

**RELEASE OF SETTLEMENT AGREEMENT
and
DEED RESTRICTION AND CONSENT TO ANNEX**

KNOW ALL MEN BY THESE PRESENTS, that the **CITY OF NEWBERG**, a municipal corporation, **J.D. and Edith Pierce** ("Owners"), owners of property ("Property") in Yamhill County, Oregon, more fully described as follows:

A Part of the Donation Land Claim of David Ramsey and wife Notification #1436, Claim #59 in Township 3 South, Range 3 West and Claim #40 in Township 3 South, Range 2 West of the Willamette Meridian in Yamhill County, Oregon, said part being situated in Sections 24 of said Township 3 South, Range 3 West and Section 19 of said Township 3 South, Range 2 West and being more particularly described as follows:

Beginning at a point on the North line of a tract of land set off to the said David M. Ramsey in partitioning the south half of said claim among the heirs at law and devisees of the said David Ramsey, deceased, by deed which was on the 11th of April, 1895, recorded at Page 435 in Book 32 of the record of deeds in and for said County and State, 40 feet West of the Northeast corner of said tract and running thence South parallel with and 40 feet distant from the East line thereof, 617 feet, to the center of the County Road, thence South 73°40' West along the center of said road, 763 feet to the Southeast corner of tract of land conveyed to Leslie L. Fortune and wife by the said David M. Ramsey on the 5th day of September, 1911 by deed which is recorded at Page 23, Book 62 of the Records of Deeds in and for said County and State; thence North on and along the East line of said Fortune's lands, 821 feet to the North line of said David N. Ramsey's tract of land aforesaid; thence East on and along said North line, 736 1/2 feet to the place of beginning.

RECITALS:

1. On May 12, 1992, J.D. and Edith Pierce entered into a Settlement Agreement and Deed Restriction and Consent to Annex, which said Deed Restriction and Consent to Annex was filed with the Yamhill County Deed Records on May 13, 1992, Film Volume 268, Pages 1988-89.

AFTER RECORDING, RETURN TO:
City of Newberg - Legal Department
414 E. First Street
Newberg, Oregon 97132

000235

000236

000237

- 1-Release of Settlement Agreement,
Deed Restriction and Consent to Annex
J.D. and Edith Pierce

STATE OF OREGON)
) ss.

COUNTY OF YAMHILL)

I hereby certify that this instrument
was received and duly recorded
by me in Yamhill County records

Instrument #

**CHARLES STERN,
COUNTY CLERK**

NORTHWEST TITLE COMPANY

2. On October 20, 1992, the Newberg City Council approved an amendment to the Deed Restriction and Consent to Annex entered into by and between the City of Newberg and J.D. and Edith Pierce, dated May 12, 1992, and filed with the Yamhill County Recorder on May 13, 1992, Film Volume 268, Pages 1988-89.
3. On November 17, 1992, the Newberg City Council approved Resolution No. 92-1745 declared that the Settlement Agreement, Deed Restriction and Consent to Annex on property identified as Tax Lot No. 3219-1400 and recorded at Yamhill County Deed Records at F268 P1988 is hereby revoked.

IN WITNESS WHEREOF, the CITY OF NEWBERG has executed this Release this 6th day of January, 1993.

CITY OF NEWBERG

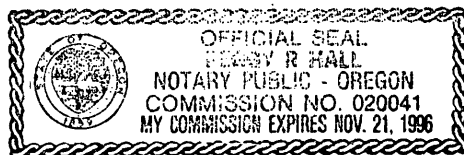
BY Duane R. Cole
Duane R. Cole
City Manager

State of Oregon)

:ss

County of Yamhill)

On the 6th day of January, 1993, the foregoing Release of Settlement Agreement, Deed Restriction and Consent to Annex was signed before me by Duane R. Cole, to me known to be the City Manager of the City of Newberg.



Peggy R. Hall
Notary Public for Oregon
My Commission expires: 11/21/96

2-Release of Settlement Agreement,
Deed Restriction and Consent to Annex
J.D. and Edith Pierce

**DEED RESTRICTION
and
CONSENT TO ANNEX**

KNOW ALL MEN BY THESE PRESENTS, that **J.D. and Edith Pierce ("Owners")**, owners of property ("**Property**") in Yamhill County, Oregon, more fully described as follows:

A Part of the Donation Land Claim of David Ramsey and wife Notification #1436, Claim #59 in Township 3 South, Range 3 West and Claim #40 in Township 3 South, Range 2 West of the Willamette Meridian in Yamhill County, Oregon, said part being situated in Sections 24 of said Township 3 South, Range 3 West and Section 19 of said Township 3 South, Range 2 West and being more particularly described as follows:

Beginning at a point on the North line of a tract of land set off to the said David M. Ramsey in partitioning the south half of said claim among the heirs at law and devisees of the said David Ramsey, deceased, by deed which was on the 11th of April, 1895, recorded at Page 435 in Book 32 of the record of deeds in and for said County and State, 40 feet West of the Northeast corner of said tract and running thence South parallel with and 40 feet distant from the East line thereof, 617 feet, to the center of the County Road, thence South 73°40' West along the center of said road, 763 feet to the Southeast corner of tract of land conveyed to Leslie L. Fortune and wife by the said David M. Ramsey on the 5th day of September, 1911 by deed which is recorded at Page 23, Book 62 of the Records of Deeds in and for said County and State; thence North on and along the East line of said Fortune's lands, 821 feet to the North line of said David N. Ramsey's tract of land aforesaid; thence East on and along said North line, 736 1/2 feet to the place of beginning.

