into the City. CA Stone said one of the provisions to grant a hardship was the consent to annex as soon as possible.

CE Hofmann said staff recommended approval of the resolution, which would deny this request.

Councilor Essin said this was a long term policy, and he was in favor of changing the Code in the future. Councilor McKinney asked how supplying water to the parcel would be detrimental to growth. CDD Rux explained how providing water to parcels outside of the Urban Growth Boundary made it more difficult to expand the UGB, accommodate urban scale, and densities of development in the Code. CA Stone clarified the two applications that had come before the City in 2016. One was an existing house whose well was drying up and the other one was to build one home on the property, however that property was designated to be R-3. They were both in the UGB and were denied.

Councilor McKinney thought they should have the reputation of taking care of their neighbors and these had been granted in the past. He would like to change the policy. He was in favor of granting the hardship. Councilor Murray agreed the policy should be changed. Councilor Bacon said this lot was surrounded by development and there was no way to get water. To be a good neighbor they had to supply water when needed.

Mayor Andrews was struggling with what was the hardship in this case. The hardships that had been approved in the past were for existing dwellings. He thought this was an inconvenience to development more than a hardship. He called on developer Dan Danicic, applicant, to explain the timeline for developing the property. He asked if there was a rush or if he could wait until the policy was amended.

Mr. Danicic said their opportunity to develop the property might go away if the hardship issue was not resolved tonight. The hardship was for the property itself and the inability to use the property. He was open to the Council continuing the discussion and making code changes if necessary. More people wanted to talk on this topic. Mayor Andrews recessed the meeting to allow signups.

The Council took a recess for five minutes.
Mayor Andrews re-opened the public hearing.

Beverly Vermulen was the owner of the property. She had tried to get water on the property in 2004 and the City did not allow it at that time. If the hardship was granted, she could do something with the lot. It was too small for agricultural use and was land locked.

Donna Fouchet, Sunny Acres Water Company, was sorry for not following the rules to sign up to speak. The water district had been in business since 1962. She was available if they had any questions about the district. They had 52 users and bought water from the City. There was a discussion on where the district served and new developments and residences being built.

Ms. Fouchet said in 1989 existing users could hook up to their water district, but it was closed after that time and only a few hardships had been allowed since then. She had no objections to this property hooking up, and there were others who would like to connect as well.

Greg Rasako, Sunny Acres Water Company, was married to Ms. Vermulen. He thought sometimes codes didn't always serve in the best way. This parcel was surrounded by other homes that were all on Sunny Acres water and it seemed natural that it be connected as well. He did not think it would harm the City to do so.

Mayor Andrews closed the public hearing.

Councilor McKinney asked if the district exceeded the demand at this time. Public Works Director Harris said the City had the capacity at that point of service. Councilor Bacon was not comfortable with denying people water and wanted the opportunity to revisit the Code.

MOTION: Corey/Johnson moved to approve Resolution 2018-3459, denying the water hardship request by Del Boca Vista for Tax Lot 3324AD-00600. No vote was taken.

AMENDMENT TO THE MOTION: Bacon/Murray moved to table this item to June 18. Motion passed (5 Yes/2 No [Corey and Johnson]).

NEW BUSINESS: Resolution 2018-3457, Affordable Housing policies and procedures amendment:
CDD Rux said the Affordable Housing Trust Fund was established in 2012. Three amendments had been made to the policies and procedures since then. This amendment would allow for three additional non-voting members on the Affordable Housing Commission.

MOTION: Bacon/Johnson moved to approve Resolution 2018-3457, A Resolution amending Policies and Procedures for Administration of the City of Newberg's Affordable Housing Trust Fund and repealing Resolution No. 2016-3306. Motion carried (7 Yes/0 No).

Capital Improvement Plan presentation:

CE Hofmann explained how the five year Capital Improvement Plan projects were identified. The updated Wastewater Master Plan would add projects to the CIP after the Plan was adopted in June. She then discussed the 2018-2019 CIP projects that were in the budget, their status, and costs.

2014 Stormwater Master Plan annual review presentation:

CDD Rux said the Council looked at 2014 Stormwater Master Plan last fall. It covered the entire City, went to 2025, and was typically updated every 10 years. It met all of the requirements. He listed the objectives of the plan.

Resolution 2018-3460, Municipal Judge Evaluation:

Council President Bacon said the Council conducted a performance review for the Judge in Executive Session, and he received between good and excellent ratings. He had not received a raise in a while, and they recommended giving him a 4% raise. There were funds in the budget for the raise.

MOTION: Andrews/Murray moved to approve Resolution 2018-3460, A Resolution approving the annual evaluation of the Municipal Judge completed in March 2018 and amending the February 2012 agreement for Judicial Services for the City of Newberg (Resolution No. 2012-2989) to provide increased compensation. Motion carried (7 Yes/0 No).

COUNCIL BUSINESS:

MOTION: Bacon/Essin moved to direct staff to continue negotiating the sale of the Animal Shelter as discussed in Executive Session. Motion carried (7 Yes/0 No).

EXECUTIVE SESSION PURSUANT TO ORS 192.660 (2) H Legal Counsel

Start: 9:01 p.m.

End: 10:13 p.m.

Staff present: CIS Attorney Andrew Campbell, City Manager Joe Hannan

Topic: CIS Investigation

ADJOURNMENT: The meeting was adjourned at 10:13 p.m.

ADOPTED by the Newberg City Council this 7th day of May, 2018.

Sue Ryan, City Recorder

ATTESTED by the Mayor this 7th day of May, 2018.

Bob Andrews, Mayor

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: May 7, 2018

Order ___ Ordinance XX Resolution ___ Motion ___ Information ___
No. No. 2018-2826 No.

SUBJECT: An Ordinance amending the text of the Newberg Comprehensive Plan and the Newberg Municipal Code to require large residential annexations or urban growth boundary expansions to include some R-3 multi-family residential land and defining the terms large annexation and some R-3 zoning

Contact Person (Preparer) for this
Motion: Doug Rux, Director
Dept.: Community Development
File No.: CPTA17-0003 and DCA18-0003

HEARING TYPE: ☒ LEGISLATIVE ☐ QUASI-JUDICIAL ☐ NOT APPLICABLE

RECOMMENDATION:

Adopt Ordinance No. 2018-2826 as recommended by Planning Commission Resolution No. 2018-338.

EXECUTIVE SUMMARY:

- A. BACKGROUND:** On May 11, 2017 the Newberg Planning Commission initiated a Newberg Comprehensive Plan and Municipal Code Amendment to evaluate the topic of annexations and providing higher density zoning to some of the lands that are being annexed through adopting Resolution No. 2017-329 (Attachment 1). The impetus for the evaluation was the annexation of land in north Newberg located south of NE North Valley Road and east of N Chehalem Drive called Dutchman Ridge that was proposed by Del Boca Vista LLC. As part of that annexation process the issue of a policy in the Comprehensive Plan came to the forefront. The policy states:

I. HOUSING - POLICIES:

3. Mix Policies

- x. Where large residentially designated parcels are to be annexed, the City shall apply a mixture of zoning, to include some R-3 zoned lands, consistent with the policy of distributing affordable housing throughout the community. Such zoning shall be applied to portions of the property that are most suitable for high density development.

The discussion at the time focused on the use of the words “large” and “some”. Through the Dutchman Ridge annexation process the Planning Commission identified “large” as 40 acres and “some” was not defined. The City Council identified “large” as 40 acres but did not address the issue of defining “some”. It was further identified that in October 2010 when the mix policy was approved by the City Council in the Comprehensive Plan (Ordinance 2010-2730) no implementing regulations had been developed to implement the policy.

The Planning Commission wanted the amendment process to consider the following issues:

- a. Should the LDR comprehensive plan designation allow a mix of zones?
- b. Should the LDR comprehensive plan designation allow a mix of densities?
- c. Should the HDR/R-3 location policies be revised to emphasize flexibility, and state that they

- d. are a lower priority than the goal of dispersing R-3 throughout the community?
- d. How should the words “large” and “some” be defined in the context of the R-3 mix policy (above) to provide clarity for implementation? Should the size of an annexation be based on gross acreage or on buildable acreage after subtracting for items such as wetlands, stream corridors, and public right-of-way?
- e. Should the timing change from requiring some R-3 land at annexation to requiring some HDR land at the time of an urban growth boundary amendment?

City Council inquired about the potential impacts on water hardship requests as they relate to the Newberg Comprehensive Plan and the Newberg Municipal Code proposal to require large residential annexations or urban growth boundary expansions to include some R-3 multi-family residential land. The Newberg Municipal Code (NMC) 13.15 regulates water hardships. How water hardship relates to large residential annexations or urban growth boundary expansions to include some R-3 multi-family residential land is that if property is under 15 acres and is adjacent to the city limits they can annex to get access to city water and no additional analysis or requirement for R-3 land is necessary. If the property is 15 acres or larger they can annex but would need to go through the process to have some R-3 designated land. If the property requesting the water hardship was not contiguous to the City limits the City Council would need to review the request under NMC 13.15. If a hardship was granted an annexation agreement would be entered into to annex when legally possible. If the property is under 15 acres the R-3 provision does not apply. If the property is over 15 acres at the time of annexation the property owner would have to go through the process to have some R-3 designated land. A similar process would occur for wastewater connections outside of the city limits.

City Council discussed water hardship issues on April 16, 2018 based on a submitted application. Staff will return to Council on June 18, 2018 with additional information based on their questions and discussion.

B. PROCESS: A municipal code amendment is a Type IV application and follows the procedures in Newberg Municipal Code 15.100.060. The Planning Commission will hold a legislative hearing on the application. The Commission will make a recommendation to the Newberg City Council. Following the Planning Commission’s recommendation, the Newberg City Council will hold a legislative public hearing to consider the matter. Important dates related to this application are as follows:

1. 5/11/17: The Newberg Planning Commission adopted Resolution 2017-329, initiating the Municipal Code Amendment.
2. 8/10/17: The Newberg Planning Commission held a Workshop on the R-3 Annexation policy issue.
3. 9/14/17: The Newberg Planning Commission held a second Workshop on the R-3 Annexation policy issue.
4. 11/9/17: The Newberg Planning Commission held a third Workshop on the R-3 Annexation policy issue.
5. 12/14/17: The Newberg Planning Commission held a fourth Workshop on the R-3 Annexation policy issue.

6. 3/8/18 : After proper notice, the Planning Commission held a legislative hearing to consider the item, took public comment, and adopted Resolution No. 2018-338 (Attachment 2).
7. 3/21/18: Planning staff placed notice on Newberg's website, and posted notice in four public buildings. The Newberg Graphic published notice of the hearing.
8. 4/2/18: After proper notice, the City Council held a legislative public hearing, took public testimony, and deliberated on the proposal. The City Council calendared the second reading of the ordinance for May 7, 2018.

C. PUBLIC COMMENTS: As of the writing of this report, the city has not received any written public comments. If the city receives written comments by the comment deadline, Planning staff will forward them to the City Council.

During the Planning Commission Workshops public comments were submitted from Charlie Harris and Friends of Yamhill County. These comments were taken into consideration during the Planning Commission development of the proposal.

D. AGENCY COMMENTS:

1. Frontier: Reviewed, no conflict.
2. Waste Management: Reviewed, no conflict.

E. CITY STAFF COMMENTS:

None.

F. ANALYSIS:

1. Comprehensive Plan changes:

The Planning Commission worked through the four Workshops to define "large" and "some". Their consensus was the following:

- a. The net size of the parcel (after subtracting for stream corridor overlays) should be used instead of the gross size.
- b. The size of an annexation or UGB amendment application is based on the aggregate size of all the parcels in the application, and not on the size of individual parcels.
- c. The threshold for "large" should be set at 15 net acres.
- d. "Some" should be defined as 10% of the net size of the application.

2. Mix and Location policies:

The Planning Commission worked through the four Workshops to clarify the location policies. Their consensus was the following:

3. Mix Policies

b. ~~Low and moderate income~~ Multi-family housing should not be concentrated within particular areas of the City.

k. The City shall encourage an adequate supply of ~~rental~~ multi-family housing dispersed throughout the City to meet the needs of renters.

2. Location Policies

a. Medium and high density areas should be located for immediate access to collector streets or minor arterials and should not cause traffic to move through low density areas. High density areas should be easily accessible to arterial streets. They should also be located near commercial services and public open spaces.

b. While the policies in (a) above are desirable, they are not absolute requirements and are a lower priority than the goal of dispersing R-3 multi-family housing throughout the City.

3. Process:

The Planning Commission discussed that the mix policy should apply at both the UGB amendment stage and at the annexation stage. Specifically they discussed the following:

UGB amendments: The Comprehensive Plan policy could be changed as follows (deletions are ~~striketrough~~, new text is underlined):

3. Mix Policies

x. Where large ~~residentially designated~~ parcels or groups of parcels are to be ~~annexed~~ brought into the urban growth boundary and designated low or medium density residential, the City shall apply a mixture of ~~zoning~~ residential designations, to include some ~~R-3 zoned~~ HDR-designated lands, consistent with the policy of distributing multi-family housing ~~affordable housing~~ throughout the community. Such designations ~~zoning~~ shall be applied to portions of the property that are most suitable for high density development.

For the purposes of this policy, “large” is defined as an area greater than 15 net acres, after subtracting for land in stream corridor overlays. “Some” is defined as 10% of the net size of the application.

Annexation stage:

Require the applicant to apply for a concurrent comprehensive plan map amendment to designate some of the property HDR/R-3 upon annexation. The CP policy could be changed as follows (deletions are ~~striketrough~~, new text is underlined):

3. Mix Policies

x. Where large ~~residentially~~ LDR or MDR designated parcels or groups of parcels are to be annexed, ~~the City shall apply a mixture of zoning~~, the applicant(s) shall concurrently apply for a comprehensive plan map amendment to include some HDR-designated/R-3 zoned lands, consistent with the policy of distributing

~~affordable R-3 multi-family housing~~ throughout the community. Such zoning shall be applied to portions of the property that are most suitable for high density development.

For the purposes of this policy, “large” is defined as an area greater than 15 net acres, after subtracting for land in stream corridor overlays. “Some” is defined as 10% of the net size of the application.

The Planning Commission discussed potential changes to the Municipal Code to implement the Comprehensive Plan text changes. Discussed deletions are ~~striketrough~~, and new text is underlined:

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.

1. Where large LDR or MDR designated parcels or groups of parcels are to be annexed, the applicant(s) shall concurrently apply for a comprehensive plan map amendment to include some HDR-designated/R-3 zoned lands, consistent with the policy of distributing R-3 multi-family housing throughout the community. Such zoning shall be applied to portions of the property that are most suitable for high density development.

For the purposes of this policy, “large” is defined as an area greater than 15 net acres, after subtracting for land in stream corridor overlays. “Some” is defined as 10% of the net size of the application.

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.

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

The adequacy of these services shall be considered in relation to annexation proposals.

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

E. The city council may annex properties where urban services are not and cannot practically be made available within the three-year time frame noted in 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. [Ord. 2745 § 1 (Exh. A), 7-18-11; Ord. 2640, 2-21-06; Ord. 2451, 12-2-96. Code 2001 § 151.262.]

For the full text of the code amendment, see Exhibit A in the ordinance.

G. PLANNING COMMISSION RECOMMENDATION:

The Newberg Planning Commission held a public hearing on March 8, 2018, heard public testimony, and approved Resolution No.2018-338 recommending the City Council approve the proposal.

FISCAL IMPACT:

No significant fiscal impact to the City is expected.

STRATEGIC ASSESSMENT (RELATE TO COUNCIL PRIORITIES FROM SEPTEMBER 2017):

Goal 8: Encourage Affordable Housing. The proposal responds to the priority by providing comprehensive plan policies and municipal code criteria to provide some R-3 zoned land at the time of annexation and high density residential (HDR) designated land at the time of Urban Growth Boundary expansion to meet residential land need to address housing affordability in Newberg.

City Council Ordinance No. 2018-2826 with:

Exhibit “A”: Proposed Comprehensive Plan and Development Code Amendment text amendment

Exhibit “B”: Findings

Attachments:

1. Resolution 2017-329 initiating the Comprehensive Plan Text Amendment and Development Code Amendment
2. Resolution No. 2018-338 Planning Commission Recommendation



ORDINANCE No. 2018-2826

AN ORDINANCE AMENDING THE TEXT OF THE NEWBERG COMPREHENSIVE PLAN AND THE NEWBERG MUNICIPAL CODE TO REQUIRE LARGE RESIDENTIAL ANNEXATIONS OR URBAN GROWTH BOUNDARY EXPANSIONS TO INCLUDE SOME R-3 MULTI-FAMILY RESIDENTIAL LAND AND DEFINING THE TERMS LARGE ANNEXATION AND SOME R-3 ZONING

RECITALS:

1. The City Council adopted Ordinance 2010-2730 in October 2010 that adopted Comprehensive Plan policies related to housing mix and affordability that did not have corresponding Municipal Code implementing regulations for annexation and R-3 lands.
2. The Newberg Planning Commission adopted Resolution 2017-329 on May 11, 2017, which initiated amendments to the Newberg Comprehensive Plan and Newberg Municipal Code to consider large residential annexations or urban growth boundary expansions to include some R-3 multi-family residential.
3. The Newberg Planning Commission conducted Workshops on the proposal on August 17, September 14, November 9 and December 14, 2017.
4. The Newberg Planning Commission adopted Resolution No. 2017-338 recommending the City Council adopt the proposed amendments.
5. After proper notice, the City Council opened the hearing on April 2, 2018, considered public testimony and deliberated. They found that the proposed comprehensive plan and municipal code amendment was in the best interests of the city.

THE CITY OF NEWBERG ORDAINS AS FOLLOWS:

1. The Newberg Comprehensive Plan and Municipal Code are amended as shown in Exhibit "A". Adoption is based upon the findings in Exhibit "B". Exhibits "A" and "B" are hereby adopted and by this reference incorporated.

➤ **EFFECTIVE DATE** of this ordinance is 30 days after the adoption date, which is: June 6, 2018.

ADOPTED by the City Council of the City of Newberg, Oregon, this 7th day of May, 2018.

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

Sue Ryan, City Recorder

ATTEST by the Mayor this 10th day of May, 2018.

Bob Andrews, Mayor

List of Exhibits:

Exhibit “A”: Comprehensive Plan and Municipal Code Amendments

Exhibit “B”: Findings

Exhibit “A” to Ordinance 2018-2826
Comprehensive Plan Amendments – File CPTA17-0003 and Municipal Code Amendments –File
DCA18-0003

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

The Newberg Comprehensive Plan shall be amended as follows:

I. HOUSING

GOAL: 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. (Ordinance 2006-2634)

POLICIES:

2. Location Policies

a. Medium and high density areas should be located for immediate access to collector streets or minor arterials and should not cause traffic to move through low density areas. High density areas should be easily accessible to arterial streets. They should also be located near commercial services and public open spaces.

b. While the policies in (a) above are desirable, they are not absolute requirements and are a lower priority than the goal of dispersing R-3 multi-family housing throughout the City.

~~b~~ c. The City will encourage medium density housing in and adjacent to the commercial core of the Riverfront District and lower intensity residential uses in the western portions of the Riverfront District. (Ordinance 2002-2564, April 15, 2002)

3. Mix Policies

AFFORDABLE HOUSING means a dwelling unit that provides housing for a family or individual(s) with a household income less than the median household income for the Newberg area, such that a household pays no more than 30 percent of its annual income on housing (rent/mortgage, utilities, property taxes). Affordable housing may include a care home for low-income individuals. Affordability can be assured through deed restriction or other recorded documents that specify qualifying income of buyers or renters, and limiting sales price, rent levels and appreciation. Affordable housing may also include small, market-rate dwelling units (e.g., studios, apartments and accessory dwelling units). (Ordinance 2010-2730, October 18, 2010).

a. The City will encourage innovative approaches to solving the problem of meeting low income housing needs. Such approaches may include, but are not limited to the following: rent subsidies, federally funded development under HUD programs, state and regional housing programs.

- b. ~~Low and moderate income~~ Multi-family housing should not be concentrated within particular areas of the City.
- c. Manufactured dwellings shall be recognized as a source of affordable housing.
- d. Modular housing (prefabricated structures) meeting all building codes and placed on permanent foundations shall be treated as single-family units. They will be subject to the same location and density requirements as other single-family dwellings. Manufactured housing on individual lots shall be subject to special development standards to assure design consistency and compatibility. (Ordinance 2380, June 6, 1994).
- e. Manufactured homes shall be permitted in the following locations: 1) manufactured dwelling and mobile home parks, 2) manufactured home subdivisions, and 3) individual lots within all residential districts when units meet manufactured home standards. Manufactured dwellings shall be allowed in manufactured dwelling parks, mobile home parks and manufactured home subdivisions when units meet the provisions of the Development Code. (Ordinance 2380, June 6, 1994, Ordinance 2011-2747, September 8, 2011).
- f. The City shall ensure that enough land is planned for manufactured homes, particularly in conjunction with transportation corridors.
- g. Home occupations shall be permitted provided that such uses are compatible with adjoining residential uses and there are no outward manifestations of the business.
- h. To reduce distances between land uses, a mixture of all compatible uses will be encouraged. As such, convenience commercial areas may be located within residential districts provided they meet special development standards.
- i. The City shall encourage the provision of affordable subsidized housing for low- and very low-income households, which are defined as those earning between 50 percent and 80 percent, and those earning 50 percent or less, of the median household income in Newberg (Ordinance 2010-2730, October 18, 2010)
- j. The City shall encourage innovation in housing types and design as a means of offering a greater variety of housing and reducing housing costs.
- k. The City shall encourage an adequate supply of ~~rental~~ multi-family housing dispersed throughout the City to meet the needs of renters.
- l. The City shall encourage residential occupancy of upper floors within multi- story commercial buildings.
- m. Within the urban area, land use policies will attempt to provide a broad range of residential uses and encourage innovative development techniques.
- n. The City will encourage housing development in commercial areas within the Riverfront District on upper floors, above ground floor commercial, office, or retail spaces. (Ordinance 2002-2564, April 15, 2002)

o. The City has adopted a comprehensive approach to meeting local housing needs that balances density, design, and flexibility in code standards and procedures. The City shall use development incentives such as density bonuses, flexible development standards, and streamlined review procedures to stimulate or require the production and preservation of affordable housing. (replaces old policy “o”)

p. The City shall create a local housing trust fund for the purpose of encouraging the production and retention of affordable housing in Newberg.

q. The City shall provide financial incentives for affordable housing, such as system development charge deferrals or waivers, permit application fee reductions or waivers, and land cost write-downs or donations for qualified affordable housing developments. These incentives could be paid by a housing trust fund.

r. The City shall support the retention of affordable housing through public education, planning, zoning and community development programs.

s. The City shall support state legislative efforts that strengthen tenant rights, for example, by ensuring relocation costs and replacement housing are addressed when manufactured home parks close and when low-income housing is converted to other uses.

t. The City shall support state legislative efforts to expand the range of regulatory tools (e.g., inclusionary housing) and non-regulatory tools available to cities in meeting local housing needs.

u. The City shall build understanding and support for affordable housing through educational forums with residents and employers, pre-application consultations with developers, and through local housing studies.

v. The City shall work with local affordable housing providers in developing an overall strategy for meeting Newberg’s housing needs.

w. City resources shall be directed toward assisting public and private entities in producing and preserving affordable housing throughout the community.

x. Where large ~~residentially designated~~ parcels or groups of parcels are to be ~~annexed~~ brought into the urban growth boundary and designated low or medium density residential, the City shall apply a mixture of ~~zoning~~ residential designations, to include some ~~R-3 zoned~~ HDR-designated lands, consistent with the policy of distributing multi-family housing ~~affordable housing~~ throughout the community. Such ~~designations~~ ~~zoning~~ shall be applied to portions of the property that are most suitable for high density development.

For the purposes of this policy, “large” is defined as an area greater than 15 net acres, after subtracting for land in stream corridor overlays. “Some” is defined as 10% of the net size of the application.

y. Where large LDR or MDR designated parcels or groups of parcels are to be annexed, the applicant(s) shall concurrently apply for a comprehensive plan map amendment to include some HDR-designated/R-3 zoned lands, consistent with the policy of distributing R-3 multi-family housing throughout the community. Such zoning shall be applied to portions of the property that are most suitable for high density development.

For the purposes of this policy, “large” is defined as an area greater than 15 net acres, after subtracting for land in stream corridor overlays. “Some” is defined as 10% of the net size of the application.

y z. The City shall promote and support employer programs that assist employees to secure affordable housing.

z aa. To the extent possible, the City shall zone residential housing near employment centers.

aa ab. The City shall promote and support public and/or private transit systems that connect housing to employment centers. (Policies o. through x. and z. through ab. ~~aa~~. Ordinance 20102730, October 18, 2010.)

The Newberg Municipal Code shall be amended as follows:

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.

1. Where large LDR or MDR designated parcels or groups of parcels are to be annexed, the applicant(s) shall concurrently apply for a comprehensive plan map amendment to include some HDR-designated/R-3 zoned lands, consistent with the policy of distributing R-3 multi-family housing throughout the community. Such zoning shall be applied to portions of the property that are most suitable for high density development.

For the purposes of this policy, “large” is defined as an area greater than 15 net acres, after subtracting for land in stream corridor overlays. “Some” is defined as 10% of the net size of the application.

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.

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

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

E. The city council may annex properties where urban services are not and cannot practically be made available within the three-year time frame noted in 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. [Ord. 2745 § 1 (Exh. A), 7-18-11; Ord. 2640, 2-21-06; Ord. 2451, 12-2-96. Code 2001 § 151.262.]

Exhibit “B” to Ordinance 2018-2826
Findings – File CPTA17-0003 and DCA18-0003

APPROVAL CRITERIA

A. Statewide Planning Goals (the “Goals”)

GOAL 1: CITIZEN INVOLVEMENT

To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

Finding: This application is subject to the Type IV Legislative process, which requires public notification and public hearings before the Planning Commission and the City Council. This process has been established by the City and determined to be consistent with this Goal. The public hearing notice of the action and decision, and the hearings on this case before the Planning Commission and the City Council are all recognized as opportunities for citizen participation.

GOAL 2: LAND USE PLANNING

To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.

Finding: This Goal requires that land use decisions 1) have an adequate factual base, 2) that alternatives have been considered, and 3) that implementation measures are consistent with and adequate to carry out comprehensive plan policies and designations.

The proposed land use action has an adequate factual base and has been thoroughly described in this application.

The alternatives to amending the municipal code text would be to: 1) deny the application and retain the current comprehensive plan and municipal code language which leaves the ambiguity on how to implement the mix policy in the comprehensive plan, or 2) modify the proposal that the Planning Commission has conducted four workshops on to further clarify the implementation of the mix policy concerning R-3 land.

The Comprehensive Plan and Municipal Code amendment measures proposed are consistent with and adequate to carry out comprehensive plan policies and designations as noted in these findings and comply with the goal.

The proposed amendments to the Comprehensive Plan and NMC are consistent with the Comprehensive Plan.

GOAL 3: AGRICULTURAL LANDS

To preserve and maintain agricultural lands.

Finding: Not applicable because the proposal does not propose any land use regulation changes to

agricultural lands outside of the Newberg Urban Growth Boundary.

GOAL 4: FOREST LANDS

To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.

Finding: Not applicable because the proposal does not propose any land use regulation changes to forest lands outside of the Newberg Urban Growth Boundary.

GOAL 5: NATURAL RESOURCES, SCENIC AND HISTORIC AREAS, AND OPEN SPACES

To protect natural resources and conserve scenic and historic areas and open spaces.

Finding: The proposed amendments would not negatively impact inventoried Goal 5 resources because the amendments do not change protections that already exist in the Newberg Municipal Code to protect these resources, areas, and open spaces. Newberg has an acknowledged Stream Corridor designation, inventoried historic resources and identified open spaces in compliance with Goal 5.

GOAL 6: AIR, WATER AND LAND RESOURCES QUALITY

To maintain and improve the quality of the air, water and land resources of the state.

Finding: Newberg has an acknowledged comprehensive plan that complies with this goal. Protections are already in place for air, water and land resource quality. This proposal works within those parameters by providing efficiency of residential land uses within the Urban Growth Boundary and complies with Goal 6.

GOAL 7: AREAS SUBJECT TO NATURAL HAZARDS

To protect people and property from natural hazards.

Finding: Newberg has an acknowledged comprehensive plan that complies with this goal. This proposal does not modify the City's natural hazards requirements such as flood plain areas.

GOAL 8: RECREATIONAL NEEDS

To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.

Finding: Newberg has an acknowledged comprehensive plan that complies with this goal. The Chehalem Park and Recreation District (CPRD) is the lead on developing recreation areas within the Newberg Urban Growth Boundary. This proposal does not impede CPRD's ability to plan and implement recreation areas. This proposal does not propose any destination resorts. Goal 8 compliance is met.

GOAL 9: ECONOMIC DEVELOPMENT

To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

Finding: The Newberg Economic Development Strategy identifies housing as a need for the community. The proposal would provide for additional multi-family housing opportunities while creating the opportunity for housing for the growing Newberg population base and growing economy at rental or for sale price points that are potentially in alignment with income levels.

GOAL 10: HOUSING

To provide for the housing needs of citizens of the state.

Finding: This proposal responds to an identified need and clarifies existing comprehensive plan policies on multi-family housing to provide opportunities of additional multi-family land with the existing Urban Growth Boundary or expanded Urban Growth Boundary. The proposal provides the opportunity for additional housing to meet the needs of the citizens of Newberg.

The Newberg Economic Development Strategy identifies several housing weaknesses within the City, including lack of affordable housing for lower income families, lack of multi-family housing, and a lack of vacant rental residential housing. The proposed amendments create the opportunity to provide for additional multi-family zoned land that can be provide for housing commensurate with income levels within the community.

GOAL 11: 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 and rural development.

Finding: Newberg has acknowledged public facilities plans covering water, wastewater, transportation and stormwater. This proposal does not negatively affect any of these plans but may require applicants to conduct additional analysis to ensure public facilities are sized to accommodate the planned densities and complies with Goal 11.

GOAL 12: TRANSPORTATION

To provide and encourage a safe, convenient and economic transportation system.

Finding: The proposed text amendment does not modify the acknowledged transportation plan. If UGB expansion or compliance with the proposed Comprehensive Plan policies and Municipal Code regulations requires modifications to the Transportation System Plan, processes are in place to analyze those proposals for compliance and or modifications. Goal 12 compliance is met.

GOAL 13: ENERGY CONSERVATION

To conserve energy.

Finding: No applicable as the proposed amendment does not affect energy conservation.

GOAL 14: URBANIZATION

To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.

Finding: The proposed amendment does not include an expansion of the Urban Growth Boundary but

ensures the efficient use of the land within the Urban Growth Boundary for the projected population and employment opportunities within the City and meets the goal.

GOAL 15: WILLAMETTE RIVER GREENWAY

To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.

Finding: Not applicable because the proposed amendment does not impact the Willamette River Greenway and the protections already established by the Newberg Comprehensive Plan and development regulations.

B. Newberg Municipal Code

Chapter 15.100 LAND USE PROCESSES AND PROCEDURES

15.100.060 Type IV procedure – Legislative.

A. Type IV Actions Are Legislative. The planning commission shall hold a public hearing and make a recommendation to the city council. The city council shall hold another public hearing and make a final decision.

B. Legislative actions include, but are not limited to:

1. Amendments to the Newberg comprehensive plan text;
2. Amendments to the Newberg development code;
3. The creation of any land use regulation.

C. The public hearing before the planning commission shall be held in accordance with the requirements of this code. Notice of a hearing on a legislative decision need not include a mailing to property owners or posting of property (refer to NMC 15.100.200 et seq.).

D. Interested persons may present evidence and testimony relevant to the proposal. If criteria are involved, the planning commission shall make findings for each of the applicable criteria.

E. The city council shall conduct a new hearing pursuant to this code. At the public hearing, the staff shall present the report of the planning commission and may provide other pertinent information. Interested persons shall be given the opportunity to present new testimony and information relevant to the proposal that was not heard before the planning commission.

F. To the extent that a finding of fact is required, the city council shall make a finding for each of the applicable criteria and in doing so may sustain or reverse a finding of the planning commission. In granting an approval, the city council may delete, add, or modify any of the provisions in the proposal or attach certain conditions beyond those warranted for the compliance with standards if the city council determines that the conditions are necessary to fulfill the approval criteria.

G. The city council's decision shall become final upon the effective date of the ordinance or resolution.

Finding: Public hearings with the Planning Commission and the City Council will be required to finalize a decision regarding the application for the amendments to the NMC. This requirement can be met.

C. Newberg Comprehensive Plan

II. GOALS AND POLICIES

A. CITIZEN INVOLVEMENT

GOAL: To maintain a Citizen Involvement Program that offers citizens the opportunity for

involvement in all phases of the planning process.

Finding: This application is subject to the Type IV Legislative process, which requires public notification and public hearings before the Planning Commission and the City Council. This process has been established by the City and determined to be consistent with Goal I of the Oregon Statewide Planning Goals. The public hearing notice of the action and decision, and the hearings on this case before the Planning Commission and the City Council are all recognized as opportunities for citizen participation. The proposal complies with the goal.

B. LAND USE PLANNING

GOAL: To maintain an on-going land use planning program to implement statewide and local goals. The program shall be consistent with natural and cultural resources and needs.

POLICIES:

6. When Comprehensive Plan statements conflict, the relative importance of the statements should be balanced by giving consideration to existing and future public need, impacts on surrounding areas, and the effect of any precedent that may be established.

Finding: The City of Newberg has an acknowledged land use program that implements the statewide and local goals. It has been identified that there are competing and conflicting comprehensive plan policies related to housing affordability that were created in October 2010 and that were not fully implemented with Municipal Code criteria at that time. The Planning Commission initiated a process to correct the inconsistencies through this Comprehensive Plan and Municipal Code modifications. The proposal clarifies and corrects the inconsistencies, and responds to the public need for multi-family land and complies with the goal and policy.

C. AGRICULTURAL LANDS

GOAL: To provide for the orderly and efficient transition from rural to urban land uses.

Finding: Not applicable because the proposal does not propose any land use regulation changes to agricultural lands outside of the Newberg Urban Growth Boundary.

D. WOODED AREAS

GOAL: To retain and protect wooded areas.

Finding: Not applicable because the proposal does not propose any land use regulation changes to the Stream Corridor that protects wooded areas within the Newberg Urban Growth Boundary.

E. AIR, WATER, AND LAND RESOURCE QUALITY

GOAL: To maintain and, where feasible, enhance the air, water and land resource qualities within the community.

POLICIES:

1. Development shall not exceed the carrying capacity of the air, water or land resource base.

Finding: Newberg has an acknowledged comprehensive plan that complies with this goal and policy. Protections are in place for air, water and land resource quality. This proposal works within those parameters by providing efficiency of residential land uses within the Urban Growth Boundary or with expansion of the Urban Growth Boundary and complies with the goal and policy.

F. AREAS SUBJECT TO NATURAL HAZARDS

GOAL: To protect life and property from flooding and other natural hazards.

Finding: Not applicable because the proposal does not modify policies or regulations related to natural hazard areas such as floodplains or landslide areas.

G. OPEN SPACE, SCENIC, NATURAL, HISTORIC AND RECREATIONAL RESOURCES

GOALS:

1. To ensure that adequate land shall be retained in permanent open space use and that natural, scenic and historic resources are protected.
2. To provide adequate recreational resources and opportunities for the citizens of the community and visitors.
3. To protect, conserve, enhance and maintain the Willamette River Greenway.

Finding: Not applicable because the proposal does not modify policies or regulations related to open space, scenic, historic and recreational resources.

H. THE ECONOMY

GOAL: To develop a diverse and stable economic base.

POLICIES:

1. General Policies
 - a. In order to increase the percentage of persons who live in Newberg and work in Newberg, the City shall encourage a diverse and stable economic base. Potential methods may include, but are not limited to, land use controls and capital improvement programs. (Ordinance 2006-2634, January 3, 2006)

Finding: The proposal will enhance the ability to provide housing in the R-3 zone which in turn provides the opportunity for housing at price points or rental points that encourage people to live and work in Newberg. The proposal complies with the goal and policy.

I. HOUSING

GOAL: 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. (Ordinance 2006-2634)

POLICIES:

1. Density Policies
 - a. Density rather than housing type shall be the most important development criteria and shall be used to classify different types of residential areas on the plan.
 - b. Target densities shall be as follows:

<u>Classification</u>	<u>Units Per Gross Acre*</u>
Urban Low Density	4.4
Urban Medium Density	9
Urban High Density	16.5

**Includes a 25 percent allowance for streets, walkways and other right-of-ways, utilities, small open spaces, preservation of resources, and similar features.*

2. Location Policies

a. Medium and high density areas should be located for immediate access to collector streets or minor arterials and should not cause traffic to move through low density areas. High density areas should be easily accessible to arterial streets. They should also be located near commercial services and public open spaces.

3. Mix Policies

k. The City shall encourage an adequate supply of rental housing dispersed throughout the City to meet the needs of renters.

m. Within the urban area, land use policies will attempt to provide a broad range of residential uses and encourage innovative development techniques.

x. Where large residentially designated parcels are to be annexed, the City shall apply a mixture of zoning, to include some R-3 zoned lands, consistent with the policy of distributing affordable housing throughout the community. Such zoning shall be applied to portions of the property that are most suitable for high density development.

Finding: Density is the driver rather than housing type as a criteria for housing. The proposal would assist in meeting density targets of 16.5 units per gross acre in High Density (R-3) stated in the Newberg Comprehensive Plan by designating land through large annexations and Urban Growth Boundary expansions. The location of R-3 designated land through the designation process will take into consideration access to collector and arterial roadways and traffic circulation through low density residential areas. Additionally the designation process will take into consideration proximity of commercial areas and public open spaces.

The proposal also will disperse potential rental housing in R-3 throughout the community and not consolidate R-3 housing in focused locations in the community with the proposed Comprehensive Plan language modifications. Additionally the proposal requires that through the Urban Growth Boundary expansion process some R-3 land will also need to be factored and considered through that process.

Finally the proposal clarifies conflicting or unclear language for the Mix Policy on what is a “large” annexation and what “some” means for designating R-3 land through the annexation and Urban Growth Boundary processes. The proposed language will assist in ensuring some R-3 land gets designated.

Overall the proposal complies with the Housing Goal and identified policies.

J. URBAN DESIGN

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

2. To develop and maintain the physical context needed to support the livability and unique character of Newberg.

Finding: The City of Newberg has policies and development regulations for urban design. This proposal does not modify those policies and regulations. For lands that are designated R-3 through the annexation or Urban Growth Boundary expansion, development will need to comply with goals, policies and regulations at the time of development.

The proposal complies with the Urban Design goals and policies.

K. TRANSPORTATION

GOAL 3: Promote reliance on multiple modes of transportation and reduce reliance on the automobile.

POLICIES:

- b. Modifications should be made to the City's land use plan and development ordinances that will decrease trip length and encourage non-auto oriented development.
- 2) The City should encourage higher density development in residential areas near transit corridors, commercial areas and employment centers, including the downtown. (Ordinance 2016-2810, December 19, 2016)

Finding: The proposal for designating some R-3 land at the time of large annexations or at the time of Urban Growth Boundary expansion will need to consider the location of transit corridors, commercial areas and employment centers at the time of designation of R-3 land and meets the goal and policy.

L. PUBLIC FACILITIES AND SERVICES

GOAL: To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban development.

POLICIES:

1. All Facilities & Services Policies

c. New public facilities and services shall be designed at levels consistent with planned densities and designated land uses for the area.

2. Sewers and Water Policies

c. Developments with urban densities should be encouraged to locate within the area which can be serviced by Newberg's present sanitary sewer system.

Finding: Newberg has approved water, wastewater and storm water master plans that have been developed based on the target density of 16.5 units per gross acre for R-3. At the time of annexation which meets the definition of "large" and "some" as stated in Exhibit "A", adequate public infrastructure will need to be analyzed by the applicant. Where upsizing is required the appropriate analysis will need to be provided to ensure the R-3 designation will work. The proposal anticipates this additional analysis requirement and complies with the goal and policies.

M. ENERGY

GOAL: To conserve energy through efficient land use patterns and energy- related policies and ordinances.

POLICIES:

1. Planning Policies

a. The City will encourage energy-efficient development patterns. Such patterns shall include the mixture of compatible land uses and a compactness of urban development.

Finding: The proposal will continue to assist the City's efforts to have a compact urban form for residential development and as a result assists in conserving energy through an efficient land use pattern. The proposal complies with the goal and policy.

N. URBANIZATION

GOALS:

- 1. To provide for the orderly and efficient transition from rural to urban land uses.
- 2. To maintain Newberg's identity as a community which is separate from the Portland Metropolitan area.
- 3. To create a quality living environment through a balanced growth of urban and cultural activities.

Finding: The proposal is not requesting an Urban Growth Boundary expansion, maintains Newberg's separation from the Portland Metropolitan area and works to meet the density targets listed in the Comprehensive Plan while balancing growth. The proposal complies with the goal and policies.

Conclusion: The proposed municipal code amendments meet the applicable requirements of the Statewide Planning Goals, and the Newberg Comprehensive Plan, and should be approved.



PLANNING COMMISSION RESOLUTION 2017-329

A RESOLUTION INITIATING A COMPREHENSIVE PLAN TEXT AMENDMENT & DEVELOPMENT CODE AMENDMENT REGARDING ANNEXATION/HOUSING POLICIES AND R-3 (HIGH DENSITY RESIDENTIAL) ZONING

RECITALS

1. On April 13, 2017 the Planning Commission directed staff to draft a resolution initiating potential changes to the text of the Newberg Comprehensive Plan and Newberg Development Code. The changes are related to the following housing/annexation policy:

I. HOUSING - POLICIES:

3. Mix Policies

- x. Where large residentially designated parcels are to be annexed, the City shall apply a mixture of zoning, to include some R-3 zoned lands, consistent with the policy of distributing affordable housing throughout the community. Such zoning shall be applied to portions of the property that are most suitable for high density development.*
2. The Commissioners wanted the amendment process to consider the following issues:
 - a. Should the LDR comprehensive plan designation allow a mix of zones?
 - b. Should the LDR comprehensive plan designation allow a mix of densities?
 - c. Should the HDR/R-3 location policies be revised to emphasize flexibility, and state that they are a lower priority than the goal of dispersing R-3 throughout the community?
 - d. How should the words "large" and "some" be defined in the context of the R-3 mix policy (above) to provide clarity for implementation? Should the size of an annexation be based on gross acreage, or on buildable acreage after subtracting for items such as wetlands, stream corridors, and public right-of-way?
 - e. Should the timing change from requiring some R-3 land at annexation to requiring some HDR land at the time of an urban growth boundary amendment?
 3. The Newberg Planning Commission considered the proposal at their May 11, 2017 meeting.

The Newberg Planning Commission resolves as follows:

1. The Commission initiates a Comprehensive Plan Text Amendment/Development Code Amendment to consider changes regarding annexations and R-3 zoning and addressing the issues cited above.

Adopted by the Newberg Planning Commission this 11th day of May, 2017.



Planning Commission Chair

ATTEST:



Planning Commission Secretary



PLANNING COMMISSION RESOLUTION 2018-338

A RESOLUTION RECOMMENDING AMENDING THE TEXT OF THE NEWBERG COMPREHENSIVE PLAN AND THE NEWBERG MUNICIPAL CODE TO REQUIRE LARGE RESIDENTIAL ANNEXATIONS OR URBAN GROWTH BOUNDARY EXPANSIONS TO INCLUDE SOME R-3 MULTI-FAMILY RESIDENTIAL

RECITALS

1. The City Council adopted Ordinance 2010-2730 in October 2010 that adopted Comprehensive Plan policies related to housing mix and affordability that did not have corresponding Municipal Code implementing regulations for annexation and R-3 lands.
2. The Newberg Planning Commission adopted Resolution 2017-329 on May 11, 2017, which initiated amendments to the Newberg Comprehensive Plan and Newberg Municipal Code to consider large residential annexations or urban growth boundary expansions to include some R-3 multi-family residential.
3. The Newberg Planning Commission conducted Workshops on the proposal on August 17, September 14, November 9 and December 14, 2017.
4. After proper notice, the Newberg Planning Commission opened the hearing on March 8, 2018, considered public testimony and deliberated. They found that the proposed code amendment was in the best interests of the city.

The Newberg Planning Commission resolves as follows:

1. The Commission recommends that the City Council adopt the amendments to the Newberg Comprehensive Plan and Newberg Municipal Code as shown in Exhibit "A". Exhibit "A" is hereby adopted and by this reference incorporated.
2. The findings shown in Exhibit "B" are hereby adopted. Exhibit "B" is by this reference incorporated.

Adopted by the Newberg Planning Commission this 8th day of March, 2018.



Planning Commission Chair

ATTEST:



Planning Commission Secretary

List of Exhibits:

Exhibit "A": Comprehensive Plan and Municipal Code Amendments

Exhibit "B": Findings

**Exhibit "A" to Planning Commission Resolution 2018-338
Comprehensive Plan Amendments – File CPTA17-0003 and Municipal Code
Amendments –File DCA18-0003**

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

The Newberg Comprehensive Plan shall be amended as follows:

I. HOUSING

GOAL: 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. (Ordinance 2006-2634)

POLICIES:

2. Location Policies

a. Medium and high density areas should be located for immediate access to collector streets or minor arterials and should not cause traffic to move through low density areas. High density areas should be easily accessible to arterial streets. They should also be located near commercial services and public open spaces.

b. While the policies in (a) above are desirable, they are not absolute requirements and are a lower priority than the goal of dispersing R-3 multi-family housing throughout the City.

~~b c.~~ The City will encourage medium density housing in and adjacent to the commercial core of the Riverfront District and lower intensity residential uses in the western portions of the Riverfront District. (Ordinance 2002-2564, April 15, 2002)

3. Mix Policies

AFFORDABLE HOUSING means a dwelling unit that provides housing for a family or individual(s) with a household income less than the median household income for the Newberg area, such that a household pays no more than 30 percent of its annual income on housing (rent/mortgage, utilities, property taxes). Affordable housing may include a care home for low-income individuals. Affordability can be assured through deed restriction or other recorded documents that specify qualifying income of buyers or renters, and limiting sales price, rent levels and appreciation.

Affordable housing may also include small, market-rate dwelling units (e.g., studios, apartments and accessory dwelling units). (Ordinance 2010-2730, October 18, 2010).

a. The City will encourage innovative approaches to solving the problem of meeting low income housing needs. Such approaches may include, but are not limited to the following: rent subsidies, federally funded development under HUD programs, state and regional housing programs.

b. ~~Low and moderate income~~ Multi-family housing should not be concentrated within particular areas of the City.

c. Manufactured dwellings shall be recognized as a source of affordable housing.

d. Modular housing (prefabricated structures) meeting all building codes and placed on permanent foundations shall be treated as single-family units. They will be subject to the same location and density requirements as other single-family dwellings. Manufactured housing on individual lots shall be subject to special development standards to assure design consistency and compatibility. (Ordinance 2380, June 6, 1994).

e. Manufactured homes shall be permitted in the following locations: 1) manufactured dwelling and mobile home parks, 2) manufactured home subdivisions, and 3) individual lots within all residential districts when units meet manufactured home standards. Manufactured dwellings shall be allowed in manufactured dwelling parks, mobile home parks and manufactured home subdivisions when units meet the provisions of the Development Code. (Ordinance 2380, June 6, 1994, Ordinance 2011-2747, September 8, 2011).

f. The City shall ensure that enough land is planned for manufactured homes, particularly in conjunction with transportation corridors.

g. Home occupations shall be permitted provided that such uses are compatible with adjoining residential uses and there are no outward manifestations of the business.

h. To reduce distances between land uses, a mixture of all compatible uses will be encouraged. As such, convenience commercial areas may be located within residential districts provided they meet special development standards.

i. The City shall encourage the provision of affordable subsidized housing for low- and very low-income households, which are defined as those earning between 50 percent and 80 percent, and those earning 50 percent or less, of the median household income in Newberg (Ordinance 2010-2730, October 18, 2010)

j. The City shall encourage innovation in housing types and design as a means of offering a greater variety of housing and reducing housing costs.

k. The City shall encourage an adequate supply of ~~rental~~ multi-family housing dispersed throughout the City to meet the needs of renters.

l. The City shall encourage residential occupancy of upper floors within multi-story commercial buildings.

m. Within the urban area, land use policies will attempt to provide a broad range of residential uses and encourage innovative development techniques.

n. The City will encourage housing development in commercial areas within the Riverfront District on upper floors, above ground floor commercial, office, or retail spaces. (Ordinance 2002-2564, April 15, 2002)

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

p. The City shall create a local housing trust fund for the purpose of encouraging the production and retention of affordable housing in Newberg.

q. The City shall provide financial incentives for affordable housing, such as system development charge deferrals or waivers, permit application fee reductions or waivers, and land cost write-downs or donations for qualified affordable housing developments. These incentives could be paid by a housing trust fund.

r. The City shall support the retention of affordable housing through public education, planning, zoning and community development programs.

s. The City shall support state legislative efforts that strengthen tenant rights, for example, by ensuring relocation costs and replacement housing are addressed when manufactured home parks close and when low-income housing is converted to other uses.

t. The City shall support state legislative efforts to expand the range of regulatory tools (e.g., inclusionary housing) and non-regulatory tools available to cities in meeting local housing needs.

u. The City shall build understanding and support for affordable housing through educational forums with residents and employers, pre-application consultations with developers, and through local housing studies.

v. The City shall work with local affordable housing providers in developing an overall strategy for meeting Newberg's housing needs.

w. City resources shall be directed toward assisting public and private entities in producing and preserving affordable housing throughout the community.

x. Where large ~~residentially-designated~~ parcels or groups of parcels are to be ~~annexed~~ brought into the urban growth boundary and designated low or medium density residential, the City shall apply a mixture of ~~zoning~~ residential designations, to include some ~~R-3-zoned~~ HDR-designated lands, consistent with the policy of distributing multi-family housing ~~affordable housing~~ throughout the community. Such ~~designations~~ zoning shall be applied to portions of the property that are most suitable for high density development.

For the purposes of this policy, "large" is defined as an area greater than 15 net acres, after subtracting for land in stream corridor overlays. "Some" is defined as 10% of the net size of the application.

y. Where large LDR or MDR designated parcels or groups of parcels are to be annexed, the applicant(s) shall concurrently apply for a comprehensive plan map amendment to include some HDR-designated/R-3 zoned lands, consistent with the policy of distributing R-3 multi-family housing throughout the community. Such zoning shall be applied to portions of the property that are most suitable for high density development.

For the purposes of this policy, "large" is defined as an area greater than 15 net acres, after subtracting for land in stream corridor overlays. "Some" is defined as 10% of the net size of the application.

yy. The City shall promote and support employer programs that assist employees to secure affordable housing.

zz. To the extent possible, the City shall zone residential housing near employment centers.

aa. ~~ab.~~ The City shall promote and support public and/or private transit systems that connect housing to employment centers. (Policies o. through x. and z. through ab. ~~aa.~~ Ordinance 20102730, October 18, 2010.)

The Newberg Municipal Code shall be amended as follows:

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.

1. Where large LDR or MDR designated parcels or groups of parcels are to be annexed, the applicant(s) shall concurrently apply for a comprehensive plan map amendment to include some HDR-designated/R-3 zoned lands, consistent with the policy of distributing R-3 multi-family housing throughout the community. Such zoning shall be applied to portions of the property that are most suitable for high density development.

For the purposes of this policy, "large" is defined as an area greater than 15 net acres, after subtracting for land in stream corridor overlays. "Some" is defined as 10% of the net size of the application.

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.

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

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

E. The city council may annex properties where urban services are not and cannot practically be made available within the three-year time frame noted in 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. [Ord. 2745 § 1 (Exh. A), 7-18-11; Ord. 2640, 2-21-06; Ord. 2451, 12-2-96. Code 2001 § 151.262.]

**Exhibit "B" to Planning Commission Resolution 2018-338
Findings – File CPTA17-0003 and DCA18-0003**

APPROVAL CRITERIA

A. Statewide Planning Goals (the "Goals")

GOAL 1: CITIZEN INVOLVEMENT

To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

Finding: This application is subject to the Type IV Legislative process, which requires public notification and public hearings before the Planning Commission and the City Council. This process has been established by the City and determined to be consistent with this Goal. The public hearing notice of the action and decision, and the hearings on this case before the Planning Commission and the City Council are all recognized as opportunities for citizen participation.

GOAL 2: LAND USE PLANNING

To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.

Finding: This Goal requires that land use decisions 1) have an adequate factual base, 2) that alternatives have been considered, and 3) that implementation measures are consistent with and adequate to carry out comprehensive plan policies and designations.

The proposed land use action has an adequate factual base and has been thoroughly described in this application.

The alternatives to amending the municipal code text would be to: 1) deny the application and retain the current comprehensive plan and municipal code language which leaves the ambiguity on how to implement the mix policy in the comprehensive plan, or 2) modify the proposal that the Planning Commission has conducted four workshops on to further clarify the implementation of the mix policy concerning R-3 land.

The Comprehensive Plan and Municipal Code amendment measures proposed are consistent with and adequate to carry out comprehensive plan policies and designations as noted in these findings and comply with the goal.

The proposed amendments to the Comprehensive Plan and NMC are consistent with the

Comprehensive Plan.

GOAL 3: AGRICULTURAL LANDS

To preserve and maintain agricultural lands.

Finding: Not applicable because the proposal does not propose any land use regulation changes to agricultural lands outside of the Newberg Urban Growth Boundary.

GOAL 4: FOREST LANDS

To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.

Finding: Not applicable because the proposal does not propose any land use regulation changes to forest lands outside of the Newberg Urban Growth Boundary.

GOAL 5: NATURAL RESOURCES, SCENIC AND HISTORIC AREAS, AND OPEN SPACES

To protect natural resources and conserve scenic and historic areas and open spaces.

Finding: The proposed amendments would not negatively impact inventoried Goal 5 resources because the amendments do not change protections that already exist in the Newberg Municipal Code to protect these resources, areas, and open spaces. Newberg has an acknowledged Stream Corridor designation, inventoried historic resources and identified open spaces in compliance with Goal 5.

GOAL 6: AIR, WATER AND LAND RESOURCES QUALITY

To maintain and improve the quality of the air, water and land resources of the state.

Finding: Newberg has an acknowledged comprehensive plan that complies with this goal. Protections are already in place for air, water and land resource quality. This proposal works within those parameters by providing efficiency of residential land uses within the Urban Growth Boundary and complies with Goal 6.

GOAL 7: AREAS SUBJECT TO NATURAL HAZARDS

To protect people and property from natural hazards.

Finding: Newberg has an acknowledged comprehensive plan that complies with this goal. This proposal does not modify the City's natural hazards requirements such as flood plain areas.

GOAL 8: RECREATIONAL NEEDS

To satisfy the recreational needs of the citizens of the state and visitors and, where

appropriate, to provide for the siting of necessary recreational facilities including destination resorts.

Finding: Newberg has an acknowledged comprehensive plan that complies with this goal. The Chehalem Park and Recreation District (CPRD) is the lead on developing recreation areas within the Newberg Urban Growth Boundary. This proposal does not impede CPRD's ability to plan and implement recreation areas. This proposal does not propose any destination resorts. Goal 8 compliance is met.

GOAL 9: ECONOMIC DEVELOPMENT

To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

Finding: The Newberg Economic Development Strategy identifies housing as a need for the community. The proposal would provide for additional multi-family housing opportunities while creating the opportunity for housing for the growing Newberg population base and growing economy at rental or for sale price points that are potentially in alignment with income levels.

GOAL 10: HOUSING

To provide for the housing needs of citizens of the state.

Finding: This proposal responds to an identified need and clarifies existing comprehensive plan policies on multi-family housing to provide opportunities of additional multi-family land with the existing Urban Growth Boundary or expanded Urban Growth Boundary. The proposal provides the opportunity for additional housing to meet the needs of the citizens of Newberg.

The Newberg Economic Development Strategy identifies several housing weaknesses within the City, including lack of affordable housing for lower income families, lack of multi-family housing, and a lack of vacant rental residential housing. The proposed amendments create the opportunity to provide for additional multi-family zoned land that can be provide for housing commensurate with income levels within the community.

GOAL 11: 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 and rural development.

Finding: Newberg has acknowledged public facilities plans covering water, wastewater, transportation and stormwater. This proposal does not negatively affect any of these plans but may require applicants to conduct additional analysis to ensure public facilities are sized to accommodate the planned densities and complies with Goal 11.

GOAL 12: TRANSPORTATION

To provide and encourage a safe, convenient and economic transportation system.

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Finding: The proposed text amendment does not modify the acknowledged transportation plan. If UGB expansion or compliance with the proposed Comprehensive Plan policies and Municipal Code regulations requires modifications to the Transportation System Plan, processes are in place to analyze those proposals for compliance and or modifications. Goal 12 compliance is met.

GOAL 13: ENERGY CONSERVATION

To conserve energy.

Finding: No applicable as the proposed amendment does not affect energy conservation.

GOAL 14: URBANIZATION

To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.

Finding: The proposed amendment does not include an expansion of the Urban Growth Boundary but ensures the efficient use of the land within the Urban Growth Boundary for the projected population and employment opportunities within the City and meets the goal.

GOAL 15: WILLAMETTE RIVER GREENWAY

To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.

Finding: Not applicable because the proposed amendment does not impact the Willamette River Greenway and the protections already established by the Newberg Comprehensive Plan and development regulations.

B. Newberg Municipal Code

Chapter 15.100 LAND USE PROCESSES AND PROCEDURES

15.100.060 Type IV procedure – Legislative.

A. Type IV Actions Are Legislative. The planning commission shall hold a public hearing and make a recommendation to the city council. The city council shall hold another public hearing and make a final decision.

B. Legislative actions include, but are not limited to:

1. Amendments to the Newberg comprehensive plan text;
2. Amendments to the Newberg development code;
3. The creation of any land use regulation.

C. The public hearing before the planning commission shall be held in accordance with the requirements of this code. Notice of a hearing on a legislative decision need not include a mailing to property owners or posting of property (refer to NMC 15.100.200 et seq.).

D. Interested persons may present evidence and testimony relevant to the proposal. If criteria are involved, the planning commission shall make findings for each of the applicable criteria.

E. The city council shall conduct a new hearing pursuant to this code. At the public hearing, the staff shall present the report of the planning commission and may provide other pertinent information. Interested persons shall be given the opportunity to present new testimony and information relevant to the proposal that was not heard before the planning commission.

F. To the extent that a finding of fact is required, the city council shall make a finding for each of the applicable criteria and in doing so may sustain or reverse a finding of the planning commission. In granting an approval, the city council may delete, add, or modify any of the provisions in the proposal or attach certain conditions beyond those warranted for the compliance with standards if the city council determines that the conditions are necessary to fulfill the approval criteria.

G. The city council's decision shall become final upon the effective date of the ordinance or resolution.

Finding: Public hearings with the Planning Commission and the City Council will be required to finalize a decision regarding the application for the amendments to the NMC. This requirement can be met.

C. Newberg Comprehensive Plan

II. GOALS AND POLICIES

A. CITIZEN INVOLVEMENT

GOAL: To maintain a Citizen Involvement Program that offers citizens the opportunity for involvement in all phases of the planning process.

Finding: This application is subject to the Type IV Legislative process, which requires public notification and public hearings before the Planning Commission and the City Council. This process has been established by the City and determined to be consistent with Goal I of the Oregon Statewide Planning Goals. The public hearing notice of the action and decision, and the hearings on this case before the Planning Commission and the City Council are all recognized as opportunities for citizen participation. The proposal complies with the goal.

B. LAND USE PLANNING

GOAL: To maintain an on-going land use planning program to implement statewide and local goals. The program shall be consistent with natural and cultural resources and needs.

POLICIES:

5. When Comprehensive Plan statements conflict, the relative importance of the statements should be balanced by giving consideration to existing and future public need, impacts on surrounding areas, and the effect of any precedent that may be established.

Finding: The City of Newberg has an acknowledged land use program that implements the statewide and local goals. It has been identified that there are competing and conflicting comprehensive plan policies related to housing affordability that were created in October 2010 and that were not fully implemented with Municipal Code criteria at that time. The Planning Commission initiated a process to correct the inconsistencies through this Comprehensive Plan and Municipal Code modifications. The proposal clarifies and corrects the inconsistencies, and responds to the public need for multi-family land and complies with the goal and policy.

C. AGRICULTURAL LANDS

GOAL: To provide for the orderly and efficient transition from rural to urban land uses.

Finding: Not applicable because the proposal does not propose any land use regulation changes to agricultural lands outside of the Newberg Urban Growth Boundary.

D. WOODED AREAS

GOAL: To retain and protect wooded areas.

Finding: Not applicable because the proposal does not propose any land use regulation changes to the Stream Corridor that protects wooded areas within the Newberg Urban Growth Boundary.

E. AIR, WATER, AND LAND RESOURCE QUALITY

GOAL: To maintain and, where feasible, enhance the air, water and land resource qualities within the community.

POLICIES:

1. Development shall not exceed the carrying capacity of the air, water or land resource base.

Finding: Newberg has an acknowledged comprehensive plan that complies with this goal and policy. Protections are in place for air, water and land resource quality. This proposal works within those parameters by providing efficiency of residential land uses within the Urban Growth Boundary or with expansion of the Urban Growth Boundary and complies with the goal and policy.

F. AREAS SUBJECT TO NATURAL HAZARDS

GOAL: To protect life and property from flooding and other natural hazards.

Finding: Not applicable because the proposal does not modify policies or regulations related to natural hazard areas such as floodplains or landslide areas.

G. OPEN SPACE, SCENIC, NATURAL, HISTORIC AND RECREATIONAL RESOURCES

GOALS:

1. To ensure that adequate land shall be retained in permanent open space use and that natural, scenic and historic resources are protected.
2. To provide adequate recreational resources and opportunities for the citizens of the community and visitors.
3. To protect, conserve, enhance and maintain the Willamette River Greenway.

Finding: Not applicable because the proposal does not modify policies or regulations related to open space, scenic, historic and recreational resources.

H. THE ECONOMY

GOAL: To develop a diverse and stable economic base.

POLICIES:

1. General Policies
 - a. In order to increase the percentage of persons who live in Newberg and work in Newberg, the City shall encourage a diverse and stable economic base. Potential methods may include, but are not limited to, land use controls and capital improvement programs. (Ordinance 2006-2634, January 3, 2006)

Finding: The proposal will enhance the ability to provide housing in the R-3 zone which in turn provides the opportunity for housing at price points or rental points that encourage people to live and work in Newberg. The proposal complies with the goal and policy.

I. HOUSING

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

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GOAL: 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. (Ordinance 2006-2634)

POLICIES:

1. Density Policies

a. Density rather than housing type shall be the most important development criteria and shall be used to classify different types of residential areas on the plan.

b. Target densities shall be as follows:

Classification	Units Per Gross Acre*
Urban Low Density	4.4
Urban Medium Density	9
Urban High Density	16.5

**Includes a 25 percent allowance for streets, walkways and other right-of-ways, utilities, small open spaces, preservation of resources, and similar features.*

2. Location Policies

a. Medium and high density areas should be located for immediate access to collector streets or minor arterials and should not cause traffic to move through low density areas. High density areas should be easily accessible to arterial streets. They should also be located near commercial services and public open spaces.

3. Mix Policies

k. The City shall encourage an adequate supply of rental housing dispersed throughout the City to meet the needs of renters.

m. Within the urban area, land use policies will attempt to provide a broad range of residential uses and encourage innovative development techniques.

x. Where large residentially designated parcels are to be annexed, the City shall apply a mixture of zoning, to include some R-3 zoned lands, consistent with the policy of distributing affordable housing throughout the community. Such zoning shall be applied to portions of the property that are most suitable for high density development.

Finding: Density is the driver rather than housing type as a criteria for housing. The proposal would assist in meeting density targets of 16.5 units per gross acre in High Density (R-3) stated in the Newberg Comprehensive Plan by designating land through large annexations and Urban Growth Boundary expansions. The location of R-3 designated land through the designation process will take into consideration access to collector and arterial roadways and traffic circulation through low density residential areas. Additionally the designation process will take into consideration proximity of commercial areas and public open spaces.

The proposal also will disperse potential rental housing in R-3 throughout the community and not consolidate R-3 housing in focused locations in the community with the proposed Comprehensive Plan language modifications. Additionally the proposal requires that through the Urban Growth Boundary expansion process some R-3 land will also need to be factored and considered through

that process.

Finally the proposal clarifies conflicting or unclear language for the Mix Policy on what is a “large” annexation and what “some” means for designating R-3 land through the annexation and Urban Growth Boundary processes. The proposed language will assist in ensuring some R-3 land gets designated.

Overall the proposal complies with the Housing Goal and identified policies.

J. URBAN DESIGN

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

2 To develop and maintain the physical context needed to support the livability and unique character of Newberg.

Finding: The City of Newberg has policies and development regulations for urban design. This proposal does not modify those policies and regulations. For lands that are designated R-3 through the annexation or Urban Growth Boundary expansion, development will need to comply with goals, policies and regulations at the time of development.

The proposal complies with the Urban Design goals and policies.

K. TRANSPORTATION

GOAL 3: Promote reliance on multiple modes of transportation and reduce reliance on the automobile.

POLICIES:

b. Modifications should be made to the City's land use plan and development ordinances that will decrease trip length and encourage non-auto oriented development.

2) The City should encourage higher density development in residential areas near transit corridors, commercial areas and employment centers, including the downtown. (Ordinance 2016-2810, December 19, 2016)

Finding: The proposal for designating some R-3 land at the time of large annexations or at the time of Urban Growth Boundary expansion will need to consider the location of transit corridors, commercial areas and employment centers at the time of designation of R-3 land and meets the goal and policy.

L. PUBLIC FACILITIES AND SERVICES

GOAL: To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban development.

POLICIES:

1. All Facilities & Services Policies

c. New public facilities and services shall be designed at levels consistent with planned densities and designated land uses for the area.

2. Sewers and Water Policies

- c. Developments with urban densities should be encouraged to locate within the area which can be serviced by Newberg's present sanitary sewer system.

Finding: Newberg has approved water, wastewater and storm water master plans that have been developed based on the target density of 16.5 units per gross acre for R-3. At the time of annexation which meets the definition of "large" and "some" as stated in Exhibit "A", adequate public infrastructure will need to be analyzed by the applicant. Where upsizing is required the appropriate analysis will need to be provided to ensure the R-3 designation will work. The proposal anticipates this additional analysis requirement and complies with the goal and policies.

M. ENERGY

GOAL: To conserve energy through efficient land use patterns and energy- related policies and ordinances.

POLICIES:

1. Planning Policies

- a. The City will encourage energy-efficient development patterns. Such patterns shall include the mixture of compatible land uses and a compactness of urban development.

Finding: The proposal will continue to assist the City's efforts to have a compact urban form for residential development and as a result assists in conserving energy through an efficient land use pattern. The proposal complies with the goal and policy.

N. URBANIZATION

GOALS:

- 1. To provide for the orderly and efficient transition from rural to urban land uses.
- 2. To maintain Newberg's identity as a community which is separate from the Portland Metropolitan area.
- 3. To create a quality living environment through a balanced growth of urban and cultural activities.

Finding: The proposal is not requesting an Urban Growth Boundary expansion, maintains Newberg's separation from the Portland Metropolitan area and works to meet the density targets listed in the Comprehensive Plan while balancing growth. The proposal complies with the goal and policies.

Conclusion: The proposed municipal code amendments meet the applicable requirements of the Statewide Planning Goals, and the Newberg Comprehensive Plan, and should be approved.

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: May 7, 2018

Order ____ No.	Ordinance ____ No.	Resolution <u>XX</u> No. 2018-3453	Motion ____	Information ____
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SUBJECT: A Resolution awarding Transient Lodging Tax Destination Development – Marketing Grant Funds to Wolves & People

Contact Person (Preparer) for this
Motion: Doug Rux, Director
Dept.: Community Development
File No.: GRNT18-0003

RECOMMENDATION:

Adopt Resolution No. 2018-3453.

EXECUTIVE SUMMARY:

On October 17, 2016 in establishing the organizational structure of the Transient Lodging Tax (TLT) Ad Hoc Committee one of their identified tasks was to make recommendations on the TLT Destination Development - Marketing Grant program to the City Council.

On December 5, 2016 the City Council consented to the Mayor's appointment of members to the Transient Lodging Tax (TLT) Ad Hoc Committee. The Committee consists of thirteen members plus Ex-Officio Members Mayor Andrews and City Manager Joe Hannan.

The TLT Ad Hoc Committee met on June 7, 2017 and the City Council on June 19, 2017 and reviewed the City of Newberg 2017-2018 Transient Lodging Tax application packet materials (Attachment 1). The solicitation for the available TLT Destination Development – Marketing Grant funds commenced on July 10, 2017 with applications required to be submitted by 4:30 p.m. on October 9, 2017. A total of up to \$430,000 is available for the TLT Destination Development - Marketing Grant program in FY 2017-2018.

Six applications were submitted by the application deadline from:

1. Hoover-Minthorn House Museum – Roof/Gutters/Electrical - \$30,000.
2. Newberg Downtown Wineries Association – Strategic Multi-Media Presence - \$20,500.
3. Chehalem Cultural Center – Culinary Enrichment Center - \$250,000.
4. Chehalem Park and Recreation District – Darnell Wright Sport Complex Lighting - \$225,000.
5. City of Newberg – Cultural District Wayfinding - \$73,500.
6. Wolves & People – Steins to Vines Trail - \$65,000 - \$80,000.

The total requested funding amount was \$664,000 - \$679,000.

The TLT Ad Hoc Committee met on November 1, 2017 and heard presentations from each of the applicants. On December 6, 2017 the TLT Ad Hoc Committee reviewed the submitted applications and scored each proposal based on the criteria contained in the application packet material (Attachment 1). A summary of each application submittal scoring is included in Attachment 8. The Committee recommended by a vote of 9-0 that three of the submitted six proposals be funded:

1. Newberg Downtown Wineries Association – Strategic Multi-Media Presence - \$20,000.

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2. Chehalem Cultural Center – Culinary Enrichment Center - \$250,000.
3. Wolves & People – Steins to Vines Trail - \$30,000.

The total funding recommendation is \$300,000.

The TLT Ad Hoc Committee did not recommend funding for the Hoover-Minthorn House Museum – Roof/Gutters/Electrical, Chehalem Park and Recreation District – Darnell Wright Sport Complex Lighting, and City of Newberg – Cultural District Wayfinding.

The Newberg City Council reviewed the TLT Ad Hoc Committee recommendations on January 16, 2018 and made awards to the Newberg Downtown Wineries Association – Strategic Multi-Media Presence for \$20,000 and the Chehalem Cultural Center – Culinary Enrichment Center for \$250,000. The City Council referred the Wolves & People – Steins to Vines Trail proposal back to the TLT Ad Hoc Committee for reconsideration based on public comments provided by David Wall, Tim Fitchett representing Vicki Sheppard and Joyce Damman, and Vicki Sheppard (Attachments 1 - 3). Mr. Wall provided additional written comments included as Attachments 4 - 6. Based on the submitted comments staff obtained Yamhill County land use approvals for Wolves & People which include a Conditional Use approval for the brewery and tasting room (Attachment 7 - Yamhill County CUP Brewery & Tasting Room) and approval for Agri-tourism which allows for a food cart to be on site for 18 events a year (Attachment 8 - Yamhill County Board of Commissioners Order 17-74). The Agri-tourism approval is good for one year with the opportunity to apply for a renewal of the permit for an additional four years. The initial approval expires in April of 2018. Wolves & People has applied to the County for the renewal and is in process of being reviewed.

Staff additionally contacted the Yamhill County Planning Director and discussed if any land use approvals would be necessary for the proposed trail. Staff was informed that it may require land use approval because the trail would cross over property lines, but Wolves & People would need to reach out to Yamhill County to discuss the trail proposal and if any land use review is required.

Attachments 9 – 11 are the Wolves & People application, TLT Destination Development-Marketing Grant application packet, and TLT Ad Hoc Committee score sheets and score summary for the Wolves & People proposal.

The TLT Ad Hoc Committee reconsidered the Wolves & People – Steins to Vines Trail request on March 7, 2018. Christian DeBennidetti of Wolves & People explained the trail concept, the land use approvals and the hours the trail would be open to users. The Committee passed a motion to recommend approval of the Wolves & People – Steins to Vines Trail grant in the amount of \$30,000 by a vote of 10 to 2 (Felton/Griffin). A copy of the approved minutes from that meeting is included as Attachment 12.

FISCAL IMPACT:

The TLT Small Grant program is part of Fund 19 – Transient Lodging Tax Fund as part of the Tourism Promotion line item where \$430,622 was adopted for FY 2017-2018.

STRATEGIC ASSESSMENT (RELATE TO COUNCIL PRIORITIES FROM SEPTEMBER 2017):

Goal 11: Newberg Economic Development Strategy.

The Newberg Economic Development Strategy identifies four pillars of activity, one of which is Tourism and Hospitality. The stated goal is “Make Newberg/Chehalem Valley a regional, national and

international tourist destination.” There are three strategies listed under Tourism and Hospitality which include:

- 4.1 Increase Tourist/Visitor Counts in Newberg
- 4.2 Support and Expand Events that increase Activity in Downtown Newberg Year Around
- 4.3 Transient Lodging Tax Program

Awarding the recommended grant will further these three strategies by increasing tourist opportunities, expanding event opportunities, and through implementing the transient lodging tax program established through the Newberg Strategic Tourism Plan adopted in June 2016 by the City Council.

- Attachments:
- 1. David Wall 1-16-18
 - 2. Vicki Sheppard 1-16-18
 - 3. Tim Fitchett 1-16-18
 - 4. David Wall 2-5-18
 - 5. David Wall 2-7-18
 - 6. David Wall 2-9-18
 - 7. Yamhill County CUP Brewery & Tasting Room
 - 8. Yamhill County Board of Commissioners Order 17-74
 - 9. Wolves & People Application
 - 10. TLT Destination Development-Marketing Grant application packet
 - 11. Summary Scores TLT Destination Development – Marketing Grant Application Packet
 - 12. TLT Ad Hoc Committee Minutes March 7, 2018

**A RESOLUTION AWARDING TRANSIENT LODGING TAX DESTINATION
DEVELOPMENT – MARKETING GRANT FUNDS TO WOLVES &
PEOPLE**

RECITALS:

1. On October 17, 2016, in establishing the organizational structure of the Transient Lodging Tax (TLT) Ad Hoc Committee, one of their identified tasks was to make recommendations on the TLT Destination Development – Marketing Grant program to the City Council.
2. On December 5, 2016, the City Council consented to the Mayor’s appointment of members to the Transient Lodging Tax (TLT) Ad Hoc Committee. The Committee consists of thirteen members plus Ex-Officio Members Mayor Andrews and City Manager Joe Hannan.
3. The TLT Ad Hoc Committee on June 7, 2017 and the City Council on June 19, 2017 reviewed the City of Newberg 2017-2018 Transient Lodging Tax application packet materials.
4. The solicitation for the available TLT Destination Development – Marketing Grant funds commenced on July 10, 2017 with applications required to be submitted by 4:30 p.m. on October 9, 2017.
5. A total of up to \$430,000 is available for the TLT Small Grant program in FY 2017-2018.
6. Six applications requesting a total of \$664,000 - \$679,000 were submitted by the application deadline from:
 - a. Hoover-Minthorn House Museum – Roof/Gutters/Electrical - \$30,000.
 - b. Newberg Downtown Wineries Association – Strategic Multi-Media Presence - \$20,500.
 - c. Chehalem Cultural Center – Culinary Enrichment Center - \$250,000.
 - a. Chehalem Park and Recreation District – Darnell Wright Sport Complex Lighting - \$225,000.
 - d. City of Newberg – Cultural District Wayfinding - \$73,500.
 - e. Wolves & People – Steins to Vines Trail - \$65,000 - \$80,000.
7. The TLT Ad Hoc Committee met on November 1, 2017 and heard presentations from each of the applicants. On December 6, 2017, the TLT Ad Hoc Committee reviewed the submitted applications and scored each proposal based on the criteria contained in the application packet material and formulated a recommendation by a vote of 9-0 to approve three of the submitted application proposals as follows:
 - a. Newberg Downtown Wineries Association – Strategic Multi-Media Presence - \$20,000.
 - b. Chehalem Cultural Center – Culinary Enrichment Center - \$250,000.
 - c. Wolves & People – Steins to Vines Trail - \$30,000.

8. The Newberg City Council reviewed the TLT Ad Hoc Committee recommendations on January 16, 2018 and referred the Wolves & People – Steins to Vines Trail proposal back to the TLT Ad Hoc Committee for reconsideration based on public comments.
9. The TLT Ad Hoc Committee met on March 7, 2018, reconsidered the Wolves & People proposal, and passed a motion to recommend approval of the Wolves & People – Steins to Vines Trail grant in the amount of \$30,000 by a vote of 10 to 2 (Felton/Griffin).

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. A TLT Destination Development – Marketing Grant of \$30,000 is awarded for the Wolves & People – Steins to Vines Trail.
2. The TLT Destination Development – Marketing Grant award is conditioned on the execution of a City of Newberg Transient Lodging Tax Destination Development – Marketing Grant Contract prior to disbursement of any grant funds.
3. Wolves & People is required to obtain any land use approvals from Yamhill County prior to any disbursement of any TLT Destination Development – Marketing Grant funds. If no land use approvals are required, Wolves & People must provide documentation from Yamhill County that no land use approval is required before any disbursement of grant funds.
4. The City Manager, in consultation with the City Attorney, shall finalize the City of Newberg Transient Lodging Tax Destination Development – Marketing Grant Contract, and the City Manager is authorized to sign the contract.

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: May 8, 2018.

ADOPTED by the City Council of the City of Newberg, Oregon, this 7th day of May, 2018.

Sue Ryan, City Recorder

ATTEST by the Mayor this 10th day of May, 2018.

Bob Andrews, Mayor

David S. Wall
P.O. Box 756 Newberg, Oregon 97132

January 16, 2018

VIA HAND DELIVERY

Mayor Bob Andrews
Councilor Mark Murray; Councilor Stephen McKinney; Councilor Mike Corey
Councilor Patrick Johnson; Councilor Denise Bacon; Councilor Scott Essin
Newberg City Hall; 414 E. First Street; Newberg, Oregon 97132

[SET 1]

Re: Wolves and People Vines to Steins Trail project: NOT ELIGIBLE FOR GRANT FUNDING.

Dateline: County Desk [Tuesday, (01.16.18)] *Mayor & Councilor Bacon must recuse themselves-Conflict of Interest.*

I am enclosing additional documents for your perusal and usage to assist your deliberative process whether to grant public monies, using the Transient Lodging Tax Designation Development-Marketing Grant Funds (Herein TLT Funds) to the Wolves and People Vines to Steins Trail [Agenda Item: (IX.a); Attachment 7; Resolution 2018-3429].

1. THE CIRCUIT COURT OF THE STATE OF OREGON, TWENTY-FIFTH JUDICIAL DISTRICT, YAMHILL COUNTY; Decision on; Damman & Friends of Yamhill County (FYC) v. Board of Commissioners (BOC) & Charles and Ellen McClure, CV08-0225, et al. [November 19, 2008]
2. IN THE COURT OF APPEALS OF THE STATE OF OREGON; & Friends of Yamhill County (FYC) v. Board of Commissioners (BOC) & Charles and Ellen McClure, CV08-0225, A141019L. [Filed March 02, 2011]
3. YAMHILL COUNTY DEPARTMENT OF PLANNING AND DEVELOPMENT (January 27, 2017); [DOCKET No.; E-06-16]; C: "Comments submitted in favor;" Letter from: Newberg City Councilor Denise Bacon District #3; Subject Matter: SUPPORT OF THE WOLVES AND PEOPLE
4. City of Newberg 2017-2018; Transient Lodging Tax-Destination Development and Marketing Promotion Grant Guidelines (Pages 1-3).

Due to the longstanding professional and political relationship between Mayor Bob Andrews & Charles and Ellen McClure; Mayor Bob Andrews must RECUSE himself from participating in any way on:
Agenda Item: (IX.a); Attachment 7; Resolution 2018-3429]. [Reference the Court cases]

Due to the vigorous support of Wolves and People by Newberg City Councilor Denise Bacon District #3; with reference to [DOCKET No.; E-06-16]; Councilor Denise Bacon District #3 must RECUSE herself from participating in any way on:
Agenda Item: (IX.a); Attachment 7; Resolution 2018-3429].

Whereas Applicant for Grant funding is ELIGIBLE, to apply, having a Newberg zip code area 97132:[City of Newberg 2017-2018; Transient Lodging Tax-Destination Development and Marketing Promotion Grant Guidelines [ELIGIBLE APPLICANTS (Page 2)].

APPLICANT'S, "PROJECTS, PROGRAMS OR EVENTS PROMOTING TOURISM OUTSIDE OF NEWBERG ARE ACTIVITIES NOT ELIGIBLE FOR FUNDING. Newberg 2017-2018; Transient Lodging Tax-Destination Development and Marketing Promotion Grant Guidelines [ACTIVITIES NOT ELIGIBLE FOR FUNDING (Page 3)]. The applicant's stated place of business is in Yamhill County-NOT Newberg.

According to Newberg 2017-2018; Transient Lodging Tax-Destination Development and Marketing Promotion Grant Guidelines; a business entity located outside of Newberg, in this case Yamhill County is not eligible to promote its own business activities outside of Newberg. Sure, you can apply if the 97132 area zip code requirement is fulfilled but the business's "Projects programs or events promoting tourism outside of Newberg-as the Applicant's business is located in Yamhill County" are not eligible for funding. Applicant's prayer for "GRANT FUNDING" is to be DENIED on procedural grounds.

*Applicant's "Agritourism Permit" issued by Yamhill County is up for renewal in March 2018. It could be revoked.

Respectfully submitted,
/s/ David S. Wall

Cc: The Honorable Yamhill County Commissioners



**THE CIRCUIT COURT OF THE STATE OF OREGON
TWENTY-FIFTH JUDICIAL DISTRICT
YAMHILL COUNTY**

JOHN L. COLLINS

PRESIDING JUDGE

Courthouse

Yamhill County

McMinnville, Oregon 97128

Phone (503) 434-7497

FAX (503) 435-3067

November 19, 2008

For Petitioners Biggerstaff, Damman & Kleikamp
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Mr. Edward H. Trompke
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Mr. John M. Gray, Jr.
County Counsel
535 NE. Fifth Street
McMinnville, OR 97128

For Respondent Cook
Mr. Charles Hudson
Attorney at Law
601 SW Second Avenue, Suite 2100
Portland, OR 97204-3158

Re: ***Biggerstaff v. Board of Commissioners (BOC) & Ralph and Norma Johnson, CV08-0224***
Damman & Friends of Yamhill County (FYC) v. BOC & Charles and Ellen McClure, CV08-0225
FYC v. BOC and Maralynn Abrams, CV08-0232
T.J. Kleikamp & FYC v. BOC & Glenn, Donald and Sharlene Gregg, CV08-0304
FYC v. BOC & Gordon Cook, CV08-0305

Dear Counsel and Parties:

Introduction. These consolidated cases involve review of Measure 49 vesting decisions pursuant to ORS 195.318. The scope of review is set forth in ORS 34.010 *et sec.* Each case involves a decision by the county vesting officer, pursuant to delegation by Yamhill County Board of Commissioners, that the respective landowners had a vested right to pursue development of their property in accordance with waivers obtained pursuant to Measure 37. All of the developments are located on Yamhill County land which became subject to farm or forest use restrictions after the owners acquired the property.

The court ruled, at an earlier hearing in these matters, that all parties have standing to seek judicial review. ORS 34.020. The court has also ruled on motions to strike, agreeing to consider the decisions of other courts only for their value as collateral authority, not binding and not a part of the "whole record" in the case.

The court heard oral argument from the parties and took the matter under advisement in order to more thoroughly study the briefs, arguments and record of the proceeding leading to the vesting decisions. Let me say,

Johnson-Abrams-McClure-Gregg-Cook Measure 49 Claims – Page 2

at the outset, that the court considers this a particularly important decision and has studied the cases and considered each of the consolidated cases carefully. It is important for the community, the petitioner neighbors, Friends of Yamhill County, the respondent landowners and the county. It appears that counsel for the parties and the vesting officer whose decisions are under review have demonstrated their similar commitment by providing high quality pleadings, briefs and oral argument responding to carefully drafted, thorough and thoughtful analysis in the vesting officer's written decisions.

Pursuant to ORS 34.010 *et sec*, the issue, broadly speaking, is whether in the exercise of its quasi-judicial function of determining vested rights claims pursuant to Measure 49 and reflected in Yamhill County Ordinance 823, the County,¹ through its vesting officer, appears to have erred in one or more of the following ways:

- (a) Exceeded its jurisdiction;
- (b) Failed to follow the procedure applicable to the matter before it;
- (c) Made a finding or order not supported by substantial evidence in the whole record;
- (d) Improperly construed the applicable law; or
- (e) Rendered a decision that is unconstitutional.

There are common issues to all cases, though there are also aspects that require individual case analysis.

Background. While certainly well known to counsel and the parties in this case, it is useful to review the background leading to this matter. Measure 49 extinguished rights established by Measure 37. It provided three basic options, however, for landowners who choose to seek to continue to develop property previously subject to waivers obtained under Measure 37. Landowners could:

- Obtain express approval to build up to 3 homes (Section 6);
- Obtain approval to develop 4 to 10 homes (Section 7); or
- Seek a determination that the landowner had a common law vested right to continue and complete the improvements to the property (Section 3).

The landowners here have elected the third option. Each has obtained a decision from the county vesting officer that supports their right to continue development of the property in question. Based on a considerable volume of information in each case, the vesting officer ruled that the nonconforming measure 37 use of the property was fully completed by plat approval prior to the effective date of Measure 49 and, therefore, not governed the measure's "vested rights" provision. The vesting officer, however, also ruled that each landowner had established a common law vested right to proceed with development of their property under Measure 49 and county ordinance factors. Petitioners here are neighbors and the Friends of Yamhill County affected by the property developments and seek judicial review of the vesting officer's decisions.

Under the vesting officer's first basis for decision, the following, Measure 49, Section 5(3) is the key provision that applies (with editing and dates inserted for simplicity):

A claimant that filed a claim under Measure 37 on or a before June 15, 2007 is entitled to just compensation as provided in a waiver issued before December 6, 2007, to the extent that the

¹ The decisions of Mr. Sadlo become the decisions of the county, so the court may, as have the parties, refer to the county as the decision maker.

Johnson-Abrams-McClure-Gregg-Cook Measure 49 Claims – Page 3

claimant's use of the property complies with the waiver and the claimant has a common law vested right on December 6, 2007, to complete and continue the use described in the waiver.

OAR 660-041-0060, applicable to DLCD waivers contains similar language (similarly edited):

Any authorization for a Claimant to use Property without application of a DLCD Regulation provided by a DLCD Measure 37 Waiver expired on December 6, 2007, as did the effect of any order of DLCD denying a Claim. A Claimant may continue an existing use of Property that was authorized under Measure 37, or complete a use of Property that was begun prior to December 6, 2007, only if the Claimant had a common law vested right to complete and continue that use on December 6, 2007, and the use complies with the terms of any applicable Measure 37 waiver.

In furtherance of Measure 49, Section 5(3), the County, on December 21, 2007, enacted Ordinance 823 establishing a process whereby Measure 49 vested rights claims were to be reviewed by a duly appointed "County Vesting Officer" to determine if the right to use and/or continue development of a use had become vested. That ordinance delegates exclusive authority to the vesting officer for vested rights decisions. Attorney Todd Sadlo was appointed.

The properties involved are as follows:

Property Owner(s) ² / Case	Subdivision / Location	Planned Development
Ralph and Norma Johnson VEST-01-2007	Ra' Nor Estates NE Chehalem Drive, Newberg	Up to 41 1-acre residential lots with dwellings, on 49.4 acres.
Charles and Ellen McClure VEST-02-2007	Vineyard Hill Properties Hwy 99W north of Newberg	Up to 40 residential lots w/ dwellings & commercial development of balance on 69 acres.
Maralynn Abrams VEST-12-2008	West Wind Country Estates Hill Rd, west of McMinnville	Up to 50 residential lots with dwellings on 50 acres and commercial development of balance.
Glenn and Diane Gregg et al VEST-34-2008	Fox Hill Farm Parrett Mt Rd & Smith Rd, Newberg	Up to 13 2- to 9.5-acre residential lots with dwellings + equestrian facilities on 78.26 acres.
Gordon F. Cook VEST-31-2008	Albertson Heights Albertson Road, Hillsboro	Up to 10 residential lots with dwellings on 38.8 acres.

There is no dispute that each landowner filed their respective Measure 37 claims before June 15, 2007, and that the respective waivers were issued prior to December 6, 2007.

Background and Preliminary Issues. The stated purpose of Measure 49 is to "modify Ballot Measure 37 (2004) to provide that Oregon law provides just compensation for unfair burdens while retaining Oregon's protections for farm and forest uses and the state's water resources." As described in petitioners' joint brief, the

² In the McClure and Gregg cases there is an issue as to who is the claimant. The claimant is the person who owned the property when acquired prior to the changes that gave rise to Measure 37. Though Charles McClure and Sharlene and Donald Gregg may not qualify under that definition, it would not appear to make any difference in the outcome, so long as one of the current landowners was qualified under Measure 37.

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method by which Measure 49 modified Measure 37 is “not gentle.” All Measure 37 rights were extinguished.³ New options are created which may, or may not, allow use and/or continued development of property the landowners contemplated under Measure 37 waivers.

As stated, the option exercised by each of the landowners here is to seek a determination that the landowner established a common law vested right to continue an existing use of their property that was authorized under Measure 37, or complete a use of that property that was begun prior to December 6, 2007, where that use or completion of that use is consistent with the Measure 37 waivers.

Respondents (landowners and County) assert that the issue here may have Constitutional implications.⁴ Perhaps. Certainly the term “just compensation” comes from constitutional provisions regarding taking of property, and there are often constitutional due process considerations in any taking of property. Petitioners characterize this assertion as a “red herring” – a deliberate attempt to change a subject or divert an argument.⁵ Suffice it to say that it is not necessary for this court to decide this issue. It is sufficient to note that the legislature and voters have recognized that there may be statutory restrictions on specific uses of private property that may impose costs on property owners and have chosen to recognize the fairness of providing just compensation for that impact.⁶

Last week, the United States District Court decision in *Citizens for Constitutional Fairness v. Jackson County, et al*, No 08-3015-PA (November 12, 2008), was brought to the court’s attention. I respectfully disagree with the finding that a Measure 37 waiver is a contract between the County/State and the landowner. I do not see Measure 37 as giving a landowner a right to receive monetary compensation. Such payment is the County/State’s option, not the landowners. Accordingly, a waiver cannot be a contract because the County/State does not receive consideration in the form of giving up the pursuit of monetary compensation. I will not address further issues from this opinion as I do not feel they were fully briefed by the parties here and, for the most part, not applicable within the court’s scope of judicial review.

It is also important at this point to note what else is or is not in issue. This is not a question of whether this court agrees or disagrees with the decision of the vesting officer. This is not an appeal, nor is it *de novo* review where the court has latitude to substitute its own assessment of the facts. It is a judicial review of the vesting officer’s decisions for correct application of the law, jurisdiction and sufficiency of the evidence in support of factual findings or conclusions.⁷

The parties have also raised the preliminary issue of who has the burden of proof in this matter. That the term “burden of proof” is more applicable to trial proceedings where parties present evidence to convince the fact-finder to a certain level of proof – preponderance, clear and convincing or beyond a reasonable doubt. The proponent of a non-conforming use has the burden of persuasion before the vesting officer since non-conforming uses are disfavored.⁸

³ See, *Frank v. DLCD*, 217 Or App 498 (2008); *Corey v. DLCD*, 344 Or 457 (2008).

⁴ U.S. Constitution, Article XI, Section 4; Oregon Constitution, Article 1, Section 18.

⁵ Other definitions of “red herring” include “a technique used in literature to mislead the audience” and “kipper – a fish having been dried, smoked and salted”. Wikipedia. I suspect the definition in the text above is the one meant by the legal argument here.

⁶ See, *Corey v. DLCD*, 344 Or 457 (2008), *Penn Coal v. Mahon*, 260 US 393 (1922), *MacPherson v. DAS* 440 Or 117 (2006).

⁷ “Substantial evidence”, is the “probable cause” of judicial review.. It is an objective standard: “evidence that a reasonable person could accept as adequate to support a conclusion.” *Constant Velocity Corp v. City of Aurora*, 136 Or App 81 (1995).

⁸ See, *Holmes*, *infra*.

On petition for review, however, “proof” is not so much the issue. One does not “prove” an error of law, though one might have to *persuade* the court that one or more such errors were, or were not, made. One does not “prove” that a fact-finder did not have “sufficient evidence”, though one might persuade the court that findings of fact were or were not supported by evidence from which a reasonable person could make the finding made by the vesting officer. Some authority supports the concept that in judicial review there is no burden of proof *or* persuasion.

I conclude that there is no specific burden of proof *or* persuasion, just review by the court. Each side has opposing arguments: petitioners seek to persuade the court that there was an error of law and/or insufficient evidence to support one or more findings; respondents seek to persuade the court that there was not an error of law and/or sufficient evidence. It is that simple. If I am wrong about this issue, I would say that given the presumption that the law has been followed, that any burden of *persuasion* would at least initially be on petitioners and the court approached the analysis here with the concept that the decision below is presumed valid unless the court is persuaded otherwise.⁹

The court also owes no deference to the tribunal whose decision is under review except insofar as there may be a presumption that the law was followed.¹⁰ This review is not akin to appeal or appeal *de novo* where appellate courts give appropriate deference to lower court findings if supported by the record, especially regarding findings of credibility of witnesses whose testimony was observed by the trial court and not the appellate or reviewing court.

Allegations of Legal Error: Petitioners assert that the vesting officer made the following errors of law:

- 1) Misconstrued the meaning of “use”.
- 2) Effectively transferred non-transferable Measure 37 rights by finding that purchasers from landowners can build dwellings.
- 3) Failed to apply a limiting factor of Measure 49 vesting – that the vested right comply with County and State waivers authorizing the use.

The Meaning of “Use.” Petitioners take the position that “the deepest flaw that permeates all the Decisions is the erroneous and unsupported legal conclusion that the “use” vested by the applicants was the creation of “homesites” established in connection with plat approval. “Use” is not defined in Measure 49 or 37. This is not surprising considering “use” is such a common term in land use (there it goes again) law that no specific or new definition would seem to be needed for application under these measures or, if it was, the legislature would have provided it. Yet, that, in a sense, is what the vesting officer’s application of the word appears to do in these cases – gives it a new meaning.

There is a prescribed method to determine if this misconstrues the law.¹¹ Initially one applies the plain meaning of the text. *Black’s Law Dictionary*¹² defines “use” as “the application or employment of something; *esp.*, a long-continued possession and employment of a thing for the purpose for which it is adapted, as distinguished from a possession and employment that is merely temporary or occasional.” At this level, the

⁹ See also, *Commentary to OEC 305 cited by respondents.*

¹⁰ *Sanchez v. Clatsop County*, 146 Or App 159 (1997); *Clackamas County v. Marson*, 128 Or App 18 (1994). ORS 40.135.

¹¹ *PGE v. BOLI*, 317 Or 606 (1993).

¹² Seventh Edition, 1999.

vesting officer's application of the word would not seem to be in keeping with the plain, albeit legal, general meaning of the word. Equating "use" with plat approval seems more like something that is merely temporary as opposed to a long-continued employment of the land for a residential or commercial use for which it was adapted pursuant to the waivers.

If an ambiguity calls for examination of the context of the word, it is applied in the context of laws regarding zoning classifications such as farm **use**, forest **use**, commercial **use**, residential **use**. At this level the vesting officer's interpretation of the word would also not seem to be in keeping with the context in which it is to be read. Thus "residential use", for example, has a broader context that plat approval which appears to be only a necessary step in the journey toward establishment of a use of the land for residential purposes. Stated otherwise, to utilize the more temporary application of the meaning of the word by equating it with a subdivision is to give the word a new meaning not required by the text or context of the measure.

Further, looking at it from the other end of the tunnel, ORS 92.010(17) defines "subdivision" as either an act of subdividing land or an area or a track of land subdivided." This is not a "use" as viewed in the context of land use law. It is an event in the process leading to residential use.

Measure 49 defines "homesites" as "approval of the subdivision or partition of property or approval of the establishment of a dwelling on property". There is no indication in the text or context of the measure or any legislative history in the record that would support the conclusion that establishment of homesites through approval of a plat map means "use". As argued by petitioners, zoning permits uses. Plat approval only defines the lots that may lead to residential use. There is a significant difference between creating a "parcel", "lot" or "homesite" (a unit of land) and a "dwelling" which creates a residential "use".

Further, if a building permit does not establish an irrevocable right to a use, then certainly plat or subdivision approval, an earlier step in the process under circumstances here of establishing residential use on farm or forest property, does not establish an irrevocable right to complete construction on the property.¹³ Approval of the subdivision approves the land for a new use, but does not authorize or constitute use itself.¹⁴

The fact that opponents did not appeal plat approval does not make this any different, nor does it make this proceeding an impermissible "collateral attack" on the plat approval. An unappealed plat approval may be a "final land use decision."¹⁵ But vesting issues are "just compensation" issues, not "land use" decisions. The final plat approval may define the approved project, but it does not determine whether the right to use the property or

¹³ See, *Twin Rocks Watseco Defense Committee v. Sheets*, 15 Or App 445 (1973).

¹⁴ There are numerous cases where a plat was approved and/or building permits were issued where that did not vest the developing landowner with irrevocable right to complete construction. See, e.g., *Milcrest Corp. v. Clackamas County*, 59 Or App 117 (1982) [unvested 220 acre portion]; *Mason v. Mountain River Estates*, 73 Or App 334 (1985).

¹⁵ This is a concept that is key to the vesting officer's decision that the landowners here had completed the nonconforming use before December 6, 2007, and that, therefore, Measure 49 did not apply as it would if the use were incomplete and therefore subject to the "vested right" to complete the use analysis of Measure 49, *Holmes* and Ordinance 823. It certainly presents a dilemma, easier seen with hindsight than when the plats were approved. Landowners should have the finality of approval of a final, or even preliminary, plat ordinarily establishes. On the other hand, neighbors who, as here, might oppose the development, under the reasoning of the vesting officer, were required to appeal a land use decision to LUBA in order to protect their right to object to the development under a law they had no more reason, at the time, to be assured would become law than did the landowners. Further, even if the appeal were unsuccessful before LUBA, it might be successful here, according to the vesting officer's reasoning, if it delayed finality of the plat approval beyond December 6, 2007. But how could either landowners or neighbors reasonably anticipate that?

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pursue or complete that use is vested under common law principles.¹⁶ And this is why it is not surprising that LUBA has deferred vesting decisions to judicial review.

Yet a third way to analyze the vesting officer's interpretation of the word is the logical concept that it means "the use defined in the waiver". This requires a consideration of the language of waivers in each individual case:

Johnson:

County: "to make application to divide the subject property into one acre lots and build a single family dwelling on each undeveloped lot, a use permitted on the subject property at the time claimant acquired the property."