Owners do hereby agree, consent and declare as follows:

1. **Owners** agree and acknowledge that **City** is providing **Owners** extraterritorial planning services through a contract and **Owners** consent to the eventual annexation of the **Property** of the **Owners**.
2. **Owners** shall, upon written demand from **City** or the City of Dundee, Oregon, consent to inclusion of the **Property** in the Urban Growth Boundary of either city.
3. Following inclusion within the Urban Growth Boundary of either the **City** or the City of Dundee and upon demonstration by the appropriate **City** that a public facilities plan consistent with OAR Chapter 660 - Division 11 has been adopted for the property, the **Owners** shall consent to and file for annexation of the **Property** to the appropriate city. The **Owners** shall file for the annexation in accordance with Oregon annexation law, within 60 days of receiving written request from the city which has included the **Property** within its Urban Growth Boundary.
4. Except upon annexation to the City of Dundee, the **Owners** shall obtain the approval of the **City** concerning any subdivision or partition plat, or amendment thereto, concerning

the **Property** prior to filing such plat or amendment, and such approval shall be based upon the conditions in the **Settlement Agreement** dated the **12th day of May, 1992**.

5. This Agreement, Consent and Declaration shall constitute a covenant and restriction running with the land and shall be binding upon the undersigned, who are the legal **Owners of the Property**, and shall bind their heirs, assigns and legal representatives.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES.

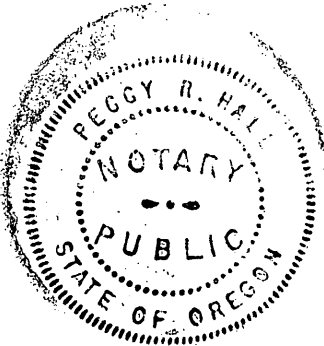
IN WITNESS WHEREOF, I have hereunto set my hand and seal this **12th day of May, 1992**.

By J.D. Pierce
J.D. Pierce

By Edith T. Pierce
Edith Pierce

State of Oregon)
) ss.
County of Yamhill)

On the 12th day of May, 1992, the foregoing Deed Restriction and Consent to Annex was signed or attested before me by J.D. and Edith Pierce.



Peggy R. Hall
Notary Public for Oregon
My commission expires: 11-21-92

AFTER RECORDING, RETURN TO:
City of Newberg, Legal Department
414 E. First Street
Newberg, Oregon 97132

005206

STATE OF OREGON)
) ss.
COUNTY OF YAMHILL)

I hereby certify that this instrument was received and duly recorded by me in Yamhill County records.

Instrument #

Charles Stern
CHARLES STERN,
COUNTY CLERK

2-Deed Restriction and
Consent to Annex

SETTLEMENT AGREEMENT

RECITALS:

1. **J.D. and Edith Pierce ("Owners")** have requested that Yamhill County ("**County**") rezone 12.15 acres from AF-10 to VLDR 2.5. The subject property ("**Property**") is identified as tax lot 3219-1400. The application states that the **Owners** intend to partition 2 acres from the 12.15 acre parcel for development of a single family home.
2. On March 5, 1992, the Yamhill County Planning Commission conducted a public hearing and approved the zone change. The Yamhill County Zoning Ordinance, No. 310, 1982 sets forth procedures under which parties may appeal the Planning Commission decision to the Board of County Commissioners. The **City of Newberg ("City")** appealed the decision of the County Planning Commission on March 31, 1992. On April 29, 1992, the Yamhill County Board of County Commissioners conducted a public hearing on the appeal. At the meeting, the Board of Commissioners continued the hearing until May 6, 1992 in an effort to allow the **City** and the **Owners** to resolve the **City's** concerns. The matter was further continued until May 13, 1992 for further discussion.
3. The **City**, a party in the **County** proceeding, participated in the hearing before the Planning Commission and the Board of County Commissioners. The **City's** concern is that the **Property** should develop in a manner that does not preclude future urban development, and that "shadow platting" be performed on the **Property** consistent with the terms of this agreement and **County Ordinance 497** sections 6.010 (3) and (4). Currently **County** ordinances do not provide specific criteria for "shadow platting".