State: "In lieu of paying just compensation under Measure 37, the State of Oregon will not apply the following laws to the Johnsons division of the Property into lots or parcels or to the establishment of a single-family dwelling on each lot or parcel: those provisions of Statewide Land Use Planning Goal 3, ORS 215.780 and OAR 660, division 33 that restricts the division of the Property into lots or parcels or the establishment of a single-family dwelling on each lot or parcel, except for the provision of each of these laws that were in effect when Mr. Hoff acquired his interest in the property on May 1, 1956."

This Court's Summary of Both: To subdivide the 41 acre property into 41 1 acre lots and to build a single family dwelling on each lot.¹⁷

McClure:

County: "to make application to divide the subject property into residential and commercial lots of various sizes of less than one acre to over one acre and, upon the Planning Director's issuance of land division approval, to make applications to establish dwellings or other uses on the newly created lots under land use regulations then in effect on May 15, 1967."

State: "In lieu of compensation under ORS 197.352, the State of Oregon will not apply the following laws to Ellen McClure's division of the 69.18-acre property into a maximum of forty 1-acre parcels or her development of a dwelling on each parcel and to her development of the remaining property for commercial uses: applicable provisions of Goals 3 and 14, ORS 215 and OAR 600, division 33. These land use regulations will not apply to the claimant only to the extent necessary to allow her to use the subject property for the use described in this report, and only to the extent that the use was permitted when she acquired the property on May 15, 1967."

Courts Summary of both waivers: To subdivide the 69.18-acre property in up to forty 1-acre lots and build a single family dwelling on each lot and to develop the remaining property for commercial uses.

Abrams:

County: "to make application to subdivide the subject property into various lot sizes ranging from less than one acre to over one acre for residential and commercial development, a use permitted on the subject property at the time claimant acquired the property."

State: "In lieu of paying just compensation under Measure 37, the State of Oregon will not apply

¹⁶ Even the plat approvals state, as a condition of approval of the plat: "Yamhill County makes no representation or warranties as to the transferability or development of any property rights related to the lots".

¹⁷ It is implicit that the subdivision plan must be approved as required by law and dwellings must meet code requirements. That also, of course, applies to the subdivisions of other landowners.

the following laws to the (sic) Ms. Abrams' requested division of the Property into lots or parcels or to the establishment of single-family residential dwellings or urban type commercial uses on each lot or parcel on each lot or parcel (sic): those provisions of Statewide Land Use Planning Goal 3, applicable provisions of ORS 215, including, but limited to, ORS 215.780, and OAR 660, division 33 that restrict the requested use of the subject property to the extent necessary to allow Ms. Abrams a use of the property permitted at the time she acquired the Property (tax lot 4513-100 on December 19, 1952; tax lot 4418-1000 on January 3, 1955; and tax lot 4418-1100 on November 18, 1968)"

Courts Summary of Both Waivers: To subdivide the property (50 acres) into various lot sizes for residential and commercial development or to build dwellings or urban type commercial uses on each lot.

Gregg: (Second waivers)

County: "to make application to subdivide the subject property into 13 lots and, upon the planning director's issuance of final subdivision approval, to establish single family swellings on undeveloped lots, a use permitted on the subject property at the time the claimant acquired the property."

State: "In lieu of compensation under ORS 197.352, the State of Oregon will not apply the following laws to the claimants' division of the 78.26-acre subject property into 13 2- to 9.5-acre parcels, to their development of equestrian facilities on the remainder of the property: applicable provisions of Goal 3, ORS 215 and OAR 660, division 33, enacted or adopted after each claimant acquired the subject property."

Courts Summary of Both Waivers: To subdivide the 78.26-acre property in up to 13 2- to 9.5-acre lots and to build single family dwellings on each lot and to establish equestrian facilities on the remaining property.

Cook: ¹⁸

County: "to make application to divide the subject property into ten lots and, upon the Planning Director's issuance of land division approval, to make applications to establish dwellings on undeveloped lots under land use regulations then in effect on December 3, 1970."

State: "1. In lieu of compensation under ORS 197.352, the State of Oregon will not apply the following laws to Gordon Cook's division of the 38.8-acre subject property into nine 2.69-acre parcels and one 12.4 acre parcel or to his development of a dwelling on each 2.69-acre parcel: applicable provisions of Goals 3 and 4, ORS 215 and OAR 660, divisions 6 and 33. These land use regulations will not apply to the claimant only to the extent necessary to allow him to use the subject property for the use described in this report, and only to the extent that use was permitted when he acquired the property on December 3, 1970.

¹⁸ There appear to be some discrepancies between the county and state waivers regarding the Cook property. The county waiver appears to authorize a dwelling on the 12.4 acre lot but the state waiver does not. I would assume this was intentional and the more restrictive would seem to govern since nonconforming uses are disfavored. Also, the state waiver appears to allow subdividing of the property OR the building of homes, but, by implication, not both. This may be a situation where the discrepancies need to be interpreted in manner that does not create an absurd result. That interpretation would mean the waivers allow both subdivision and home construction. Note, too, that neither waiver limits the waiver to a "single family" dwelling. The county waiver also does not limit the number of dwellings to one per lot (unless they were so limited on December 3, 1970). Perhaps this footnote is "much ado about nothing" and the parties are clear regarding these aspects of the waivers.

2. The action by the State of Oregon provides the state's authorization to the claimant to use the property for the use described in this report, subject to the standards in effect on December 3, 1970."

Court's Summary of Both Waivers: To subdivide the 38.8-acre property into nine 2.69 acre lots and one 12.4 acre lot and build dwellings on each of the smaller lots, but, apparently, not the larger one.

With the exceptions noted, in each case, the waivers approve subdivision into lots and the building of a dwelling or other structure on each lot. The logical interpretation of the use as defined in the waivers is *both* the subdivision AND the building of buildings. If the county and/or state had intended to grant only authority to subdivide and not authority to build they would have said so. Or, they could have said that subdivision established the use which would also have made it clearer that the county and/or state intended to allow the landowners to subdivide and sell the lots and leave it to purchasers to construct, or seek to construct, dwellings or other buildings consistent with a residential or commercial use.

Further, the requirement that the use comply with the terms of the waiver could seem superfluous if the use is limited to the use *described* in the waiver.

I conclude that the vesting officer misconstrued the law when he equated "use" with "subdivision of the property and establishment of homesites." The plain meaning of "use" means a "residential use" or "commercial use" and requires actual employment of land for that purpose. That is not to say it requires *completion* of construction of a dwelling or commercial building. That is at the core of the vested rights concept – that a landowner has the right to *complete* construction necessary for that use, if the landowner has met the common law vesting requirements to do so. The text and context of the word "use", does not support the vesting officer's interpretation. "Use" does not mean "subdivision" or establishment of "homesites".¹⁹ If "use" means the use described in the waivers, the vesting officer's interpretation also fails this test. None of the above definitions of the word "use" leads to the conclusion that subdivision and approval of the plat map alone constitutes the "use" contemplated by either Measure 37 or 49.

Transfer of Non-transferable Measure 37 Rights. Without going into lengthy discussion of the spate of litigation on this issue, it is fair to say that Measure 37 rights are not transferrable. A use, however, *completed* prior to December 6, 2007, may be transferrable because it does not fall under Measure 49. But, as discussed above, the use was *not completed* prior to that date in these cases, including the Johnson case which involves a transfer of some of the lots. The fact that individual lots can be transferred after plat approval, does not mean that the new owner has any vested right to use that lot or parcel in a nonconforming way.²⁰

On the other hand, a use fully established prior to the Measure 49 deadline *or* partially completed but vested under common law analysis *is* transferrable as a non-conforming use.²¹ This will be discussed more fully later in

¹⁹ "Platted but undeveloped land is not normally regarded as a 'use' in zoning law for purposes of establishing a prior nonconforming use." *Parks v. Tillamook County Board of Commissioners*, 11 Or App 177, 196 (1972). *Yamhill County v. Ludwick*, 294 Or 778 (1983).

²⁰ See *Parks v. Tillamook County Commission*, 11 Or App 483 (1981). A "vested right" is an incomplete nonconforming use. A nonconforming use relevant here is a use that was lawful at the time the property was acquired – i.e., before the applicable zoning ordinance was enacted and effective.

²¹ See, e.g., more discussion of this in *Letter Opinion in Crook County v. all Electors*, Crook County Case 05CV0015. Also, Measure 49(11)(6) provides that "[a]n authorization to partition or subdivide the property, or to establish dwellings on the property, granted

this opinion letter.

Based on the analysis above, I would conclude that there is substantial evidence in the record to support a finding that the Johnsons had a vested and therefore transferrable interest in the lots in October, 2006

Stated otherwise, the landowners can only transfer what they have that is transferrable. If they have a Measure 37 waiver, it is not transferrable; therefore the transferee did not obtain it and can do no more than perhaps pitch a tent on the property. If the owner had a vested right to complete the residential use of the property, that vested right runs with the land and *is* transferrable. Therefore, if the land was a lot that was transferred at a time when the original owner was vested with the right to complete the property to residential use, then the buyer *did* obtain the right the owner had the right and authority to transfer. The new owner may build a dwelling considerably more enduring and suitable than a tent.

Stated one more time, as is about to be analyzed, if the owner established a vested right to complete the project or use of the land prior to transfer, the vested right *does* run with the land and is transferrable so long as the transferee uses the property in conformance with the vested right and other applicable zoning restrictions.

Compliance with State and County Waivers. Petitioners assert that the vesting officer misconstrued the law by failing to require that the vested right use comply with the State and County waivers authorizing the use. Measure 49 DOES clearly limit the scope of the use that can vest by limiting it to a “use of the property [that] complies with the waiver.” The vesting officer, essentially, found that approval of the preliminary plat and subsequent recording of the final plat “constituted substantial evidence that the applicants’ use of the property complied with the waivers from the State and County.” Petitioners characterize this as a “short-cut” and a misapplication of applicable law. This may *seem* like a shortcut, but as discussed more fully herein, this court finds substantial evidence in the record – explicit or by fair implication -- apart from reliance on approval and recording of the plat to establish compliance to the extent the waivers required establishment or vested right to completion of a residential use. Construction of a dwelling is not necessarily required in order to establish residential use of the overall property. The question is whether there is substantial progress in the overall development that renders the right to start or complete that construction.

It is a fair implication from the approval of the subdivisions that each subdivision complied with the 1959 Yamhill County subdivision ordinance that was in effect when the property was acquired. Hence, using this implication, there is substantial evidence in the record on this aspect.

Common Law Vested Rights: This court has ruled that the vesting officer misconstrued the law in deeming the use fully vested by approval of the subdivision plat. Nonetheless, the landowners may still be entitled to continue and complete development of the residential use of the land consistent with Measure 37 waivers if the landowners have established a vested right to do so under the common law. The vesting officer, albeit as an alternative finding, concluded that each landowner had done so. The question for this court is whether there is substantial evidence to support the conclusion that sufficient common law vesting factors had been established.

The factors are guidelines, not a “checklist”. Though it appears the expenditure factor is the most significant under the circumstances of these cases, no one factor is determinative. The underlying precept is fairness and the question of whether a landowner has proceeded far enough is an issue of fact to be decided on a case-by-case

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basis. The commencement of construction must have been substantial or substantial costs toward completion of the project must have been incurred. All the principles just recited and the common law criteria are most attributable to *Clackamas County v. Holmes*, 265 Or 193 (1973), and the factors are also set forth in Ordinance 823.

The factors the vesting officer is to consider, and did consider, are as follows:

- 1) *Expenditures Ratio*: The amount of money spent on developing the use in relation to the total cost of establishing the use.
- 2) *Good Faith*: The good faith of the property owner.
- 3) *Notice*: Whether the property owner had notice of the proposed change in law before beginning development.
- 4) *Adaptability*: Whether the improvements could be used for other uses that are allowed under the new law.
- 5) *Use/location/cost*: The kind of use, location and cost of the development.
- 6) *Mere preparation*: Whether the owner's acts rise beyond mere contemplated use or preparation, such as the leveling of land, boring test holes, or preliminary negotiations with contractors or architects.
- 7) *Other*: Other relevant factors.

Expenditure Ratio: Before more closely addressing this factor, the court must consider whether the vesting officer used the correct denominator in the ratio where one was provided and whether the failure to establish a denominator in the record is fatal to establishment of a vested right to complete development of the residential use.

According to *Holmes*, the denominator in the ratio is the "total cost of establishing the use." As discussed in the earlier portion of this opinion, the "use" is *not* the submission and approval of a subdivision plat. It is the completion of the permitted use. That use must be a residential – or in two cases, commercial -- use permitted at the time the property was purchased and subsequently prohibited by EFU zoning, and it must be consistent with the terms of the Measure 37 waiver that allow the non-conforming use. What that specifically means will vary, of course, according to the specific property. In general terms applicable to the cases here, it means subdivision of the property into smaller lots and establishment of single family dwellings on those lots or, in some instances commercial use. In more specific terms, it is the "Planned Development" summarized in the first chart in this opinion, page 3 and again on page 13, with some refinements discussed below.

I conclude that a specific determination of the denominator in each of these cases is not necessarily required. Further, even if it is, consideration of the other factors may be so favorable to the landowner that the absence of a denominator is simply not fatal to the ultimate conclusion which requires consideration of *all* factors.

The denominator may be more important in other cases where, for example, the total cost of establishing the approved use is lower than in these cases. If the total cost of completing a use is \$50,000 and the landowners have spent \$5,000 that would seem to be a substantial investment, all things else considered (10%). If the total cost is \$50,000,000, even \$50,000 may *not* be a substantial investment (.1 %) – i.e., a reflection of substantial progress toward completing the final use – sufficient to weigh this factor in favor of the landowner. Here, of course, the total costs of perfecting the use are somewhere in between. And, in this court's view, it may be possible to determine that the expenditures and progress is "substantial" without a clearly defined estimate of total cost. Appellate cases appear to have applied, or at least allowed, this approach in the past.²² If the

²² See, e.g., *Webber v. County of Clackamas*, 42 Or App 151(1979). This case does refer to the ratio of expenditures to the projected overall cost of the project and noted that the record contained no such evidence of projected overall cost. However, the court was

landowners have spend what a reasonable person could conclude is a substantial amount of money that would seem to be a substantial investment so long as the fact-finder can at least reasonably infer that it is a substantial expenditure in relationship to the reasonably foreseeable cost of completion.

This court must also address at what point in time the expenditures no longer count in this factor. For reasons discussed below under the “Notice” factor, I conclude that expenditures made up until December 6, 2007, count, so long as they were made in furtherance of establishing a completed residential use of the property.

Also at issue in some of the cases is whether expenditures by persons or entitles other than the landowners counts toward the expenditure factor. The records support the vesting officer’s inclusion of expenditures paid by third parties. The vesting officer could reasonably conclude that third parties were acting as agents of the landowners and/or that the landowners would, by contract, be sooner or later, financially responsible for the expenditures.

In the case of the Johnsons, there is the matter of the buildings variously described as “homes”, “placeholder buildings”, or “shacks”. Even the vesting officer noted that the construction of these buildings at least “has a bad faith quality to it.” I conclude that whether or not they were constructed in a bad faith effort to acquire a vested right in completion of residential use of the lots, they were not built in furtherance of the residential use.²³ The record does not demonstrate that these small buildings – I will use the term “sheds” were intended for gardening or some other use arguably adjunct to the dwelling and residential use of the lot. Rather it appears they were built as temporary “dwellings”, with plumbing and electricity solely for purposes of advancing the extent of expenditure on dwellings. While neither the vesting officer nor this court should speculate, it is nearly impossible to envision those buildings becoming the dwellings the residential use contemplated. Moreover, they fail to meet the CC&Rs requirements for size.²⁴ The most likely scenario is that they will be used for what they are – sheds -- on site or separately sold and removed as garden or utility sheds.

I conclude that the cost of these buildings should not be considered in the expenditures of the landowners to be considered in the expenditure factor. It misconstrued the law by not requiring the expenditure to have been made in furtherance of the use or completion of the use and/or it was an error of fact to count it as part of the expenditures. The sheds were, at best, built in furtherance of an effort to obtain vested rights, but there is no evidence in the record to suggest they were built in furtherance of the permitted, though nonconforming, residential use of the property. They are not the “single family dwellings” referred to in the waivers.

satisfied that the project of construction of 250 houses is “obviously a multimillion dollar proposition, and that the ratio of prior expenditures to the total cost of the project is far less favorable to the vested right than the 1:14 ratio in *Holmes*....” *Id.*, at 155. Note, too, that this case appears to reject the landowners position that because they intended to sell bare lots, the project was virtually completed, so the “denominator” should be their total expenditures as of plat approval. This would be at or near a 1:1 ratio, clearly beyond substantial. That is much like the position taken here, but rejected in *Webber*.

23 This might be a good time to remind counsel and parties that this is not a question of whether this court might find construction of the buildings as bad faith. It is only a question of whether there is substantial evidence supporting the vesting officer’s finding or, more accurately, conclusion that they were *not* built in bad faith. Or, whether, regardless of this single good faith factor, there is sufficient evidence in the record to support the overall conclusion that collectively the *Holmes* factors weighed persuasively in favor of sufficient effort and investment into the establishment of residential use that the right to complete construction and development has become vested. See also, *Union Oil Company v. Clackamas County*, 81 Or App 1, 7-8 (1983).

24 Johnsons argue that the CC&Rs are not applicable to them, only persons who purchase the lots. Technically, this may be true. But it does reinforce the notion that these sheds will never be used by the present landowner or any subsequent purchaser because they are of vastly inadequate size.

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The record nonetheless provides substantial evidence, excluding the cost of the sheds, from which the vesting officer could find that the Johnsons expended sufficient funds and resources to meet the expenditure test. The vesting officer in fact found that they had spent enough as of the time the plat was finally approved and recorded, a time prior to the construction of the sheds, and there is sufficient evidence in the record to support that conclusion.

The vesting officer found the respective expenditures, based evidence in the record and work performed as summarized in the chart at the top of the next page.

PLANNED DEVELOPMENT²⁵

EXPENDITURES

ESTIMATED TOTAL WITH HOUSES

SUMMARY OF IMPROVEMENTS RELATED TO USE AS DESCRIBED IN WAIVERS

Johnsons	McClures	Abrams	Gregg	Cook
Up to 41 1-acre residential lots with dwellings, on 49.4 acres.	Up to 40 residential lots w/ dwellings & commercial development of balance on approx 69 acres.	Up to 50 residential lots with dwellings on 50 acres and commercial development of balance.	Up to 13 2-9.5 acre residential lots with dwellings + equestrian facilities on 78.26 acres.	Up to 10 residential lots with dwellings on 38.8 acres.
\$300,000+ to complete and record the final plat; \$1,472,657 prior to 11/6/07.	\$1,600,000 prior to 12/6/07	\$1,000,000 prior to 11/6/07, approx. \$2,000,000+ total	\$412,000+ before 11/6/07; \$488,000 before 12/6/07.	\$136,000 before 11/6/07; \$155,000 before 12/6/07
Total with houses approx \$2,300,000 ²⁶	\$3,700,000; \$15,404,796 by FYC estimate	27	27	27
Legal, planning, surveying and other plat preparation, electric service, gas, telephone cable and water systems, septic systems and roads. [Sheds not counted]	Road construction, subdivision, improvements to access road, landscaping, trails, annexation and city service, plan design. Binding agreements with the City of Newberg and Yamhill	Electric, gas, telephone cable, paved streets, wells and water systems, roads and septic system approvals. construction of homesites and single family dwellings	Surveying, engineering, obtained waivers and approvals, 13 septic systems, paved roads, 13 building permits, 1 well, roadway and site drainage.	Engineering, excavation, installation of utilities, some roads and septic systems, agreements with water cooperative and county

²⁵ The summary of the planned development is repeated here to give perspective to the dollar amounts and work – not unlike the kind of perspective that might be provided by a specific dollar amount as denominator.

²⁶ This may be somewhat flawed by inclusion of a \$15,610 cost per dwelling (total \$640,000). Perhaps that is the cost of the sheds. Even if the cost of houses is doubled, though, there is sufficient evidence to make this factor favorable to the landowners.

²⁷ The court is unable to locate figures for total construction, including houses. The vesting officer states that in most cases this is speculative in any event. Perhaps I have simply not found more specific figures. As stated, this may not be fatal. However, if any of the parties think it might be, the court would receive additional written argument as to whether this matter should be remanded the case to the vesting officer for that finding.

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	County.			
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It is not necessary here to further consider the details of evidence regarding expenditures in each case. It is sufficient that this court, as a court of review and not initial impression, determine whether the facts taken as a whole present sufficient evidence to support the conclusion of the vesting officer.

I conclude that the whole record provides substantial evidence in support of the vesting officers finding that each landowner, in good faith, made significant expenditures in furtherance of their planned development in comparison to total project cost including dwellings.²⁸ Where a denominator for total project cost is not specific, it is, as in *Webber*, reasonably inferred from the record.

The vesting officer had substantial evidence from which to conclude that this factor weighs in favor of vesting in each case.

Good Faith Factor: The only substantial issue of good faith is the Johnsons construction of sheds on the properties. As indicated above, there is sufficient evidence to support the vesting officer's finding that they were not built in bad faith. Nonetheless, as indicated above, because they were not constructed in furtherance of the residential use and are not single family dwellings described in the waivers they do not count toward the Johnsons investment in the overall project regardless of whether they were built in good faith.²⁹

In the case of the McClures, their good faith claim is further bolstered by the extensive communication and work done in consultation with the City of Newberg. The fact that all claims were advanced in open communication with the county and state further supports the good faith nature of their actions. No landowner in these cases was proceeding without openly obtaining the necessary approvals.

This factor, then, is supported by sufficient evidence in the record and favors vesting of the development in each case.

Notice Factor: This factor is much debated by the parties. It is, in this context, important not to impute one's own perception of the amount of publicity regarding potential restriction of Measure 37 to come out of the legislature and subsequent vote.³⁰ It is about what these landowners perceived and/or a reasonable person would perceive or should be aware of in diligent prosecution of the development of property under these circumstances. The question, once again, on this factor is not whether the court might reach a different conclusion, but rather whether there is substantial evidence in the record to support the conclusions of the vesting officer.

The vesting officer's conclusion regarding this factor is supported by sufficient evidence in the record and favors vesting of the development in each case.

In addition to that, it seems to this court that Measure 49 presents something of what I will call a "yellow light/green light dilemma." That is, landowners with Measure 37 waivers were placed by Measure 49 in a position not unlike a driver approaching an intersection and observing BOTH a yellow traffic light and a green

²⁸ With regard to the Johnsons, this would appear to still be the case even after disregarding the cost of the sheds.

²⁹ Compare, *Holmes, supra*, where owners were proceeding without permits.

³⁰ Measure 37 was poorly written, to boot, making the form of revision, or even if it would be revised, contributed to the uncertainty. Also, I am not sure if it is in the record, but the court takes judicial notice that Measure 37 passed by a wide margin.

traffic light. Does the driver proceed ahead on authority of the green light or endeavor to stop safely as signaled by the yellow light? The yellow light was shining brightly on the highway of residential development of farm/forest property pursuant to Measure 37 waivers. Something dramatic could change in the law. But what that change *could* be was not clear until the bill was passed out of the legislature. And then, the probability that the bill embodied in Measure 49 would pass was in considerable doubt – certainly not the kind of probability on which to make sound business decisions.

The green light in the metaphor is the provision in the bill and the Measure that gave landowners until December 6, 2007, to establish a vested right to complete or continue their development. The end result is more like the lame interpretation of the meaning of a yellow light: “Hurry up and make it if you can, before the light turns red.”

I conclude that the notice factor does not negate any otherwise qualified expenditures incurred (even if bills paid later) before December 6, 2007. Even if the date is November 7, 2007, the result does not change.

Adaptability Factor: The issue here is whether the work performed on the properties could be adapted to a conforming use, or one of the two alternatives established by Measure 49 -- express approval to build up to 3 homes or somewhat more complicated approval to develop 4 to 10 homes. Landowners must show before the vesting officer that the restrictions would deprive them of any opportunity to derive reasonable economic value from their investment.³¹ It is significant that what we are talking about in each case is significantly more than the limited development established by Measure 49. The infrastructure established in each case – streets, utilities, septic systems, dwellings, *etc.* -- is considerably more consistent with a much larger number of lots and dwelling subdivision than even a 10 lot and dwelling project. The raw number of dwellings contemplated in the Gregg and Cook developments is closer to the 10 house option offered by Measure 49, but the vesting officer and the court must consider all the expenditures, not simply the number of intended dwellings. Even where fewer dwellings are contemplated, the investment in infrastructure and progress toward completion of the intended use amply establishes use more consistent with the intended development than with any agricultural use or more limited Measure 49 use.

I find overall that there is sufficient evidence in the record from which the vesting officer could conclude that the construction and expenditure in each case is significantly more consistent with each intended development than it is with a conforming use or a limited development allowed by Measure 49. This factor, then, also weighs in favor of vesting in each case.

Use/Location/Cost Factor: The kind of use, location and cost involved in each development varies somewhat. All are near existing infrastructure, just outside urban growth boundaries. The McClure property is especially positioned near surrounding housing, as opposed to open farm land. The Abrams property is right across Hill Road from other housing.

There is nothing in the record that would make this factor weigh against vesting as found by the vesting officer.

Mere preparation Factor: I conclude that there is ample evidence in each case for the vesting officer to have

³¹ If the vesting officer so finds, then the question for this court is whether there is substantial evidence to support that finding and, when considered together with all the other factors a common law vested right has been established.

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concluded that the landowners had gone well beyond mere preparation, such as the leveling of land, boring test holes, or preliminary negotiations with contractors or architects. Substantial infrastructure was involved in each case. No one was waiting around a bare plot of land with, at best, a shovel, some string and stakes and a set of plans. All had progressed significantly further than that and the evidence in the record supports that conclusion.

The record supports the vesting officer's conclusion that this factor weighs in favor of vesting in each case.

Other Factor(s): All parties agree that the list of factors in *Holmes*, Measure 49 and Ordinance 823 is not exclusive. Petitioners however, argue that the vesting officer considered an additional factor that is not consistent with the overall fairness factor contemplated by the vested rights concept. Specifically, the vesting officer considered the additional factor of "the nature of the change in law". The court cannot say that, as a matter of law, this is an inappropriate additional factor. Certainly, the vicissitudes of this very significant change in land use law initiated by Measure 37 may be a factor to consider, keeping in mind that the ultimate goal is fairness. This is a spectrum apart from adjusting some building code requirement. It is perhaps the most major change in land use law since 1972. The law indeed changed dramatically for persons with long-time ownership of farm and forest property and, it should not be forgotten, for their neighbors. It was neither a simple change nor one lending itself to simple application. It often involved clearly competing interest between neighbors and impact on water supplies affecting even larger areas. It was a change qualitatively different than the less complex situations outlined in appellate cases dealing with common law vested rights.

I do not conclude that consideration of this additional factor is legally inappropriate or "misconstrued the law", and that is the only question for this court on review. Moreover, the vesting officer qualifies this factor as being one that would not change the vesting officer's overall conclusion. Accordingly, consideration of this factor appears to be harmless error at best.

Overall Consideration: I conclude that there is substantial evidence in the record to support the conclusion that the factors taken collectively establish a vested common law right to complete the residential use of the property as described in the waivers.

Summary of Rulings on Matters of Law. The vesting officer misconstrued the law in each case by concluding that the right to complete construction on the properties was completed when the landowners gained plat approval. Plat approval is a step in the process, not a completion. The developments were not, as a matter of law, completed by plat approval and therefore fully vested – or otherwise a completed use -- prior to implementation of Measure 49. The fundamental error behind the misapplication of the law is application of the incorrect meaning of the word "use". Plat approval fails to meet the definition of "use" by any of the possible definitions discussed above. In this context, the "use" is a residential or commercial use as more specifically defined in each case by the Measure 37 waivers that are the basis for the nonconforming use.

The vesting officer also misapplied the law in concluding that the Johnson lots were transferrable when the plat was approved. They may have been transferrable when sold, but only if the Johnsons had a vested right in development of the property prior to the transfer – i.e., a transferrable vested right as opposed to a nontransferrable Measure 37 waiver. I conclude that there is substantial evidence in the record to support the conclusion that the Johnsons had, prior to the transfers, a common law vested right that ran with the land and therefore was transferred to the purchasers.

The vesting officer based his decision on alternative theories. As indicated above, the vesting officer

misconstrued the law on the issues described above. The vesting officer's alternative analysis nonetheless is supported by substantial evidence in the record and results in rights vesting with the landowners pursuant to the common law.

Summary of Ruling as to Vested Rights: The record supports the conclusion that the landowners here relied in good faith on the waivers granted by the County and State and the plat approved by the county and not appealed. They acted on that good faith in pursuing local necessary permits and approvals and in investing substantial effort and financial resources in to making progress toward completion of the residential use defined in their projects. Uncertainties of the Measure 49 revisions do not impute clear notice to the parties any sooner than November 6, 2007, and the provisions of Measure 49 further give the landowners until December 6, 2006, to establish a common law right to complete.

The record also supports the conclusion that the investments made are more suited for the development contemplated by the parties as opposed to a conforming use or one of the Measure 49 alternatives.

Overall, then, the record supports the vesting officer's conclusion that, considering *all* the relevant common law factors, each property owner has a vested right to complete construction necessary to complete the residential use consistent with the Measure 37 waivers.

Judgment: The decisions of the county through its duly appointed vesting officer are annulled in part and affirmed in part. Insofar as the decisions are based on a misapplication of the law in concluding that the property became fully vested, or was not subject to Measure 49 at the point of plat approval, the decisions are annulled.

Insofar as the decisions are based on findings that the landowners have a vested right to complete development of the property under principles of common law, they are affirmed.

Separate judgments as to each case should be prepared. Counsel for each of the landowners should prepare the judgment. A draft, of course, should be sent for approval as to form by the county and to the petitioners before submission to the court.

Sincerely,

JOHN L. COLLINS
Presiding Judge

— — — — — **FILED:** March 02, 2011 — — — — —

IN THE COURT OF APPEALS OF THE STATE OF OREGON

JOYCE A. DAMMAN,
an individual;
GARY W. DAMMAN,
an individual;
and FRIENDS OF YAMHILL COUNTY, INC.,
an Oregon non-profit corporation,

Petitioners-Appellants,

v.

BOARD OF COMMISSIONERS OF YAMHILL COUNTY,
an Oregon municipal corporation;
CHARLES J. MCCLURE and ELLEN R. MCCLURE,
Trustees of the Charles J. McClure and Ellen R. McClure Trust,

Respondents-Respondents.

Yamhill County Circuit Court
CV080225
A141019

John L. Collins, Judge.

Argued and submitted on January 13, 2010.

Ralph O. Bloemers argued the cause and filed the briefs for appellants.

Steven W. Abel argued the cause for respondents Charles J. McClure and Ellen R. McClure. With him on the briefs were Charles F. Hinkle, Sarah Stauffer Curtiss, and Stoel Rives LLP.

John M. Gray, Jr., waived appearance for respondent Board of Commissioners of Yamhill County.

Before Sercombe, Presiding Judge, and Wollheim, Judge, and Riggs, Senior Judge.

SERCOMBE, P. J.

Reversed and remanded.

This case concerns issues similar to those decided in *Friends of Yamhill County v. Board of Commissioners*, 237 Or App 149, 238 P3d 1016 (2010), *rev allowed*, 349 Or 602 (2011). That case evaluated the legal standards that a court uses to determine whether a claimant has a

"common law vested right * * * to complete and continue" property development under section 5(3) of Measure 49, the referendum that replaced Measure 37 and altered its remedies for reduction in property value caused by a land use regulation. Here, the issue again is whether the circuit court applied the correct legal standards in its review of a county vested rights determination. The county determined that respondents Charles McClure and Ellen McClure (the McClures) had vested rights to continue residential uses in an approved subdivision under section 5(3) of Measure 49. A reviewing court upheld the vested rights determination, albeit on different reasoning than that used by the county. On appeal to this court, petitioners Damman and Friends of Yamhill County claim that the reviewing court erred in applying the legal standards that govern whether a land use right has vested. The McClures defend the court's decision, and also argue that vested rights exist under a theory rejected by the reviewing court. We conclude that the court erred in applying the applicable law in its review of the county decision and that the court should have remanded, rather than sustained, the county approval. Accordingly, we reverse and remand this case for further proceedings.

The legal context of this case is set out in *Friends of Yamhill County*, 237 Or App at 151-53. The case arises in the context of an original law and its replacement, both adopted by the voters, that provide remedies to property owners whose property values are adversely affected by land use regulations. The original law, Measure 37, was adopted through the initiative process in 2004 and was initially codified at ORS 197.352 (2005). The law was subsequently amended, Or Laws 2007, chapter 424, section 4, and, in 2007, it was renumbered as ORS 195.305. Measure 37 required state and local governments to provide "just compensation" to a property owner when a governmental entity enacted or enforced a post-acquisition land use regulation that restricted the use of the property in ways that reduced its fair market value. *Former* ORS 197.352(1) (2005). Under the measure, that regulatory effect allowed an affected property owner to demand just compensation from the government. If a claimant qualified for relief, the governmental entity could respond in one of two ways: by paying the claimant the amount of the reduction of the property's value, *former* ORS 197.352(2) (2005), or by deciding to "modify, remove, or not to apply the land use regulation * * * to allow the owner to use the property for a use permitted at the time the owner acquired the property," *former* ORS 197.352(8) (2005). In the subsequent adjudication of Measure 37 claims, the option to exempt property from otherwise applicable regulations and allow a specified use became known as a "Measure 37 waiver."

As we explained in *Kleikamp v. Board of County Commissioners*, 240 Or App 57, 60, ___ P3d ___ (2010) (quoting *Friends of Yamhill County* 237 Or App at 152), "Measure 37, however, was controversial. 'The potential disruptive effect of [Measure 37] development, together with a lack of clarity in Measure 37's provisions, led to calls for a revision of the measure.'" The 2007 Legislative Assembly referred a substitute statute to the voters, Measure 49, legislation that narrowed the effects of Measure 37, including a reduction in the degree of residential development allowed under a Measure 37 waiver. The voters approved Measure 49, and it became effective on December 6, 2007.

Measure 49 redefined the adjudicatory processes, approval standards, and extent of relief for two classes of Measure 37 claims: those filed on or before June 28, 2007, and those filed thereafter. As to the former class of claims, section 5 of the measure limited the number of residential dwellings allowed under a granted waiver and otherwise allowed just compensation to a claimant as follows:

"(3) A waiver issued before [December 6, 2007] to the extent that the claimant's use of the property complies with the waiver and the claimant has a common law vested right on [December 6, 2007] to complete and continue the use described in the waiver."

We have construed that provision and the meaning of "common law vested right" in a number of opinions, beginning with *Friends of Yamhill County*. In that case, we concluded that the factors used to determine the existence of a vested right to complete and continue a land development project were set out in *Clackamas Co. v. Holmes*, 265 Or 193, 198-99, 508 P2d 190 (1973), and included (1) the ratio of project expenditures to the total project cost; (2) the good faith of the landowner in making the expenditures; (3) the relationship of the expenditures to the project as opposed to other uses of the property; and (4) the nature, location, and ultimate cost of the project. After a survey of vested rights cases, we determined that the case law

"establish[es] that all of the *Holmes* factors are material to the determination of a vested right and that they are interrelated. The inquiry is equitable in nature, requiring an evaluation of the progress of land development at the time of the downzoning, either in terms of a substantial start of construction of the vested use itself or substantial expenditures toward that particular end (as distinguished from expenditures for an otherwise lawful use of the property). The adaptability of expenditure factor is more significant * * * when the change of law does not entirely preclude the intended use. The degree of construction or expenditures necessary to be substantial depends on the proportion of those efforts or costs to the total project buildout or budget. Given the interrelatedness of the factors, the degree of construction or expenditure necessary to be substantial may be affected by the other *Holmes* factors (good or bad faith of landowner, size of project, the location of project with respect to other uses) and other equities, including the past conduct of the zoning authorities. Similarly, the degree to which a particular factor is material to a determination of vested rights is affected by the strength or weakness of the equities that result from the application of the remaining factors."

Friends of Yamhill County, 237 Or App at 165.

The issue in this case is whether the McClures have a vested right to complete and continue the residential development of their property that was allowed under the issued Measure 37 waivers. Since 1967, the McClures have owned two adjacent parcels of land located near the urban growth boundary of the City of Newberg. County zoning and state policies regulate the allowed land uses of the property. The McClures obtained Measure 37 waivers from the state and the county to use their property subject to the land use regulations in effect in 1967. The state waiver allowed "division of the 69.18-acre property into a maximum of forty 1-acre parcels [f]or * * * development of a dwelling on each parcel and * * * [allowed] development of the remaining property for commercial uses." The county waiver authorized the McClures to apply "to divide the subject property into residential and commercial lots of various sizes of less than one acre to over one acre and * * * to establish dwellings or other uses on the newly created lots."

The McClures began residential development of a portion of the properties subject to the Measure

37 waivers. They sought and obtained preliminary subdivision approval for a residential subdivision of 51 acres. The preliminary plat laid out 37 residential lots and two open space tracts. The McClures planned to develop the remainder of the property with a winery and a retirement home.

Following preliminary subdivision approval, the McClures entered into a development agreement with the City of Newberg. Under that agreement, the city agreed to extend water services to the properties and the McClures agreed to develop the properties with roads, water lines, and sewerage facilities constructed according to city standards and to support annexation of the properties to the city. The McClures also executed a performance agreement and irrevocable letter of credit with the county. That agreement obligated the McClures to complete road and utility improvements for the subdivision property, and to secure performance of that commitment with a \$989,777 letter of credit from a bank. The letter of credit allows the county the right to use the funds to complete the improvements if the McClures default on their obligations. Largely on the basis of improvements to a perimeter road to the subdivision and the commitment and security to build subdivision public improvements, the McClures obtained final subdivision approval. They recorded the final plat of 36 residential lots on November 6, 2007. By December 6, 2007, the McClures had incurred \$189,778 in expenditures for street and utility costs, and \$416,087 in "soft costs" (planning, legal, engineering, and survey costs, costs of permits, and interest on borrowed money) toward development of the subdivision.

The McClures applied for and obtained certification of their vested rights to complete the residential subdivision under Measure 49 from a county hearings officer. The hearings officer concluded that the McClures' expenditures were "substantial" under the *Holmes* factors without regard to the proportion of those expenditures to the total project costs of developing the properties with homes.

(1) On review, the circuit court upheld the vested rights determination.

Petitioners seek review of the circuit court judgment. Petitioners argue that the court erred in affirming the vested rights determination by the hearings officer. Petitioners claim that initiation of construction of the homes is necessary in order to vest that residential use under section 5(3) of Measure 49 and that the hearings officer should have assessed the ratio of countable expenditures to total project costs in order to determine the substantiality of the McClures' expenditures toward the proposed vested use. Petitioners assert that the vested rights determination should have been annulled by the circuit court because the potential ratio of expenditures was low, particularly in light of the purported bad faith of the McClures in making expenditures during the Measure 49 referral process.

This case was decided by the reviewing court together with four other vested rights review proceedings. We have issued opinions in three of those companion cases: *Friends of Yamhill County, Kleikamp*, and *Biggerstaff v. Board of County Commissioners*, 240 Or App 46, 245 P3d 688 (2010). Those opinions resolve petitioners' contentions on review. In *Friends of Yamhill County*, we rejected petitioners' assertions, reiterated in this case, that a claimant must start physical construction of residences in order to vest a residential use and that expenditures after the referral date of Measure 49 are necessarily made in bad faith and are not relevant to consideration of the expenditure ratio factor. 237 Or App at 166-68, 172. Those conclusions were echoed in *Kleikamp*, 240 Or App at 64. We reject them here as well.

In all three cases, however, we agreed with petitioners' more fundamental point--that, under these facts, consideration of the ratio of expenditures made to the total project costs is necessary in order to determine the existence of a vested right to develop the residential subdivision. As we put it in *Biggerstaff*:

"In *Friends of Yamhill County*, we reasoned that, in determining whether a vested right exists in this context, consideration of the expenditure ratio is 'necessary.' 237 Or App at 178. More recently, in *Kleikamp* * * *, we reiterated the fundamental underpinnings of our directive in *Friends of Yamhill County*. More specifically, we noted that, in all but the most exceptional case, 'a landowner's proof of "substantial expenditures" is the *sine qua non* of a vesting determination' and that '[f]or vesting purposes, we understand that the concept of "substantial expenditures" * * * requires an examination of both the absolute amount expended and the percentage yielded by the expenditure ratio.' *Kleikamp*, 240 Or App at 66."

240 Or App at 54.

The McClures argue that any error by the county in failing to calculate and assess the expenditure ratio is harmless because the county record shows that the total project expenditures, including the letter of credit commitment, was 11 percent of the costs of developing the subdivision and building homes of average cost, and that that ratio is sufficient, as a matter of law, to support the vested rights determination. Petitioners contend that the letter of credit obligation is not an "expenditure" and should not count in calculating the numerator of the expenditure ratio, and that the actual expenditures represent only four percent of the costs of developing a subdivision with average homes. We conclude that there is insufficient evidence in the county record to establish the project costs, *i.e.*, the costs of the development contemplated by the McClures on December 6, 2007, and that further evidence is needed to determine the denominator of the expenditure ratio. Similarly, whether the letter of credit obligation qualifies as an expenditure also requires factual determinations by the county. Given those uncertainties about both the numerator and the denominator of the expenditure ratio, we cannot say that the failure by the county to address the expenditure ratio factor in assessing the existence of a vested right was inconsequential or harmless.

The project costs in this case would not include the costs of average homes. The McClures contemplated developing the project, according to the development agreement with the city,

"to enhance the Newberg area and provide an attractive and suitable entrance to the City and provide opportunities for housing and other uses not currently available in Newberg [and] * * * to develop the Property in a manner that offers exceptional quality and design while * * * providing a superior quality of residential environment unequalled in the area."

As we observed in *Kleikamp*,

"a cogent assessment of total project cost (and, concomitantly, the expenditure ratio) will, in turn, require particular identification of the development that the property owner sought to vest as of December 6, 2007. For example, a 15-lot residential subdivision, depending on lot sizes and applicable zoning, could include anything from

modest homes to mansions, with consequent substantial differences in the total cost of construction. Thus, it is incumbent on the property owner to establish the likely total project cost in relation to the size and character of the structures that the owner contemplated building in compliance with a Measure 37 waiver as of December 6, 2007."

240 Or App at 66-67. It was necessary, then, for the county to determine the cost of the contemplated residential development in order to assess the McClures' vested rights.⁽²⁾

The McClures may be correct, however, in advocating that the letter of credit obligation qualifies as a project "expenditure" under the *Holmes* analysis. The *Holmes* case references the test as "substantial costs toward completion of the job must have been incurred." 265 Or at 197. The opinion later refers to "expenditures incurred," *id.* at 198, and "expenses incurred," *id.* at 201. The meaning of "incur" is straightforward--"to meet or fall in with (as an inconvenience) : become liable or subject to : bring down upon oneself." *Webster's Third New Int'l Dictionary* 1146 (unabridged ed 2002). "Expend" means "to pay out or distribute : SPEND," *id.* at 799; whereas "expenditure" means "the act or process of expending" and can mean, in accrual basis accounting, "an outlay or the creation of a liability for an asset or expense item," *id.* at 800. The ordinary meaning of an "incurred expenditure" includes a certain liability in the process of expending or paying out money where the spending is likely to occur.

As we observed in *Friends of Yamhill County*, the common-law vested rights "inquiry is equitable in nature, requiring an evaluation of the progress of land development at the time of the downzoning." 237 Or App at 165. The equities of allowing vesting to a developer on the basis of cash outlays differ little from those created when a developer assumes an irrevocable financial obligation. Whether the letter of credit qualifies, then, as an "incurred expenditure" depends upon its similarity to a payout--to the certainty of the McClures' liability, whether it is revocable or contingent, and the likelihood of the spending, measured as of the vesting date of December 6, 2007.⁽³⁾ The actual letter of credit is not in the county record, making that assessment difficult on appellate review. Rather, that assessment can be made on remand.

Thus, the hearings officer and the reviewing court determined that it was unnecessary to establish the denominator (the total project costs) of the expenditure ratio in evaluating the substantiality of the McClures' expenditures for purposes of vesting. That was error, and the reviewing court must remand the proceedings back to the county for that evaluation. In that evaluation, more focused findings are required on the numerator and denominator of the expenditure ratio factor.

The McClures cross-assign error to the reviewing court's rejection of their contention that the McClures' "right to complete and continue the use described in their Measure 37 waivers vested as a matter of law when the County granted final plat approval." In essence, the McClures contend that their final subdivision approval was not affected by the subsequent enactment of Measure 49 and that the lot division was sufficient to vest residential development of the property.

As to the retroactive effect of Measure 49 on Measure 37 waivers and actions taken under those waivers, the Supreme Court has explained, "[a]n examination of the text and context of Measure 49 conveys a clear intent to extinguish and replace the benefits and procedures that Measure 37

granted to landowners." *Corey v. DLCD*, 344 Or 457, 465, 184 P3d 1109 (2008). The court further noted that "Measure 49 by its terms deprives Measure 37 waivers--and *all* orders disposing of Measure 37 claims--of any continuing viability, with a single exception [of the vested rights determination under section 5(3)]." *Id.* at 466-67 (emphasis in original). Thus, Measure 49 precludes prospective residential development allowed by waivers granted under Measure 37. Moreover, it is not clear that subdivision lot approval by the county carries with it any vested right to develop the lots for a particular use or at any specific density of development. Because the McClures' Measure 37 waivers no longer are effective, current zoning and the residential use allowances under Measure 49 control residential development and building permits for the subdivision. The McClures did not explain how subdivision lot approval precludes the operation of those zoning controls to land use development of the subdivision and the reviewing court did not err in failing to supply that reasoning in its oversight of the county decision. *Cf.* ORS 92.040(2) (laws in effect at time of subdivision application govern subsequent construction on property for land within urban growth boundaries); *Pete's Mountain Homeowners Assn. v. Clackamas Cty.*, 227 Or App 140, 204 P3d 802 (2009) (Measure 37 waivers and the application of the "goal-post statute," requiring application of standards existing at time of application to permit or zone change, superseded by Measure 49).

Reversed and remanded.

1. The hearings officer reasoned:

"The issue of whether the applicants' expenses should be compared to a 'completed use' as homesites or as completion of every single dwelling permitted by Yamhill County, is discussed throughout these findings. If the cost of constructing all of the proposed homes is the measure, there is the additional question of whether to consider the cost of the types of homes the applicant is contemplating, the cost of a legal, habitable dwelling, an 'average cost' or some other measure.

"This is a speculative analysis that may be necessary in other cases in which this factor deserves to be given more weight, but is not necessary to properly address [the ratio test] in this case."

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2. The hearings officer, reviewing court, and the parties assume that the relevant project, for vesting analysis, is the residential subdivision. Given the contentions of the parties, we have no occasion to disturb that assumption. We note, however, that section 5(3) of Measure 49 pertains to "a common law vested right * * * to complete and continue the *use described in the waiver*." (Emphasis added.) The use described in the McClures' waiver is for residential and commercial development. On the other hand, the allowed just compensation under section 5(3) is "as provided in: * * * [a] waiver * * * *to the extent that*" the claimant's property use complies with the waiver and a common-law vested right exists, perhaps implying that some degree of the use provided in the waiver can be allowed. (Emphasis added.) We need not decide if section 5(3) permits a partial vesting or not, given the circumstances of this case.

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3. At the time of final plat approval, a letter of credit can substitute for the actual provision of water or sewer services to the subdivision lots when the letter of credit is "irrevocable" and assures "that a domestic water supply [or 'sewage disposal'] system will be installed by or on behalf of the subdivider to the lot line of each and every lot depicted in the proposed subdivision plat." ORS 92.090(4)(b) (water supply system); ORS 92.090(5)(b) (sewage disposal system). Thus, as a matter of subdivision law, the unconditional nature of the letter of credit and the inevitability of the improvement are important as well.

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Home

Yamhill County

DEPARTMENT OF PLANNING AND DEVELOPMENT

525 NE FOURTH STREET • McMINNVILLE, OREGON 97128

Phone:(503) 434-7516 • Fax:(503)434-7544 • TTY 800-735-2900 • Internet Address: <http://www.co.yamhill.or.us/planning>

January 27, 2017

MS____SP____RO____TS____

MEMORANDUM

To: Board of Commissioners

From: Stephanie Armstrong, Associate Planner

Re: **Docket E-06-16, Applicant: Christian DeBenedetti, Appellant: David Wall**
(The hearing is an appeal of the Planning Director's approval to allow up to 18 agri-tourism events per calendar year)

Enclosed are the comments submitted during the first open record period (January 19 – January 26). The contents of the record are as follows:

- A. Comments submitted in opposition
- B. Comments submitted by the applicant
- C. Comments submitted in favor

C. Comments submitted in favor

Docket # E 06-16

Dear Commissioners:

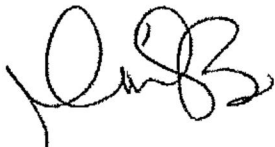
It deeply saddens me that once again we find ourselves being harassed by the outside influences that come into the area without a real understanding of the needs of the county and our citizens, and decide they have the right to change the decisions that we have already made without consideration for the bigger community.

I found Wall's testimony an insult to our intelligence and an attack on the staff who serves us all.

Wolves and People is a great establishment-- well run, family friendly, and a great community partner (I have seen donations from them at almost every community event I have attended). We are desperately in need of the kind of chef events in question. As a county have been unable to provide manufacturing due to our serious lack of available lands for industry and housing alike, and have been forced to rely on tourism to meet the employment needs of our local citizens due to this same kind of opposition. 1000 Friends has often told us that farming is good employment, and through the work of people like Christian-- he is able to use HIS farmland in a way that not only provides employment using an agricultural product, but a new wave of entertainment for the tourists we invite here to spend their money enjoying our local agricultural tourist events.

I congratulate you on your prior decision and I hope that you determine that Mr. Well's and his buyer remorse are not really our concern.

Denise Bacon

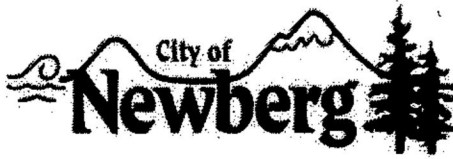


Newberg City Councilor District #3

1015 S. Pacific Street

Newberg, OR 97132

503-840-5023- Cell



City of Newberg 2017 - 2018 Transient Lodging Tax – Destination Development and Marketing Promotion Grant Program Guidelines

INFORMATION FOR GRANT APPLICANTS

PURPOSE:

This grant program is intended to aid organizations and businesses that further the Newberg Strategic Tourism Plan adopted in June 2016 for destination development and marketing promotion activities, <http://www.newbergoregon.gov/economicdevelopment/page/newberg-strategic-tourism-plan>, by advancing the adopted goals of:

- 1: Tourism bolsters Newberg economy in measurable ways.
2. Newberg is a destination of artisan makers and doers.
3. Tourism funding and industry partners catalyze downtown development and creation of new experiences for target audiences.
4. The tourism organization and strategy engage and energize local tourism partners and demonstrate healthy partnership between the private sector and city.
5. Moon Shots – tourism encourages sustainable development that benefits the local community and enhances the visitor experience.

DEFINITIONS:

The City of Newberg utilizes the state definition of tourism which is aligned with Oregon's legal definition: "Tourism" means economic activity resulting from tourists.

"Tourist" is a person who, for business, pleasure, recreation, or participation in events related to the arts, heritage or culture, travels from the community in which that person is a resident to a different community that is separate, distinct from, and unrelated to the person's community of residence, and that trip:

- a. Requires the person to travel more than 50 miles from the community of residence; or
- b. Includes an overnight stay in a paid accommodation in Newberg, Oregon.

"Tourism promotion" (as it relates to this grant application) means any of the following activities:

- a. Advertising, publicizing, or distributing information for the purpose of attracting and welcoming tourists;
- b. Conducting strategic planning and research necessary to stimulate future tourism development;
- c. Operating Tourism promotion agencies; and
- d. Marketing special events and festivals designed to attract tourists.

"Tourism Related Facility" is:

- a. A conference center, convention center, or visitor information center; and

- b. Other improved real property that has a useful life of 10 or more years and has a substantial purpose of supporting tourism or accommodating tourist activities.

FUNDING:

Funding for this program is up to \$430,000 which may be disbursed to multiple organizations or businesses. The minimum grant amount is \$10,001 and the maximum is based on funds available for that fiscal year. The funds are made available from the City of Newberg transient lodging taxes that are assessed to hotels, motels, bed and breakfasts, and vacation rentals for guests in the City of Newberg.

ELIGIBLE APPLICANTS:

Eligible applicants include governmental entities, 501(c)(3) and (6) non-profit organizations, and for-profit private entities with a project, program, or event in the Newberg zip code area of 97132 aimed at destination development or marketing promotion that promotes local tourism attractions, brings visitors or has the potential to bring visitors, to Newberg that will create overnight stays in Newberg's commercial lodging properties in furtherance of the Newberg Strategic Tourism Plan goals.

Multiple grant applications per year will be considered for any one organization or business. If an organization or business has previously been awarded a tourism grant by the City of Newberg, it will only be considered for a grant if all previously awarded grants complied with grant agreement requirements and procedures, including filing progress reports. Since grants are funded from revenues from lodging tax, recipients are asked not to request discounts from Newberg lodging properties for the proposed project, program, or event.

GRANT APPLICATION PROCESS:

In order to be considered for grant funds from the City of Newberg:

- 1) A completed application must be delivered to the Community Development Director. Application forms are available at <https://www.newbergoregon.gov/economicdevelopment/page/2017-2018-transient-lodging-tax-destination-development-marketing-grant> or by contacting the Community Development Director, doug.rux@newbergoregon.gov. If you have multiple projects, programs, or events, separate applications will need to be submitted. The exception would be if the project, program, or event had multiple dates over the course of the fiscal year.
- 2) All application forms **MUST** be typed and sent to the Community Development Director. **No hand written forms will be accepted. Failure to abide will result in application disqualification.**
- 3) All applicants will be notified of funding approvals no later than January 31, 2018.
- 4) Progress and Final Reports on activity, spending, and results are to be submitted to the Community Development Director.

TYPES OF PROJECTS/PROGRAMS/EVENTS TO BE CONSIDERED:

Below is a sample list of grant projects, programs or events; actual projects are not limited to only what is listed below.

- 1) Projects, programs, or events which generate or encourage overnight stays in Newberg.
- 2) Projects, programs, or events that increase visitor spending.
- 3) Projects, programs, or events that enhance shoulder and off season visitation.
- 4) Projects, programs, or events that create unique wine country experiences that distinguish Newberg from nearby destinations.

ACTIVITIES NOT ELIGIBLE FOR FUNDING:

- 1) General administrative costs;
- 2) Membership fees;
- 3) Projects, programs or events promoting tourism outside of Newberg;
- 4) Project directed solely at the residents of Newberg;
- 5) Used as match for other City of Newberg funding awards;
- 6) Salaries;
- 7) Operating costs;
- 8) Travel and mileage;
- 9) Architectural engineering studies;
- 10) Apparel for volunteers and/or staff; or
- 11) Advertisements in Newberg or CVCC guides/brochures, local Chambers of Commerce publications, and local publications (print, radio, television) that are not distributed at least 50 miles outside of Newberg.

MATCHING REQUIREMENT:

The Destination Development and Marketing Promotion Grant Program requires a minimum 1:1 match ratio from the applying organization or business:

- 1) Non-Profit/Governmental: 1 (applicant) and includes in-kind or cash / 1 (City of Newberg)
- 2) For-Profit: 1 (applicant) cash match / 1 (City of Newberg)

Match funds must be documented and must be committed prior to the distribution of funds. The higher the cash or in-kind match ratio will enhance the application scoring.

EVALUATION CRITERIA:

The City of Newberg Transient Lodging Tax Ad Hoc Committee will review applications and make a recommendation to the Newberg City Council on awards according to the purpose and evaluation criteria of the grant program. The Newberg City Council will make the final award decision.

Eligibility Requirements

- | | |
|--|--------|
| 1) Aligns with Transient Lodging Tax regulations (Tourist, Tourism Promotion, Tourism Promotion Agency, Tourism related facility) | Yes/No |
| 2) Promote or create experiences for: Outdoor recreation visitor, Experiential arts, Wayfinding, Downtown enhancement | Yes/No |
| 3) Appeals to designated audiences in the Newberg Strategic Tourism Plan (Wine Country Adventures, Millennial Explores, George Fox Network, and Luxury Wine Travelers) | Yes/No |
| 4) The project will create or enhance an experience for shoulder or off-season visitors | Yes/No |
| 5) Does it align with other tourism activities in the community | Yes/No |
| 6) Builds on existing assets | Yes/No |
| 7) Leverages funding | Yes/No |
| 8) Entities that have a bankruptcy or other financial corruption within The past five years are ineligible | Yes/No |

Criteria

- | | |
|--|-------|
| 1) What is the projected return on investment | |
| a. Predicted number of tourists attracted/overnight guests | 0 - 5 |

January 16, 2018

RE: Resolution 2018-3429

Attachment 7 Wolves & People Vines to Steins trail

Newberg City Council Members,

City Council Meeting

Date: 1/16/18

Re: _____

Topic: HT Grants

I am here in opposition to the Vines to Steins funding project for Wolves and People Brewery.

Tavern, bar, brewery call this business what you may; various alcoholic beverages containing 3.0-8.5% alcohol by volume are routinely served. This business entity does not belong in a neighborhood or on land that is designated EF-20 agriculture.

The Applicant will assert the majority of neighbors like coming to the brewery. This assertion is absolutely untrue. ***The Applicant routinely uses and relies upon social media to garner mass support used in the various permitting processes.***

The application for funding states, under Goal 3: **“Funding will steer visitors to restaurants and other related business in Newberg.”** The Applicant, in his application, has said nothing of the food carts that are regularly at the brewery. He may say the carts are from businesses in Newberg but, is that true?

Do you recognize the following food trucks: “Wild Hunt PDX, Bernard's Farms, Park Kitchen of Portland, Storrs Smokehouse, Bearded Buddies Food Truck , Pastrami Zombies” from Portland or Tournant? How can the applicant help the restaurant business in Newberg?

These food trucks serve food regularly at the tavern and are competing with your Newberg restaurants that are paying your city taxes and fees. Is it really fair to give the money to a business outside of the city that clearly states they will use \$5000 for advertising their business? **Where is the benefit to the city of Newberg?** And what happens to the taverns, bars and Growler businesses in Newberg? Wolves and People now sell Growlers and additional competing products. Wolves and People undermine your local businesses. I am sure many of your local taverns, bars and restaurants would like similar financial assistance.

I have read comments by Councilor Denise Bacon to the Yamhill County Commissioners regarding **[Docket No. E-06-16]**. She states, "I have seen donations from them at almost every community event I have attended." I have to ask, why wouldn't the Applicant not give a donation? It is a great way to advertise their product and the business of selling beer. Was it wise to invite three (3) large school buses and a red double decker bus to the tavern full of young people? The aforementioned vehicles, due to their size, cannot navigate safely on NE Benjamin Road-they must always cross the “double yellow lines” and are always a threat to all who travel on this road.

The building of trails on agricultural land is just ludicrous. Chemicals from vine operations and nearby filbert orchards are used in this area. People walk on the trails and this is not safe. It is foreseeable patrons will be drunk or even high and fall down. Does the city not see the potential for lawsuits; health and safety injuries, lowered property values and other injuries by providing “Grant monies” to this type of business activity?

The Applicant's permit approval, from the Yamhill County Commissioners **[Docket No. E-06-16]** clearly states in subsection (e); **“No new permanent structures are proposed, nor is the construction of any new permanent structure allowed by this Order.”** Why is the applicant applying to build a new Pavilion?

The usage of this agriculture land, other than for the purposes intended, will be appealed to the Yamhill County Commissioners when the Applicant seeks to renew his Agritourism permit with Yamhill County and to the Land Use Board of Appeals (LUBA) if necessary.

**It is premature for the city to grant the applicants request at this time.
There are too many what if's for you to waste your taxpayers money on.
This grant request needs to be denied.**

Respectfully,
Vicki Shepherd
30230 NE Benjamin Rd
Newberg, OR 97132

January 16, 2018

RE: Resolution 2018-3429 Attachment 7, Wolves & People Vines to Steins trail

Tim Fitchett, Attorney at law

On behalf of Vicki Shepherd and Joyce Damman

City Council Meeting

Date:

1/16/18

Re:

Wolves & People

Topic:

TT Grant Awards

Wolves and Peoples Brewery's request for funding from the city to build an interpretive walking trail between A to Z Wineworks and their Brewery should be denied. The City should not expend funds on a walking path that may very well prove to be useless in a matter of months.

Mr. DeBenedetti is currently being allowed to operate his brewery under the auspices of an agritourism permit, a permit that must be renewed by March 9 of this year. His absolute failure to comply with the rules of the permit will mean that his renewal of that permit will be denied, either by the City or on appeal to LUBA. While the merits of the permit and renewal process are not specifically at issue this evening, if the permit is not renewed, as it shouldn't be, then the money approved this evening would be for a moot purpose.

The permit approved by the Board of County Commissioners last year states that it expires one year after approval, but "may be renewed for a four year period subject to a renewal application *and compliance with the above conditions of approval and the standards of Section 1013 of the Yamhill County Zoning Ordinances.*" The approval allowed Wolves and People to operate their brewery for 18 "Agritourism" events each year. However, under that permit, Wolves and People has essentially run a normal brewery operation in direct contradiction to the terms of the permit.

First, the events were not to exceed the hours of operation of Friday 4-9pm, Saturday 2-10pm, and Sunday 12-5pm. However, on their website, Wolves and People states that their hours of operation are 12pm to 8pm on Saturdays and Sundays in clear contradiction to the permit requirement. My clients can confirm that they have, indeed, been open before 2pm on Saturdays and after 5pm on Sundays. In addition, they have been opening after work hours on Thursdays, starting around 5pm and continuing until around 9pm. Not only is this outside the scope of their permit, it also exceeds the 72-hour maximum for any single event.

Second, Wolves and People has far exceeded the 18 weekends that they are allowed. Wolves and People has been open every weekend, barring some incidental closures due to weather, since before the permit was even approved. Even assuming that they began operating when the permit was approved, they have been open at least 40 out of 45 weekends since that approval.

Third, many weekends that they have been open, they have had a food cart on the premises, sometimes more than one. The exact number likely exceeds the 18 food cart events and the number of food carts they are allowed.

Fourth, it is likely that attendance has exceeded 250 people in a single day, as multiple busses have been seen pulling into the brewery and dropping people off.

Fifth, the agritourism events also fail to comply with Yamhill County Zoning Ordinance 1013.01(A)(4) as required by the permit. That section requires that agritourism events be "incidental and subordinate to

existing commercial farm use" and "necessary to support the commercial farm uses". The use of the barn as a brewery and tasting room fails in both respects.

While the hazelnut farm is the predominant use of the land by acre, we believe it is clear by DeBenedetti's actions, including the request for this interpretive trail, the comments made therein, and the number of visitors now coming to the brewery, that he sees using the land as a brewery as the predominant and future use of the property. The brewery is thus not subordinate to the hazelnut farm, nor is it incidental to hazelnut production. Instead, the brewery has become a standalone entity in no substantive way connected to the existing hazelnut farm.

Additionally, agritourism use must also be "necessary to support the commercial farm use" which the brewery here is not. There is no indication that the hazelnut farm was failing and required the introduction of a brewery and agritourism events to keep itself afloat. Nor is there any clear indication that the "agritourism" events are in any way actually supporting the hazelnut farm. Neither the agritourism application nor this grant request make any reference to supporting the hazelnut farm, but instead, both talk about how many more tourists will come to the brewery to drink beer.

For all of those reasons, we believe that the agritourism permit renewal will ultimately be declined and thus funds expended on a walking trail to the brewery would be misspent.

Thank you for your time.

Sincerely,

A handwritten signature in black ink, appearing to read "Timothy Fitchett". The signature is fluid and cursive, with the first name "Timothy" written in a larger, more prominent script than the last name "Fitchett".

Tim Fitchett

David S. Wall
P.O. Box 756 Newberg, Oregon 97132

February 5, 2018

VIA HAND DELIVERY

Mayor Bob Andrews
Councilor Mark Murray; Councilor Stephen McKinney; Councilor Mike Corey
Councilor Patrick Johnson; Councilor Denise Bacon; Councilor Scott Essin
Newberg City Hall; 414 E. First Street; Newberg, Oregon 97132

[SET 2]

Re: Wolves and People Veins to Steins Trail project: Where is the Public benefit?

Dateline: County Desk [Monday, (02.05.18)] *All TLT Grant Funded Awards should have a demonstrable Public Benefit.*

I am enclosing additional documents for your perusal and usage to assist your deliberative process whether granting public monies, using the Transient Lodging Tax Designation Development-Marketing Grant Funds (Herein TLT Funds) to the Wolves and People Vines to Steins Trail **[Resolution 2018-3429]** *is justified.*

You all should be concerned with the decisions made by your Transient Lodging Tax Ad hoc Committee. Specifically, the Rating Criteria and how Rating Scores are justified.

The issue of "Public Benefit" for the City of Newberg, arising from the grant process and award should be clearly defined, justified with accounting measures in place to monitor the success and or failure of any and all projects funded by the TLT. Illusory projections and grandiose claims of unsubstantiated successes should be considered unreliable.

The Wolves and People Vines to Steins Trail is a "Private Trail." Access to the "Trail" is conditioned by having a "Passport." The "Passport" issue should be fully vetted by the TLT Ad Hoc Committee and the Newberg City Council.

"Letters of Support" for a particular project should not be accepted into the record and or as criteria in the Rating process from family members of Applicants and or the Applicants themselves.

TLT Committee Members should not be permitted to monies to their respective businesses arising from any and all "Grant Awards."

Membership criteria and resulting appointment to serve on the TLT Ad Hoc Committee should not be made by one member of the Newberg City Council. Background checks should be made and made public records.

Review the voting record of TLT Ad Hoc Committee Members McKinney and departed Member Kelsh.
*****Note** the extreme opposites of the scores. This is an indicator of a flawed Rating System.

The TLT Grant Application itself requires review. TLT Grant Applications should have a disclosure to alert the Rating Process that the Applicant has; a Conditioned Land-Use / Agritourism and any and all conditioned Permits issued by Yamhill County Commissioners and or the Land Use Board of Appeals (LUBA). No TLT Grants should be issued to any Applicant who might lose their specific conditioned permit, resulting in a material reduction in the benefit of the investment by the City of Newberg.

The TLT Ad Hoc Committee should be afforded the Agritourism Permit issued by Yamhill County as referenced and incorporated into **[DOCKET NO.: E-06-16]**.

Respectfully submitted,
/s/ David S. Wall

///
///
///

Cc: The Honorable Yamhill County Commissioners

Summary White Board Evaluation

	1 = Highest Ranking			6 = Lowest Ranking											Award
	Lewis	McKinney	Bagley	Carda	Felton	Lattimer	Lippard	Louis	Parish		Total	Rank	Grant Request		Recommendation
Hoover-Minthorn	5	2	4	6	3	6	5	4	6		41	4	\$ 30,000	\$	-
Downtown Wineries Association	1	4	2	2	6	3	3	1	2		24	2	\$ 20,500	\$	20,000
Cultural Center Culinary Kitchen	2	1	1	1	2	1	2	3	1		14	1	\$ 250,000	\$	250,000
CPRD Sports Lighting	6	5	6	4	1	5	4	6	4		41	4	\$ 225,000	\$	-
Cultural District Wayfinding	4	3	5	5	5	4	6	5	5		42	6	\$ 73,500	\$	-
Wolves & People	3	6	3	3	4	2	2	2	3		28	3	\$ 45,000	\$	30,000

SUMMARY DESTINATION DEVELOPMENT - MARKETING GRANT SCORES

	Grant Request Amount	Total Points Possible	Total Points	Average
Hoover-Minthorn House Museum Roof/Gutters/Electrical	\$ 30,000	504	215	17.92
Newberg Downtown Wineries Association	\$ 20,500	462	348	31.64
Chehelam Cultural Center Culinary Enrichment Center	\$ 250,000	504	368	30.67
CPRD Darnell Wright Sport Complex Lighting	\$ 225,000	504	182	15.17
City of Newberg Cultural District Wayfinding	\$ 73,500	504	221	18.42
Wolves & People Vines to Steins Trail	\$ 65,000 - \$ 80,000	504	251	20.92

	Grant Request Amount	Total Points Possible	Total Points	Average
Newberg Downtown Wineries Association	\$ 20,500	462	348	31.64
Chehelam Cultural Center Culinary Enrichment Center	\$ 250,000	504	368	30.67
Wolves & People Vines to Steins Trail	\$ 65,000 - \$ 80,000	504	251	20.92
City of Newberg Cultural District Wayfinding	\$ 73,500	504	221	18.42
Hoover-Minthorn House Museum Roof/Gutters/Electrical	\$ 30,000	504	215	17.92
CPRD Darnell Wright Sport Complex Lighting	\$ 225,000	504	182	15.17

Wolves & People Vines to Steins Trail

Funding Request \$65,000 - \$80,000

Criteria	Score Range	Lewis	Nicholas	McKinney	Bagley	Carda	Felton	Kelsh	Lattimer	Lippard	Louis	Love	Parrish
1. What is the projected return on investment													
a. Predicted number of tourists attracted/overnight guests	0 - 5	1	3	0	3	1	2	5	2	0	5	1	3
b. Will it have lasting impact and utility	0 - 5	2	3	0	4	3	2	5	2	3	5	4	2
2. Demonstrated history of attracting tourists/overnight guests	0 - 3	1	3	0	3	1	2	3	1	0	3	2	3
3. Does it engage and energize local tourism partner(s)	0 - 3	2	0	0	2	1	3	3	2	1	3	3	3
4. Does it enhance Newberg as a destination	0 - 5	1	0	0	4	2	4	5	3	2	5	2	2
5. Does it enhance Newberg as a location for Makers and Doers	0 - 3	1	3	0	2	2	1	3	2	0	3	1	2
6. Does it catalyze downtown development	0 - 3	0	0	0	1	0	0	3	2	2	1	0	2
7. Is it likely to increase visitor spending	0 - 5	0	0	0	2	1	1	5	2	1	5	1	1
8. Does it enhance tourism from October – May or any Sunday – Thursday Visitation	0 - 5	1	2	0	1	0	3	5	2	1	5	0	1
9. Does this project align with at least one of the four target audiences (Wine Country Adventurers, Millennial Explorers, George Fox Network, Luxury Wine Travelers)	0 - 5	3	5	0	4	3	5	5	4	1	5	5	4
42													
Total		12	19	0	26	14	23	42	22	11	40	19	23

Total Points Possible 504
Total Points 251
Average 20.92

**TRANSIENT LODGING TAX AD HOC COMMITTEE
MARKETING SUBCOMMITTEE**

**September 18, 2017 8:30 am
Chehalem Valley Chamber of Commerce
2119 Portland Road**

The meeting called to order by Chair Ashley Lippard at 8:30 a.m.

ROLL CALL:

Members Present:	Ashley Lippard, Chair Sheila Nicholas Jessica Bagley Kyle Lattimer	Rob Felton, Vice Chair Sheryl Kelsh Dennis Lewis
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Staff Present:

Guests:

TOURISM MARKETING MATERIAL:

Chair Lippard opened the discussion and passed out a refined list of possible shot locations for the video and photos. Looking for sites that would reflect a contrast between New & Hip verses established. Stephanie and Laurie Peterson were introduced. They are the George Fox University students that will be producing the videos. It is unknown how many videos will be produced but probably two or three from 15 seconds to no more than a minute.

The Marketing Subcommittee discussed the best use of videos including social media, online, distribution to media, and distribution to local tourism partners to post on their websites. The Subcommittee also discussed that the target market audience is 50+ miles from Newberg. The discussion additional included three concepts for the videos of by the numbers, Doers and Makers, and the typical all the things you can do video. The Subcommittee identified the concept of Doers and Makers as the theme.

There was a general discussion of the shot list with committee members assigned to contact.

1. Brickhouse Winery – Member Nicholas
2. The Painted Lady – Member Bagley
3. Ruddick/Wood – Member Lattimer
4. Vista Balloons – Member Kelsh
5. The Allison Inn & Spa – Member Kelsh
6. AN Artist – Chair Lippard will contact Loni Parrish. Possible Romona Younquist could be the artist.
7. Chehalem Cultural Center – Member Lewis
8. Wolves & People – Member Lattimer
9. JK Carrier Winery – Member Nicholas
10. Chehalem Ridge Bed & Breakfast – Member Nicholas
11. Adventure Shot – Dewey Neilsen – Member Lattimer or Chair Lippard will contact.

Wolves & People Vines to Steins Trail

Request amount: \$65,000 - \$80,000

Required Application Materials

	YES	NO	NOTES
1) Completed application Cover Sheet	X		
2) Budget for project/program/event being funded that lists all anticipated income and expenses.	X		States \$65,000 request, Application states \$80,000 request, need to clarify
3) Board or Owner approved financial statement for most recently completed fiscal year of the organization or business responsible for the project/program/event.	X		Private entity confidential information
4) Letter signed by officers of the Organization's Board of Directors or Business Owners authorizing this application.		X	Signed Certification Letter in application but no separate letter
5) Documentation of organization or business existence: Current, valid Oregon Secretary of State Corporation Division registry filing.	X		2017 Annual Report
6) Documentation that no bankruptcy or other financial corruption has occurred within the past five years.		X	Confidential financial information submitted does not indicate a bankruptcy
7) Letters of support.	X		2 letters
8) Past grant recipient.		X	

Eligibility Requirements
YES
NO
NOTES

1) Aligns with Transient Lodging Tax regulations (Tourist, Tourism Promotion, Tourism Promotion Agency, Tourism related facility)	X		Tourist, Tourism Promotion, Tourism Related Facility. The trail is a grey area according to legal counsel review.
2) Promote or create experiences for: Outdoor recreation visitor, Experiential arts, Wayfinding, Downtown enhancement	X		Outdoor recreation visitor, wayfinding, and indirectly downtown enhancement
3) Appeals to designated audiences in the Newberg Strategic Tourism Plan (Wine Country Adventures, Millennial Explores, George Fox Network, and Luxury Wine Travelers)	X		Wine Country Adventures, Millennial Explores, George Fox Network, and Luxury Wine Travelers
4) The project will create or enhance an experience for shoulder or off-season visitors	X		Both Shoulder and off-season
5) Does it align with other tourism activities in the community	X		Winery tours, restaurants,
6) Builds on existing assets	X		Vineyards, winery, brewery
7) Leverages funding		X	2:1 for Phase 1; .33:1 for Phase 2; .7:1 combined Phase 1 & 2 does not meet 1:1 requirement
8) Entities that have a bankruptcy or other financial corruption within the past five years are ineligible		X	None

David S. Wall
P.O. Box 756 Newberg, Oregon 97132

February 7, 2018

VIA HAND DELIVERY

Newberg TLT Ad Hoc Committee Members: Dennis Lewis, Chair; Shelia Nicholas; Vice Chair; Rob Felton; Megan Carda; Jessica Bagley; Brian Love; Robert Griffin; Loni Parrish; Kyle Lattimer; Ashley Lippard; Lori Louis
Ex Officio Members: Mayor Bob Andrews; City Manager Joe Hannan
Staff: Doug Rux, Community Development Director; Matt Zook, Finance Director
WASTEWATER TREATMENT PLANT, 2301 WYNOOSKI ROAD Newberg, Oregon 97132 [SET 3]

Re: Wolves and People Vines to Steins Trail project: Where is the Public benefit? Where is the justification?

Dateline: County Desk [Wednesday, (02.07.18)] *Is the shady business of doling out taxpayer dollars afoot?*

I am very concerned whether granting taxpayer dollars, using the Transient Lodging Tax Designation Development-Marketing Grant Funds (Herein TLT Funds) to the Wolves and People Vines to Steins Trail [Resolution 2018-3429] is justified. Does such an Award, if granted "as is," rise to the level of "Gifting and or Gambling" with taxpayer dollars?

I am very concerned with the decisions made by the Transient Lodging Tax Ad Hoc Committee. Specifically, the Rating Criteria and how Rating Scores are justified. To what degree is accountability built into this system, if any?

The issue of "**Public Benefit**" for the City of Newberg, arising from the grant process and award should be clearly defined, justified with accounting measures in place to monitor the success and or failure of any and all projects funded by the TLT. ***Illusory projections and grandiose claims of unsubstantiated successes are unreliable and unacceptable.***

The Wolves and People Vines to Steins Trail is a "Private Trail." Access to the "Trail" is conditioned by having a "Passport." The "Passport" issue should be fully vetted by the TLT Ad Hoc Committee and the Newberg City Council.

"Letters of Support" for a particular project should not be accepted into the record and or as criteria in the Rating process from family members of Applicants and or the Applicants themselves. *****Letters of Support** from other entities being considered or have been awarded TLT Grant Awards should also NOT be accepted into the record and or as Criteria in the Rating process. *****It is my opinion**, the category of "Letters of Support" should be stricken from the Rating Criteria and ALL Rating Processes. **These "Letters of Support" are easily manipulated and are NOT an accurate measure for any legitimate objective analysis.** An Applicant could easily sit at home on social media like Facebook and solicit "Letters of Support" to "dupe" the Ad Hoc Committee into giving a higher Rating Score.

TLT Committee Members respective businesses should not be permitted to profit arising from any and all "Grant Awards." At least one (1) Ad Hoc Committee Member has profited from a prior Grant Award to an Applicant.

Membership criteria and resulting appointment to serve on the TLT Ad Hoc Committee should not be made by one member of the Newberg City Council. Background checks should be made and made public records.

Review the voting record of TLT Ad Hoc Committee Members McKinney and departed Member Kelsh. *****Note** the extreme opposites of the scores on the Wolves and People Vines to Steins Trail project (enclosed herein). This is an indicator of a flawed Rating System. Are there are other competing factors influencing these particular Ratings?

The TLT Grant Application itself requires review. TLT Grant Applications should have a disclosure to alert the Rating Process that the Applicant has; a Conditioned Land-Use / Agritourism and any and all conditioned Permits issued by Yamhill County Commissioners and or the Land Use Board of Appeals (LUBA). NO TLT Grants should be issued to any Applicant who might lose their specific conditioned permit, resulting in a material reduction in the benefit of the investment by the City of Newberg.

The TLT Ad Hoc Committee should be afforded the Agritourism Permit issued by Yamhill County as referenced and incorporated into [DOCKET NO.: E-06-16]. Yamhill County Commissioners should have provided this information to you.

It is my opinion, the entire TLT Ad Hoc Committee Members should be excused from further service. A reformulation of membership must include members from the public and direction be given to a new TLT Ad Hoc Committee vetted by the entire Newberg City Council during a Public meeting and not "stacked" with local business owners who have competing conflicts of interests. There are too many current TLT Ad Hoc Committee Members who sit on other "Boards of Directors" whose entities either support a particular Applicant for a TLT Grant Award or possibly receive one. This is unacceptable.

The influences by Yamhill County Commissioners on the aforementioned current TLT Ad Hoc Committee has not escaped detection and is also under review.

Respectfully submitted,
/s/ David S. Wall

Cc: The Honorable Yamhill County Commissioners / Newberg City Council

Wolves & People Vines to Steins Trail**Funding Request \$65,000 - \$80,000**

Criteria	Score Range	Lewis	Nicholas	McKinney	Bagley	Carda	Felton	Kelsh	Lattimer	Lippard	Louis	Love	Parrish
1. What is the projected return on investment													
a. Predicted number of tourists attracted/overnight guests	0 - 5	1	3	0	3	1	2	5	2	0	5	1	3
b. Will it have lasting impact and utility	0 - 5	2	3	0	4	3	2	5	2	3	5	4	2
2. Demonstrated history of attracting tourists/overnight guests	0 - 3	1	3	0	3	1	2	3	1	0	3	2	3
3. Does it engage and energize local tourism partner(s)	0 - 3	2	0	0	2	1	3	3	2	1	3	3	3
4. Does it enhance Newberg as a destination	0 - 5	1	0	0	4	2	4	5	3	2	5	2	2
5. Does it enhance Newberg as a location for Makers and Doers	0 - 3	1	3	0	2	2	1	3	2	0	3	1	2
6. Does it catalyze downtown development	0 - 3	0	0	0	1	0	0	3	2	2	1	0	2
7. Is it likely to increase visitor spending	0 - 5	0	0	0	2	1	1	5	2	1	5	1	1
8. Does it enhance tourism from October – May or any Sunday – Thursday Visitation	0 - 5	1	2	0	1	0	3	5	2	1	5	0	1
9. Does this project align with at least one of the four target audiences (Wine Country Adventurers, Millennial Explorers, George Fox Network, Luxury Wine Travelers)	0 - 5	3	5	0	4	3	5	5	4	1	5	5	4
	42												
Total		12	19	0	26	14	23	42	22	11	40	19	23

Total Points Possible 504
Total Points 251
Average 20.92

David S. Wall
P.O. Box 756 Newberg, Oregon 97132

RECEIVED

FEB - 9 2018

February 9, 2018

VIA HAND DELIVERY

Initial: _____

Mayor Bob Andrews
Councilor Mark Murray; Councilor Stephen McKinney; Councilor Mike Corey
Councilor Patrick Johnson; Councilor Denise Bacon; Councilor Scott Essin
Newberg City Hall; 414 E. First Street; Newberg, Oregon 97132

Re: Wolves and People Veins to Steins Trail project: Where is the Public benefit? Where is the justification?

Dateline: County Desk [Friday, (02.09.18)] *Four (4) members of the Public were denied "Comments" at Public Meeting.*

I attended the Transient Lodging Tax Ad Hoc Committee meeting on; [Wednesday, (02.07.18)].

Mayor Andrews was in attendance but left sometime during the meeting. Councilor Murray was absent.

Enclosed herein you will find a two (2) page document entitled:

"Wolves and People Veins to Steins Trail project: Where is the Public benefit? Where is the justification?"

Dated: [Wednesday, (02.07.18)]

Since there was NO PUBLIC COMMENT on the aforementioned Meeting Agenda, you did not receive the documents in a timely manner. Personally, I do not understand why a PUBLIC MEETING held in a PUBLIC BUILDING that is OPEN to the PUBLIC does not have a PUBLIC COMMENT section on the agenda; hence the late delivery of the aforementioned documents.

As you can see from a date-stamped copy, the documents were hand-delivered and received the next day [Thursday, (02.08.18)] by the Yamhill County Planning Department. The Honorable Yamhill County Commissioners received copies of the documents during their regular business meeting, earlier the same day along with my report. The documents speak for themselves.

The TLT Ad Hoc Committee should obtain a copy of the Agritourism Permit issued by Yamhill County as referenced and incorporated into [DOCKET NO.: E-06-16]; prior to any discussions of Applicant's prayer for TLT Grant Award monies for a dubious investment of taxpayer dollars by the City of Newberg.

Today [Friday, (02.09.18)] I discovered a material conflict of interest with one (1) Member of the TLT Ad Hoc Committee who has a direct relationship with Wolves to People. This person should have recused them self from any rating and scoring to justify a TLT Grant Award for Wolves and People. This person's business also profited directly from a TLT Grant Award entity.

In my opinion, you have serious flaws on many levels with the TLT Ad Hoc Committee.

Respectfully submitted,
/s/ David S. Wall

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///
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Cc: TLT Ad Hoc Committee Members / Honorable Yamhill County Commissioners

Wolves & People Vines to Steins Trail

Funding Request \$65,000 - \$80,000

Criteria	Score Range	Lewis	Nicholas	McKinney	Bagley	Carda	Felton	Kelsh	Lattimer	Lippard	Louis	Love	Parrish
1. What is the projected return on investment													
a. Predicted number of tourists attracted/overnight guests	0-5	1	3	0	3	1	2	5	2	0	5	1	3
b. Will it have lasting impact and utility	0-5	2	3	0	4	3	2	5	2	3	5	4	2
2. Demonstrated history of attracting tourists/overnight guests	0-3	1	3	0	3	1	2	3	1	0	3	2	3
3. Does it engage and energize local tourism partner(s)	0-3	2	0	0	2	1	3	3	2	1	3	3	3
4. Does it enhance Newberg as a destination	0-5	1	0	0	4	2	4	5	3	2	5	2	2
5. Does it enhance Newberg as a location for Makers and Doers	0-3	1	3	0	2	2	1	3	2	0	3	1	2
6. Does it catalyze downtown development	0-3	0	0	0	1	0	0	3	2	2	1	0	2
7. Is it likely to increase visitor spending	0-5	0	0	0	2	1	1	5	2	1	5	1	1
8. Does it enhance tourism from October - May or any Sunday - Thursday Visitation	0-5	1	2	0	1	0	3	5	2	1	5	0	1
9. Does this project align with at least one of the four target audiences (Wine Country Adventurers, Millennial Explorers, George Fox Network, Luxury Wine Travelers)	0-5	3	5	0	4	3	5	5	4	1	5	5	4
42													
Total		12	19	0	26	14	23	42	22	11	40	19	23

Total Points Possible 504
Total Points 251
Average 20.92

REC
FEB 08 2018
YAMHILL COUNTY PLANNING

DEPARTMENT OF PLANNING AND DEVELOPMENT

525 NE FOURTH STREET • McMINNVILLE, OREGON 97128

Phone:(503) 434-7516 • Fax:(503)434-7544 • TTY: (800) 735-2900 • Internet Address: <http://www.co.yamhill.or.us/plan/>

COPY

June 23, 2014

Christian DeBenedetti
30295 NE Highway 99W
Newberg, OR 97132

Re: **Docket No. C-10-14, Tax Lot 3215-500**

Dear Mr. DeBenedetti:

In reference to your application for a conditional use and site design review for a commercial activity in conjunction with farm use for a brewery and tasting facility to be constructed in a barn on a parcel identified as Tax Lot 3215-500, the planning staff has reviewed your application and finds that it complies with the requirements of the Yamhill County Zoning Ordinance. Your application has been approved with the following conditions:

1. The facilities shall substantially conform to the site map submitted with the application. Prior to operation of the brewery or tasting room, any required building and septic permits and inspections shall be obtained from the Yamhill County Building Department.
2. No on-site tasting activities may be conducted prior to the construction of the tasting room. The tasting room may be open for daily tastings for the primary purpose of promoting and selling the beer made from the products harvested on-site and in the local area.
3. Events such as weddings, cooking classes and corporate retreats, etc. are not included with this approval. Agri-tourism and other commercial events or activities beyond those specified in condition 2 may be applied for through Section 1013 – Agri-Tourism Use Permits, of the Yamhill County Zoning Ordinance.
4. Prior to operation of the facility, the building and access will be required to meet the Newberg Rural Fire Department standards.
5. Parking shall be provided so that there is a minimum of one car per 100 square feet of floor area plus one space for each employee on maximum working shift. No on-street parking is allowed.
6. The use may have one on premise sign of not more than 24 square feet.
7. The use of outdoor amplified music or sound is not permitted.
8. Any food service shall conform to ORS 624.010 a “limited service restaurant” which means a restaurant serving only individually portioned prepackaged foods prepared from an approved source by a commercial processor and nonperishable beverage or shall be prepared off-site by a commercial caterer that is licensed and inspected by the Public Health Department.
9. Prior to operation of the facility, the applicant shall obtain all permits required by the Oregon Liquor Control Commission (OLCC) and the Oregon Department of Agriculture (ODA).

10. Prior to operation of the tasting room, the applicant shall obtain a statement from the Public Works Director, or his representative, that the proposed development complies with Yamhill County Ordinance 787.
11. The number of persons allowed in any portion of the tasting room shall not exceed the maximum number of persons allowed pursuant to the occupancy permit for such portion of the tasting room, if applicable.
12. Prior to initiation of the operation, the landowner shall sign an affidavit acknowledging the following declaratory statement and record it in the deed and mortgage records for Yamhill County:

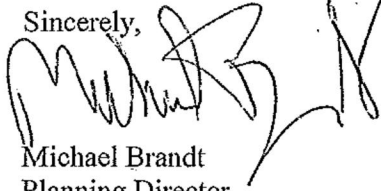
"The subject property is located in an area designated by Yamhill County for agricultural uses. It is the county policy to protect agricultural operations from conflicting land uses in such designated areas. Accepted agricultural practices in this area may create inconveniences for the owners or occupants of this property. However, Yamhill County does not consider it the agricultural operator's responsibility to modify accepted practices to accommodate the owner or occupants of this property, with the exception of such operator's violation of state law."

13. This approval shall expire two years from the date of this letter unless the use has been initiated.
14. This approval shall be deemed personal to the current property owner and shall not run with the land.
15. Modification of any of the above conditions requires approval under Section 1202.05 of the Yamhill County Zoning Ordinance. Violation of any of the above conditions may result in revocation of the conditional use permit with the process detailed in Section 1202.07 and 1202.08 of the Yamhill County Zoning Ordinance.

This decision is based on findings and conclusions as contained in the staff report. The Yamhill County Zoning Ordinance provides for appeal of any action or ruling of the Planning Director to the Board of Commissioners within fifteen (15) days of the decision on a proposed action. Anyone wishing to appeal the Director's decision must file an appeal form, together with a \$250.00 fee, with this department no later than 5:00 p.m., July 9, 2014. If no appeal is filed, the Director's decision will be final and this letter will serve as your official notice of approval of your application.

If you have any questions, please contact this office.

Sincerely,



Michael Brandt
Planning Director

cc: Board of Commissioners
Assessor
Public Works
Newberg Rural Fire District
Department of Agriculture
Cynthia Buswell-Development Review, ODOT Region 2, 455 Airport Rd SE, Bldg B, Salem OR 97301-5397
SPOs

STAFF REPORT
YAMHILL COUNTY DEPARTMENT OF PLANNING AND DEVELOPMENT

DATE: June 17, 2014

DOCKET NO.: C-10-14

REQUEST: Conditional use and site design review for a commercial activity in conjunction with farm use to establish a brewery and tasting room in an existing barn.

APPLICANT: Christian DeBenedetti

TAX LOT: 3215-500

LOCATION: 30295 NE Highway 99W, Newberg

ZONE: EF-20 Exclusive Farm use

REVIEW CRITERIA: Sections 402.04(G), 402.07(A), 402.10(B), and 1202.02 of the *Yamhill County Zoning Ordinance*. Comprehensive Plan policies may also be applicable.

COMMENTS: *Watermaster* - No response.
Yamhill County Public Works - No response.
Newberg RFD - Submit full set off plans to Newberg Fire for review. Building must meet all Oregon Fire Code requirements.
SWCD - No response.
Oregon Department of Agriculture - See Letter dated May 27, 2014.
OLCC - No response.
Sanitarian - No response.
City of Newberg - No response.
ODOT - See e-mail of June 11, 2014.
Denise E. Reilly, 13660 NE Lake Shore Drive - See comments received June 3, 2014.
Vicki Shepherd, 30230 NE Benjamin Road, Newberg - See comments received June 6, 2014.
Frances P. Svendsen, 30170 NE Benjamin Road, Newberg - See letter dated June 6, 2014.

FINDINGS:

A. Background Facts

1. *Lot size:* 21.53 acres.
2. *Access:* Benjamin Road, a paved County road. (Note: Although the home on the property is addressed from Highway 99W, the barn is accessed from Benjamin Road.)
3. *On Site Land Use:* The parcel currently has a barn, residence, guest house and a hazelnut orchard. The applicant proposes to use the barn for the brewery and tasting room.

4. *Surrounding Zoning and Land Use:* The surrounding properties to the north, south and east are all zoned EF-20 Exclusive Farm District and are generally farm parcels which contain orchards, vineyards and forested areas. To the southwest the property is in the city limits of Newberg. Property to the northwest is zoned VLDR 2.5 and contains rural residential uses.
5. *Soils:* The parcel is predominantly non-high-value farmland.
6. *Water:* Provided by an on-site well.
7. *Sewage Disposal:* The dwelling is served by a septic system. The barn has been used in the past as a winery, but has not had a tasting room. The tasting room may need a new septic system which will be required to be evaluated by the County Sanitarian.
8. *Overlay Zones:* The subject parcel is not located in an area which is designated as sensitive wildlife habitat, nor is it in the Willamette River Greenway, a floodplain or airport overlay district. The property is within the Parrett Mtn. Groundwater Limited Area.
9. *Previous Actions:* The property has an extensive list of previous land use actions which are in the file but will not all be listed here. The most relevant land use decision was Docket C-05-00/SDR-06-00 which approved the use of the barn as a winery in the year 2000.
10. *Fire Protection:* Newberg Rural Fire Department.

B. Conditional Use Provisions and Analysis

- 1 Section 402.04(G) lists commercial activities that are in conjunction with farm use as a conditional use and a site design review. These uses are defined in Section 402.10(B) which lists *"Retail sales and promotion of agricultural products, supplies and services directly related to the production, harvesting, and processing of agricultural products. Such uses include, but are not limited to, the following. . ."* Yamhill County has determined that a brewery and tasting room fall under this definition.
2. The conditional use criteria of YCZO Section 1202.02 are as follows:
 - (A) *The use is listed as a conditional use in the underlying zoning district;*
 - (B) *The use is consistent with those goals and policies of the Comprehensive Plan which apply to the proposed use;*
 - (C) *The parcel is suitable for the proposed use considering its size, shape, location, topography, existence of improvements, and natural features.*
 - (D) *The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or prevents the use of surrounding properties*

for the permitted uses listed in the underlying zoning district.

- (E) The proposed use is appropriate, considering the adequacy of the public facilities and services existing or planned for the area affected; and*
 - (F) The use is or can be made compatible with existing uses and other allowable uses in the area.*
3. As noted above, the applicant is requesting a brewery and a tasting room. Yamhill County Zoning Ordinance 402.04(G) lists these uses as a commercial activity in conjunction with farm use, subject to conditional use and site design review standards. The barn had a previous site design review so that is not being required. The request is consistent with criterion (A).
 4. Regarding criterion (B), Yamhill County goals and policies do not provide specific standards or review criteria for review of breweries or tasting rooms. The subject parcel is not located in an area which is designated as sensitive wildlife habitat, nor is it in the Willamette River Greenway, a floodplain or airport overlay district. The County Comprehensive Plan states that agriculture and forestry play a dominant role in the County's economy, and calls for preserving that role while increasing economic diversification and employment. The applicant's proposal appears to comply with that goal.
 5. Regarding criterion (C), the application needs to demonstrate that the parcel is suitable for the proposed use considering its size, shape, location, topography, existence of improvements, and natural features. Nothing in the record appears to indicate that the parcel is not suitable considering the size, shape, location or topography. The subject parcel is 21.53 acres which is large enough to support the proposed use and is located directly off of a public road. The applicant is not proposing to change any existing natural features and the brewery will be located inside the existing barn, located near the western property line.
 6. Regarding criteria (D), the permitted uses in the immediate area around the barn are primarily farm and rural residential uses. The proposed use will be for the processing and promotion of a product that is grown and harvested in the local area. The nearest residence to the proposed tasting room is a little over 100 feet to the northwest, across Benjamin Road. Comments were submitted from adjoining property owners which will be addressed in Finding B.8 below. However, the concerns from the neighbors do not appear to be related to interference with farm or forestry operations, rather they appear to be focused on traffic and potential interference with existing rural residential uses. It is the County policy to protect agricultural operations from conflicting land uses in such designated areas. Among the accepted farming practices of the area are many that could be in conflict with this use. Some examples are spraying pesticides, burning fence lines and plowing fields which create large amounts of dust. To make the operators of the tasting facility aware of the potential conflicts the landowner will be required to sign an affidavit and record it in the deed records for the County that acknowledges accepted farming and

forestry practices on adjacent parcels. With conditions, the request satisfies the criteria of 1202.02(D).

7. Regarding criterion (E), the area is currently served by the Newberg Rural Fire District; they have responded with requests to review the brewery and tasting room plans and assure that the building satisfies the fire code. This will be made a condition on any approval. The property is accessed directly off of Benjamin Road, which is a County road. No adverse comments were submitted by the Public Works Department. The road concerns voiced by the neighbors will be discussed in the following finding.
8. Regarding criterion (F), there were four letters submitted with concerns. Some of the concerns are addressed in the above criteria. Others are not. Issues not addressed by the review criteria are divided into categories and discussed below:

Traffic Safety/Access: Traffic safety and access on any road in the county is always a concern and the proposed additional access onto Benjamin Road is no exception. When the winery was established in the year 2000, the County Engineer did state that he had no objections but that any new or changed road access onto a County Road would require a permit and inspection from their office. The application was again referred to the County Engineer and he reviewed it and had no conflicts with the applicant's request. He noted in a phone conversation that the neighborhood had requested review of the speed along the road and the recommendation had been returned to reduce the speed to 40 MPH. Since this access had been used as a winery for a number of years, it does not appear that a brewery with a tasting room would be of significant difference to warrant additional traffic safety improvements. However, County Ordinance 787 review is required and an evaluation from a traffic engineer is warranted due to the concerns of neighboring property owners. Ordinance 787 deals with on-site and off-site traffic safety improvements in connection with commercial development. The results of the review can require payments for road improvements. An Ordinance 787 review will be required to be conducted prior to the use of the tasting room.

Property value: A neighbor was concerned about the effect of the use on property value. Property value is not an approval criterion.

C. EF Conditional Use Standards

Section 402.07(A) requires that prior to establishment of a conditional use; the applicant shall demonstrate compliance with the following criteria:

1. *The use will not force significant change in accepted farming or forest practices on surrounding lands devoted to farm or forest use.*
2. *The use will not significantly increase the cost of accepted farming or forest practices on surrounding lands devoted to farm or forest use.*

The parcel will continue to be used for farm and forest uses. While there were many

comments received from neighbors, they did not object based on interference or changes in farm or forest uses. As discussed above, the brewery and tastings are not expected to generate any adverse impacts upon surrounding lands that would lead to changes or increased costs in farming practices.

CONCLUSIONS:

1. The request is for a conditional use for a commercial activity in conjunction with farm use for a brewery and tasting facility.
2. With conditions, the request complies with criteria listed in Sections 1202.02 and 402.07(A) of the Yamhill County Zoning Ordinance.
3. The request complies with the goals and policies of the Yamhill County Comprehensive Plan.

DECISION:

Based upon the above findings and conclusions, the request by Christian DeBenedetti for a conditional use approval for a brewery and tasting facility on a parcel identified as Tax Lot 3215-500 is approved with the following conditions:

1. The facilities shall substantially conform to the site map submitted with the application. Prior to operation of the brewery or tasting room, any required building and septic permits and inspections shall be obtained from the Yamhill County Building Department.
2. No on-site tasting activities may be conducted prior to the construction of the tasting room. The tasting room may be open for daily tastings for the primary purpose of promoting and selling the beer made from the products harvested on-site and in the local area.
3. Events such as weddings, cooking classes and corporate retreats, etc. are not included with this approval. Agri-tourism and other commercial events or activities beyond those specified in condition 2 may be applied for through Section 1013 – Agri-Tourism Use Permits, of the Yamhill County Zoning Ordinance.
4. Prior to operation of the facility, the building and access will be required to meet the Newberg Rural Fire Department standards.
5. Parking shall be provided so that there is a minimum of one car per 100 square feet of floor area plus one space for each employee on maximum working shift. No on-street parking is allowed.
6. The use may have one on premise sign of not more than 24 square feet.
7. The use of outdoor amplified music or sound is not permitted.