AGREEMENT

In consideration of the following covenants and promises, the parties which are the **Owners** and the **City**, agree as follows:

1. The **Property** is more particularly described as follows:

A Part of the Donation Land Claim of David Ramsey and wife Notification #1436, Claim #59 in Township 3 South, Range 3 West and Claim #40 in Township 3 South, Range 2 West of the Willamette Meridian in Yamhill County, Oregon, said part being situated in Sections 24 of said Township 3 South, Range 3 West and Section 19 of said Township 3 South, Range 2 West and being more particularly described as follows:

Beginning at a point on the North line of a tract of land set off to the said David M. Ramsey in partitioning the south half of said claim among the heirs at law and devisees of the said David Ramsey, deceased, by deed which was on the 11th of April, 1895, recorded at Page 435 in Book 32 of the record of deeds in and for said County and State, 40 feet West of the Northeast corner of said tract and running thence South parallel with and 40 feet distant from the East line thereof, 617 feet, to the center of the County Road, thence South 73°40' West along the center of said road, 763 feet to the

Southeast corner of tract of land conveyed to Leslie L. Fortune and wife by the said David M. Ramsey on the 5th day of September, 1911 by deed which is recorded at Page 23, Book 62 of the Records of Deeds in and for said County and State; thence North on and along the East line of said Fortune's lands, 821 feet to the North line of said David N. Ramsey's tract of land aforesaid; thence East on and along said North line, 736 1/2 feet to the place of beginning.

2. The **City** is furnishing extraterritorial planning services for the **Property**. The **City** has the legal right to participate in the County decision process and has the right to file an appeal of the Planning Commission decision referenced above.

In giving up the right to appeal, the **City** maintains the right to enter into this Settlement Agreement requiring "shadow platting" of the property.

3. **Owners** agree to record in the deed records of Yamhill County, the deed restrictions attached to this agreement as **Exhibit "A"**. Such recordings shall occur prior to final approval of the ordinance rezoning the **Property** by the County.
4. Except as noted in section 5 below, **Owners** agree to apply the following requirements to any subdivision or partition of the **Property**:
 - A. **Owners** shall prepare a "shadow plat" of the **Property** consistent with preliminary plat requirements of the City of Newberg Subdivision Ordinance and the density and lot size restrictions of the Low Density Residential District of the City of Newberg zoning ordinance. The shadow plat shall overlay the subdivision or partition plat and shall be subject to **City's** approval. Approval shall be granted or denied within **fifteen (15)** business days of submission, shall be based only upon compliance with this agreement, and shall not be unreasonably withheld.
 - B. To the greatest extent practicable, the rural development pattern of the subdivision or partition of the **Property** shall allow for the resubdivision of each parcel independently.
 - C. The subdivision or partition plat shall provide all necessary utility and drainage easements for future utilities.
 - D. The subdivision or partition plat submitted shall provide street right-of-way for future streets that will serve more than one rural parcel.
 - E. The subdivision or partition shall provide building restrictions over the future rights-of-way and setbacks where future streets will only serve the future lots of individual rural parcels.
 - F. Building envelopes and future lot lines shall be identified on any parcels which are less than 2.5 acres in size. Building restrictions shall be provided over the future lot lines so that setback and yard requirements can be satisfied when the **Property** is resubdivided.
 - G. **Property** along drainage ways below the point at which the slope breaks to 20% or

greater, shall be designated on the plat as open space except as necessary for public streets.

- H. The subdivision or partition plat shall be designed so that it is economically feasible to resubdivide the **Property**.
- I. The subdivision shall comply with all subdivision regulations of Yamhill County.
- 5. The **City** agrees to dismiss and cease any appeal of the zone change upon recording of Exhibit "A" (Deed Restrictions) by **Owners** and upon the receipt of a certified copy of the recorded document. The cost of recording shall be paid by the **City**.
- 6. The **City** agrees to exempt one partition request from the terms of this agreement provided:
 - A. The partition results in a $2 \pm$ acre parcel and a $10 \pm$ acre parcel; and
 - B. The $2 \pm$ acre parcel is situated so that it does not interfere with the extension of existing or proposed roads.
- 7. Any party may sue to enforce specific performance of the terms of this Agreement by suit or action in the Circuit Court of Yamhill County.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals this 13th day of May, 1992.

CITY OF NEWBERG

By Duane R. Cole
Duane R. Cole
City Manager

OWNERS

By J.D. Pierce
J.D. Pierce
By Edith L. Pierce
Edith Pierce

**DEED RESTRICTION
and
CONSENT TO ANNEX**

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By J.D. Pierce
J.D. Pierce

By Edith L. Pierce
Edith Pierce

State of Oregon)
) ss.
County of Yamhill)

On the 12th day of May, 1992, the foregoing Deed Restriction and Consent to Annex was signed or attested before me by J.D. and Edith Pierce.

Peggy R. Hall
Notary Public for Oregon
My commission expires: 11-21-92

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