8. Any food service shall conform to ORS 624.010 a "limited service restaurant" which means a restaurant serving only individually portioned prepackaged foods prepared from an approved source by a commercial processor and nonperishable beverage or shall be prepared off-site by a commercial caterer that is licensed and inspected by the Public Health Department.
9. Prior to operation of the facility, the applicant shall obtain all permits required by the Oregon Liquor Control Commission (OLCC) and the Oregon Department of Agriculture (ODA).
10. Prior to operation of the tasting room, the applicant shall obtain a statement from the Public Works Director, or his representative, that the proposed development complies with Yamhill County Ordinance 787.
11. The number of persons allowed in any portion of the tasting room shall not exceed the maximum number of persons allowed pursuant to the occupancy permit for such portion of the tasting room, if applicable.
12. Prior to initiation of the operation, the landowner shall sign an affidavit acknowledging the following declaratory statement and record it in the deed and mortgage records for Yamhill County:

"The subject property is located in an area designated by Yamhill County for agricultural uses. It is the county policy to protect agricultural operations from conflicting land uses in such designated areas. Accepted agricultural practices in this area may create inconveniences for the owners or occupants of this property. However, Yamhill County does not consider it the agricultural operator's responsibility to modify accepted practices to accommodate the owner or occupants of this property, with the exception of such operator's violation of state law."

13. This approval shall expire two years from the date of this letter unless the use has been initiated.
14. This approval shall be deemed personal to the current property owner and shall not run with the land.

15. Modification of any of the above conditions requires approval under Section 1202.05 of the Yamhill County Zoning Ordinance. Violation of any of the above conditions may result in revocation of the conditional use permit with the process detailed in Section 1202.07 and 1202.08 of the Yamhill County Zoning Ordinance.

DATED AND SIGNED this 28th day of June, 2014, at
McMinnville, Oregon.



Michael Brandt, Planning Director
Yamhill County Planning and Development

MB:kf

BEFORE THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of Upholding the Planning)	
Director's Approval and Denying the Appeal)	
of Docket E-06-16; Approval of a Permit to Allow)	
up to 18 Agri-tourism/Commercial Events per)	Board Order 17-74
Calendar Year on Property located at 30203 NE)	
Benjamin Road, Tax Lot 3215-500, Applicant:)	
Christian DeBenedetti)	

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) sat for the transaction of county business on March 9, 2017, Commissioners Stan Primozich, Mary Starrett and Richard L. "Rick" Olson being present.

IT APPEARING TO THE BOARD as follows:

A. By application dated August 30, 2016, Christian DeBenedetti requested county approval of a permit to allow up to 18 agri-tourism/commercial events per year at his existing, previously permitted brewery in an historic barn located at 30203 NE Benjamin Road, Newberg. The property, also identified as Tax Lot 3215-500, is approximately 21.53 acres and is zoned EF-20;

B. On October 25, 2016, following notice and an opportunity for interested persons to submit written comments, the Planning Director approved the application, with conditions. A timely appeal was filed, and a hearing was held before the Board on January 19, 2017. The hearing was then continued to February 16, 2017 for deliberation, following a three-week period in which the record remained open for additional written testimony and evidence, rebuttal, and the applicant's 'final word'; and

C. On February 16, 2017, following receipt of a staff recommendation to approve the application, the Board voted 3-0 to uphold the Planning Director's decision, and to deny the appeal, with staff directed to prepare written findings for final adoption on March 9, 2017; NOW THEREFORE,

IT IS HEREBY ORDERED BY THE BOARD AS FOLLOWS:

Section 1. The Planning Director's decision to approve Docket E-06-16 is hereby upheld, and the appeal filed in this matter is denied.

Board Order 17- 74
Page 1

Section 2. The findings and conditions attached as Exhibit A, and incorporated herein by reference, are hereby adopted in support of this order.

DONE this 9th day of March, 2017 at McMinnville, Oregon.

ATTEST:

YAMHILL COUNTY BOARD OF COMMISSIONERS

BRIAN VAN BERGEN

County Clerk

By: 

Deputy Crystal Cox

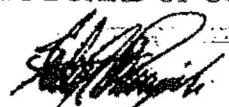
FORM APPROVED BY:



Timothy S. Sadlo

Senior Assistant County Counsel


Chair


STAN PRIMOZICH

Commissioner


MARY STARRETT

Commissioner


RICHARD L. "RICK" OLSON

**EXHIBIT A – BOARD ORDER 17-74
FINDINGS FOR APPROVAL AND CONDITIONS**

DOCKET NO.: E-06-16

REQUEST: To allow up to 18 agri-tourism/commercial events per calendar year on property located at 30203 NE Benjamin Road.

APPLICANT: Christian DeBenedetti

OWNER: Charles J. McClure

TAX LOT: 3215-500

LOCATION: 30203 NE Benjamin Road, Newberg

ZONE DESIGNATION: EF-20, Exclusive Farm use

REVIEW CRITERIA: Section 1013.01(A)(4) of the Yamhill County Zoning Ordinance and Oregon Revised Statute 215.296

FINDINGS:

A. Background Facts

1. *Lot Size:* 21.53 acres
2. *Access:* NE Benjamin Road, a paved County road.
3. *On-Site Land Use:* The parcel currently has a brewery and tasting room, a residence, guest house and a hazelnut orchard.
4. *Surrounding Land Use and Zoning:* The surrounding properties to the north, south and east are all zoned EF-20 Exclusive Farm District and are generally farm parcels that contain orchards, vineyards and forested areas. Properties to the southwest are in the City of Newberg and zoned for commercial or residential uses. Properties to the west and northwest are zoned VLDR 2.5 and contains rural residential uses.
5. *Water:* Provided by an on-site well.
6. *Sewage Disposal:* There is an on-site septic system serving the dwelling. The applicant is in the process of expanding the existing septic system for two indoor bathrooms in the brewery. The County Sanitarian has approved this system for up to five employees and 50 tasters, any more than 50 tasters requires portable toilets.
7. *Fire Protection:* Newberg Rural Fire District.
8. *Previous Actions:* The property has an extensive list of previous land use actions that are in the tax lot file. The most relevant land use decisions include an approval for the

establishment of a winery in the barn, which now houses the applicant's brewery and tasting facility (Docket C-05-00/SDR-06-00) and the approval for the brewery and tasting room (Docket C-10-14). Docket C-16-89 allowed for a home occupation bed and breakfast on the property that is no longer operating.

9. *Applicant's Request:* Page 2 of the application states: "These events will bring customers of all ages to the farm brewery to enjoy beers brewed on-site and catered foods prepared to go with them, often using farm produce and local produce whenever possible. Currently, lacking the availability of food options, the farm brewery cannot serve minors. These events will support the brewery operations by increasing visitor durations and allowing families with children to visit and enjoy our products."

B. Ordinance Provisions and Analysis

1. The county's decision to issue the requested permit was based on the applicant's demonstration of compliance with the review criteria in section 1013 of the Yamhill County Zoning Ordinance. Subsection 1013 was adopted through Yamhill County Ordinance 871, and allows "agri-tourism" and "other commercial" events in farm zones, in a manner that reflects authority granted to the county to approve such events by ORS 215.283(4). Section 1013 states:

"Agri-tourism and other commercial events or activities related to and supportive of agriculture may be approved in an area zoned for exclusive farm use subject to the standards and criteria in this section. Any permitted event or activity is personal to the applicant and is not transferred by, or transferrable with, a conveyance of the tract."

The subject property is 21.53 acres. The predominant use of the property is as a hazelnut orchard. The previously- approved brewery and tasting room are contained in an existing historic barn, with some seating outside, adjacent to the barn. The applicant is requesting permission to serve food, catered and/or from a food cart, for up to eighteen 72-hour periods, during which the brewery will typically be open for a total of 18 hours. (Operating hours for the events are Friday, 4-9 p.m., Saturday, 2-10 p.m. and Sunday, 12-5 p.m.) Food service is a "commercial" event or activity and in this case, may also be characterized as an "agri-tourism" event or activity, due to the location of the brewery (in an historic barn adjacent to a filbert orchard) and because the applicant has indicated that the events are for beer tasting, with a food truck (or other caterer) to provide food. The brewery produces beer made with recipes that include ingredients grown on-site such as hops, fruits, filberts, conifer and strains of wild yeast. Outside seating adjacent to the barn and facing the filbert orchard showcases the natural beauty of rural Yamhill County and presumably encourages patrons from outside the county to return for other agri-tourist events or to visit other agri-tourist venues. In this way, the proposed events are "related to" and "supportive of" agriculture.

EXHIBIT A – Board Order 17-74
Findings for Approval
and Conditions of Approval
Page 2

The application was made under Subsection 1013.01(A)(4) of the Yamhill County Zoning Ordinance, which states:

"4. In the alternative to 1, 2 and 3 above, up to 18 events on a tract may be permitted in a calendar year subject to the following:

a. The events or activities are incidental and subordinate to existing farm use on the tract and are necessary to support the commercial farm uses or the commercial agricultural enterprises in the area and;"

2. The events will be held in conjunction with the tasting of beer produced on site in an historic barn and in a seating area adjacent to the barn. Testimony received by the county that questioned whether the property is in farm use is rejected by the county as not credible. The county finds credible, and accepts, the applicant's statements and other testimony in the record indicating that the property contains a filbert orchard and that other crops grown on the site by the applicant and/or the owner include hops, fruits, filberts, conifer and wild yeasts that are used in the production of beer. The property is currently employed for the primary purpose of obtaining a profit in money by raising, harvesting and selling hazelnuts as well as a variety of other farm products that can be, and are, used to make and flavor beer.

The statute and county ordinance allow "events" or "activities" that are "incidental" in relation to the "existing farm use on the tract." Like the dictionary, the county considers "incidental" to mean "subordinate, nonessential, or attendant in position or significance: as * * * occurring as a minor concomitant" (Webster's Third New international Dictionary). Events or activities that are incidental to existing farm uses would be those that are less important, and subordinate to the existing farm uses on the tract.

The county finds that the proposal to have a single food cart operating on the site, for no more than 72 hours per "event," no more than 18 times per year, is unquestionably incidental to the existing farm uses taking place on the property. The hours of operation for the events at the brewery are Friday, 4-9 p.m., Saturday, 2-10 p.m. and Sunday 12-5 p.m., meaning that the food cart will operate fewer than the 72 hours allowed under the statute and ordinance. Under the approval granted by the county, the applicant can only operate the food cart over the course of 54 days out of the 365 available. Farm uses take place on the property 365 days per year. By infrequency alone, the operation of the food cart as allowed under the approval is incidental to the farm use of the property. The infrequency of operation also supports the county's conclusion that operation of the food cart is a "minor concomitant" when compared to the continued predominant use of the property to produce filberts and the other crops identified by the applicant.

As noted above, the dictionary definition of "incidental" contains the phrase "subordinate to." There are degrees of subordination, ranging from 'extremely minor' in comparison

EXHIBIT A – Board Order 17-74
Findings for Approval
and Conditions of Approval
Page 3

to the main use, or 'just barely' less, or less important, than the main use. The county interprets "subordinate" as used in the statute and ordinance to mean that the events or uses are clearly less important or less dominant than the main use. The approval allows service by a caterer or food cart at the site of an existing, approved brewery adjacent to a filbert orchard, for up to eighteen-72 hour periods per year, during which the events will take place for no more than 18 hours during the 72-hour period. Both the previously approved brewery and the service of food at the level approved by this Order are clearly subordinate to the existing farm uses on the 21-acre site. The "commercial farm uses" on the property include the filbert orchard, along with other fruits and vegetables raised on the property that are sold or used in the production of beer. The brewery is a permitted 'commercial use in conjunction with farm use' that cannot be collaterally attacked in this proceeding. The "commercial agricultural enterprises in the area" include the production of crops, including filberts and grapes. Other agriculturally related uses, including wineries, benefit from visitors to the county, who might come to sample beer at the brewery, and from their visit decide to return and visit other locations in Yamhill County that make wine or sell other farm products or market direct 'farm to table' or 'farm to fork' dining. The intent of the applicant is to feature, in the food served, locally produced food products. The applicant also indicated that spent grain from the brewery is provided to an area farmer who raises high quality pigs and produces bacon and other specialty pork products. He also stated that he plans to grow more of the ingredients used to make and flavor beer as the business grows, such as peaches, apricots, cherries and additional hops. Extensive testimony was received by the county in support of the brewery, from persons who live within, and outside of Yamhill County, suggesting that the brewery is already benefitting the agri-tourism industry in the county, and thus the agricultural industry in the county. At the same time, the applicant and others indicated that starting and maintaining a small business is difficult and tenuous. It is appropriate that the county do what it can, under statutory and ordinance authority, to allow small business/agricultural producers to promote the agricultural economy of the county and the natural beauty and products of the county's farms, when it can be done with minimal impact to surrounding uses.

"Necessary" generally means "absolutely needed." The applicant presented testimony that agri-tourism generally, and events promoting agriculture at the proposed site specifically, are necessary to support commercial farm uses taking place on the property, and/or are necessary to support the commercial agricultural enterprises in the area. The county interprets the term "necessary" to be more than merely "convenient." At the same time, a literal interpretation of the requirement could very well result in the inability of any agri-tourism or commercial use to qualify for approval. The intent of the statute and of the ordinance is to provide an opportunity for farm owners to make economic use of their farms by sponsoring events of the kind that wineries can already sponsor and conduct. Considering the especially limited, low-impact request being made in this instance, there is no basis for interpreting "necessary," as used in the statute and in the county's ordinance, in a manner that makes the standard impossible to meet. The county finds that the 18 proposed events are necessary for the applicant and landowner to continue to make a profit in money from farm uses taking place on the property. The county also finds that agri-

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tourism is, and will continue to be, an essential component of commercial agricultural enterprises in most areas of the county, and even more so at the point where a major state highway enters the county from the Portland metropolitan area.

In this case, the applicant has demonstrated that the proposed 18 food service events to take place in conjunction with operation of his previously approved brewery are incidental and subordinate to existing farm use on the tract and are necessary to support the commercial farm uses or the commercial agricultural enterprises in the area.

"b. Shall comply with Section 1013.01 (A)(3)(b) through (h) outlined below;

Section 1013.01 (A)(3);

(b) Shall not, individually, exceed 72 consecutive hours;"

Subsection (b) is not an approval standard. None of the events approved under this Order exceed 72 hours and, given the allowed hours of operation are not expected to occupy more than 18 hours of each 72 hour "event."

"(c) One of the six events may allow the artificial amplification of voice or music from 8 a.m. to 10 p.m."

Subsections (c) is not an approval standard. The county interprets the limitation of this section as referring to outdoor amplified music capable of traveling off-site. It does not limit the amplified music that might be played inside the barn/brewery or from small 'bookshelf'-style speakers in the outdoor seating area that are played quietly and in a manner that is not projected off of the site. A condition of approval limits the type of amplified music limited by this subsection to a single event per year during the hours of 8 a.m. to 10 p.m., and which is further limited by the hours of operation.

"(d) Shall comply with ORS 215.296;"

ORS 215.296 requires that the local governing body approve uses listed in ORS 215.283(4) only if it finds that the use will not:

"(a) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or

(b) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use."

Subsection (2) of ORS 215.296 states:

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“(2) An applicant for a use allowed under ORS 215.213(2) or (11) or 215.283(2) or (4) may demonstrate that the standards for approval set forth in subsection (1) of this section will be satisfied through the imposition of conditions. Any conditions so imposed shall be clear and objective.”

Under this standard, the county is required to identify the accepted farm and forest practices occurring on surrounding farm and forest lands, and to then consider whether the proposed use will force a significant change in, or significantly increase the cost of, those practices. The “surrounding lands devoted to farm or forest use” include all of the abutting farm parcels east of Benjamin Road. For the purpose of this analysis, it is not necessary to consider farm and forest uses taking place south of Highway 99W, because the highway corridor isolates the farm parcel where the events will take place from lands to the south. There is no scenario under which the proposed events could have an impact on farms south of Highway 99W, significant or otherwise.

All of the land west of Benjamin Road is zoned by the county for residential uses, or by the City of Newberg for residential or commercial uses. This analysis therefore focuses on abutting lands that are east of Benjamin Road and north of Highway 99W.

The area of consideration includes, predominantly, orchards, vineyards, and forested hills. Property to the north, like the subject property, contains a large filbert orchard. To the east are vineyards and a large winery. The owner of the vineyards and winery submitted testimony into the record in support of the applicant.

ORS 215.203 defines “farm use,” and contains the following definition of “accepted farming practice” that is appropriate to reference in this circumstance. ORS 215.203(2)(c) states:

“As used in this subsection, ‘accepted farming practice’ means a mode of operation that is common to farms of a similar nature, necessary for the operation of such farms to obtain a profit in money, and customarily utilized in conjunction with farm use.”

Generally, automated machinery and farm labor maintain vineyards and orchards in the area, and that includes the filbert orchard on the subject property. Disking of filbert orchards can create dust, and the use of pesticides and herbicides can create problems for nonfarm uses. No conflicts have been identified that will be caused by the proposed events and that have the potential to impact any farm or forest use or practice in the area.

The proposed use will take place adjacent to a county road and rural residential uses. The use (catered food service) is otherwise buffered on three sides by the farm on which the brewery is located. Approval of the event permit, in this case, will not “force” any of the adjacent or nearby farm users to change any of their farm practices. Benjamin Road is a county road that is capable of accommodating farm and rural residential uses, and to also

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provide access to neighborhoods in the City of Newberg. The proposed events will not create sufficient traffic to interfere with existing use of the county road or to hinder in any significant way the movement of farm equipment or farm labor on the county road. The applicant's efforts to run a successful brewery on the site, in part by staging events that will bring people onto the site, is evidence that the presence of such people at such events will not interfere, significantly or at all, with the accepted farm practices associated with the operation of a filbert orchard. In like manner, the fact that the brewery operates adjacent to a filbert orchard and that the owner favors events that will likely bring more people onto the site is evidence that the events will not increase the costs of growing and harvesting filberts on the site or elsewhere. The owner of the neighboring vineyard and winery submitted testimony in support of the proposed events, suggesting that no off site impacts are anticipated at the vineyard that might stem from the occasional serving of food at the existing brewery next door. The winery's testimony is that "having food accompany tastings enhances a visitor's experience, [and] showcases our local produce and community * * *." In this instance, the location of the proposed events almost guarantees that there will be no impact whatsoever to off-site agricultural practices or the cost of those practices. This is not a close case. Not only were no impacts alleged to farm practices or costs during the proceedings to consider whether to allow the requested events—there is no reasonable basis for concluding that the events, to take place in an area adjacent to a rural residential area and the City of Newberg to the west; adjacent to a major state highway to the south; and surrounded by on-site filbert orchards to the north and east, will have any impact whatsoever on agricultural practices or the costs of those practices on surrounding lands.

"(e) Shall occur outdoors, in temporary structures, or in existing permitted structures. Shall not require or involve the construction, use or occupancy of a new permanent structure in conjunction with the activities or events;"

Subsection (e) is not an approval standard. The events will take place both indoors, in the existing brewery and tasting room, as well as in an existing outdoor seating area adjacent to the brewery. No new permanent structures are proposed, nor is the construction of any new permanent structure allowed by this Order.

"(f) Shall comply with any applicable health and fire and life safety requirements;"

The proposed events will take place in compliance with all health, fire and life safety requirements, as follows:

Sanitation: The applicant currently has approval from the county sanitarian for two indoor bathrooms connected to a septic system and the applicant is currently working on installing these facilities, which will be inspected by the county. The applicant has noted that the existing portable toilets will be removed, but may be returned for certain events as needed, because the septic system is approved for up to 50 tasters. The county sanitarian has stated

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that four portable toilets would be required for up to 250 people. A condition of approval states: "During events in which the applicant anticipates that more than 50 person will be on site at the same time, the applicant shall provide four portable toilets with a hand-wash station."

Food handling and alcohol service: The applicant is aware of his responsibility to obtain all necessary permits from the OLCC and the Public Health Department. Conditions of approval ensure compliance with these requirements, by requiring that the applicant obtain approval from the OLCC for the service of alcohol, and requiring that "Any food service provided shall be prepared from an approved source that is licensed and inspected by the Public Health Department."

Parking and Access: There are currently 150 parking spaces available at the brewery, and the maximum expected attendance for the events is 250 people. The amount of parking now available is more than adequate to accommodate the maximum attendance. A condition of approval limits the maximum number of persons that may be on the site during an event to no more than 250. Another conditions states: "The maximum number of vehicles at any one time shall not exceed 125 vehicles and an area to provide up to 125 parking spaces shall be maintained during the events. No on-street parking is allowed." It is feasible for the applicant to park up to 125 vehicles on the site, and the conditions of approval help to ensure that adequate parking areas will be provided. The single access to the brewery was approved by the Public Works Department and the Fire Marshall prior to the opening of the brewery. There are no other allowed access points to the existing brewery, where the events will take place.

Traffic Safety: The property is accessed by NE Benjamin Road, from its nearby intersection with Highway 99W. The entrance to Benjamin Road from the east has good sight distance. A median lane allows safe entry to Benjamin Road from the west. Benjamin Road is narrow and without adequate shoulders, just like almost every other County Road, but sight distance at the entrance to the brewery is also good. Testimony was received indicating that Benjamin Road is unsafe, but evidence in the record supports a conclusion that the level of traffic anticipated to be generated by the proposed events is insignificant, and will have no impact on the safety of NE Benjamin Road. There have not been any traffic accidents related to the brewery or its parking lot entrance since the brewery and its tasting room opened. The county also accepts as credible the applicant's statements regarding the seriousness with which his employees take legal requirements prohibiting service of alcohol to anyone who is visibly intoxicated. The levels of additional traffic anticipated to be generated by the proposed events is *de minimis*, and not anticipated to affect the safety of the public using NE Benjamin Road.

"(g) Shall not, in combination with other agri-tourism or other commercial events or activities in the area, materially alter the stability of the land use pattern in the area; and"

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For purposes of this analysis, the "area" includes the land surrounding the barn and outdoor seating area where food service events will take place, and extending approximately one-half mile in every direction. The area could be extended further, but extending it would only bring in additional farm and forest land that is much like the subject property, and additional urban areas. As noted elsewhere in these findings, the area includes land zoned EFU (EF-20) along Benjamin Road to the north and east, containing forested hills, filbert orchards and vineyards. The area under consideration also includes a section of Highway 99W, a four-lane highway with a center median lane and shoulders. There are also forested and farmed hills, agricultural buildings and residences to the south of, and adjacent to 99W, and some of that area is zoned AF-10. The area south of the highway is effectively separated from the proposed use by a very busy transportation corridor. Immediately across Benjamin Road to the west are single family, rural residential dwellings, on lands zoned VLDR-2.5. Also just across Benjamin Road are lands within the City Limits of the City of Newberg that are zoned residential and commercial.

The brewery is in an historic barn, and part of a "farm ensemble" that is on The National Register of Historic Places. There is also a residence and guesthouse, a pond, fruit trees and fruit/vegetable/herb gardens in the southwest corner of the property, but the predominant use of the 21.53-acre property is as a filbert orchard. There are forests, filbert orchards, vineyards and a major winery with a tasting room (A to Z Wineworks, zoned Resource Industrial) in the area under consideration for this analysis. A significant level of commercial events and activities take place at the winery, and once constructed, it is presumed that commercial events and activities will take place in areas zoned for those uses in the City of Newberg.

The "land use pattern in the area" is decidedly mixed, including extensive, established farm uses (mostly filberts and grapes) along with rural residential uses and commercial and residentially zoned land within the City of Newberg. While mixed, the uses appear to be "stable," in that they are all established or expected to take place in existing zones.

The proposal, once again, is for a use that is not permanent and is limited by conditions of approval. It involves what can only be described as the "occasional" service of food, catered or from a food cart, at an existing, permitted brewery located in an historic barn. Eighteen 72-hour events are allowed, that are further constrained by the hours of event operations during the proscribed 72-hour period (totaling 18 hours). The permit can be terminated after one year, or renewed at that time for four years. Given the already mixed nature of the uses in the area, between urban and rural, it is reasonable for the county to conclude that allowing the service of food in this way within or adjacent to an existing structure where brewing and tasting beer are allowed, will have no direct, material, substantial, economic, causal effect on any use in the area, and will have no impact whatsoever on the economic stability of the area.

The county predicts that no uses (zero acres) in the study area will potentially change if food is served in a barn and seating area adjacent to a barn, up to 18 times per year, at the

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site. Benjamin Road is suitable for use by both farm equipment and by residents and brewery patrons, and there is no other conceivable interference that the proposed events will cause to farm or residential uses in the area. "Material" means that some significant level of alteration will occur. It is perhaps conceivable that the success of Wolves and People will encourage the creation of other "farmhouse" breweries, somewhere in the county, serving food under an "event" permit, but creation of the brewery in the first place would require an application for a conditional use permit, and the consideration of potentially conflicting uses.

The county is also considering the cumulative effect of historical, current and projected nonfarm development in the area to conclude that issuance of the requested event permit will not materially alter the stability of the land use pattern in the area. If there is any "trend" taking place in the area, it is toward the development of more intensive urban uses. Issuance of the event permit in this case will have a negligible impact, especially in comparison to the changes anticipated development within the city will likely bring.

In conclusion: the impacts of issuing the requested permit are negligible with regard to the stability of the land use pattern in the area, over both the short and long term. There is no immediate, significant short-term threat to the stability of the area, and no long-term threat, considering development trends and possible cumulative impacts. The standard is met.

(h) Must comply with any conditions established for:

(i). The types of events or activities that are authorized during each calendar year, including the number and duration of events and activities, the anticipated daily attendance and the hours of operation;

(ii). The location of existing structures and the location of proposed temporary structures to be used in connection with the events or activities;

(iii). The location of access and egress and parking facilities to be used in connection with the events or activities;

(iv). Traffic management, including the projected number of vehicles and any anticipated use of public roads; and

(v). Sanitation and solid waste.

Subsection (h) does not contain standards for approval of an event permit. The applicant has indicated a willingness and ability to comply with all established conditions of approval, including those referenced in subsection (h).

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c. Shall occur on a lot or parcel that complies with the acknowledged minimum lot or parcel size;

The minimum lot size applicable to the subject property is 20 acres, and the subject parcel is 21.53 acres. The application meets this requirement.

d. Permits approved under this subsection expire one year from the date of approval;

e. Such permits may be renewed at four year intervals subject to:

(i). An application for renewal;

(ii). Public notice and public comment as part of the review process;
and

(iii). Demonstration of compliance with conditions of approval and the standards of this subsection.

Under a condition of approval, the permit being issued will expire one year from the date of approval. The county's consideration of a renewal request will be subject to the requirements of subsection e., above.

CONDITIONS OF APPROVAL:

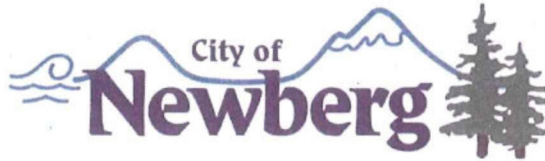
Based upon the above findings and conclusions, the request by Christian DeBenedetti for permission to have a food cart or caterer present for up to eighteen "agri-tourism events" per year in conjunction with beer tasting at his existing brewery on Tax Lot 3215-500, is hereby approved with the following conditions:

1. The events shall not, individually, exceed 72 consecutive hours and shall not exceed the hours of operation as noted in the application, which are: Friday 4-9 p.m., Saturday 2-10 p.m. and Sunday 12-5 p.m.
2. The maximum number of persons that may be on the site during an event shall not exceed 250.
3. The maximum number of vehicles at any one time shall not exceed 125 vehicles and an area to provide up to 125 parking spaces shall be maintained during the events. No on-street parking is allowed.
4. The artificial amplification of voice or music is allowed for one yearly event only between the hours of 8 a.m. to 10 p.m.

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5. The applicant shall obtain approval from the Oregon Liquor Control Commission (OLCC) for the service of alcohol.
6. One food cart is allowed for the 18 approved events per calendar year. Any food service provided shall be prepared from an approved source that is licensed and inspected by the Public Health Department.
7. During events in which the applicant anticipates that more than 50 persons will be on site at the same time, the applicant shall provide four portable toilets with a hand-wash station.
8. This approval is personal to the applicant and is not transferred by, or transferrable with conveyance of the tract.
9. This approval shall expire one year from the date of this letter but may be renewed for a four-year period subject to a renewal application and compliance with the above conditions of approval and the standards of Section 1013 of the YCZO.

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RECEIVED

OCT 09 2017

Initial: DR

**City of Newberg 2017 - 2018
Transient Lodging Tax – Destination Development and Marketing
Promotion Grant Program Application Cover Page**

Project Title: The Vines-to-Steins Trail

Applicant Name: Wolves & People Farmhouse Brewery

Mailing Address: 30203 NE Benjamin Rd. Newberg OR 97132

Street

City

State

Zip

Contact Name: Christian DeBenedetti, founder/owner/head brewer

Phone: 503-487-6873

Email: christian@wolvesandpeople.com

Amount of total Funding Requested: \$65,000

Please note: Funds not spent on the approved project must be returned to the City of Newberg by check with the Final Report due 30 days after completion of the project, program or event.

Project, Program or Event Detail:

- A. To apply, attach a completed application to this cover sheet along with any required supporting materials.
- B. Submit an updated Project, Program or Event Detail as your Progress Report.
- C. Within 30 days after project, program or event is complete submit a Final Report. Attach receipts/paid invoices for monies spent and a check to the City of Newberg for any unspent funds.

Any changes to your project must have prior approval to receive funding.

I agree to all terms described on this application and verify that the information provided on this cover sheet is true and accurate.

Print Name: Christian DeBenedetti

Signature: CDB

Title: Founder/Owner/Head Brewer

Date: 10/9/17

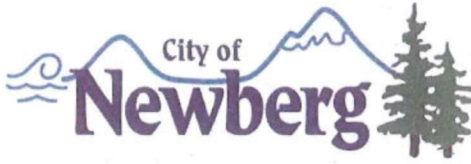
*****FOR OFFICE USE ONLY*****

APPROVED/NOT APPROVED/REVISED (ATTACH DETAILS) _____

Progress Report Received: _____

Final Report received: _____

Funds returned, received on: _____



**City of Newberg 2017 - 2018
Transient Lodging Tax – Destination Development and Marketing
Promotion Grant Program Application**

THE FOLLOWING ITEMS MUST BE INCLUDED WITH YOUR APPLICATION:

- ❖ Completed application Cover Sheet.
- ❖ Budget for project/program/event being funded that lists all anticipated income and expenses.
- ❖ Board or Owner approved financial statement for most recently completed fiscal year of the organization or business responsible for the project/program/event.
- ❖ Letter signed by officers of the Organization's Board of Directors or Business Owners authorizing this application.
- ❖ Documentation of organization or business existence: Current, valid Oregon Secretary of State Corporation Division registry filing.
- ❖ Documentation that no bankruptcy or other financial corruption has occurred within the past five years.
- ❖ Letters of support.

Project Title: Vines-to-Steins Interpretive Walking Trail & Visitor Pavilion

Applicant Name: Springbrook Beer LLC DBA Wolves & People Farmhouse Brewery

Mailing Address: 30203 NE Benjamin Rd. Newberg OR 97132

Street

City

State

Zip

Contact Name: Christian DeBenedetti

Phone: 503-487-6873

Email: Christian@WolvesandPeople.com

Website Address: www.wolvesandpeople.com

Secretary of State Business Registry Number: 917658-92

Non Profit _____

Government _____

For-Profit ☒ _____

Amount of total Funding Requested: \$80,000 (Phase One: \$15,000; Phase Two: \$65,000)

Please note: Funds not spent on the approved project, program or event must be returned to the City of Newberg by check with the Final Report due 30 days after completion of the project, program or event.

Classify how funds will be used for your project/program/event: *check all that apply*

☒ New Project ☒ New Program ☒ New Event

☐ Existing Project ☐ Existing Program ☐ Existing Event

Has this project, program or event received these grant funds in the past?

No.

If so when and for how much?

Prior year grant award through this program does not guarantee additional funding in subsequent years. All returning projects, programs or events must reapply and are subject to approval. This program has limitations of funding available in the fiscal year in total amount of funds requested. All required reports must be in good standing at the time of application for future funding by a past grant recipient.

Budget Summary (this format must be used):

Project/Program/Event Budget: This budget provides the detail of the project, program or event that the grants funds would be applied to. This should include how the funds from this grant will be spent. Expenses must be explicitly defined. Please include in-kind and cash match.

Fiscal Year: __2018__ to __2019__

APPLICANT'S NOTE: The project will proceed in **two phases**: PHASE ONE, a joint effort with A to Z Wineworks and Wolves & People to establish and mark a tourist-friendly, interpretive walking trail between our tasting rooms. PHASE TWO will be the construction of a visitor pavilion to be designed and built by Wolves & People as a separate project, also seeking funding from the Large Grant Program, but not from A to Z.

Income Sources	Amount
Wolves & People Brewery	\$15,000 Phase ONE
A to Z Wineworks	\$15,000 Phase ONE
Large Grant Program Matching Funds	\$15,000 Phase ONE
Wolves & People	\$15,000 Phase TWO
Large Grant Program Matching Funds	\$50,000 Phase TWO
Total Project/Program/Event Income	\$110,000

Expenses – Must be explicitly defined.	Amount
--	--------

GOAL: Create an interpretative walking trail between two premier Newberg agritourism destinations.

PHASE ONE, Excavation: Working with local excavators and A to Z Wineworks, a simple footpath route will be delineated and constructed along the neighboring farm properties from the shared property line at Benjamin Road Eastward toward A to Z's lower vineyards, then continuing North and East toward A to Z Wineworks HQ. Visitors will walk through the scenic hazelnut orchard and neighboring vineyards, with views of the Chehalem Valley toward the Coastal Mountains. The parking and footpath will take out zero working farmland, utilizing a road previously constructed and broad tractor paths already existing in the vineyards. Traversing the trail in one direction on foot (with no unauthorized motorized vehicles allowed) will take approximately 15-20 minutes. Additional gravel parking on fallow farmland will accommodate visitors. The path will be free of charge. Visitors will walk the path at their own risk. The path will be open only during business hours of both businesses.

Phase ONE Excavation and Trail Preparations \$25,000

<p>Signage: we will commission durable interpretive signage explaining the route itself along with several key historical aspects such as 1) the significance of hazelnuts to Newberg and Oregon 2) the importance of Pinot noir and other grape cultivation in Newberg and its surrounding areas 3) the history of the Rex pioneer community 4) the history of the Southern Pacific Railroad and Red Electric train which were located immediately Northeast of both properties 5) the importance of Newberg's founding pioneer Sebastian Brutscher as the path will pass just a few feet North of the NE corner of the Donation Land Claim on which Brutscher and his wife Mary Everest originally farmed hops, wheat, and oats starting in 1850 in 6) the importance of preserving and protecting farmland as well as native flora and fauna like Douglas Fir, red tail hawks, Great Blue Heron, and other organisms native to the ecosystem 7) with great views of town, the early history of Newberg itself 8) the importance of Parrett Mountain and its pristine aquifer from which the brewery's water is drawn 9) the geologic history of The Chehalem Mountains and Coast Range visible to the North and West and how the local geology relates to viticulture 10) a brief history of each farm property. The signage will be carefully vetted for historical and scientific accuracy.</p>	<p>Phase ONE, Ten Permanent Signs Creation and Placement \$15,000</p>
<p>Media & Marketing: In months prior to the trail's dedication in Spring 2018, a local public relations professional will be hired to work with the teams at A to Z and Wolves & People to publicize this new community offering as an attraction that greatly enhances Newberg's reputation as having among Oregon's (and the nation's) best agriculture, winemaking, and brewing. This tourism marketing outreach will focus on regional and national media attention, and ideally partnership with Travel Oregon and local DMOs to broaden the reach. Additional information on budget can be provided.</p>	<p>Phase ONE Marketing \$5,000</p>

PHASE TWO: Pavilion. Working under the direction of Wolves & People, local builders Griffins Gardens will construct a 72x20 pavilion structure near the trail's starting point on Springbrook Farm and Wolves & People Farmhouse Brewery (\$41,000 plus excavation, electrical, assorted finish work and masonry). This will be either the starting and ending or midway point of walkers (who begin the trail at the winery) and will function as a community gathering spot in addition to shade and shelter for visitors and customers. The pavilion will be ADA-accessible, built from rough-hewn cedar and offer impressive year-round views of Parrett Mountain, vineyards, and the Chehalem Mountains. The pavilion will be tasteful, inviting, and low-profile, with a gravel area and outdoor firepit.	Phase TWO - Pavilion \$65,000
Total Project/Program/Event Expense	PHASE ONE: \$45,000 PHASE TWO: \$65,000 TOTAL \$110,000

Organization Budget: This budget shows how this project, program or event fits into your organization. Your project, program or event should be shown as a line in this budget.

Fiscal Year: 2018 to 2019

Income Sources	Amount
----------------	--------

Total Organization Expense	

Project Narrative:

1. Project description: Newberg is home to some of the best wineries, farms, and breweries in the state, nation, and indeed the world. With the successful launch of our brewery in 2016, the Vines-to-Steins Trail was conceived of as a joint venture between A to Z Wineworks, Wolves & People Farmhouse Brewery, and Ellen & Charles McClure, property owners of Springbrook Farm where Wolves & People brewery is established. Newberg's fame as a destination for discerning wine, food, and beer lovers is growing day by day, and the applicants feel this walking path connecting their two businesses will only enhance that reputation, offering a free, original, safe, low-impact, interpretive/informational/educational attraction for visitors of all ages. To our knowledge, there is no similar trail in the world connecting a world-class winery business with an upstart brewery that is rapidly reaching the same world-class status, which will make for a compelling reason to visit Newberg and its culture of excellence in the field of fermentation. Visitors to Yamhill County's prestigious wineries are increasingly interested in the emerging local craft brewing scene. We are uniquely situated, with bordering properties and historic-register buildings, to build a one-of-a-kind agritourism experience in Newberg. Our brewery is already family-friendly, and the interpretive trail will be an attractive draw for families and out-of-town visitors.
- 2.

Goal Number One is, "Tourism bolsters Newberg economy in measurable ways." In seventeen months of operation, Wolves & People has drawn visitors from across the city, region, nation, and overseas. A to Z Wineworks, one of the state's biggest (if not *the* biggest players in Oregon wine, has a global reputation for quality and a showpiece new winery. By linking our businesses in this way we will attract visitors eager to experience the best Newberg has to offer in a healthy and zero-cost way.

Goal Number 2. "Newberg is a destination of artisan makers and doers." Both Wolves & People and A to Z exemplify the spirit of artisanship. By pursuing their passions to share with the world,

both businesses have realized their dreams of creating unique and valuable additions to their respective industries and the local community. Both were founded with elbow grease and uncompromising vision, and both employ and cultivate “doers” in their operation, dedicated to a wholesome pursuit of excellence in wine and beer forms.

As for Goal 3, “Tourism funding and industry partners catalyze downtown development, and creation of new experiences for target audiences,” this trail will impact downtown development indirectly by steering visitors to the other restaurants and related businesses in the downtown core. It will also draw visitors from Portland to the area who seek a family day out with a walk, some history, and fabulous views.

Regarding Goal #4, “The tourism organization and strategy engage and energize local tourism partners and demonstrate healthy partnerships between the private sector and city,” we feel this concept is highly marketable to travel and food/drink/beer/wine journalists around the world, and we would look forward to working with local tourism partners to get the word out. The wine/beer trail will be a unique experience that will draw additional visitors to the area; it is our experience that visitors to wineries are also interested in artisanal beer- we will build a unique connection between the two. (Much of our beer is aged in wine barrels- the connection is real.)

As for Goal 5, “Moon shots - tourism encourages sustainable development that benefits the local community and enhances the visitor experience,” we feel this idea is original, exciting, and unusual enough to greatly enhance Newberg’s reputation as a world-class destination for travelers and quality of life for aspiring home owners.

3. How does your project, program or event align with Transient Lodging Tax regulations (Tourist, Tourism Promotion, Tourism Promotion Agency, or Tourism related facility)?

We believe the trail and pavilion would closely align with the regulations as they are written.

4. What is the projected return on investment? We would hope that the amount of coverage and enjoyment generated by the trail and pavilion would be substantial enough to impact the city directly by drawing out of town visitors and their holiday budgets to Newberg. Each business would see an upturn in visitors to the respective tasting rooms. In a 2013 study by the Oregon Wine Board, the state’s industry brings in \$3.3B to the economy. The beer industry in Oregon brings \$4.49B to the state. Our project budget would amount to just 0.00142% of this combined number and we believe the increased tax revenue to Newberg and Yamhill County will be more than offset. The payback may well occur in the first year of operation. Further, according to the Yamhill County Agri-Business Economic and Community Development Plan of 2009, “facilities to support outdoor tourism are lacking – including trail systems, bicycle paths, riverfront parks, and campgrounds...” This trail directly responds to well-identified needs and goals by Newberg and the county. That 2009 study is packed with urgent recommendations for local businesses and government to support increased tourism options that “connect the dots” between local producers, the wine and farming industries, maker culture, outdoor recreation, and hospitality.

5. Predicted number of tourists' attracted / overnight guests? It is difficult to say at this time, but we would conservatively estimate an upturn in our number of visitors of 10-20% over 2017 levels.
6. Will it have lasting impact and utility? The trail and pavilion will be long lasting and useful for decades to come.
7. How does your project, program or event leverage funding? PHASE ONE is 200% matched by our own respective funds. In PHASE TWO Wolves & People is able to support approximately 15% of the budget.
8. What is the ratio at which Transient Lodging Tax funds will be matched? PHASE ONE: 2:1. PHASE TWO: 1:6.
9. What is your demonstrated history of attracting tourists? Since opening our doors in May 2016, we have welcomed many thousands of guests, and the percentage of visitors from Portland and beyond the state is quite substantial. There were visitors from California, Washington, and the Midwest on our opening day. We have generated positive media coverage from local to national print publications including *Travel + Leisure*, *Sunset*, *USA Today*, and a nationally-televised Japanese documentary program, among others. Our website keeps a tally of coverage, with over 30 significant editorial stories on our business in 17 months. Comparing the periods of opening day in May 2016 to May-October 2017, we show a 68% rise in sales, indicating we are on a path to prosperity.

10. Does your project, program or event engage and energize local tourism partner(s)?

This is a prime opportunity to get local entities together to promote a walking path between our winery and brewery. We foresee working with many partners locally to get the word out and cross promote like-minded restaurants and hotel partners like the Allison, which itself is walking-distance from our two properties. Winery tour operators would be interested in the unique nature of this idea to create more visitor traffic to Newberg.

11. Does your project, program or event enhance Newberg as a destination? If so how?

In my former professional I was a professional travel writer based in New York and took the liberty of called Newberg the "Napa of the North" in an article for *Departures Magazine*. While no one wants to see suffocating levels of tourism with buses and crowds, we at the brewery and winery feel that we have a compelling story to share with the world and even more compelling products, made from local ingredients with local know-how and a deep respect for area history and traditions. We are drawing a coveted type of tourist: educated, affluent, tasteful, exploratory, and energetic.

12. Does your project, program or event enhance Newberg as a location for Makers and Doers? If so how? We will employ local contractors to get this project done for starters, and the trail itself will stand as a testament to the idea that Newberg fosters a culture of making and doing. Both businesses were started as passion projects that have evolved into viable efforts that have drawn many visitors and fans. People who walk the trail will experience a small brewery and major winery, and feel they've accomplished something in the process. The walk will be healthful and invigorating.

13. Does your project, program or event catalyze downtown development? If so how?

While Wolves & People aspires to expand to downtown Newberg, this project will indirectly impact downtown. As we do presently, we will continue to direct visitors to the downtown core in order to enjoy Newberg's great restaurants, shops, and walking areas. We are located adjacent to Newberg, just a mile from the Allison Hotel & Spa, and will be one more reason for people to visit and shop in the area.

14. Does your project, program or event enhance offseason (October – May or Sunday – Thursday Visitation), or shoulder season visitation? Explain how. We think this can be an almost year-round attraction (with the possible exception of snowy days in January and February). Guests will be able to warm up in the pavilion and venture out on the path rain, sleet, or shine (but preferably around sunset for the views). We enjoy walking in our respective hazelnut farm and vineyards year-round.

15. Does this project align with at least one of the four target audiences (Wine Country Adventurers, Millennial Explorers, George Fox Network, or Luxury Wine Travelers)?

All four. We believe wine country adventurers, Millennial explorers, George Fox families, and luxury wine travelers will all be attracted by this concept. Currently we at Wolves & People get many guests from the Allison Inn & Spa, for example, and we are in the process of developing tour packages and perhaps even a special beer for the hotel. We are also pairing up with The Vintages in Dayton on a brewery tour package, which shows our appeal to Millennial Explorers.

16. What is the timeframe for completion of your project, program or event? We could break ground on the Pavilion and Vines-to-Steins Trail within a month of grant approval or perhaps sooner if schedules and weather allow. We have contacted builders and excavators to create bids and timeframes. With approval by January 31st, 2018, we think both the trail and pavilion could be ready for an opening in late Spring, 2018 (i.e. May/June).

Signature and Certification Letter:

I hereby certify that all facts, figures and representations made in this application, including all attachments, are true and correct. This application is made with the written approval of my Board of Directors or Owners, which is attached to this application.

I agree that all publicity, press releases, publications, materials and or media advertising produced as part of this proposed project/program/event will acknowledge the grant program as follows:

"This project/program/event is made possible in part by a grant from Newberg transient lodging taxes and the City of Newberg."

A agree to carry out this project/program/event as outlined within the application. Further, I understand that failure to do so will invalidate this agreement and necessitate the immediate return of all Transient Lodging Tax grant monies to the City of Newberg.



Signature of Authorizing Official

10/9/17

Date

Christian DeBenedetti
Print Name of Authorizing Official

AMENDED ANNUAL REPORT

201



Corporation Division
www.filinginoregon.com

E-FILED
Jan 25, 2017
OREGON SECRETARY OF STATE

REGISTRY NUMBER

91765892

REGISTRATION DATE

02/22/2013

BUSINESS NAME

SPRINGBROOK BEER LLC

BUSINESS ACTIVITY

BREW PUB

MAILING ADDRESS

WOLVES AND PEOPLE FARMHOUSE BREWERY
30203 NE BENJAMIN RD
NEWBERG OR 97132 USA

TYPE

DOMESTIC LIMITED LIABILITY COMPANY

PRIMARY PLACE OF BUSINESS

30203 NE BENJAMIN RD
NEWBERG OR 97132 USA

JURISDICTION

OREGON

REGISTERED AGENT

CHRISTIAN DEBENEDETTI

SPRINGBROOK FARM
30203 NE BENJAMIN RD
NEWBERG OR 97132 USA

If the Registered Agent has changed, the new agent has consented to the appointment.

MEMBER

DANIEL SHELTON

PO BOX 486
BELCHERTOWN MA 01007 USA

MEMBER

JOHN F KRESKGE

1030 NW 12TH AVE
PORTLAND OR 97209 USA



MANAGER

CHRISTIAN DEBENEDETTI

SPRINGBROOK FARM
30203 NE BENJAMIN RD
NEWBERG OR 97132 USA

By my signature, I declare as an authorized authority, that this filing has been examined by me and is, to the best of my knowledge and belief, true, correct, and complete. Making false statements in this document is against the law and may be penalized by fines, imprisonment, or both.

By typing my name in the electronic signature field, I am agreeing to conduct business electronically with the State of Oregon. I understand that transactions and/or signatures in records may not be denied legal effect solely because they are conducted, executed, or prepared in electronic form and that if a law requires a record or signature to be in writing, an electronic record or signature satisfies that requirement.

ELECTRONIC SIGNATURE

NAME

CHRISTIAN DEBENEDETTI

TITLE

FOUNDER

DATE SIGNED

01-25-2017

AMY PROSENJAK

President

A to Z Wineworks • REX HILL

30835 N. Hwy 99W Newberg, OR 97132

503.550.0912 (cell)

Amy@AtoZwineworks.com

AtoZwineworks.com • REXHILL.com

A to Z Wineworks is excited to be working with our neighbors and friends at Wolves & People Farmhouse Brewery to establish the "Vine to Stein" trail connecting our establishments. We feel that this is a way for us to bring education and fun to the community of Newberg, while celebrating its history and creating new connections for its future. Our picturesque neighboring properties used to be conjoined and we often partner to elevate visitor experiences.

Signed,

AMY PROSENJAK

President



Oct. 9, 2017

To The Committee,

As Newberg residents since 1967 and enthusiastic supporters of the local wine—and more recently, beer—industries, we wish to write in full support of the nature trail to be constructed along our shared property lines with Rex Hill/A to Z Wineworks. We have enjoyed many decades of warm relations with our winemaking neighbors to the Northeast of Springbrook Farm, and we are also staunch supporters of the farmhouse brewery our son Christian opened on our property in May, 2016. We believe this walking path will greatly enhance the memorable experiences of visitors to Newberg, offering a safe and salutary diversion between samples of world-class wine and beer.

Regards,

Charles & Ellen McClure,
Owners, Springbrook Farm
30295 N. HWY. 99W.
Newberg, OR 97132



TOURISM & AGRITOURISM CENTRIC

- possibly a "world's first"
- two pathbreaking Newberg-based businesses
- promotes "heads in beds"; the trail will attract out-of-town and potentially overseas visitors
- gentle 1.5 to 2 mile walking route is low-impact & family friendly, safe, healthy, educational, fun
- a paid tourist attraction, not a free public park; a "passport" for admission; but no alcohol on the trail
- coordinated media strategy with local, regional, national, international outreach
- long history of goodwill and cooperation between neighbor businesses

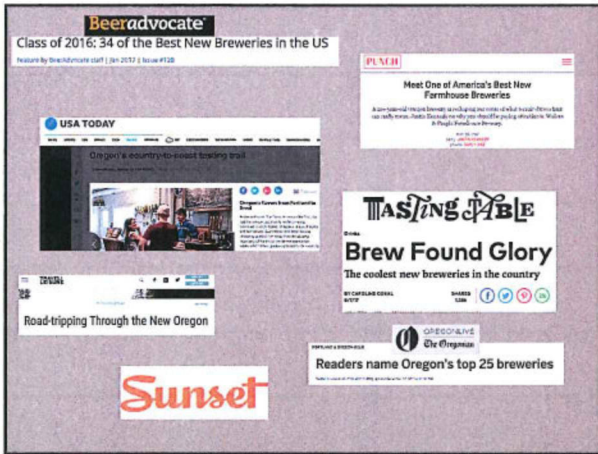
A to Z breaks new ground in Oregon wine as a 'Hot Brand'

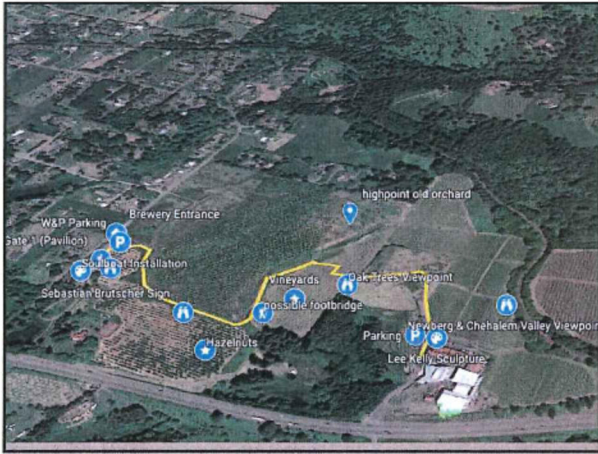
Forbes / Food & Agriculture / #WineAndDine
Sustainability From A To Z, With A SIP And Dow Jones



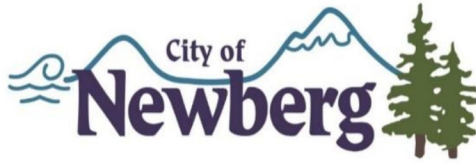
A to Z Wineworks becomes one of Oregon wine's biggest sellers: Top Workplaces 2015

ORANGE COUNTY BUSINESS JOURNAL
A to Z Wineworks has been named a B Corp "Best for the World" company









City of Newberg 2017 - 2018 Transient Lodging Tax – Destination Development and Marketing Promotion Grant Program Guidelines

INFORMATION FOR GRANT APPLICANTS

PURPOSE:

This grant program is intended to aid organizations and businesses that further the Newberg Strategic Tourism Plan adopted in June 2016 for destination development and marketing promotion activities, <http://www.newbergoregon.gov/economicdevelopment/page/newberg-strategic-tourism-plan>, by advancing the adopted goals of:

- 1: Tourism bolsters Newberg economy in measurable ways.
2. Newberg is a destination of artisan makers and doers.
3. Tourism funding and industry partners catalyze downtown development and creation of new experiences for target audiences.
4. The tourism organization and strategy engage and energize local tourism partners and demonstrate healthy partnership between the private sector and city.
5. Moon Shots – tourism encourages sustainable development that benefits the local community and enhances the visitor experience.

DEFINITIONS:

The City of Newberg utilizes the state definition of tourism which is aligned with Oregon's legal definition: "Tourism" means economic activity resulting from tourists.

"Tourist" is a person who, for business, pleasure, recreation, or participation in events related to the arts, heritage or culture, travels from the community in which that person is a resident to a different community that is separate, distinct from, and unrelated to the person's community of residence, and that trip:

- a. Requires the person to travel more than 50 miles from the community of residence; or
- b. Includes an overnight stay in a paid accommodation in Newberg, Oregon.

"Tourism promotion" (as it relates to this grant application) means any of the following activities:

- a. Advertising, publicizing, or distributing information for the purpose of attracting and welcoming tourists;
- b. Conducting strategic planning and research necessary to stimulate future tourism development;
- c. Operating Tourism promotion agencies; and
- d. Marketing special events and festivals designed to attract tourists.

"Tourism Related Facility" is:

- a. A conference center, convention center, or visitor information center; and

- b. Other improved real property that has a useful life of 10 or more years and has a substantial purpose of supporting tourism or accommodating tourist activities.

FUNDING:

Funding for this program is up to \$430,000 which may be disbursed to multiple organizations or businesses. The minimum grant amount is \$10,001 and the maximum is based on funds available for that fiscal year. The funds are made available from the City of Newberg transient lodging taxes that are assessed to hotels, motels, bed and breakfasts, and vacation rentals for guests in the City of Newberg.

ELIGIBLE APPLICANTS:

Eligible applicants include governmental entities, 501(c)(3) and (6) non-profit organizations, and for-profit private entities with a project, program, or event in the Newberg zip code area of 97132 aimed at destination development or marketing promotion that promotes local tourism attractions, brings visitors or has the potential to bring visitors, to Newberg that will create overnight stays in Newberg's commercial lodging properties in furtherance of the Newberg Strategic Tourism Plan goals.

Multiple grant applications per year will be considered for any one organization or business. If an organization or business has previously been awarded a tourism grant by the City of Newberg, it will only be considered for a grant if all previously awarded grants complied with grant agreement requirements and procedures, including filing progress reports. Since grants are funded from revenues from lodging tax, recipients are asked not to request discounts from Newberg lodging properties for the proposed project, program, or event.

GRANT APPLICATION PROCESS:

In order to be considered for grant funds from the City of Newberg:

- 1) A completed application must be delivered to the Community Development Director. Application forms are available at <https://www.newbergoregon.gov/economicdevelopment/page/2017-2018-transient-lodging-tax-destination-development-marketing-grant> or by contacting the Community Development Director, doug.rux@newbergoregon.gov. If you have multiple projects, programs, or events, separate applications will need to be submitted. The exception would be if the project, program, or event had multiple dates over the course of the fiscal year.
- 2) All application forms **MUST** be typed and sent to the Community Development Director. **No hand written forms will be accepted. Failure to abide will result in application disqualification.**
- 3) All applicants will be notified of funding approvals no later than January 31, 2018.
- 4) Progress and Final Reports on activity, spending, and results are to be submitted to the Community Development Director.

TYPES OF PROJECTS/PROGRAMS/EVENTS TO BE CONSIDERED:

Below is a sample list of grant projects, programs or events; actual projects are not limited to only what is listed below.

- 1) Projects, programs, or events which generate or encourage overnight stays in Newberg.
- 2) Projects, programs, or events that increase visitor spending.
- 3) Projects, programs, or events that enhance shoulder and off season visitation.
- 4) Projects, programs, or events that create unique wine country experiences that distinguish Newberg from nearby destinations.

ACTIVITIES NOT ELIGIBLE FOR FUNDING:

- 1) General administrative costs;
- 2) Membership fees;
- 3) Projects, programs or events promoting tourism outside of Newberg;
- 4) Project directed solely at the residents of Newberg;
- 5) Used as match for other City of Newberg funding awards;
- 6) Salaries;
- 7) Operating costs;
- 8) Travel and mileage;
- 9) Architectural engineering studies;
- 10) Apparel for volunteers and/or staff; or
- 11) Advertisements in Newberg or CVCC guides/brochures, local Chambers of Commerce publications, and local publications (print, radio, television) that are not distributed at least 50 miles outside of Newberg.

MATCHING REQUIREMENT:

The Destination Development and Marketing Promotion Grant Program requires a minimum 1:1 match ratio from the applying organization or business:

- 1) Non-Profit/Governmental: 1 (applicant) and includes in-kind or cash / 1 (City of Newberg)
- 2) For-Profit: 1 (applicant) cash match / 1 (City of Newberg)

Match funds must be documented and must be committed prior to the distribution of funds. The higher the cash or in-kind match ratio will enhance the application scoring.

EVALUATION CRITERIA:

The City of Newberg Transient Lodging Tax Ad Hoc Committee will review applications and make a recommendation to the Newberg City Council on awards according to the purpose and evaluation criteria of the grant program. The Newberg City Council will make the final award decision.

Eligibility Requirements

- | | |
|--|--------|
| 1) Aligns with Transient Lodging Tax regulations (Tourist, Tourism Promotion, Tourism Promotion Agency, Tourism related facility) | Yes/No |
| 2) Promote or create experiences for: Outdoor recreation visitor, Experiential arts, Wayfinding, Downtown enhancement | Yes/No |
| 3) Appeals to designated audiences in the Newberg Strategic Tourism Plan (Wine Country Adventures, Millennial Explores, George Fox Network, and Luxury Wine Travelers) | Yes/No |
| 4) The project will create or enhance an experience for shoulder or off-season visitors | Yes/No |
| 5) Does it align with other tourism activities in the community | Yes/No |
| 6) Builds on existing assets | Yes/No |
| 7) Leverages funding | Yes/No |
| 8) Entities that have a bankruptcy or other financial corruption within The past five years are ineligible | Yes/No |

Criteria

- | | |
|--|-------|
| 1) What is the projected return on investment | |
| a. Predicted number of tourists attracted/overnight guests | 0 - 5 |

- | | |
|---|-------|
| b. Will it have lasting impact and utility | 0 - 5 |
| 2) Demonstrated history of attracting tourists/overnight guests | 0 - 3 |
| 3) Does it engage and energize local tourism partner(s) | 0 - 3 |
| 4) Does it enhance Newberg as a destination | 0 - 5 |
| 5) Does it enhance Newberg as a location for Makers and Doers | 0 - 3 |
| 6) Does it catalyze downtown development | 0 - 3 |
| 7) Is it likely to increase visitor spending | 0 - 5 |
| 8) Does it enhance tourism from October – May or any Sunday – Thursday Visitation? Explain how. | 0 - 5 |
| 9) Does this project align with at least one of the four target audiences (Wine Country Adventurers, Millennial Explorers, George Fox Network, Luxury Wine Travelers) | 0 - 5 |

PROMOTIONAL MATERIAL:

All funded projects, programs or events involving promotional materials and websites must be reviewed by the Community Development Director at the draft stage and will need to include the www.newbergoregon.gov/cd/page/tourism web address and a link to www.newbergoregon.gov/cd/page/tourism in the case of a website.

All grant support should be referenced as; **“This project/program/event is made possible in part by a grant from Newberg transient lodging taxes and the City of Newberg.”**

UNUSED FUNDS:

In the event that awarded funds remain and were not completely used for the project, program, or event intended, the unused funds shall be returned to the City of Newberg.

GRANT CONTRACT:

All grant award recipients must enter into a Destination Development and Marketing Promotion Grant Contract with the City of Newberg. A sample contract is included in the application material.

REPORTING PROCESS:

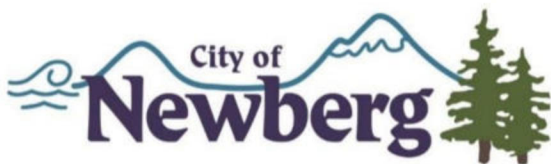
Applicants that are awarded grant funding are required to submit both a Progress Report on a date to be determined and a Final Report within 30 days after the project, program or event to the Newberg Community Development Director.

RECORD KEEPING:

It is requested that all grantees maintain records for the minimum required amount of time set forth by the IRS, including receipts, and make the records available to the City of Newberg upon request for audit purposes.

PERMITTING AND LICENSING:

The award of grant money through this program does not supersede the need for proper permitting and licensing with the City of Newberg and / or other governing agents. Proof of all necessary permits and licenses is required before grant funds can be dispersed.



**City of Newberg 2017 - 2018
Transient Lodging Tax – Destination Development and Marketing
Promotion Grant Program Application Cover Page**

Project Title: _____

Applicant Name: _____

Mailing Address: _____
Street City State Zip

Contact Name: _____

Phone: _____ Email: _____

Amount of total Funding Requested: \$ _____

Please note: Funds not spent on the approved project must be returned to the City of Newberg by check with the Final Report due 30 days after completion of the project, program or event.

Project, Program or Event Detail:

- A. To apply, attach a completed application to this cover sheet along with any required supporting materials.
- B. Submit an updated Project, Program or Event Detail as your Progress Report.
- C. Within 30 days after project, program or event is complete submit a Final Report. Attach receipts/paid invoices for monies spent and a check to the City of Newberg for any unspent funds.

Any changes to your project must have prior approval to receive funding.

I agree to all terms described on this application and verify that the information provided on this cover sheet is true and accurate.

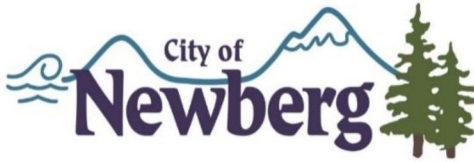
Print Name: _____ Signature: _____

Title: _____ Date: _____

*****FOR OFFICE USE ONLY*****
APPROVED/NOT APPROVED/REVISED (ATTACH DETAILS) _____

Progress Report Received: _____ Final Report received: _____

Funds returned, received on: _____



**City of Newberg 2017 - 2018
Transient Lodging Tax – Destination Development and Marketing
Promotion Grant Program Application**

THE FOLLOWING ITEMS MUST BE INCLUDED WITH YOUR APPLICATION:

- ❖ Completed application Cover Sheet.
- ❖ Budget for project/program/event being funded that lists all anticipated income and expenses.
- ❖ Board or Owner approved financial statement for most recently completed fiscal year of the organization or business responsible for the project/program/event.
- ❖ Letter signed by officers of the Organization's Board of Directors or Business Owners authorizing this application.
- ❖ Documentation of organization or business existence: Current, valid Oregon Secretary of State Corporation Division registry filing.
- ❖ Documentation that no bankruptcy or other financial corruption has occurred within the past five years.
- ❖ Letters of support.

Project Title: _____

Applicant Name: _____

Mailing Address: _____
Street City State Zip

Contact Name: _____

Phone: _____ Email: _____

Website Address: _____

Secretary of State Business Registry Number: _____

Non Profit _____ Government _____ For-Profit _____

Amount of total Funding Requested: \$ _____

Please note: Funds not spent on the approved project, program or event must be returned to the City of Newberg by check with the Final Report due 30 days after completion of the project, program or event.

Classify how funds will be used for your project/program/event: *check all that apply*

_____ New Project

_____ New Program

_____ New Event

_____ Existing Project

_____ Existing Program

_____ Existing Event

Has this project, program or event received these grant funds in the past?

If so when and for how much?

Prior year grant award through this program does not guarantee additional funding in subsequent years. All returning projects, programs or events must reapply and are subject to approval. This program has limitations of funding available in the fiscal year in total amount of funds requested. All required reports must be in good standing at the time of application for future funding by a past grant recipient.

Budget Summary (this format must be used):

Project/Program/Event Budget: This budget provides the detail of the project, program or event that the grant funds would be applied to. This should include how the funds from this grant will be spent. Expenses must be explicitly defined. Please include in-kind and cash match.

Fiscal Year: _____ to _____

[illegible]

Expenses – Must be explicitly defined.	Amount
Total Project/Program/Event Expense	

Organization Budget: This budget shows how this project, program or event fits into your organization. Your project, program or event should be shown as a line in this budget.

Fiscal Year: _____ to _____

Income Sources	Amount
Total Organization Income	

Expenses	
Total Organization Expense	

Project Narrative:

1. Project description:
2. How will your project, program or event further the Newberg Strategic Tourism Plan goals?
3. How does your project, program or event align with Transient Lodging Tax regulations (Tourist, Tourism Promotion, Tourism Promotion Agency, or Tourism related facility)?
4. What is the projected return on investment?
5. Predicted number of tourists' attracted / overnight guests?

6. Will it have lasting impact and/or utility?
7. How does your project, program or event leverage funding?
8. What is the ratio at which Transient Lodging Tax funds will be matched?
9. What is your demonstrated history of attracting tourists?
10. Does your project, program or event engage and energize local tourism partner(s)?

11. Does your project, program or event enhance Newberg as a destination? If so how?

12. Does your project, program or event enhance Newberg as a location for Makers and Doers? If so how?

13. Does your project, program or event catalyze downtown development? If so how?

14. Does your project, program or event enhance tourism from October – May or any Sunday – Thursday Visitation? Explain how.

15. Does this project align with at least one of the four target audiences (Wine Country Adventurers, Millennial Explorers, George Fox Network, or Luxury Wine Travelers)?

16. What is the timeframe for completion of your project, program or event?

Signature and Certification Letter:

I hereby certify that all facts, figures and representations made in this application, including all attachments, are true and correct. This application is made with the written approval of my Board of Directors or Owners, which is attached to this application.

I agree that all publicity, press releases, publications, materials and or media advertising produced as part of this proposed project/program/event will acknowledge the grant program as follows:

"This project/program/event is made possible in part by a grant from Newberg transient lodging taxes and the City of Newberg."

A agree to carry out this project/program/event as outlined within the application. Further, I understand that failure to do so will invalidate this agreement and necessitate the immediate return of all Transient Lodging Tax grant monies to the City of Newberg.

Signature of Authorizing Official

Date

Print Name of Authorizing Official

Budgeted Expenses	Amount	ACTUAL EXPENSES	Amount
Total Budgeted Project/Program/Event Expenses		Total Actual Project/Program/Event Expenses	

2. Do you have unused City funds remaining? If so how much?

3. Date project, program or event was (or will be) completed:

4. Results achieved with project, program or event. Did you reach your target audience or goal? Discuss your measurement of success.

5. Please include data that supports how many tourists and room nights you believe this project, program or event helped generate based on collected zip codes of attendees.

SAMPLE CONTRACT ONLY

**CITY OF NEWBERG
TRANSIENT LODGING TAX
DESTINATION DEVELOPMENT AND
MARKETING PROMOTION GRANT CONTRACT**

This Grant Contract is made and entered into by and between the City of Newberg ("CITY") and _____ ("RECIPIENT").

RECITALS

Whereas, in 1976 the City of Newberg implemented a transient lodging tax (TLT) of 6%;

Whereas, in 2014 the City of Newberg increased its TLT to 7.5%;

Whereas, in 2015 the City of Newberg increased its TLT to 9%TLT;

Whereas, HB 2267 in 2003 requires increases in the TLT after July 2, 2003 dedicate 70% of collected tax be used for tourism promotion or tourism related facilities;

Whereas, the funds provided under this Grant Contract were derived from TLT funds and designated for use on tourism promotion, or tourism related facilities;

Whereas, the City of Newberg has reviewed RECIPIENT'S application, submitted on _____ (the "Application") and determined the Project, Program or Event, as hereafter defined, is feasible and merits funding.

NOW THEREFORE, the parties agree as follows:

1. Contract. This Grant Contract shall include the following, which in the event of any inconsistency are to be interpreted in the following order of precedence:
 - A. This Grant Contract without any Exhibits.
 - B. Special Conditions of Award, attached as Exhibit A.
 - C. A description of the Project, Program or Event approved by the CITY (the "Project"), attached as Exhibit B.
 - D. Approved Project budget showing a breakdown of sources of funds, attached as Exhibit C. This Exhibit supersedes the Project budget submitted in RECIPIENT'S Application; and
 - E. RECIPIENT'S application, which by this reference is incorporated herein.
2. Grant. In reliance upon RECIPIENT'S Application and covenant to comply with all local, state and federal laws, rules and regulations and terms of this grant as set forth herein, the CITY agrees to provide the RECIPIENT'S funds in the amount of \$_____, the use of which shall be expressly limited to the Project and the activities described in Exhibit B. The use of these funds shall also be subject to the approved Project budget in Exhibit A, if any.

Subject to the terms and conditions of this Grant Contract, the CITY shall disburse the grant funds to RECIPIENT according to the attached Exhibit D (such as 50% at signing of Grant Contract and remaining funds per the schedule in Exhibit D).

3. Project Completion Date. The approved grant activities must be completed by _____ from the date of this Grant Contract ("Project Completion Date"). By the Project Completion Date, all Project activities must be completed, including submission of the Project Final Report 30 days after the Project Completion Date.
4. Recipient's Covenants – Compliance with Laws.
 - A. The RECIPIENT agrees to comply, and cause its agents, contractors and subgrantees to comply, with all applicable local, state and federal laws, regulations, policies, guidelines and requirements with respect to the use of and the administration, distribution and expenditure of the funds provided under this Grant Contract.
5. Default and Remedies.
 - A. Default. RECIPIENT shall be in default under this Grant Contract upon occurrence of any of the following events:
 - (1) Key RECIPIENT actions are not completed in accordance with the Project Schedule or CITY's approval of a Progress Report provided for in this Grant Contract.
 - (2) Any representation, warranty or statement made by RECIPIENT herein or in any documents or reports relied upon by CITY is untrue in any material respect when made.
 - (3) Any other significant breach of the terms and conditions of this Grant Contract.
 - B. Remedies upon Default. If RECIPIENT'S default is not cured within a reasonable term, as defined by CITY, or such longer period as CITY may authorize at its sole discretion, CITY may pursue any remedies available under this Grant Contract either at law or in equity. Such remedies include, but are not limited to, termination of this Grant Contract.
6. Termination.
 - A. CITY reserves the right to terminate this Grant Contract immediately upon notice to the RECIPIENT:
 - (1) if RECIPIENT fails to perform or breaches any of the terms of this Grant Contract; or
 - (2) if the RECIPIENT is unable to commence the Project within _____ () months from the date of this Grant Contract; or
 - (3) if federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the grant made pursuant to the terms of this Grant Contract or payments to be made hereunder are prohibited.
 - B. CITY and RECIPIENT may mutually agree in writing to terminate this Grant Contract.
 - C. In the event of termination prior to Project completion, CITY will have no further obligations or liabilities under this Grant Contract, including that it will not reimburse any Project costs incurred by RECIPIENT.
7. Indemnification. To the extent permitted by the Oregon Constitution and the Oregon Tort Claims Act, RECIPIENT shall indemnify, defend, and hold harmless CITY and its officers, employees, and agents from all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature resulting from, arising out of or relating to the activities of the RECIPIENT or RECIPIENT'S officers, employees, sub-contractors, or agents under this Grant Contract.
8. Miscellaneous.
 - A. This Grant Contract shall be null and void if this Grant Contract is not executed and

returned to CITY by the RECIPIENT by _____ (Date).

B. CITY and the RECIPIENT are the only parties to this Grant Contract and are the only parties entitled to enforce its terms. Nothing in this Grant Contract gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individuals identified by name herein and expressly described as intended beneficiaries of the terms of this Grant Contract.

C. Except as otherwise expressly provided in this Grant Contract, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, facsimile, or mailing the same, postage prepaid, to CITY or the RECIPIENT at the address or number set forth on the signature page of this Grant Contract, or to such other addresses or numbers as either party may hereafter indicate. Any communication or notice so addressed and mailed shall be deemed to be given five (5) days after mailing. Any communication or notice delivered by facsimile shall be deemed to be given when receipt of the transmission is generated by the transmitting machine.

D. This Grant Contract shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between CITY and RECIPIENT that arises from or relates to this Grant Contract shall be brought and conducted solely and exclusively within the Circuit Court of Yamhill County for the State of Oregon; provided however, if a Claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon.

E. This Grant Contract and attached exhibits constitute the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Grant Contract. No waiver, consent, modification or change of terms of this Grant Contract shall bind either party unless in writing and signed by both parties and all necessary CITY approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of CITY to enforce any provision of this Grant Contract shall not constitute a waiver by CITY of that provision or any other provision.

This Grant Contract is hereby executed by the Parties on the dates set forth below.

CITY OF NEWBERG

RECIPIENT

By: _____

By: _____

Date: _____

Date: _____

Address: 414 E. First Street
Newberg, OR 97132

Address: _____

By Authority of Resolution No. _____

ATTEST AS TO LEGAL FORM

Truman A. Stone, City Attorney

Exhibit A – Special Conditions of Award

Exhibit B – Project Description

Exhibit C – Approved Project Budget

Exhibit D – Grant Fund Disbursement Schedule

SAMPLE CONTRACT ONLY

Destination Development - Marketing Grant	Funding Request	Funding Request
Hoover-Minthorn House Museum Roofing	\$ 30,000.00	\$ 30,000.00
Newberg Downtown Wineries Assoc	\$ 20,500.00	\$ 20,500.00
Chehalem Cultural Center Culinary	\$ 250,000.00	\$ 250,000.00
CPRD Sports Complex Lighting	\$ 225,000.00	\$ 225,000.00
City of Newberg Cultural District Wayfinding	\$ 73,500.00	\$ 73,500.00
Wolves & People Vines to Steins Trail	\$ 65,000.00	\$ 80,000.00
TOTAL	\$ 664,000.00	\$ 679,000.00
Funding Available (up to)	\$ 430,000.00	
Minimum Funding Request	\$ 10,001.00	

Summary White Board Evaluation

	1 = Highest Ranking			6 = Lowest Ranking										
	Lewis	McKinney	Bagley	Carda	Felton	Lattimer	Lippard	Louis	Parish		Total	Rank	Grant Request	Award Recommendation
Hoover-Minthorn	5	2	4	6	3	6	5	4	6		41	4	\$ 30,000	\$ -
Downtown Wineries Association	1	4	2	2	6	3	3	1	2		24	2	\$ 20,500	\$ 20,000
Cultural Center Culinary Kitchen	2	1	1	1	2	1	2	3	1		14	1	\$ 250,000	\$ 250,000
CPRD Sports Lighting	6	5	6	4	1	5	4	6	4		41	4	\$ 225,000	\$ -
Cultural District Wayfinding	4	3	5	5	5	4	6	5	5		42	6	\$ 73,500	\$ -
Wolves & People	3	6	3	3	4	2	2	2	3		28	3	\$ 45,000	\$ 30,000

SUMMARY DESTINATION DEVELOPMENT - MARKETING GRANT SCORES

	Grant Request Amount	Total Points Possible	Total Points	Average
Hoover-Minthorn House Museum Roof/Gutters/Electrical	\$ 30,000	504	215	17.92
Newberg Downtown Wineries Association	\$ 20,500	462	348	31.64
Chehelam Cultural Center Culinary Enrichment Center	\$ 250,000	504	368	30.67
CPRD Darnell Wright Sport Complex Lighting	\$ 225,000	504	182	15.17
City of Newberg Cultural District Wayfinding	\$ 73,500	504	221	18.42
Wolves & People Vines to Steins Trail	\$ 65,000 - \$ 80,000	504	251	20.92

	Grant Request Amount	Total Points Possible	Total Points	Average
Newberg Downtown Wineries Association	\$ 20,500	462	348	31.64
Chehelam Cultural Center Culinary Enrichment Center	\$ 250,000	504	368	30.67
Wolves & People Vines to Steins Trail	\$ 65,000 - \$ 80,000	504	251	20.92
City of Newberg Cultural District Wayfinding	\$ 73,500	504	221	18.42
Hoover-Minthorn House Museum Roof/Gutters/Electrical	\$ 30,000	504	215	17.92
CPRD Darnell Wright Sport Complex Lighting	\$ 225,000	504	182	15.17

Wolves & People Vines to Steins Trail

Funding Request \$65,000 - \$80,000

Criteria						Score Range	Lewis	Nicholas	McKinney	Bagley	Carda	Felton	Kelsh	Lattimer	Lippard	Louis	Love	Parrish
1. What is the projected return on investment																		
a. Predicted number of tourists attracted/overnight guests						0 - 5	1	3	0	3	1	2	5	2	0	5	1	3
b. Will it have lasting impact and utility						0 - 5	2	3	0	4	3	2	5	2	3	5	4	2
2. Demonstrated history of attracting tourists/overnight guests						0 - 3	1	3	0	3	1	2	3	1	0	3	2	3
3. Does it engage and energize local tourism partner(s)						0 - 3	2	0	0	2	1	3	3	2	1	3	3	3
4. Does it enhance Newberg as a destination						0 - 5	1	0	0	4	2	4	5	3	2	5	2	2
5. Does it enhance Newberg as a location for Makers and Doers						0 - 3	1	3	0	2	2	1	3	2	0	3	1	2
6. Does it catalyze downtown development						0 - 3	0	0	0	1	0	0	3	2	2	1	0	2
7. Is it likely to increase visitor spending						0 - 5	0	0	0	2	1	1	5	2	1	5	1	1
8. Does it enhance tourism from October – May or any Sunday – Thursday Visitation						0 - 5	1	2	0	1	0	3	5	2	1	5	0	1
9. Does this project align with at least one of the four target audiences (Wine Country Adventurers, Millennial Explorers, George Fox Network, Luxury Wine Travelers)						0 - 5	3	5	0	4	3	5	5	4	1	5	5	4
						42												
Total							12	19	0	26	14	23	42	22	11	40	19	23

Total Points Possible 504
Total Points 251
Average 20.92

Wolves & People Vines to Steins Trail

Request amount: \$65,000 - \$80,000

Required Application Materials

YES NO NOTES

1) Completed application Cover Sheet	X		
2) Budget for project/program/event being funded that lists all anticipated income and expenses.	X		States \$65,000 request, Application states \$80,000 request, need to clarify
3) Board or Owner approved financial statement for most recently completed fiscal year of the organization or business responsible for the project/program/event.	X		Private entity confidential information
4) Letter signed by officers of the Organization's Board of Directors or Business Owners authorizing this application.		X	Signed Certification Letter in application but no separate letter
5) Documentation of organization or business existence: Current, valid Oregon Secretary of State Corporation Division registry filing.	X		2017 Annual Report
6) Documentation that no bankruptcy or other financial corruption has occurred within the past five years.		X	Confidential financial information submitted does not indicate a bankruptcy
7) Letters of support.	X		2 letters
8) Past grant recipient.		X	

Eligibility Requirements**YES****NO****NOTES**

1) Aligns with Transient Lodging Tax regulations (Tourist, Tourism Promotion, Tourism Promotion Agency, Tourism related facility)	X		Tourist, Tourism Promotion, Tourism Related Facility. The trail is a grey area according to legal counsel review.
2) Promote or create experiences for: Outdoor recreation visitor, Experiential arts, Wayfinding, Downtown enhancement	X		Outdoor recreation visitor, wayfinding, and indirectly downtown enhancement
3) Appeals to designated audiences in the Newberg Strategic Tourism Plan (Wine Country Adventures, Millennial Explores, George Fox Network, and Luxury Wine Travelers)	X		Wine Country Adventures, Millennial Explores, George Fox Network, and Luxury Wine Travelers
4) The project will create or enhance an experience for shoulder or off-season visitors	X		Both Shoulder and off-season
5) Does it align with other tourism activities in the community	X		Winery tours, restaurants,
6) Builds on existing assets	X		Vineyards, winery, brewery
7) Leverages funding		X	2:1 for Phase 1; .33:1 for Phase 2; .7:1 combined Phase 1 & 2 does not meet 1:1 requirement
8) Entities that have a bankruptcy or other financial corruption within the past five years are ineligible		X	None



TRANSIENT LODGING TAX AD HOC COMMITTEE MEETING MINUTES
MARCH 7, 2018, 4:00 PM
Permit Center Conference Room, Newberg City Hall
414 E First Street

Chair Lewis called the meeting to order at 4:04 p.m.

ROLL CALL

Members Present:	Dennis Lewis, Chair	Shelia Nicholas, Vice Chair
	Rob Felton	Matthew Murray
	Megan Carda	Jessica Bagley
	Brian Love	Robert Griffin
	Loni Parrish	Kyle Lattimer
	Ashley Lippard	Lori Louis
	Joe Hannan, Ex Officio	

Members Absent: Ex Officio Mayor Andrews

Staff Present: Doug Rux, Community Development Director

Guests: Carr Biggerstaff, Mike Ragsdale, Christian DeBenedetti, Ethan Saunders

PUBLIC COMMENTS

None.

APPROVAL OF MINUTES

None.

MINUTES OF THE MARKETING SUBCOMMITTEE – JANUARY 29, 2018

No action required information only.

REVISIT OF DESTINATION DEVELOPMENT-MARKETING GRANT PROPOSAL – WOLVES & PEOPLE

Chair Lewis introduced the topic of discussion. The original ask was sent to the City Council in the amount of \$30,000 and Council asked that the TLT Ad Hoc Committee reconsider the request.

Member Griffin inquired if the trail was a private trail and if the pavilion is an asset that could be sold in the future. Are the funds only for public entities?

Chair Lewis indicated it was for the trail only and not the pavilion.



Member Parrish asked for clarification if \$30,000 is what is being discussed for the trail. She noted that the TLT Committee had discussions about grants to private entities and Council agreed that it was acceptable.

Member Murray explained the City Council consideration of the recommendation and request. He noted that Wolves and People make a good product but are only open Friday, Saturday and Sunday. The trail is about 1.5 miles long.

Christian DeBenedetti of Wolves & People clarified that they could be open more days in the week, currently they are using winter and spring hours of operation which are Friday, Saturday and Sunday. The goal is to be open six days a week in the spring. He noted that for the Oregon Department of Transportation blue tourist signs they have to be open six days a week (available of by appointment) and that for the trail the hours would match the hours at A to Z WineWorks.

Chair Lewis inquired about a guarantee on access to the trail.

Christian DeBenedetti indicated that intent is to increase hours they are open. The trail would be open when the brewery is open and restated they intend to align with the hours at A to Z WineWorks. The trail is not by appointment, would be open when the brewery is open.

Member Murray inquired about if the brewery is closed how does access work, insurance liability issues. Would there be a sign or gate when the trail is closed?

Christian DeBenedetti noted they would have agreed upon hours with A to Z WineWorks.

Vice Chair Nicholas noted that A to Z WineWorks is open seven days a week.

Vice Chair Nicholas inquired about the hours of operation noted in the agri-tourism permit from the County.

Christian DeBenedetti recapped that they have a conditional use permit from the County and have federal and state permits. The agri-tourism approval was issued by the County and that he has re-applied for the Agri-tourism permit renewal. Allows 18 events a year. Allows food and chefs 18 times a year. He indicated that if A to Z WineWorks is in harvest they would coordinate on open or closed status of the trail. There was a general discussion on hours of the trail, brewery, A to Z WineWorks, and events.

Member Louis inquired why the trail has to be open at the same time. The trail is to incent people to come to Newberg. She noted it is tourism dollars and not public tax dollars and that residents do not pay the transient lodging tax. Have lost focus that trying to attract tourists.

Member Love indicated that he does not know why hours of operation is an issue. The trail is a tourist attraction and hours is a non-issue. The Cultural Center and Hoover House at not open all the time.

Louis indicated there would be a contract in place.

Member Murray noted that we are all learning about tourism and tourism possibilities.

Member Lattimer asked if there're were other City Council issues with the proposal.



Member Murray shared that a question is do you have to pay to use the trail. He had concerns initially and noted that he missed that the grant opportunity applies to the 97132 zip code. Think about dollars and where they come from – hotels.

Member Louis shared that the Allison Inn & Spa collects the transient lodging tax from guests. It is competitive to bring people to Newberg. Newberg needs something that is unique or different. The trail would be unique to bring people to Newberg. Nationally and internally it would be unique opportunity It would be sad not to see it happen.

Member Carda noted the Chehalem Cultural Center and Minthorn House charges for events. Why is the trail issue different. The Oregon Truffle Festival charged for admission.

Member Felton indicated he is concerned because beaches are free and trails are free in Oregon.

Member Felton noted it feels strange because in Oregon trails are free.

Member Lippard noted that at Champoeg State Park you have to pay to get into the park to use the trails.

Chair Lewis asked if there were any other strong concerns. He asked for a motion.

MOTION: Bagley/Louis to accept the original TLT Committee recommendation to fund \$30,000 for the trail. Motion carried (10 Yes/2 No – Felton/Griffin).

Christian DeBenedetti inquired if he could apply next year for the pavilion.

Chair Lewis indicated it was unknown at this time.

MARKETING SUBCOMMITTEE – MARKETING PROPOSAL

Chair Lewis directed the Committee members to page 123 of their packet. The TLT Committee was established to operate for 2 – 5 years to make recommendations to City Council. There are a variety of opportunities. The Subcommittee has visited other communities and that Visit McMinnville is alive and well with a strong wine industry. Visit McMinnville is willing to work with Newberg.

Member Parrish shared that McMinnville started with grants and changed their model.

Chair Lewis noted that information has been gathered on the Grants Pass model of marketing. He also noted that the Newberg Downtown Coalition represented by Mike Ragsdale is present today.

Mike Ragsdale shared that his Board has not looked at the marketing issue. His personal views is that the grant program is not the highest and best use of the funds. The Committee would be well suited to look at other options. He shared looking at a Board structure similar to the Chehalem Cultural Center, create a 501c3. Would need to get a charter by City ordinance. Focus should be on getting heads in beds.

Chair Lewis referenced the Chamber contract with the City. He asked the Committee if we should break the contract or modify it. He asked what the Chamber vision of tourism operation is.



Carr Biggerstaff shared that he echo's what Mike Ragsdale said. What Visit McMinnville has done is great. Some Chambers hold on to the visitor center. Not sure he wants to shut down brick and mortar at this time. Chamber location is not as desirable as used to be. He does not believe grants will get you where you want to be. Chamber is willing to have the Visitor Center, willing to have a tourism director or agency at the Chamber. He recommends constituting some type of Board of Directors to focus on tourism and destination marketing. Option 1 is the Chamber proposal that keeps the Visitor Center in place for some period of time. He noted the Eugene model which has a separate tourism group. The challenge is how do you staff someone to get tourism work done. The Visit McMinnville model has a lot of cost to lease space, etc. and reduces dollars for tourism marketing.

Option 1 - Chamber house a person, additional TLT dollars to fund.

Option 2 - Chamber keeps Visitor Center and someone else does marketing. The Chamber looking at space downtown.

Member Lippard inquired if there is an option where the Chamber does not have the Visitor Center.

Carr Biggerstaff noted yes.

Member Lippard noted that operating a visitor center is expensive.

Car Biggerstaff shared numbers of \$70,000 for Visitor Center, \$30,000 for tourism marketing and \$30,000 for staff for tourism. If the Chamber does not have the Visitor Center then don't need as large a space and reduced staffing. The Chamber is working on hiring a new Chamber Executive Director.

Char Lewis inquired where is tourism in Chamber priority.

Carr Biggerstaff indicated the Chamber needs to be a Chamber first.

Member Louis expressed that the Visitor Center costs seem out of proportion. She has not heard about FAM tours, coordination with Travel Oregon or Willamette Valley Visitors Association, etc. If a person is a contractor or at the Chamber are her choices. Do we need a tourism director? Yes we do but what Board do they report to.

Carr Biggerstaff shared that the Chamber gets \$139,000 of which \$39,000 was for tourism marketing. If funds had not been capped by the City the Chamber would have hired a tourism person.

Member Louis noted that a tourism person could be applying for grants that are available such as through Travel Oregon.

Member Griffin inquired if an RFP has gone out for a tourism person.

Chair Lewis indicated no that these discussions are assisting in which direction to go.

Member Griffin asked if someone had talked with Visit McMinnville.

Chair Lewis noted that members of the Marketing Subcommittee had met with Visit McMinnville.

Member Griffin stated that a Board of Directors would be good.



Chair Lewis shared that he was part of the Chamber group that that received first tourism dollars from the City. The way people access information has changed greatly over the last 12 years.

Member Parrish stated she is a proponent of to hire somebody and to have a Board of Directors made up of stakeholders. We should look at a transition to not have a Visitor Center. The last round of grants is not getting us where we want to go. Want to work with Chamber and not leave them in a lurch.

Joe Hannan, Ex Officio stated the group needs to go back to the Tourism Strategy noting facilities, events and marketing. If you want to change the percentage distribution need to go back to the City Council to convince them.

Vice Chair Nicholas state that with a person all of what Joe Hannan outlined could be done. She is not used to this committee structure. Hiring an individual is the correct path.

Member Murray inquired on the Small and Large grants and if we should keep the Small grant program and not have a Large grant program. The person should not be a City staff person, it could be a contractor. He is looking for consensus. He inquired if we need a Visitor Center and do people direct tourists to a Visitor Center.

Member Griffin asked if George Fox University has a marketing degree program. Is there the possibility for interns?

Member Carda suggested possibly working with a professor and interns at George Fox University.

Member Lippard noted that then you have to pay the professor.

Member Parrish suggested bringing in Visit McMinnville people to the next meeting. If don't get moving then getting farther behind.

Chair Lewis noted not looking for a decision today. Want to take the conversation back to the Marketing Subcommittee.

Member Carda asked if we are getting ahead of ourselves in hiring a person.

Chair Lewis noted that we looking to develop a recommendation to City Council on a program.

Member Lippard stated the last year and a half have not been a waste and have learned a lot.

Member Bagely inquired if there is an issue in developing next year's budget.

CDD Rux noted that it is not an issue as TLT funds are there and dedicated to tourism.

Chair Lewis inquired about leveraging Dundee, Yamhill County and Newberg transient lodging tax dollars.

Member Carda asked about when the next round of grants would occur.

CDD Rux noted that they would be in the fall of 2018.



Carr Biggerstaff shared that Morgan McLaughlin is the new director at Willamette Valley Wineries Association. In conversations with her she does not believe small grants move the needle.

Member Bagley inquired on when the next Marketing Subcommittee is meeting.

CDD Rux stated March 19, 2018 at 8:30 AM at City Hall.

Member Louis shared again that a person could be going after grants to advance tourism in Newberg.

Member Love shared that it feels like wasting time. Only three groups in town that qualify for grants.

Member Louis referenced the Tourism Strategy that said to create a Destination Marketing Organization or a Board.

Chair Lewis shared that the group had to go through the process to learn.

Mike Ragsdale shared that the skate park, golf course and aquatic center are tourism facilities and CPRD has not done a good job of marketing them as tourist facilities.

Member Parrish noted that LTL dollars are being used to support what the City used to fund.

Joe Hannan, Ex Officio, indicated no.

Member Felton stated we need to move quickly for someone to do tourism. He is talking to Dundee and they are willing to share their website.

UPDATE ON SMALL GRANT SOLICITATION (FY 2016-2017)

CDD Rux provided an update on the 2017-2018 programs. Awards went to Chehalem Cultural Center Camellia Festival Run/Walk, Oregon Truffle Festival, Hoover-Minthorn House and Anvil Academy Kart Rally.

Member Carda inquired if the awardees have enough dollars to do their programs and events.

CDD Rux indicated he is working on contracts now.

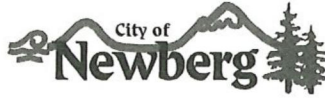
Chair Lewis shared that he visited Anvil Academy and the cars they are building.

Member Parrish shared that Brett Baker is aware of the Anvil Academy Karts and that they will be in the Rose Festival Parade.

TLT MEMBER UPDATES

None.


NEXT MEETING APRIL 4, 2018



ADJOURNMENT

Meeting adjourned at 5:34 p.m.

Approved by the Transient Lodging Tax Ad Hoc Committee this 4th day of April, 2018.



Dennis Lewis,
TLT Ad Hoc Committee Chair

Doug Rux,
Community Development Director

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: May 7, 2018

Order ____ No.	Ordinance ____ No.	Resolution ____ No.	Motion ____	Information <u>XX</u>
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SUBJECT: 2006 Sportsman Airpark Land Use Master Plan Annual Review

Contact Person (Preparer) for this
Item: Doug Rux, Director
Dept.: Community Development
File No.:

RECOMMENDATION:

Information only.

EXECUTIVE SUMMARY:

The Sportsman Airpark Land Use Master Plan was adopted by Ordinance No. 2006-2647 on June 5, 2006. The Sportsman Airpark Master Plan has the following Purpose and Objectives:

“The Sportsman Airpark Land Use Master Plan (Master Plan) creates an overall land use plan for an approximately 117 acre area in and around Sportsman Airpark, which is adjacent to the City of Newberg and within its urban growth boundary. The area includes twelve properties that all could have some type of access to the airport runway such that aircraft could be based at each property. The Master Plan provides for new, separate Airport District designations for either Industrial or Residential uses. Generally, Airport Industrial uses are located directly around the runway and to the east of the runway. Airport Residential uses are designated at the northwest quadrant of the airport, and on the properties to the west of the airport.

The new Airport Districts will allow and encourage the development of commercial, industrial, and residential uses that thrive with the availability of an adjacent runway. However, it is important to reassure the community that the airport will remain the small community airport that it is. There are no plans to significantly extend the runway. The permitted uses at the airport would not change the character of the airport, due to the limited length of the runway. The new Airport Districts are voluntary. To gain an Airport District, a property owner must be within the Airport District Boundary and request the new designation.

There are many small businesses that desire to set up shop at an airport, however most airports do not allow businesses to own their own property or buildings. Within the Sportsman Airpark Master Plan area businesses will be allowed to own their property and buildings, and it is believed that this asset will help to bring new businesses to Newberg. Since airport-related businesses provide services that relate to the high technology of aircraft systems, the jobs generated are typically clean, and pay well. Of equal importance to jobs, the new buildings and site development for these properties will result in an increased tax base for the community to support schools, fire and police services.”

Specific development layouts were provided in the Master Plan that included:

- District Plan (Figure 1)
- Sub-District Plan (Figure 2)

- Road Plan (Figure 3)
- Bridge Plan (Figure 4)
- Taxiway Plan (Figure 5)
- Utilities Plan (Figure 6)
- Developable Area Plan (Figure 7)

Road Plan

Roadways to the west of the Airpark have been developed in conjunction with residential development for Orchard Lair Phases 1 & 2, Highlands at Hess Creek Phases 1- 4 in the general layout identified in the Master Plan. Industrial Parkway between E Ninth Street and Highway 2019 has been re-aligned and the former E. Ninth Street connection to Highway 219 removed. The private roadway to be abandoned at the north has not occurred and well as the private drive on the east side of the area north of E. Ninth Street.

Bridge Plan

No aircraft bridge to the west has been developed. This area instead has developed for detached single family homes.

Taxiway Plan

Limited improvements for taxiways has occurred since adoption of the Master Plan. The area to the northwest has developed with residential use and some taxiway improvements. North of E Ninth Street there has been some limited taxiway extensions. No taxiway associated with the taxiway bridge has been developed. The main taxiways have not been realigned and improved.

Utilities Plan

Wastewater, water and stormwater systems have been constructed in Orchard Lair Phases 1 & 2 and Highlands at Hess Creek Phases 1- 4. Wastewater has been constructed on Commerce Parkway (private) to the Hess Creek Trunk line. Other identified wastewater and water line improvements in the Master Plan have not occurred.

Developable Area Plan

Residential development has occurred on the west side of the Master Plan area. Chehalem Park and Recreation District is working to obtain a grant for Friends Park development at the southern end of the residential area. Industrial development has occurred immediately north of E. Ninth Street in the airport industrial area.

Airport Ownership

The Master Plan references a Federal Aviation Administration program for Purchase of Development Rights. The City has been in discussions with Sportsman Airpark and the Federal Aviation Administration (FAA) on a pilot program for Purchase of Development Rights to protect the airport from encroachment of development that is not aviation related. An agreement between the parties will be brought to the City Council at a future date for consideration.

Staff has reviewed other master plans in relation to the Master Plan. Community Development and Public Works staff coordinate to ensure that infrastructure such as water, wastewater, and stormwater systems are in place or programmed to be improved when new segments of the transportation system are constructed or where street maintenance projects occur. Staff reviewed other plans and found no conflicts.

FISCAL IMPACT:

Not applicable.

STRATEGIC ASSESSMENT (RELATE TO COUNCIL PRIORITIES FROM SEPTEMBER 2017):

Not applicable to the September 2017 Council Priorities.

Review of the various master plans which is now a standard work product of the Community Development Department is tied to the City Council March 21, 2016 City Council Strategic Objectives. One of the adopted priorities was Project Planning. The priority states:

PROJECT PLANNING

In 3 years the council will have a schedule for reviewing of existing Master and Long Range plans. These will include acknowledgement of inter-departmental dependencies and demonstrate a mitigation of redundancy. The intent of this is to have a strategic approach for the Council to review existing plans in a scheduled manner to ensure that the original intentions and targets are being achieved. It is not intended that the council reviews the details of all the documents.

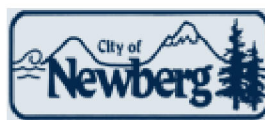
A schedule was prepared and shared with the City Council on March 4, 2017 outlining when various Master and Long Range plans would be brought before the City Council for review. This is the first year report on the 2016 Newberg Transportation System Plan.

Attachment: 1. 2006 Sportsman Airpark Land Use Master Plan

Sportsman Airpark Land Use Master Plan

Adopted June 5, 2006

Ordinance No. 2006-2647



City of Newberg
P.O Box 970
Newberg, Oregon 97132

(503) 537-1240

The preparation of this plan was funded in part with a grant from the Oregon State Lottery through the Mid-Willamette Valley Community Development Partnership for the purpose of promoting economic and community development.

Sportsman Airpark Land Use Master Plan

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Sportsman Airpark Land Use Master Plan

1. Purpose and Objectives

The Sportsman Airpark Land Use Master Plan (Master Plan) creates an overall land use plan for an approximately 117 acre area in and around Sportsman Airpark, which is adjacent to the City of Newberg and within its urban growth boundary. The area includes twelve properties that all could have some type of access to the airport runway such that aircraft could be based at each property. The Master Plan provides for new, separate Airport District designations for either Industrial or Residential uses. Generally, Airport Industrial uses are located directly around the runway and to the east of the runway. Airport Residential uses are designated at the northwest quadrant of the airport, and on the properties to the west of the airport.

The new Airport Districts will allow and encourage the development of commercial, industrial, and residential uses that thrive with the availability of an adjacent runway. However, it is important to reassure the community that the airport will remain the small community airport that it is. There are no plans to significantly extend the runway.¹ The permitted uses at the airport would not change the character of the airport, due to the limited length of the runway. The new Airport Districts are voluntary. To gain an Airport District, a property owner must be within the Airport District Boundary and request the new designation.

There are many small businesses that desire to set up shop at an airport, however most airports do not allow businesses to own their own property or buildings. Within the Sportsman Airpark Master Plan area businesses will be allowed to own their property and buildings, and it is believed that this asset will help to bring new businesses to Newberg. Since airport-related businesses provide services that relate to the high technology of aircraft systems, the jobs generated are typically clean, and pay well. Of equal importance to jobs, the new buildings and site development for these properties will result in an increased tax base for the community to support schools, fire and police services.

2. Public Planning Process

The Master Plan was developed over a 14 month period that included meetings with adjacent property owners, two public meetings, and discussions with the FAA and Oregon Department of Aviation. Copies of meeting minutes and other publicly distributed documents are provided in Appendix F to this report.

¹ In Appendix D it is noted that the FAA Seattle Airports District Office has recommended that the runway be extended several hundred feet as a safety measure for the aircraft that already exist at the airport, to bring the airport to the FAA's normal standards for small airports. However, this would not change the basic type of aircraft able to use the airport or the airport's general character.

3. Development Plans

Detailed development options for the adjoining properties have been considered, and the Master Plan proposes a pattern of use districts, and a system of roads, bridges, taxiways, and utilities that can be implemented to provide the infrastructure needed to carry out the Master Plan. Specific development layouts are provided on the following pages for:

- District Plan (Figure 1),
- Sub-District Plan (Figure 2),
- Road Plan (Figure 3),
- Bridge Plan (Figure 4),
- Taxiway Plan (Figure 5),
- Utilities Plan (Figure 6), and
- Developable Area Plan (Figure 7).

The District Plan and Sub-District Plan place industrial uses on the west side and residential uses on the east side of the airport. This reinforces the pre-existing use patterns already in place (see Yamhill County zoning map in Appendix C).

The Road Plan proposes new roads for vehicular access to all properties. The City of Newberg Development Code generally does not allow the creation of private streets, or gated residential areas. However, to allow for the necessary security of airport operations areas, private streets and gates are permitted in the Airport Districts, subject to Fire Marshal approval of the design so that emergency fire access is assured. Generally, the taxiways must be designed to also function as routes for emergency vehicles such as fire trucks.

The Bridge Plan provides a potential location for an aircraft taxiway bridge between the residential properties to the west and the airport to the east. Similarly, it provides a potential location for a smaller pedestrian/“golf cart” access bridge between the properties to promote aircraft ownership by adjacent properties.

The Taxiway Plan proposes locations for new taxiways. First, the location of future parallel taxiways beside the runway are shown, with a center-to-center separation from the runway of 150 feet to meet FAA Advisory Circular (AC) 150/5300-13, Airport Design. Developable land area for buildings begins not less than 44.5 feet from the centerline of the taxiway, in order to protect the taxiway object free area² needed for taxiing aircraft. Additional taxiways are shown leading from these parallel taxiways into the developable areas, their precise locations to be determined based on actual development plans for buildings in each area. These lateral taxiways will be privately owned as part of the development.

² Standards for the various required runway and taxiway safety areas, object free areas, object free zones, runway protection zones, and other specific airport design criteria are found in FAA Advisory Circular (AC) 150/5300-13, Airport Design, most recent edition.

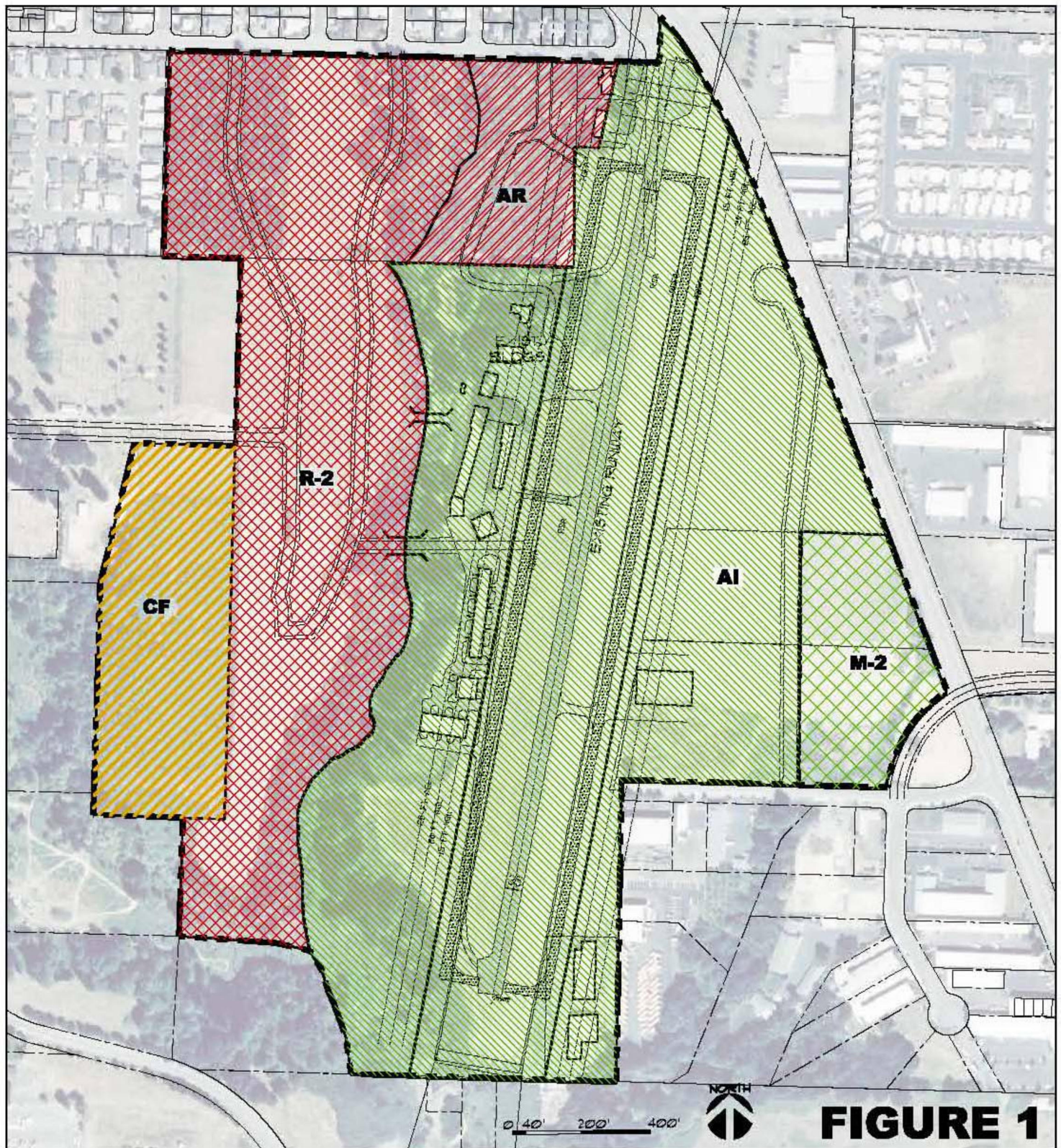


FIGURE 1

KEY:

--- PROPOSED
AIRPORT
DISTRICT
AREA

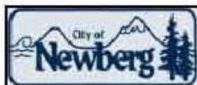
R-2 - MEDIUM DENSITY
RESIDENTIAL
AR - AIRPORT
RESIDENTIAL

CF - COMMUNITY
FACILITY

AI - AIRPORT
INDUSTRIAL

M-2 - LIGHT
INDUSTRIAL

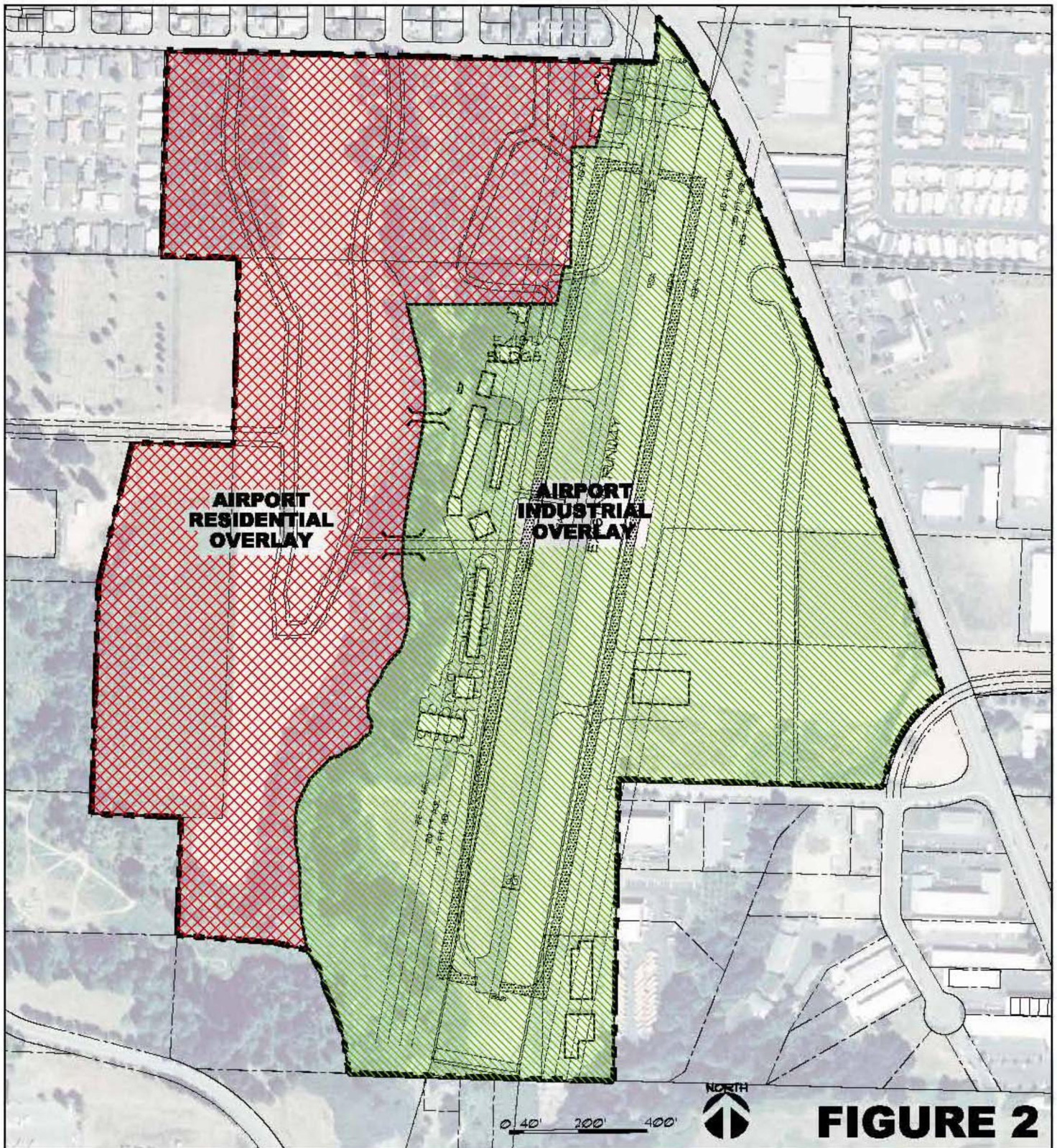
**DISTRICT
PLAN**



DATE: 3/20/06
SCALE: 1" = 400'-0"

SPORTSMAN AIRPARK
CITY OF NEWBERG — OREGON

ARON FAEGRE & ASSOCIATES
520 S.W. YAMHILL, PORTLAND, OR 97204
503-222-2546



KEY:

— PROPOSED AIRPORT DISTRICT AREA



AIO - AIRPORT INDUSTRIAL OVERLAY



ARO - AIRPORT RESIDENTIAL OVERLAY

SUB-DISTRICT PLAN



DATE: 3/20/06
SCALE: 1" = 400'-0"

SPORTSMAN AIRPARK
CITY OF NEWBERG — OREGON

ARON FAEGRE & ASSOCIATES
520 S.W. YAMHILL, PORTLAND, OR 97204
503-222-2548

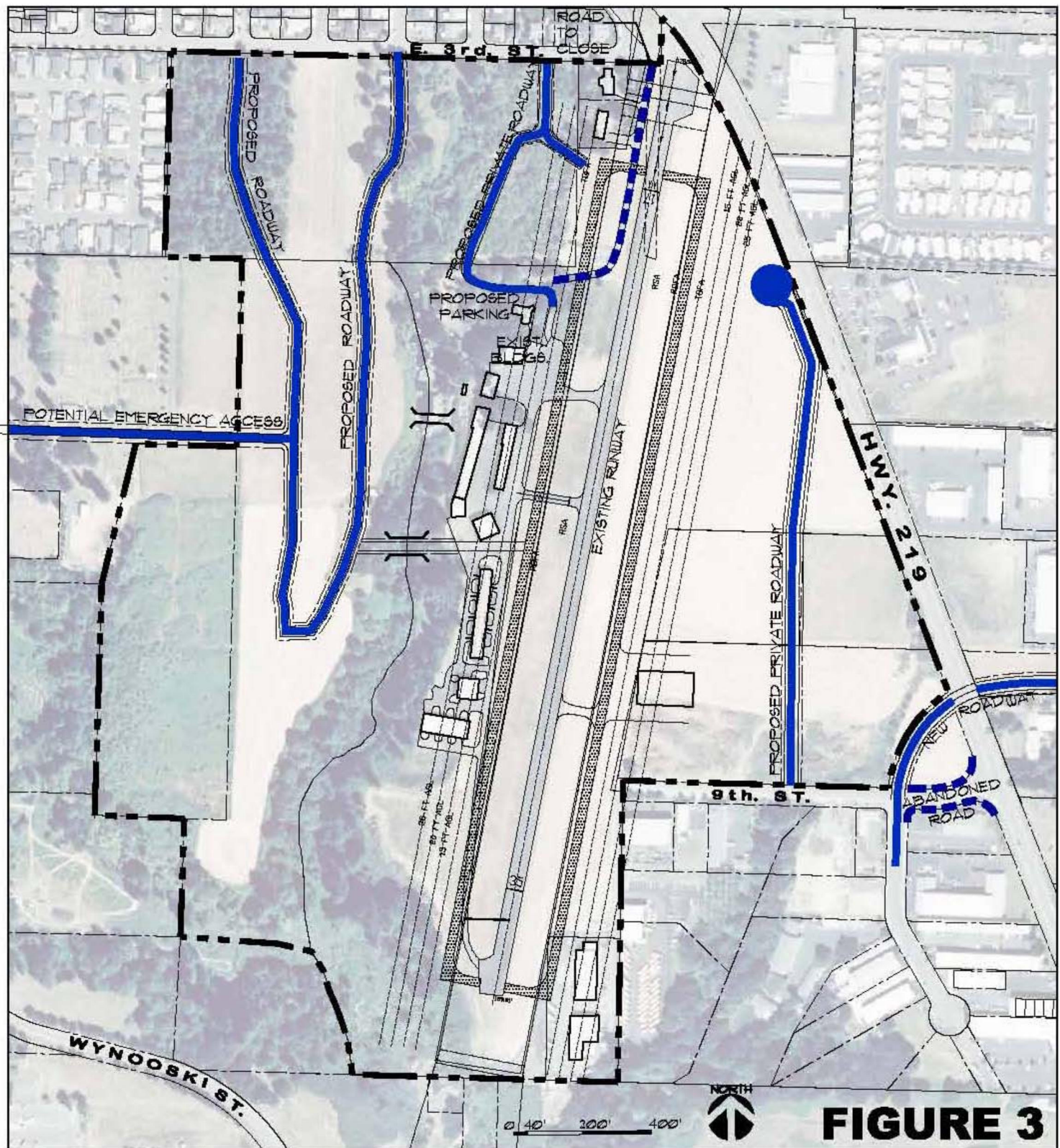


FIGURE 3

KEY:

- PROPOSED ROAD
- - - - - ABANDONED ROAD
- PROPOSED AIRPORT DISTRICT AREA

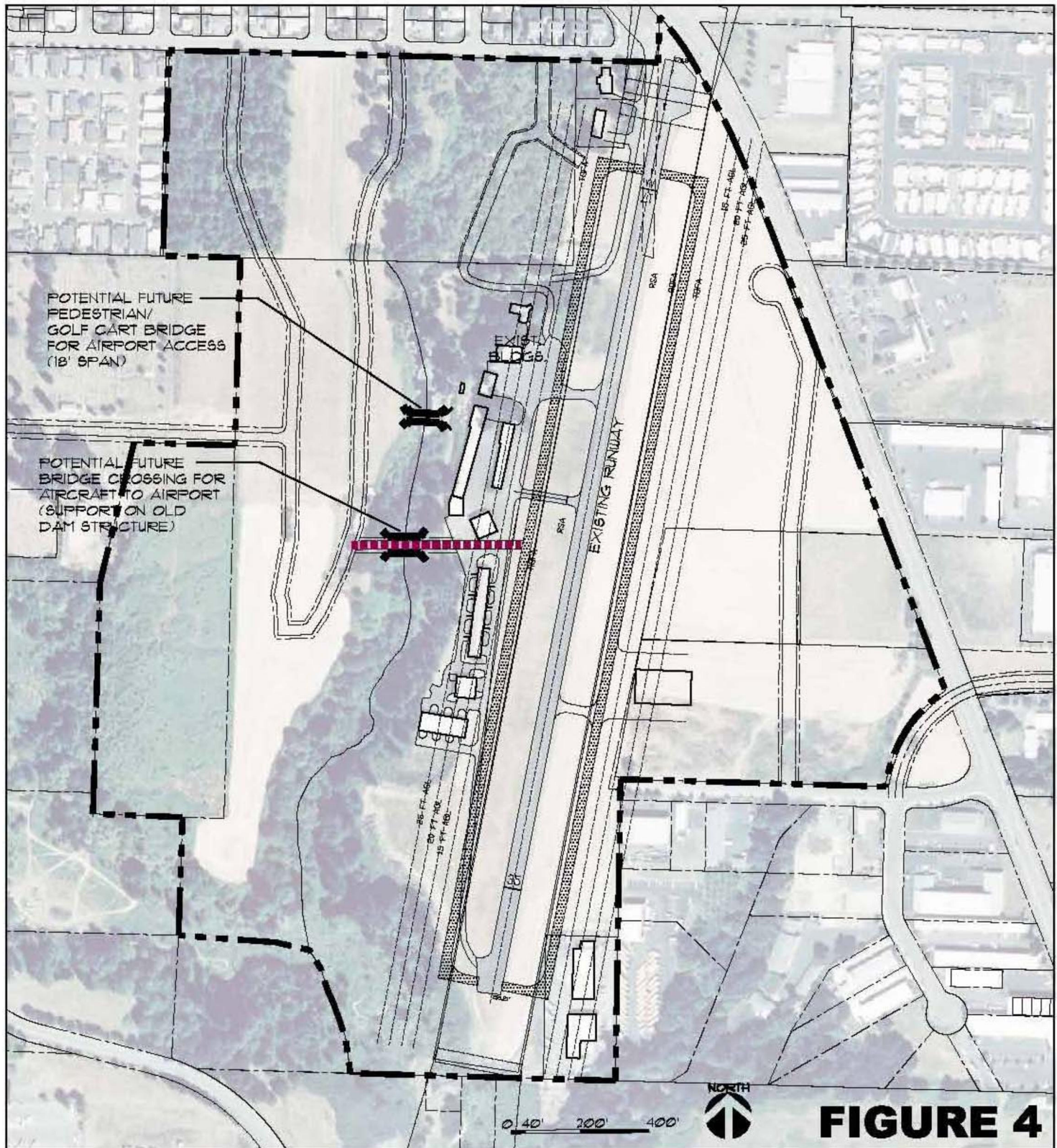
ROAD PLAN



DATE: 3/20/06
SCALE: 1" = 400'-0"

SPORTSMAN AIRPARK
CITY OF NEWBERG — OREGON

ARON FAEGRE & ASSOCIATES
520 S.W. YAMHILL, PORTLAND, OR 97204
503-222-2546



KEY:

--- PROPOSED AIRPORT DISTRICT AREA



PROPOSED BRIDGE



PROPOSED PRIVATE TAXIWAY

BRIDGE PLAN



DATE: 3/20/06
SCALE: 1" = 400'-0"

SPORTSMAN AIRPARK
CITY OF NEWBERG — OREGON

AIRON FAEGRÉ & ASSOCIATES
520 S.W. YAMHILL, PORTLAND, OR 97204
503-222-2548

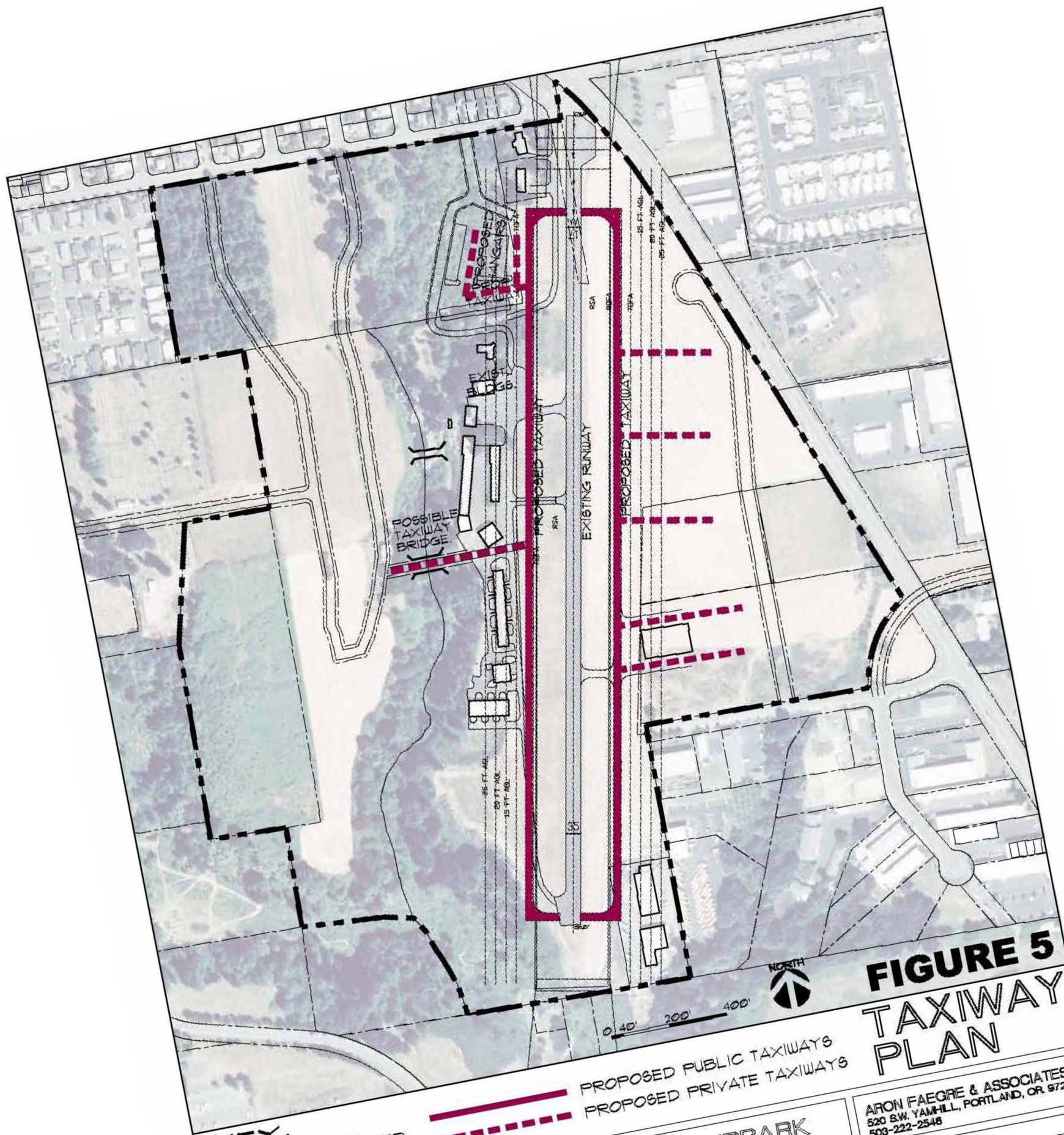


FIGURE 5
TAXIWAY
PLAN

KEY:
 - - - - - PROPOSED AIRPORT DISTRICT AREA
 ——— PROPOSED PUBLIC TAXIWAYS
 - - - - - PROPOSED PRIVATE TAXIWAYS



DATE: 3/20/06
 SCALE: 1" = 400'-0"

SPORTSMAN AIRPARK
 CITY OF NEWBERG — OREGON

ARON FAEGRE & ASSOCIATES
 520 S.W. YAMHILL, PORTLAND, OR 97204
 503-222-2548

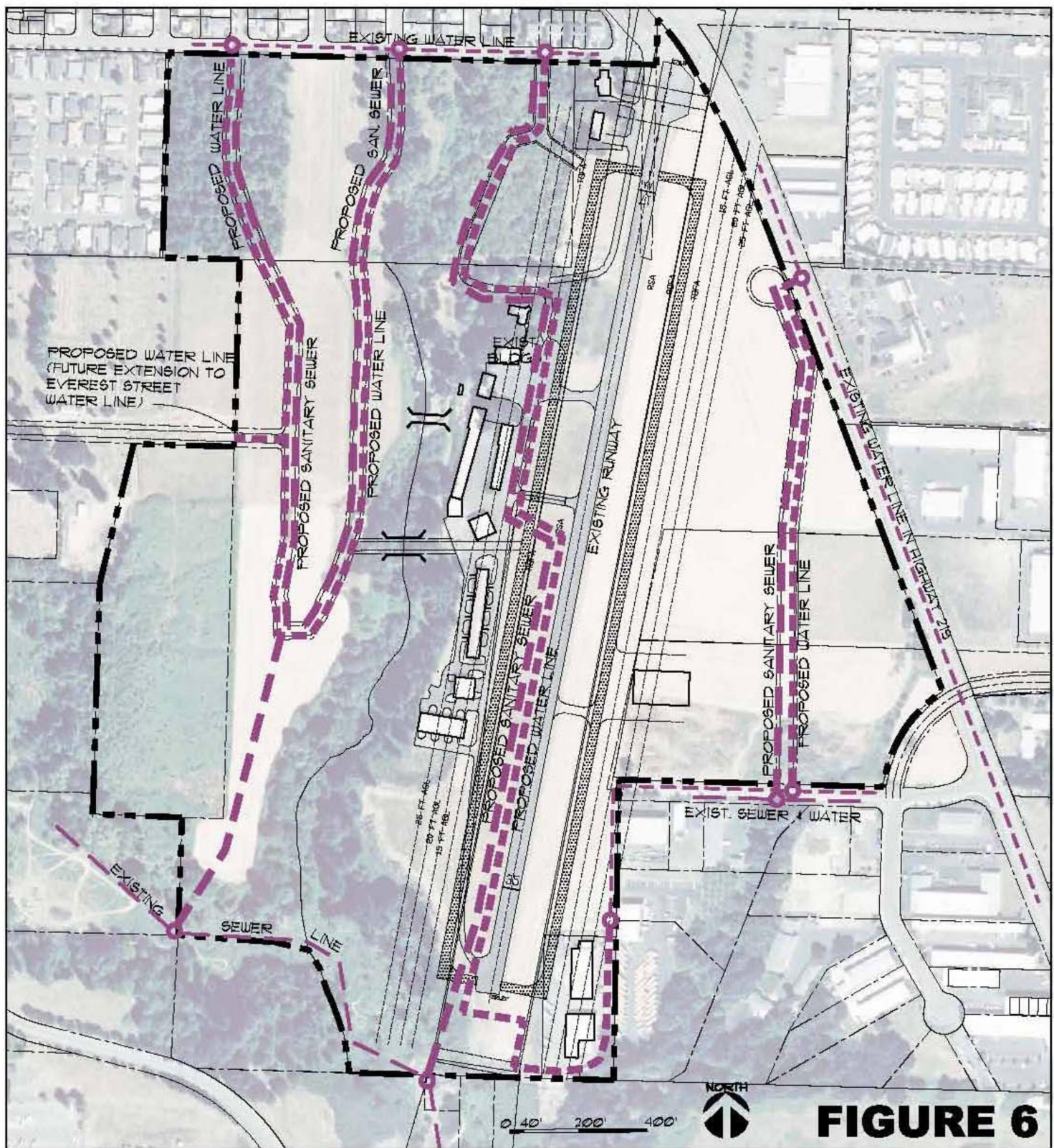


FIGURE 6

KEY:

--- PROPOSED
AIRPORT
DISTRICT AREA

--- WATER LINE
(EXISTING)
--- SANITARY SEWER
(EXISTING)
○ TIE TO EXISTING

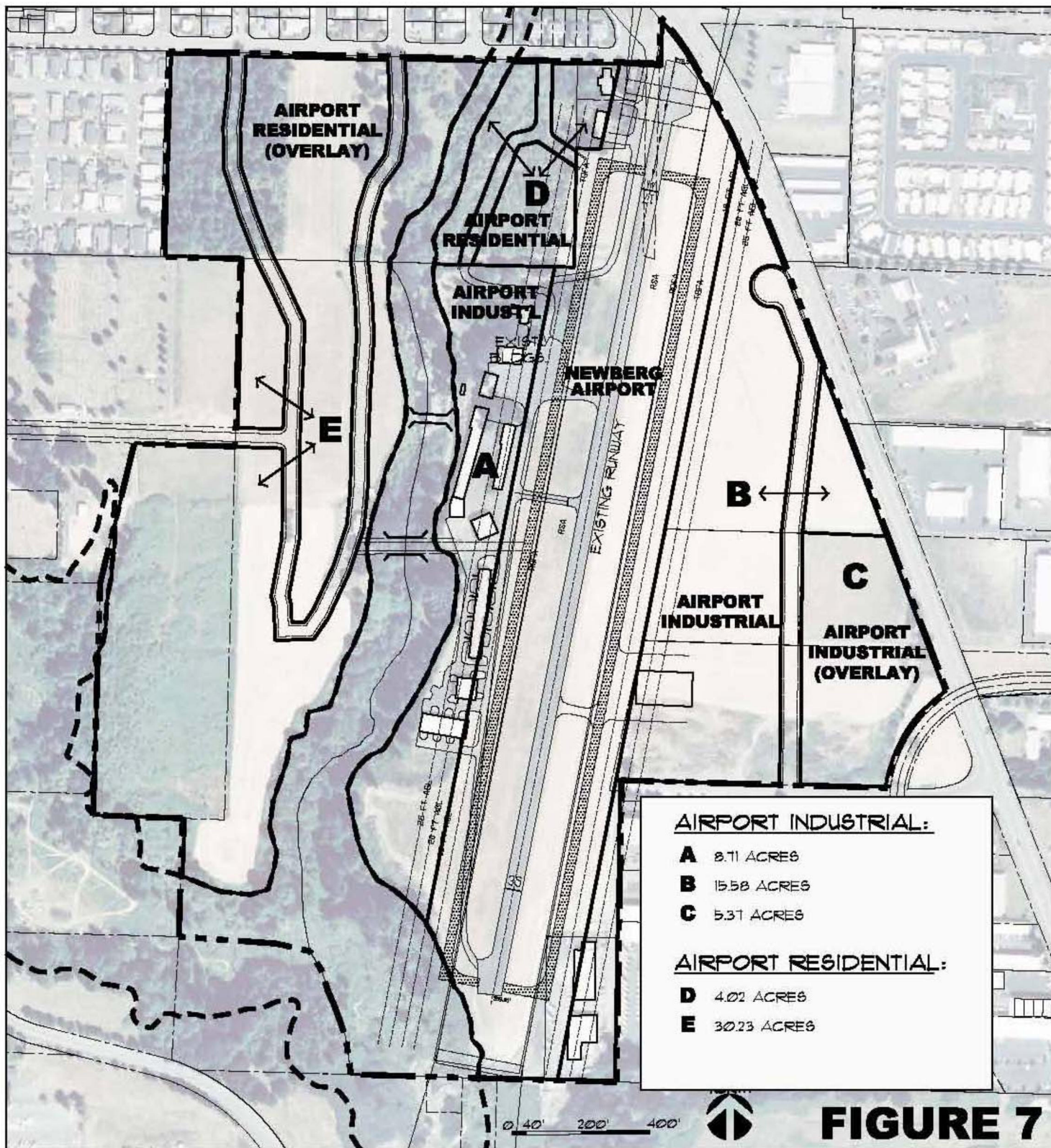
**UTILITIES
PLAN**



DATE: 3/20/06
SCALE: 1" = 400'-0"

SPORTSMAN AIRPARK
CITY OF NEWBERG — OREGON

AIRON FAEGRE & ASSOCIATES
520 S.W. YAMHILL, PORTLAND, OR 97204
503-222-2548



KEY:

- PROPOSED AIRPORT DISTRICT AREA
- STREAM CORRIDOR
- DEVELOPABLE AREA

**DEVELOPABLE
LAND AREA**



DATE: 3/20/06
SCALE: 1" = 400'-0"

SPORTSMAN AIRPARK
CITY OF NEWBERG -- OREGON

ARON FAEGRE & ASSOCIATES
520 S.W. YAMHILL, PORTLAND, OR 97204
503-222-2548

The Utilities Plan proposes gravity sewer lines running from north to south, to utilize the general 17 foot grade change that exists at the airport site from north to south. Water lines connect to existing lines on E 3rd Street, 9th Street, and Highway 219 to create a looped system. A water line will be extended from the looped water line in the residential area to the western boundary of the residential area for a future connection to an existing water line that dead-ends on Everest Street.

The Developable Area Plan shows the developable areas on the site. When an area is developed for aviation uses, there are two options for the layout of the circulation system.

- Roads (private or public) and taxiways are completely separated; or
- Private roads and taxiways use common pathways.

In a large development area, where there is a lot of aviation activity, it is generally advantageous to separate the roads and taxiways. Independence State Airport provides a good example of that circulation system³. Where the development area is small, the roads and taxiways may be designed as a common system. As specific areas are developed, their size and the expected aviation activity they will contain must be used to determine the actual layout of the circulation system and whether it can be common between aircraft and vehicles.

4. Infrastructure Funding

At present it is assumed that the infrastructure of roads, bridges, taxiways, and utilities will be developed at the direct expense of the respective property owners. It is noted that in Section 9 below the possibility of using tax increment financing for infrastructure is discussed as a possibility to stimulate development.

5. Airport District Development Codes

The Master Plan provides specific Development Code language for each Airport District, including:

- Airport Industrial,
- Airport Industrial Overlay,
- Airport Residential, and
- Airport Residential Overlay.

The specific language for each of these is provided in Appendices A and B. In creating the language for these Districts, the texts from twenty-two other airport zoning ordinances from around the State of Oregon were studied⁴.

The Airport Industrial District was generally developed using the City of Newberg M-2 Light Industrial District as a starting point, and then using the Columbia County Airport Industrial AI District and the Oregon Department of Aviation Model Public Use Airport Zone as major models for specific airport-related language.

³ See the pictures of Independence State Airport shown in Appendix F.

⁴ See "Sample Airport Zoning Ordinances from other Oregon Airports," Project Memorandum by Aron Faegre & Associates, May 16, 2005.

Similarly, the Airport Residential District was generally developed using the City of Newberg R-2 District as a starting point, and then using the City of Independence Residential Airpark Overlay and the Oregon Department of Aviation Model Public Use Airport Zone as major models for airport-related language.

For both Districts, suggestions received during public meetings and during meetings with adjacent land owners were incorporated into the final language as presented, so that the final development code represents language specifically tailored to the actual setting of Sportsman Airpark.

The “overlay” sub-districts provide support to the continued operation and vitality of Sportsman Airpark by addressing potential land use conflicts that could occur between the airport and adjacent development. They also address how properties in the area could be converted from their existing use designations to their prospective future Airport District, as the Airport District designations must be requested by the property owner.

The Airport Residential District includes a provision for density transfer. Due to the complexity and intermixing of roads, taxiways, and constructing hangars in an airport residential district, properties within the district may transfer allowed dwelling unit density to other property within the district and reduce minimum lot sizes such that the overall dwelling density complies with that of a conventionally developed R-2 zoned property.

In all airport districts there is a requirement for some form of airport-dependent or airport-related use. In the case of Airport Residential, there must either be an aircraft tie-down or hangar located on the house site, or a hangar must be provided as part of the permanent rights of the house site. For Airport Industrial, the business must need to be located at the airport. At a minimum the business must require use of an aircraft as an important tool or platform for their work.

6. Airport Ownership

The basic airport infrastructure – the runway, parallel taxiways, and required safety zones – are currently in private ownership. Access to the airport runway by adjacent properties will require an agreement with the airport owner. The agreement will address such issues as maintenance costs of the airport runway, safety issues for use of the runway, and noise abatement issues for maintaining compatibility with the larger community.

To promote long term stability it is recommended, and the private owner has offered, that the basic airport infrastructure should be put into some form of public ownership or protection. Two options for this are potentially available:

- Ownership by the City of Newberg through purchase by FAA grant, or
- Continued private ownership, but with purchased “development rights” by FAA grant to City of Newberg to guarantee its use as an airport forever.

At present, it is recommended (and the airport owner concurs) that the purchase of “development rights” should be pursued first. The FAA’s “development rights” program has not yet processed any projects, in large part because of the complexity of the rules. However, it is believed that with the

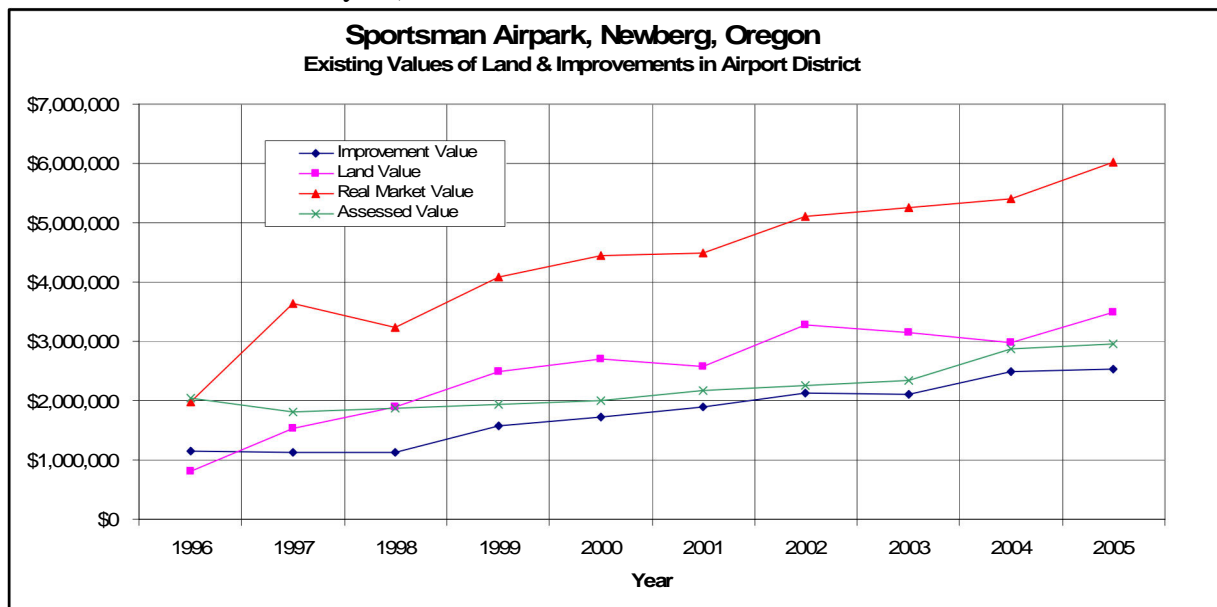
assistance of the Oregon Congressional delegation, the rules may be adjusted to get FAA airport funds⁵ designated for this project. The FAA staff has stated that they have no problem with this project going to the Oregon Congressional delegation to attempt to gain assistance on gain funding.

Once “development rights” are secured, it is recommended that the extension of the runway several hundred feet to the south be seriously examined. The City of Newberg owns land at the south end of the airport which might be used in part for this purpose, if its elevation could be raised. The future planned Newberg-Dundee Bypass Road is in this same general area, so that may create an opportunity for creation of a retaining wall which would help the airport meet its needs for raising ground elevation adjacent to the south end of the airport.

If the runway can be lengthened several hundred feet through this process, then the FAA’s need for a minimum runway length would be solved, and the airport’s basic infrastructure of runway, parallel taxiways, and safety areas could be purchased by the City of Newberg. The advantage of public ownership is that then FAA funds would be available on an on-going basis for airport improvements and maintenance, as currently occurs for other similar airports such as at McMinnville, Aurora, Hillsboro, Troutdale, and Mulino.

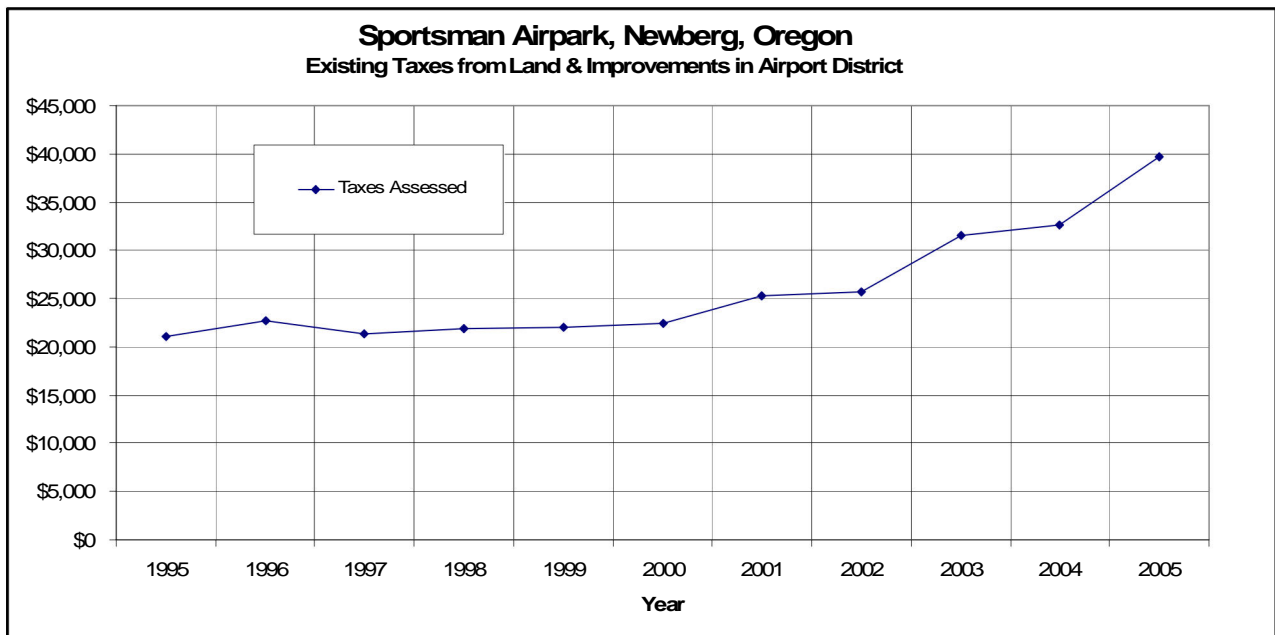
7. Tax and Job Values of Airport District Properties

The existing property and improvements value of the properties within the Airport District over the past 10 years are shown below. It indicates a steady approximate 10% per year increase that may simply relate to recent average increases in real estate values in Oregon during the same time period. The graph contains no single year jump in improvements value, because there has been no significant new construction during recent years (note a new hangar on Tax Lot 302 will add significant value to the District in the next tax year).



⁵ It should be noted that FAA airport funds are created through aviation fuel and ticket taxes and are specifically designated for airport projects. Potential FAA funds for purchase of development rights or land at Sportsman Airpark would not come from normal IRS tax funds or other government programs, and thus would not take away from any other federal funds for which the City of Newberg is eligible.

Taxes assessed on the properties within the Airport District over the past 10 years are shown in the following graph. The rapid increases between the year 2000 and present are believed to be primarily due to the removal of lands from farm deferral, which increased their taxable value. Whatever the reason, taxes contributed to the community during that five year period has doubled.

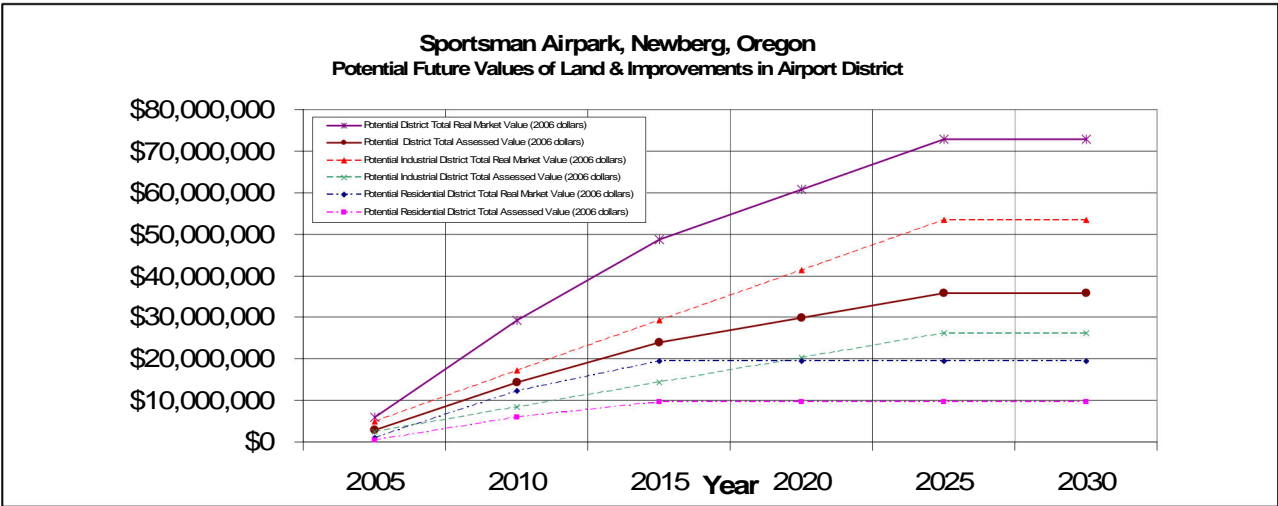


These values are based on existing development at the airport which is limited to some hangar development on the west side of the runway in Parcel 300, development of Parcel 1900, and one house on each of Parcels 1300, 1400, 1500 and 1600. Industrial uses currently only exist on parcels 300 and 1900. Existing employment in the Airport District is estimated at 16 FTE jobs in Parcel 300 and 12 FTE jobs in Parcel 1900. It is estimated that of the 29 acres of developable Airport Industrial land, approximately 17% is currently developed.

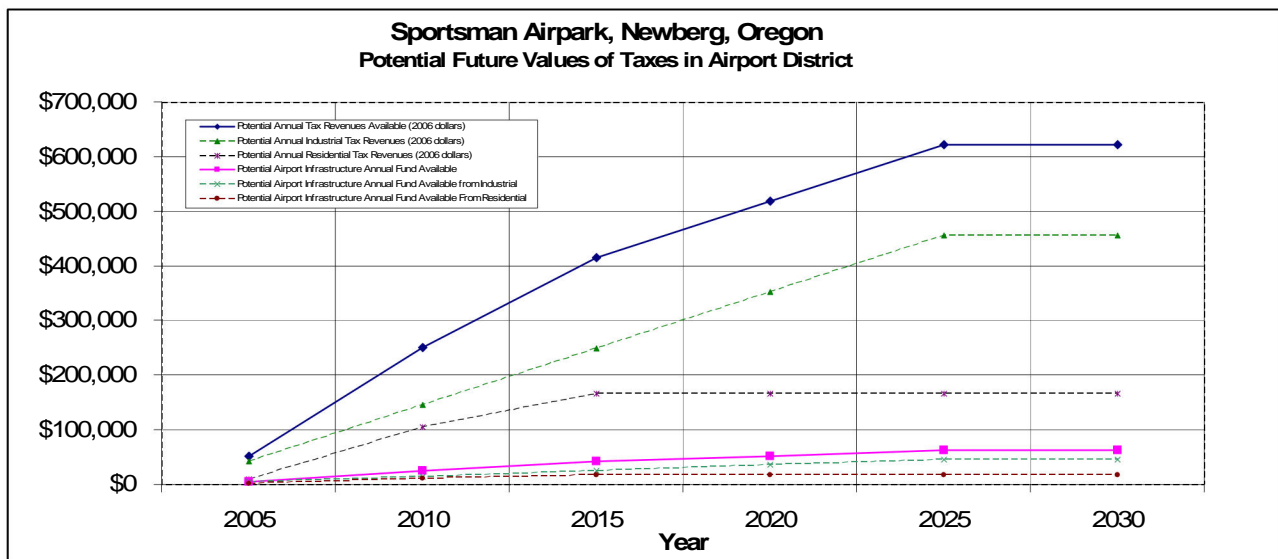
It is reasonable to assume that the Airport Industrial lands can be developed at approximately 50% lot coverage, and building costs are in the range of \$50 to \$100 per square foot. This would indicate an average improvement value of \$1.5 million per acre, at current dollar values. Once the entire industrial developable area is completed, this will represent a potential total improvement value for the developable industrial lands of perhaps more than \$50 million in current dollar value.

From a public tax base standard, industrial users also require machinery, equipment, and site development (including taxiways and private roads) which add to the tax base for the community. These added values would be dependent on the type of business that develop in the District and are not included in the graphs below.

The value of improvements in the Airport Residential District is assumed to be similar to what it would be for any R-2 Residential District. One could argue that the improvement and land values may be higher due to the special availability of the airport. However, the density of houses may be less due to the need to allow for room for hangars and/or taxiways. Usually, residential development is considered to be an incompatible neighbor to an airport. However Airport Residential is a supportive neighbor to an airport, since the residents are aircraft users and find aircraft noise not only acceptable, but entertaining to some extent. For sake of conservative projections it has been assumed that only 33% of the 35 residential developable acres will be created as Airport Residential. Given the current great demand for housing in the Newberg area, it has been assumed that the residential portions of the Airport District will be fully developed within 10 years, rather than the 20 year period assumed for the industrial portions of the Airport District. For those areas developed, a lot coverage of 33% is assumed and a construction value of \$125 (2006 dollars) per square foot is assumed. This would result in an improvements value of approximately \$200,000 (2006 dollars) for a 5000 square foot Airport Residential lot.



The following table shows the projected tax value of the Airport District development, based on the above assumptions, over the 20 year period of development. The table includes estimates of tax increment funds that could be set aside to assist with the Airport District development, should the City opt to establish a 10% set aside to promote development within the District. This concept is discussed in Section 9 below concerning Airport Infrastructure and Operations funding.



A study of Aurora Airport potential development opportunities⁶ determined that airport properties could be developed at densities ranging from a high of 52 persons per acre for an aircraft manufacturing facility such as Van's Aircraft, to a low of 5 persons per acre for small hangars that are used at least in part for business uses. Aurora Airport has a developable land area of approximately 85 acres, which is approximately 60% developed. The total current tax base of the airport is assessed at approximately \$34 million and as such the airport contributes approximately \$360,000 in taxes to the community each year. The airport is believed to currently contain approximately 750 jobs. This would represent an average of 15 jobs per developed acre on average.

Based on this kind of rough information, one could predict that at build-out of the Airport Industrial lands, the total improvement values will be in the range of \$50 million. Using an estimate of 15 persons per developable acre, this also represents a total of 440 jobs within the Airport Industrial District. Assuming a linear development of the properties over a 20 year period, this would represent a development of 110 jobs each 5 years, and an increase in improvement values by \$12 million (in 2006 dollars) each 5 years. Obviously the actual numbers will depend on whether the businesses attracted are more like a Van's Aircraft (in which case the numbers may be bigger) or small hangars only partially used for business (in which case the numbers may be smaller).

8. Airport Industrial Area Economic Incentives

To promote development in the Airport Industrial District, the City of Newberg could consider the development of an "enterprise zone", a "free trade zone", a federal or state recognized "employment zone", or other similar economic development incentive programs.

⁶ Aurora Airport: Potential for On-airport Development, by Aron Faegre, February 14, 2003.

9. Airport Infrastructure and Operations Funding Considerations

To promote the development of the Airport District, the City of Newberg can establish the Airport District as a tax increment financing district. In this way, a portion of taxes from new development in the Airport District can be used to install infrastructure such as water, sewer, roads, and taxiways that will in turn invigorate further development in the District. This funding can also create an on-going operations and maintenance fund for the airport. Should the City of Newberg take ownership of the basic runway and taxiways of the airport, this fund can also provide the 5 to 10% match required for federal airport improvement funds. The graph on page 14 shows that at a 10% set-aside the airport fund is predicted to start providing approximately \$5,000 per year at the start, but rise to \$25,000 per year after 5 years, rise to \$40,000 per year after 10 years, and rise to \$60,000 per year by 20 years.

It is estimated that should the City of Newberg take ownership of the basic runway and taxiways of the airport, City staff time of five hours per week on average would be required for administrative and management activities. The adjacent airport district properties would take on the labor of mowing, cleanup, changing of light bulbs, and other miscellaneous work. An annual budget of \$12,500 is proposed for direct maintenance cost items such as light bulbs, wind socks, and other materials, and an annual budge of \$12,500 is proposed as the 5% required match for FAA grants which might average \$250,000 per year.

APPENDIX A

AIRPORT INDUSTRIAL (AI) DISTRICT & AIRPORT INDUSTRIAL OVERLAY (AIO) SUB-DISTRICT

June 5, 2006

CITY OF NEWBERG DEVELOPMENT CODE LANGUAGE

[**“Bold”** text indicates added language, ~~“strike through”~~ text indicates deleted language, and “normal” text indicates existing language to remain.]

Part 13.1 AIRPORT INDUSTRIAL (AI) DISTRICT

151.498 DESCRIPTION AND PURPOSE.

The purpose of the City of Newberg Airport Industrial (AI) District is to encourage and support the continued operation and vitality of Sportsman Airpark by allowing airport-related industrial uses, and as such to promote economic development for the City of Newberg and Yamhill County. The Airport Industrial (AI) District is intended to recognize those areas devoted to or most suitable for the immediate operational facilities necessary for commercial and noncommercial aviation. It is also intended to provide areas for those activities directly supporting or dependent upon aircraft or air transportation when such activities, in order to function, require or benefit from a location within or immediately adjacent to primary flight operations and passengers or cargo service facilities. It is further intended to provide appropriate locations for airport related light industrial uses that are compatible with and benefit from air transportation.

151.498.1 PERMITTED BUILDINGS AND USES

(A) In the Airport Industrial District, the following buildings and uses are permitted as hereinafter specifically provided.

(B) The buildings and uses are subject to the general provisions and exceptions set forth in this code:

(1) Customary and usual aviation-related activities, including but not limited to takeoffs and landings; aircraft hangars and tie-downs; construction and maintenance of airport facilities; fixed based operator facilities; and other activities incidental to the normal operation of an airport, including operation of fixed wing aircraft, helicopters, hot air balloons, and gyrocopters.

(2) Emergency medical flight services, including activities, aircraft, accessory structures, and other facilities necessary to support emergency transportation for medical purposes.

Emergency medical flight services do not include hospitals, medical offices, medical labs, medical equipment sales, and other similar uses.

(3) Law enforcement and firefighting activities, including aircraft and ground-based activities, facilities and accessory structures necessary to support federal, state or local law enforcement or land management agencies engaged in law enforcement or firefighting activities. Law enforcement and firefighting activities include transport of personnel, aerial observation, and transport of equipment, water, fire retardant and supplies.

(4) Search and rescue operations, including aircraft and ground based activities that promote the orderly and efficient conduct of search or rescue related activities.

(5) Flight instruction, including activities, facilities, and accessory structures located at airport sites that provide education and training directly related to aeronautical activities. Flight instruction includes ground training and aeronautic skills training, including schools for flight attendants, ticket agents or similar personnel.

(6) Aircraft service, maintenance and training, including activities, facilities and accessory structures provided to teach aircraft service and maintenance skills and to maintain, service, refuel or repair aircraft or aircraft components.

(7) Aircraft rental, including activities, facilities and accessory structures that support the provision of aircraft for rent or lease to the public.

(8) Aircraft sales and the sale of aeronautic equipment and supplies, including activities, facilities and accessory structures for the storage, display, demonstration and sales of aircraft and aeronautic equipment and supplies to the public.

(9) Aerial mapping and surveying.

(10) Air cargo warehousing and distribution facilities.

(11) Aircraft and aircraft component manufacturing or assembly.

(12) Aviation and space technology development and research.

(13) Aircraft or air transportation businesses.

(14) A business that owns an aircraft, keeps it at their industrial site, and relies on the aircraft as an important tool or platform for their work.

(15) A business activity that relies on regular use of a general aviation aircraft by the business or its clients.

(16) Auto rental agencies.

(17) Day care and recreational facilities exclusively for employers and employees of businesses located within this district.

- (18) Greenways, including but not limited to bicycle and pedestrian paths.**
- (19) Public and semi-public buildings, structures and uses that provide necessary services to an airport, such as fire stations, pump stations and water storage.**
- (20) Schools relating to airport operation.**
- (21) Snack shop for airport clientele with a total floor area no larger than 800 square feet.**
- (22) One residence of area not more than 40% the area of the hangar floor, up to a maximum of 1500 square feet, for an airport caretaker or security officer on each separate parcel.**
- (23) Manufacturing, assembling, testing, repairing, packaging and distribution of precision testing optics; precision testing equipment; and components, devices, equipment, instruments and systems of an electronic or electromagnetic nature, such as coils, tubes, semi-conductors and similar components; communications, navigation, transmission and reception equipment, control equipment and systems; data processing equipment and systems; electronic parts and components; metering instruments; telecommunications equipment; and scientific instruments; upon demonstration that the use is dependent upon or benefits from air transportation.**
 - (a) An industrial use is dependent upon air transportation if it requires a location at or adjacent to an airport to be economically viable. Economic viability is measured by determining whether the use or activity would suffer an economic disadvantage if not located at or adjacent to an airport. Considerations include the percentage of business done with air cargo; the industry's dependence on air transportation by staff, management, sales, personnel, vendors, or clientele; the industry's site size requirements; and the industry's interest in locating in a non-metropolitan area of the state.**
 - (b) Industrial uses shall be considered dependent upon air transportation where:**
 - (i) More than 10 percent of the products produced would be shipped through air cargo; or**
 - (ii) More than 30 percent of gross sales would be with customers located out of state; or**
 - (iii) The business owns an aircraft, keeps it at their industrial site, and relies on the aircraft as an important tool or platform for their work; or**
 - (iv) Sales or service of the product requires a rapid response that can best be achieved through air transport; or**
 - (v) The use would suffer an economic disadvantage if not located at or adjacent to an airport.**

(24) Private streets that function as taxiways are allowed within the AI District and may include gates for safety purposes with designs approved by the Fire Marshall, at the limit of the taxiways.

151.498.2 BUILDINGS AND USES PERMITTED CONDITIONALLY

In addition to the buildings and uses permitted conditionally, listed in 151.211, the Planning Commission may grant a conditional use permit for any of the following buildings and uses in accordance with a Type III procedure:

(A) Motels, hotels, and gift shops, upon demonstration that they are compatible with airport operations.

(B) Cafeterias and restaurants, upon demonstration that they are compatible with airport operations.

(C) Aeronautic recreational and sporting activities, including activities, facilities and accessory structures at airports that support recreational usage of aircraft and sporting activities that require the use of aircraft or other devices used and intended for use in flight. Aeronautic recreation and sporting activities authorized under this paragraph include, but are not limited to, fly-ins; glider flights; ultralight aircraft flights; displays of aircraft; and aeronautic flight skills contests.

Part 13.2 AIRPORT INDUSTRIAL OVERLAY (AIO) SUB-DISTRICT

151.498.3 PURPOSE

The Airport Industrial Overlay (AIO) Sub-District is intended to support the continued operation and vitality of Sportsman Airpark by addressing potential land use conflicts with adjacent development. It also addresses how properties in the area could be converted to Airport Industrial District.

151.498.4 NOTICES AND RESTRICTIONS REQUIRED FOR DEVELOPMENT WITHIN THE AIRPORT INDUSTRIAL OVERLAY (AIO) SUB-DISTRICT

(A) **Avigation Easement.** When a subdivision plan or partition is required for any property within the AIO Sub-District, the property owner shall dedicate an avigation easement to the City over and across that property. The easement shall hold the City, public and airfield, harmless from any damages caused by noise, fumes, dust, fuel, fuel particles, or other effects that may be caused by the operation of aircraft taking off, landing, or operating on or near the airfield, not including the physical impact of aircraft or parts thereof.

(B) **Notification of Buyers.** No person shall sell, nor offer for sale, any property within the AIO Sub-District unless the prospective buyer has been notified of the fact that the property is within the AIO Sub-District. When property ownership is transferred, the property deed shall be amended to note that the property is within the Airport Industrial Overlay Sub-district.

(C) **Agree to Noise Abatement.** No person shall sell, nor offer for sale, any property within the AIO Sub-District unless the prospective buyer agrees to follow Aircraft Owners and Pilots Association (AOPA) standard noise abatement procedures, or the most recent noise abatement procedures established at the airport.

(D) **CC&Rs:** The applicant for a subdivision or design review in the AIO Sub-District in the shall provide a copy of the CC&Rs in conformance to the requirements listed above.

151.498.5 CONVERSION OF PROPERTY TO THE AIRPORT INDUSTRIAL DISTRICT

Property within the Airport Industrial Overlay Sub-district may be converted to the Airport Industrial District at the request of the applicant concurrent with and through the approval of a subdivision with the Airport Industrial Overlay Sub-district. Property may also be converted to the Airport Industrial District through the zone change process 151.122

151.498.6 CONFORMANCE WITH THE AIRPORT OVERLAY (AO) SUB-DISTRICT

All uses, activities, facilities and structures allowed in the Airport Industrial District and Airport Residential District shall comply with the requirements of the Airport Overlay (AO) Sub-District. In the event of a conflict between the requirements of these Districts and those of the Airport Overlay (AO) Sub-District, the requirements of the overlay sub-district shall control.

151.536 BUILDING HEIGHT LIMITATION.

(B) Commercial and industrial:

(2) In the AI, C-2, C-3, M-1, M-2, and M-3 Districts there is no building height limitation, except when said districts abut upon a residential district, the maximum permitted building height shall not exceed the maximum building height permitted in the abutting residential district for a distance of 50 feet from the abutting boundary.

151.550 GENERAL YARD REGULATIONS

Add:

(F) In the Airport Industrial District clear areas, safety areas, object free areas, taxiways, parking aprons, and runways may be counted as required yards for a building, even if located upon an adjacent parcel.

151.551 FRONT YARD SETBACK

(C) *Industrial.* All lots or development sites in the M-1, M-2 or M-3 Districts shall have a front yard of 20 feet. **Lots or development sites in the AI District shall have a front yard of 10 feet.**

151.552 INTERIOR YARD SETBACK

(C) *Industrial*. All lots or development sites in the **AI**, M-1, M-2 and M-3 Districts shall have no interior yards where said lots or development sites abut property lines of commercially or industrially zoned property. When interior lot lines of said districts are common with property zoned residentially, interior yards of not less than ten feet shall be required opposite the residential districts.

151.565 LOT AREA; LOT AREAS PER DWELLING UNIT.

(A)(2) In the **AI**, R-2, R-3, RP, C-1, C-2, and C-3 Districts, each lot or development site shall have a minimum of 5,000 square feet or as may be established by a sub-district.

151.567 LOT DIMENSIONS AND FRONTAGE.

(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 151.003, shall be created to provide frontage or access.

(b) Each lot in an R-1, R-2, R-3, AR, **AI**, or RP Zone shall have a minimum width of 50 feet at the front building line.

151.580 REQUIRED MINIMUM STANDARDS (LANDSCAPING)

(B) *Required landscaped area*. The following landscape requirements are established for all developments except single family dwellings.

(1) A minimum of 15% of the lot area shall be landscaped; provided however, that computation of this minimum may include areas landscaped under subdivision (3) below. Development in the C-3 (Central Business District) Zoning District is exempt from the 15% landscape area requirement of this section. Additional landscaping requirements in the C-4 District are described in § 151.527.4(K) of this code. **In the Airport Industrial (AI) District only a 5% landscaping standard is required with the goal of “softening” the buildings and making the development “green” with plants where possible. The existence of the runway, taxiway, and approach open areas already provide generally for the 15% requirement. Developments in the Airport Industrial (AI) District with a public street frontage shall have said minimum landscaping between the front property line and the front of the building.**

151.612 **PARKING SPACES REQUIRED.**

[Add to Table under Industrial Types:]

Use: **Aircraft Storage Hangars up to 3,600 sq. ft. each enclosed hangar area**

Parking Space Required: **none (parking occurs in hangar)**

Use: **Aircraft Storage Hangars over 3,600 sq. ft. each enclosed hangar area**

Parking Space Required: **1 for every 700 sq. ft. of hanger area over 3,600 sq. ft.**

Use: **Aircraft Hangars intended for repair and maintenance operations**

Parking Space Required: **1 for each 5,000 sq. ft. of hangar, plus 1 for each 500 sq. ft. of shop area, plus 1 for each 400 sq. ft. of office area.**

151.617 **OFF-STREET LOADING.**

(A) Buildings to be built or substantially altered which receive and distribute materials and merchandise by trucks shall provide and maintain off-street loading berths in sufficient number and size to adequately handle the needs of the particular use.

(4) Where a facility includes an aircraft hangar, the off-street loading requirement is not required since loading may occur through the hangar doors.

CITY OF NEWBERG DEVELOPMENT CODE LANGUAGE

[“**Bold**” text indicates added language, “~~striketrough~~” text indicates deleted language, and “normal” text indicates existing language to remain.]

Part 13.3 AIRPORT RESIDENTIAL (AR) DISTRICT

151.449.1 DESCRIPTION AND PURPOSE.

The purpose of the City of Newberg Airport Residential (AR) District is to encourage and support the continued operation and vitality of Sportsman Airpark and to take advantage of the transportation options it provides by allowing airport-related residential uses. Maximum overall density shall be 8.8 units per gross acre.

151.449.2 PERMITTED BUILDINGS AND USES

(A) In the Airport Residential (AR) District, the following buildings and uses are permitted: as hereinafter specifically provided.

(B) The buildings and uses are subject to the general provisions and exceptions set forth in this code:

- (1) Residential Airpark Development, meaning one residence per lot with addition of a tiedown or hangar for an airplane. At a minimum, a paved tiedown or hangar shall be provided on the property, or the property shall include permanent rights to a private hangar within a subdivision.
- (2) Accessory uses and structures:
- (3) Aircraft Hangar. No aircraft hangar shall be constructed on any parcel or lot without a residential dwelling, except if it is provided with permanent rights to a nearby airpark residence as per (a) above. An aircraft hangar cannot be used as a residence.
- (4) Customary and usual aviation-related activities, including but not limited to takeoffs and landings; construction and maintenance of airport facilities; and other activities incidental to the normal operation of an airport.
- (5) Greenways, including but not limited to bicycle and pedestrian paths.
- (6) Public and semi-public buildings, structures and uses that provide necessary services to an airport, such as fire stations, pump stations and water storage.

(7) **Transportation facilities and improvements**

(8) **Private streets that function as taxiways are allowed in the AR District and may include gates with designs approved by the Fire Marshal, at the limit of the taxiways.**

Part 13.4 AIRPORT RESIDENTIAL OVERLAY (ARO) SUB-DISTRICT

151.449.4 Purpose

The Airport Residential Overlay (ARO) Sub-District is intended to support the continued operation and vitality of Sportsman Airpark by addressing potential land use conflicts with adjacent residential development. It also addresses how properties in the area could be converted to Airport Residential District.

151.449.5 NOTICES AND RESTRICTIONS REQUIRED FOR DEVELOPMENT WITHIN THE AIRPORT RESIDENTIAL OVERLAY (ARO) SUB-DISTRICT

(A) Avigation Easement. When a subdivision plan or partition is required for any property within the ARO Sub-District, the property owner shall dedicate an avigation easement to the City over and across that property. The easement shall hold the City, public and airfield, harmless from any damages caused by noise, fumes, dust, fuel, fuel particles, or other effects that may be caused by the operation of aircraft taking off, landing, or operating on or near the airfield, not including the physical impact of aircraft or parts thereof.

(B) Notification of Buyers. No person shall sell, nor offer for sale, any property within the ARO Sub-District unless the prospective buyer has been notified of the fact that the property is within the ARO Sub-District. When property ownership is transferred, the property deed shall be amended to note that the property is within the Airport Residential Overlay Sub-district.

(C) Agree to Noise Abatement. No person shall sell, nor offer for sale, any property within the ARO Sub-District unless the prospective buyer agrees to follow Aircraft Owners and Pilots Association (AOPA) standard noise abatement procedures, or the most recent noise abatement procedures established at the airport.

(D) CC&Rs: The applicant for a subdivision or design review in the ARO Sub-District in the shall provide a copy of the CC&Rs in conformance to the requirements listed above.

151.449.6 Density Transfer Allowances within the ARO Sub-district

Due to the complexity and intermixing of roads, taxiways, and constructing hangars in an airport residential district, properties within the district may not be able to be developed to the density otherwise allowed. Thus, the applicant for a subdivision or partition within the ARO district may transfer allowed dwelling unit density to other property within the ARO Sub-district and reduce minimum lot sizes such that the overall dwelling density complies with that of a conventionally developed R-2 zoned property.

Lot coverage may be calculated using the entire site area of both the donor and recipient area, excluding public and private street and alley areas. The following dimensional requirements shall be applicable in the R-2 District in order to accommodate the density transfer provision of this Section: front yard setback – 10 feet; Garage front yard setback – 18 feet; interior yard setback – 3 feet; Non-alley rear yard setback – 5 feet; Alley rear yard setback – 3 feet. Maximum lot depth to lot width ratio is 3:1. The minimum lot width shall be 28 feet.

151.449.7 CONVERSION OF PROPERTY TO THE AIRPORT RESIDENTIAL (AR) DISTRICT

Property within the Airport Residential Overlay (ARO) Sub-district may be converted to the Airport Residential (AR) District at the request of the applicant concurrent with and through the approval of a subdivision with the Airport Residential Overlay (ARO) Sub-district. Property may also be converted to the Airport Residential (AR) District through the zone change process 151.122

151.536 BUILDING HEIGHT LIMITATION.

(A) Residential:

(1) In the R-1, R-2, **AR**, and RP Districts, no main building shall exceed two and one-half stories, or 30 feet in height, whichever is lesser. Accessory buildings in the R-1, R-2, R-3, AR, and RP Districts are limited to one story, or 16 feet in height, whichever is lesser, **except that aircraft hangars in the AR District may be the same as the main building.**

151.550 GENERAL YARD REGULATIONS

Add:

(G) In the Airport Residential (AR) District clear areas, safety areas, object free areas, taxiways, parking aprons, and runways may be counted as required yards for a building, if located upon an adjacent parcel.

151.551 FRONT YARD SETBACK

(A) *Residential (Figure X).*

(1) **AR**, R-1 and R-2 Districts shall have a front yard of not less than 15 feet. Said yard shall be landscaped and maintained.

151.552 INTERIOR YARD SETBACK

(A) *Residential.*

(1) All lots or development sites in the **AR**, R-1, R-2 and R-3 Districts shall have interior yards of not less than five feet, except that where a utility easement is recorded adjacent to a side lot line, there shall be a side yard no less than the width of the easement.

151.556 YARD EXCEPTIONS AND PERMITTED INTRUSIONS INTO REQUIRED YARD SETBACKS

(G) Hangars within the Airport Residential (AR) District may be constructed with no yard setbacks to property lines adjacent to other properties within the Airport Residential or Airport Industrial Districts.

151.565 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 7,500 square feet or as may be established by a sub-district.

(2) In the **AR**, R-2, R-3, RP, C-1, C-2, and C-3 Districts, each lot or development site shall have a minimum of 5,000 square feet or as may be established by a sub-district.

(B)(2) In the R-2, **AR**, and R-P Districts, there shall be a minimum of 3,750 square feet of lot or development site per dwelling unit.

151.567 LOT DIMENSIONS AND FRONTAGE.

(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 151.003, shall be created to provide frontage or access.

(b) Each lot in an R-1, R-2, R-3, or RP Zone shall have a minimum width of 50 feet at the front building line.

(c) Each lot in an AR Zone shall have a minimum width of 45 feet at the front building line.

151.568 LOT COVERAGE AND PARKING COVERAGE REQUIREMENTS.

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

(1) Maximum lot coverage.

(a) R-1: 30%.

(b) R-2 and RP: 40%.

(c) **AR and R-3:** 50%.

151.580 REQUIRED MINIMUM STANDARDS (LANDSCAPING)

(A) *Private and shared outdoor recreation areas in residential developments.*

(3) In the Airport Residential (AR) District a 5% landscaping standard is required with the goal of “softening” the buildings and making the development “green” with plants where possible. The existence of the runway, taxiway, and approach open areas already provide generally for the 15% requirement.

Appendix C: General Development Code Language Amendments

Section 151.003 DEFINITIONS

[“**Bold**” text indicates added language and “normal” text indicates existing language to remain.]

AVIGATION EASEMENT. A property right acquired from a land owner that grants the right-of-flight; the right to cause noise, etc., related to aircraft flight; the right to restrict or prohibit certain lights and electromagnetic signals; the right to unobstructed airspace over the property above a specified height.

CLEAR AREA. A land area required to be clear of obstructions per FAA regulations for airports and airspace.

HANGAR. A building for storage and maintenance of aircraft.

OBJECT FREE AREA. An area on the ground centered on a runway or taxiway centerline provided to enhance the safety of aircraft operations by having the area free of objects, except for objects that need to be located in the OFA for air navigation or aircraft ground maneuvering purposes.

PARKING APRON. A paved or grass area intended for parking aircraft.

RUNWAY. A defined rectangular surface on an airport prepared or suitable for the landing or takeoff of airplanes.

SAFETY AREA. A defined surface surrounding the runway prepared or suitable for reducing the risk of damage to airplanes in the event of an undershoot, overshoot, or excursion from the runway.

TAXIWAY. A defined path established for the taxiing of aircraft from one part of an airport to another.

151.538 PUBLIC ACCESS REQUIRED.

No building or structure shall be erected or altered except on a lot fronting or abutting on a public street or having access to a public street over a private street or easement of record approved in accordance with provisions contained in this code. New private streets may not be created to provide access **except as allowed under 151.449.2(B)(8) and 151.498.1(B)(24)**. Existing private streets may not be used for access for new dwelling units, except as allowed under 151.567. No building or structure shall be erected or altered without provisions for access roadways as required in the Uniform Fire Code, as adopted by the city.

151.567 LOT DIMENSIONS AND FRONTAGE.

(2) The above standards apply with the following exceptions:

- (a) Legally created lots of record in existence prior to the effective date of 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.**

151.581 LANDSCAPING AND AMENITIES IN PUBLIC RIGHTS-OF-WAY.

D. Exception. In the Airport Industrial (AI) District and Airport Residential (AR) District, no landscape or amenities except for grass are required for any area within 50 feet of aircraft operations areas including aircraft parking areas, taxiways, clear areas, safety areas, object free areas, and the runway.

151.611 PARKING AREA AND SERVICE DRIVE DESIGN.

Add:

(C) In the Airport Industrial (AI) District and Airport Residential (AR) District, taxiways may be used as part of the service drive design where an overall site plan is submitted that shows how the circulation of aircraft and vehicles are safely accommodated, where security fences are located, if required, and is approved by the Fire Marshal, Planning Director, and Public Works Director. The following submittal must be made:

(1) A drawing of the area to be developed, including the probable location, height, and description of structures to be constructed; the location and description of a security fence or gate to secure the aircraft operations areas of off-airport property from the other non-secured pedestrian/auto/truck areas of on-airport property; the proposed location of the proposed taxiway access in accordance with FAA specifications; (Refer to Federal Aviation Administration Advisory Circular No. 150/5300-13, regarding Airport Design, and AC/5370-10B regarding Construction Standards for specifications that should be used as a guideline); and the identification of the vehicular traffic pattern area clearly separated from aircraft traffic. Once specific buildings have been designed, FAA Form 7460-1, Notice of Proposed Construction or Alteration, must be submitted to the City of Newberg, the private airport owner, and the FAA for airspace review.

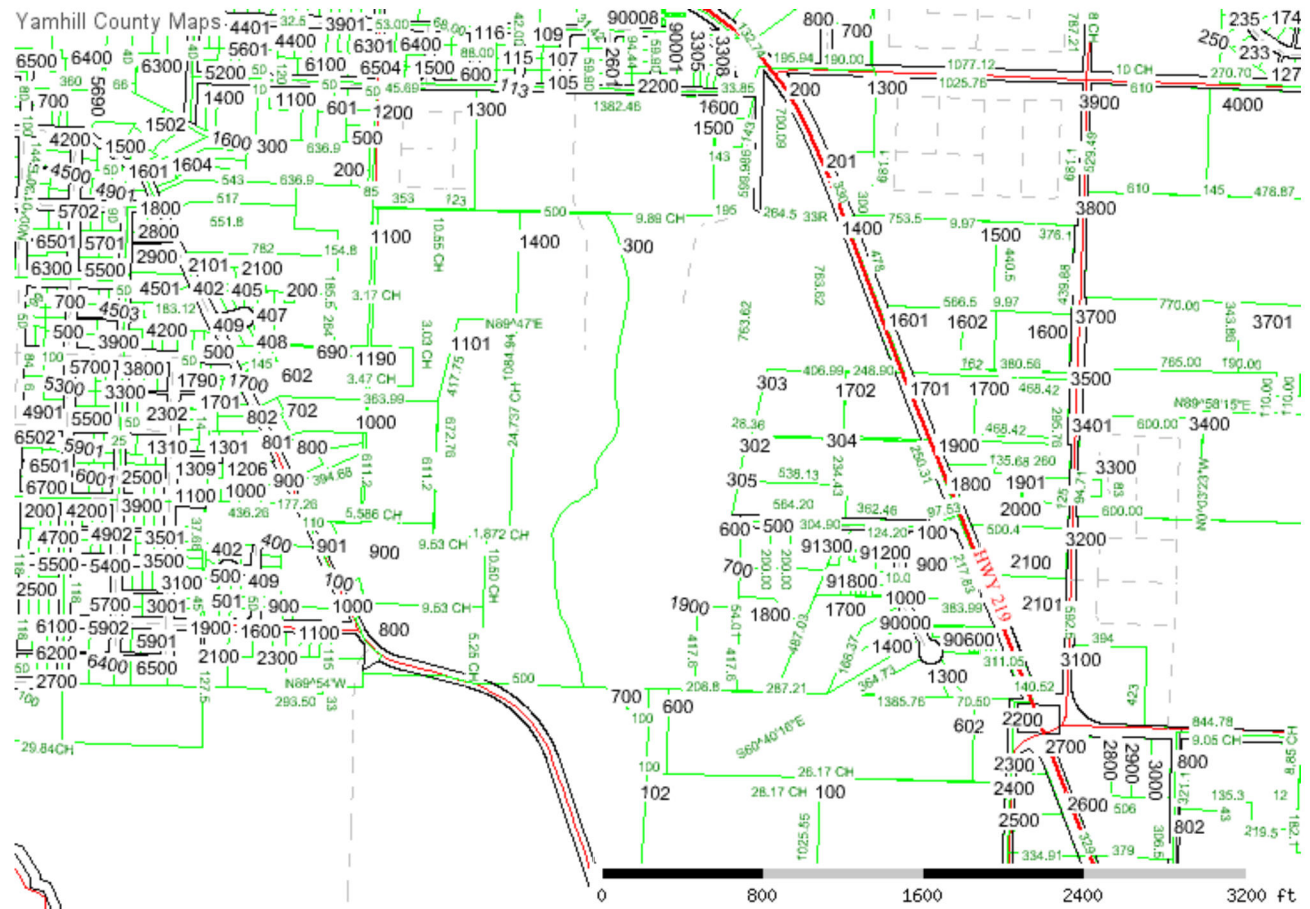
151.620.2 WHERE REQUIRED (ON-SITE WALKS)

Private walkways shall be constructed as part of any development requiring Type II design review, including mobile home parks. In addition, they may be required as part of conditional use permits or planned unit developments. **In the Airport Industrial (AI) District and Airport Residential (AR) District, on-site walks are not required in aircraft operations areas, such as parking aprons, taxiways, and runways.**

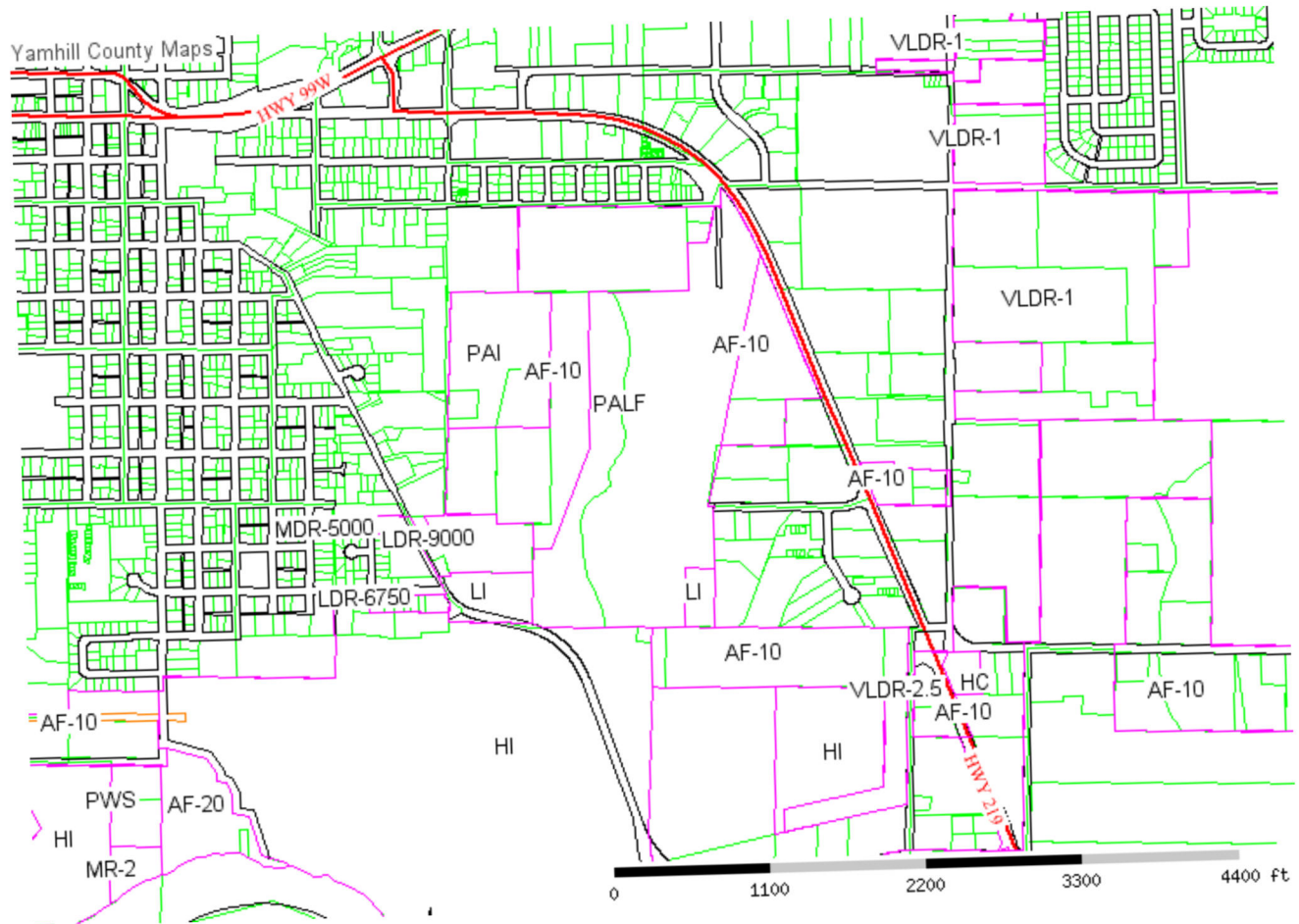
Attached is the following information:

- Tax Map
- Zoning Map
- Property Values
- Spreadsheets and Graphs concerning Future Values

Tax Lot Map



Zoning



REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: May 7, 2018

Order ____	Ordinance ____	Resolution ____	Motion ____	Information <u>XX</u>
No.	No.	No.		

SUBJECT: Information Technology Priority Update

**Contact Person (Preparer) for this
Item: Dave Brooks
Dept.: Information Technology**

Information Technology Director Dave Brooks will present an update on Council Priority- Goal 5: Utilize Technology to improve and economize City Services and within 3 years obtain function software/hardware that reduces redundancies and duplications through the integration of departmental systems.

City Council goals update May, 2018

Goal: Within 3 years obtain functional software/hardware that reduces redundancies and duplications through the integration of departmental systems. Within one year the City will develop a technology plan that addresses the long-term equipment and software needs of all departments. The plan focus should be on the judicious use of funds to meet long-term needs rather than applying short-term "Band-Aid" fixes.

IT Department

Project	2016	2017	2018	2019	2020
Network re-design			In Progress		
Mobile device management/Bring Your Own Device		In Progress			
Network security		Deferred			
Intrusion detection/File integrity/log analysis		Complete			
MS Exchange upgrade	Complete				
Disaster recovery/secondary server site			In	Progress	
OR ID theft protection act compliance	Complete				
Equipment/network monitoring and alerts	Complete				
Network device upgrades			In Progress		
Cloud storage alternative (Drop box)	Temp	Solution			
High Speed Backup Network			Deferred		
SharePoint/Intranet	*Deferred				
Project Management Software	Temp	Solution			

Finance Department

Project	2016	2017	2018	2019	2020
Replace Springbrook			Deferred		
More users -Springbrook (outside of Finance)	Deferred 2019				
Electronic timecards	*Deferred				
Electronic purchase orders	*Deferred				
Automated voice payment for UB and court	Complete				
Enhanced reporting from Springbrook	Deferred				
Upgrade water meters/eliminate read and import	2020				

Administration Department

Project	2016	2017	2018	2019	2020
Electronic records					
Electronic council agendas	Complete				
Laptop/tablet issued to council	Complete				

Police Department

Project	2016	2017	2018	2019	2020
Records management upgrade	Deferred				
Computer Aided Dispatch upgrade	Deferred				
Mobile upgrade	Deferred				
Replace mapping	Deferred				
Upgrade video surveillance	Partial				
Access control system	Complete				
Body cameras		Deferred			
E-ticketing		Deferred			
Smart Phones		Deferred			

Legal Department

Project	2016	2017	2018	2019	2020
Case management database	*Deferred				
Document management system	*Deferred				
Case management for code enforcement	Complete				
Electronic Discovery Software	Deferred				

Public Works Department

(Maintenance, Operations & Engineering)

Project	2016	2017	2018	2019	2020
Replace Fats Oil Grease database and integrate w/GIS	Deferred				
Electronic records management (HR) training doc's etc		*Deferred			
Purchase order tracking system	*Deferred				
Springbrook UB data synched with Cartegraph	In Progress				
Cartegraph expanded to WWTP, WTP, and Engineering	In Progress				
OPS job cal- old work order system upgrade/replace has ~23K objects (Cartegraph?)		In Progress			
Hire consultant/pen test of WWTP and WTP ICS	Complete				
Improve security of ICS	Complete				
Upgrade radio read/pump stations	In Progress				
New permit software for engineering	Complete				
MDT's for engineers	Complete				
Bar coding/RFID inventory tracking	TBA				
Facilities maintenance WO upgrade/replacement	Deferred				
7410 E Third (Cal Portland property) office building	Complete				

Community Development

Project	2016	2017	2018	2019	2020
Replace e-permitting software	Complete				
Digital records and document system	*Deferred				
Sync Data with Assessor	In Progress				

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: May 7, 2018

Order ____	Ordinance ____	Resolution ____	Motion ____	Information <u>XX</u>
No.	No.	No.		

SUBJECT: Cultural District annual report

**Contact Person (Preparer) for this
Item: Leah Griffith
Dept.: Library**

Time is reserved on the Agenda for the annual report on the Newberg Cultural District.

Newberg Cultural District Annual Report / 1st Quarter / 2018



Presented to: Chehalem Park & Recreation District Board April 26, 2018
Newberg City Council May 7, 2018



An Intergovernmental Agreement (IGA) between the City of Newberg and the Chehalem Park & Recreation District was signed in 2013 establishing the Newberg Cultural District and delegating to the NCD Executive Board the management of the District.

The Newberg Cultural District Executive Board 2018

City of Newberg Representative: Matt Murray
(Appointed in 2018)

Neighborhood Representative: Robert Soppe, Chair
(Re-elected by neighbors in October, 2015)

Chehalem Cultural Center: Sean Andries

Chehalem Park & Recreation: Don Clements

Newberg Public Library: Leah Griffith, secretary

Meetings for 2018: 1st Tuesday of February, April, May, June, July, August, October, December 6:30 pm, at the Chehalem Cultural Center
(In July, August, September meetings on alternate days due to Tunes on Tuesday & Labor Day)

The NCD Board is charged with managing the public outside areas of the Newberg Cultural District

It does not regulate indoor uses of the Newberg Public Library or the Chehalem Cultural Center, however activities within those establishments may impact District activities

The NCD Board:

- Develops rules of operation
- Reserves events (delegates the process to the CCC)
- Approves design elements, including street furniture, signage and other elements that define the district
- Coordinates with the City and CPRD for maintenance and construction activities

City Council Meeting

Date: 5/7/18

Re:

Cultural District

Topic: Annual Report

What did the NCD Board do in 2017?

- Reserved space for a variety of events

*Tunes on Tuesday
Camellia Festival
Lavender Festival
Public Works Day
Oktoberfest
Library Events
Summer Lunch Program
Christmas Tree Lighting*



Tunes on Tuesday



Christmas Tree Lighting



Library Summer Reading Programs

What did the NCD Board do in 2017?

- Held Monthly Meetings: Public and Noticed

January	February -- Annual Meeting
March*	April
May	June
July	August
September	October
November	December

* No Meeting Held

What did the NCD Board do in 2017?

- 3rd Year Neighborhood Parking Signs for Tunes on Tuesday



- 9 residents requested signs
- Positive Responses
- No other significant parking complaints

What did the NCD Board do in 2017?

- Worked with Noon Rotary Club to have Peace Poles installed
- Working with Early Bird Rotary on shade structure for Splash Pad
- The Parking Management Plan was updated in December, 2016 with the years of experiences.
 - Discussed with new staff at CCC regarding parking



What did the NCD Board do in 2017?

- Continued using the City Festival Street designation. It is an easier way for users as well as homeowners and businesses in the district to know about upcoming events.

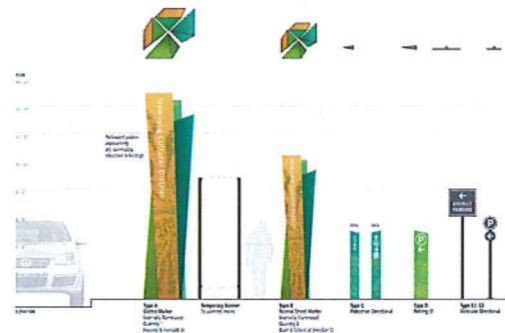


What did the NCD Board do in 2017?

- CPRD added signage to parking area in back and a banner was installed on Hancock and Howard.
- Approved temporary Washed Ashore sculpture placed on Carnegie Court
- Applied for TLT funds for Wayfinding
- Reviewed Master Plan for District with Board, City and CPRD board member.



Wayfinding Plan



What did the NCD Board do in 2017?

The NCD Board communicated with the community

- www.newbergculturaldistrict.org
- Monthly e-newsletter announcing board meetings and notifying interested parties about events in the District
- Newsletter may be subscribed to from the web site



What is planned for 2018?

- Tunes on Tuesday
- Lavender Festival
- Public Works Day
- Summer Lunch Program
- Camellia Festival and Run
- Oktoberfest
- 34th Annual Holiday Tree Lighting



What is planned for 2018?

- Review the IGA to see if there are any changes needed since 2013
- Looking at options for funding for permanent signage to direct visitors to the area
- Look at funding options with SDC charges



What is planned for 2018?

- Early Bird Rotary Shade Structure
- Work with any public arts groups to bring art to the district
- Continue to develop the web site as a location for district information
- Continue to work with neighbors



A special place for
people to enjoy
cultural and arts
experiences



Enhancing Newberg
as a destination for
tourists



Written comments for 5/7/2018 City Council meeting:

I am submitting the following as written testimony on Resolution 2018-3453.

I believe that there are some critical questions that the Council should answer before making a decision on this matter. I feel that support or denial of the award should be very dependent on the answers.

My first concern has to do with exactly who this trail is expected to attract. I encourage all Councilors to carefully think about where these people will come from and what they will do after walking the trail. Will they come from Portland or Salem, visit the two private entities with a walk on the trail between them, stop elsewhere for dinner, then go home? If so, then I don't believe they fit the mandated definition of "tourist" for which TLT funds can be used. If a strong argument can be made that this is targeted toward visitors from more than 50 miles away or those who will spend the night, then this part of the mandate is met.

My second concern has to do with access to the trail itself. I've read the TLT meeting minutes and attended the Council meeting in January, but it's not been clear to me exactly what it takes to be allowed to use the trail. The TLT minutes seem clear that the trail will only be open during business hours of either entity, but I'm not finding anything beyond that. Are non-customers allowed to access the trail during those hours or can this only be used by those who provide a financial reward to either of the two private entities? Is the intent of the award to promote tourism or only such tourism as directly benefits the two entities?

My personal bias on this is that tax money shouldn't be used to provide such a direct benefit to a private, for-profit entity if the improvement isn't available to the general public without a fee, direct or indirect.

I noted in the TLT minutes that there were several comments about other entities (who have received TLT awards) who charge for events. In particular, the Cultural Center and Minthorn House were mentioned. While the Cultural Center does charge for some events, many are free. In fact there is (almost?) always one or more free events (generally art displays) available to the public during the Center's regular business hours. The TLT award granted to them will either help support those events directly (e.g. use of the kitchen during the event) or will help provide funding for the free events.

While the Minthorn House charges fees for anyone older than 10, I think there are two important distinctions about the property in this regard. The first is that it is a non-profit entity. The second is that the property provides a benefit to people, even if they don't pay a fee to enter the building. Newberg has put forth some effort (and restrictions) with the intent of preserving historical structures in the City. The Hoover-Minthorn House is clearly such a structure. Residents and tourists can benefit from the preservation of the building just by walking by (in a formal walking tour or a casual walk). There is a web site that provides free information about the building and its history.

The TLT grant that was awarded to the Hoover-Minthorn House is clearly targeted to the integrity of the structure. Maintaining the structure will help to ensure that tourists (and others) can enjoy it, whether or not they pay a fee to use it.

I think that these two examples cited in the TLT meeting minutes fail to provide any argument to support private, for-profit use of a TLT grant.

It was also suggested in the TLT meeting minutes that one must pay to use the trails at Champoege State Park. I believe that is incorrect. Payment is required for parking a vehicle and for use of some of the camping facilities but I don't believe there are any fees specific to using the trails.

My last concern has to do with some of the issues raised in the January meeting that I don't see having been addressed at the TLT meeting. There were some arguments made that the applicant was operating on a County permit that would expire in 2018 and would have to be renewed if they wish to stay in operation. There were also arguments made that there may be some significant challenges to the application and it may not be awarded.

To be very clear, I'm not weighing in on these arguments at all. I've not looked into the details so am not in a position to voice an opinion about their merit. It did appear, though, that the arguments have the potential to hinder the application's approval.

It appeared to me at the January Council meeting that this was a concern for which the Council wanted more information. Is the Council comfortable with the assumption that the applicant will be successful with extending its County permit?

Consider the scenario of the TLT grant being awarded, the improvement made, and the County permit being denied. This doesn't appear to be a good use of TLT funds.

While I recognize that no entity is assured to have long-term sustainability, there may be a clear and near-term question in this case. If the Council is comfortable with the expectation that the County permit will be awarded, then this is not a concern. If the Council is not comfortable with that expectation, I would urge delaying the award until there is better certainty on this.

Lastly, I'd like to be clear that I have no issue for or against either of the entities involved in this application. My concern is that there are questions of fact and of policy that I think the Council needs to resolve before proceeding forward on this matter.

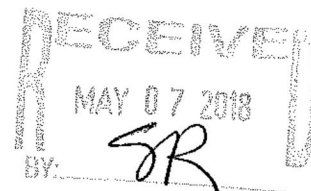
To summarize, I urge each Council member to answer these questions before deciding whether or not to award this grant:

- 1) Does the proposed trail attract "tourists" as defined by ORS?
- 2) Is the trail open to the general public or only to customers of either private entity?
- 3) Is the Council comfortable with the concept of awarding tax money to a private, for-profit entity for an improvement that will be retained by the entity?

Thank you for your consideration of this matter.

Robert Soppe

503-784-8695



Received 11:55 a.m.

NEWBERG CITY COUNCIL MEETING INFORMATION

Meeting Date: May 7, 2018

Prepared by: Sue Ryan

Councilors	Roll Call	Consent: Res 3468 Business Oregon grant for Crestview Drive Res 3464 IGA with WCCCA for data & voice communication Letter of Support – NBDD Bypass Res 3475 WCCCA Contracts for Sabre Industries, Thermobond, and Power Systems Plus Minutes – 4/2 & 4/16	Ordinance 2826 Some R-3 Zoning required for large residential annexations or Urban Growth Boundary expansion, changes to Comp Plan	Res 3453 Wolves & People TLT grant	Motion Information on historical and current consequences of water hardships
ANDREWS, Bob, Mayor	X	Yes	Yes	Yes	Yes
BACON, Denise	Absent	Absent	Absent	Absent	Absent
COREY, Mike	X	Yes	Yes	Yes	No
ESSIN, Scott	X	Yes	Yes	Yes	Yes
JOHNSON, Patrick	X	Yes	Yes	Yes	Yes
McKINNEY, Stephen	X	Yes	Yes	No	Yes
MURRAY, Matt	X	Yes	Yes	Yes	Yes
ROLL CALL VOTES		YES: 6 NO: 0 ABSENT: 1	YES: 6 NO: 0 ABSENT: 1	YES: 5 NO: 1 ABSENT: 1	YES: 5 NO: 1 ABSENT: 1
MOTION (1 st /2 nd):		Corey/ Johnson	Corey/ Murray	Corey/ Murray	Johnson/Murray
Follow Up/Dept. contact		Res 3468 – Doug Res 3464 – Mary Letter of Support – Joe Res 3475 – Matt Minutes – Sue	Ord 2826 - Doug	Res 3453 - Doug	Water Hardships - Doug
Public Comments-Requests or Complaints		5/7 Rick L. Animal Shelter property sale request – Joe, CM			

Meeting adjourned at 9:45 p.m.