City Council
September 3, 2024
Newberg Public Safety Building 401 E. Third Street
Denise Bacon Community Room
Online: https://us06web.zoom.us/j/89536547180
Public Comment Registration: https://bit.ly/nbgcomment
View Slides: LINK

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1. **CALL TO ORDER**

2. **ROLL CALL**

3. **PLEDGE OF ALLEGIANCE**

4. **CITY MANAGER'S REPORT**

   4.1. August Narrative Report

   i RCA-Narrative Report

   ii City Manager Narrative Report Presentation

5. **PUBLIC COMMENTS**

6. **CONTINUED BUSINESS**

   6.1. Water Hardship Exemption for 901 S. McKern court

   i RCA-Water Service Hardship

   ii Exhibit A – Resolution No 2024-3949

   iii Exhibit A-1 – Findings

   iv Exhibit A-2 – Hardship Application Letter with Attachments

   v Exhibit B – Recission of Feb 2007 Contract

   vi Exhibit C – Contract Extraterritorial Water Service Annexation

   vii Exhibit D – Waiver of One Year Consent to Annex

7. LEGISLATIVE HEARING

7.1. Ordinance Amending the Newberg Municipal Code, Title 15 Development Code, 15.05.030, 15.305.030, 15.140.070, and 15.440.030 Related to Daycare Facilities and Play Structures (File No. DCA 23-0002).

i RCA-Ordinance 2928 Daycare Amendments

ii Presentation of Daycare Amendments

iii Exhibit A- Ordinance No. 2024-2928

iv Exhibit A-1-Development Code Amendments

v Exhibit A-2 Findings

vi Exhibit B-Planning Commission Resolution

vii Exhibit C- November 20, 2023, City Council Minutes

viii Exhibit D- March 2024 Day Care Barriers Memorandum

ix Exhibit E- Other Cities Parking Daycare Survey

x Exhibit F- Agency Comments

xi Exhibit G- Planning Commission Staff Report

7.2. Ordinance Amending the Newberg Municipal Code, Title 15 Development Code, Including Sections 15.05.030 and 15.435.110 relating to signs (File No. DCA24-0001).

i RCA-Ordinance 2929 Sign Code Amendments

ii Presentation of Sign Amendments

iii Exhibit A- Ordinance 2024-2929

iv Exhibit A-1- Development Code Amendments

v Exhibit A-2- Findings

vi Exhibit B- Planning Commission Resolution 2024-395

vii Exhibit C- 2024 Planning Division Work Plan

viii Exhibit D- Code Enforcement E-Mail

ix Exhibit E- Agency Comments

x Exhibit F- Planning Commission Staff Report (DCA24-0001)

xi Exhibit G- July 11, 2024 Planning Commission Draft Minutes

xii Public Comment from Robert Soppe*

8. NEW BUSINESS

8.1. Abandoned Vehicle Code Update

i RCA- Abandoned Vehicle Code

ii Newberg Abandoned Vehicle Process

iii Redline-Newberg Abandoned Vehicle Code

8.2. Request for an Appeal of the Planning Commission Order 2024-05 Authorizing the Operation of Vacation Rental Home at 215 N. School Street (File No. APL24-0001/CUP23-0019)

i RCA-Appeal

ii Presentation of Appeal

iii Exhibit A-Order No. 2024-0046 Approving the Appeal of Planning Commission Order 2024-05

iv Exhibit B-Order NO. 2024-0046 Affirming Planning Commission Order 2024-05

v Exhibit C-Planning Commission Order 2024-05

vi Exhibit D-CUP23-0019 Application and Supplemental Materials, Agency Comments and Staff Report

vii Exhibit E-Draft Minutes of the July 11, 2024 Newberg Planning Commission Meeting

viii Exhibit F-APL24-0001 Application and Supplemental Materials

9. COUNCIL BUSINESS

9.1. Discussion of Wine Marketing Ad-Hoc Committee

10. Consent Calendar

10.1. Debate Forum for Council Candidates

i RCA-Motion

11. ADJOURNMENT

ADA STATEMENT

Contact the City Recorder's Office for physical or language accommodations at least 2 business days before the meeting. Call (503) 537-1283 or email cityrecorder@newbergoregon.gov. For TTY services please dial 711.

*Indicates supplementary item

REQUEST FOR COUNCIL ACTION

Date Action Requested: (September 3rd, 2024)

Order ☐ Ordinance ☐ Resolution ☐ Motion ☐ Information ☒ Proclamation ☐	
Subject: CM narrative for August 2024 events	Staff: Will Worthey CM Department: Administration
Work Session ☐ Business Session ☒	Order On Agenda: CM report

Is this item state mandated? Yes ☐ No ☒

If yes, please cite the state house bill or order that necessitated this action: NA

Recommendation: NA

Executive Summary: The summary of events conducted by city departments in August 2024.

Fiscal Impact: All were conventionally budgeted items.

Council Goals:
Goal 5: Create and maintain a high level of transparency with our residents in order to build trust.

Effective CM reporting assists with Objective 1:

Expand communication outreach in regard to regular city events and additional involvement with city businesses.

Newberg CM report

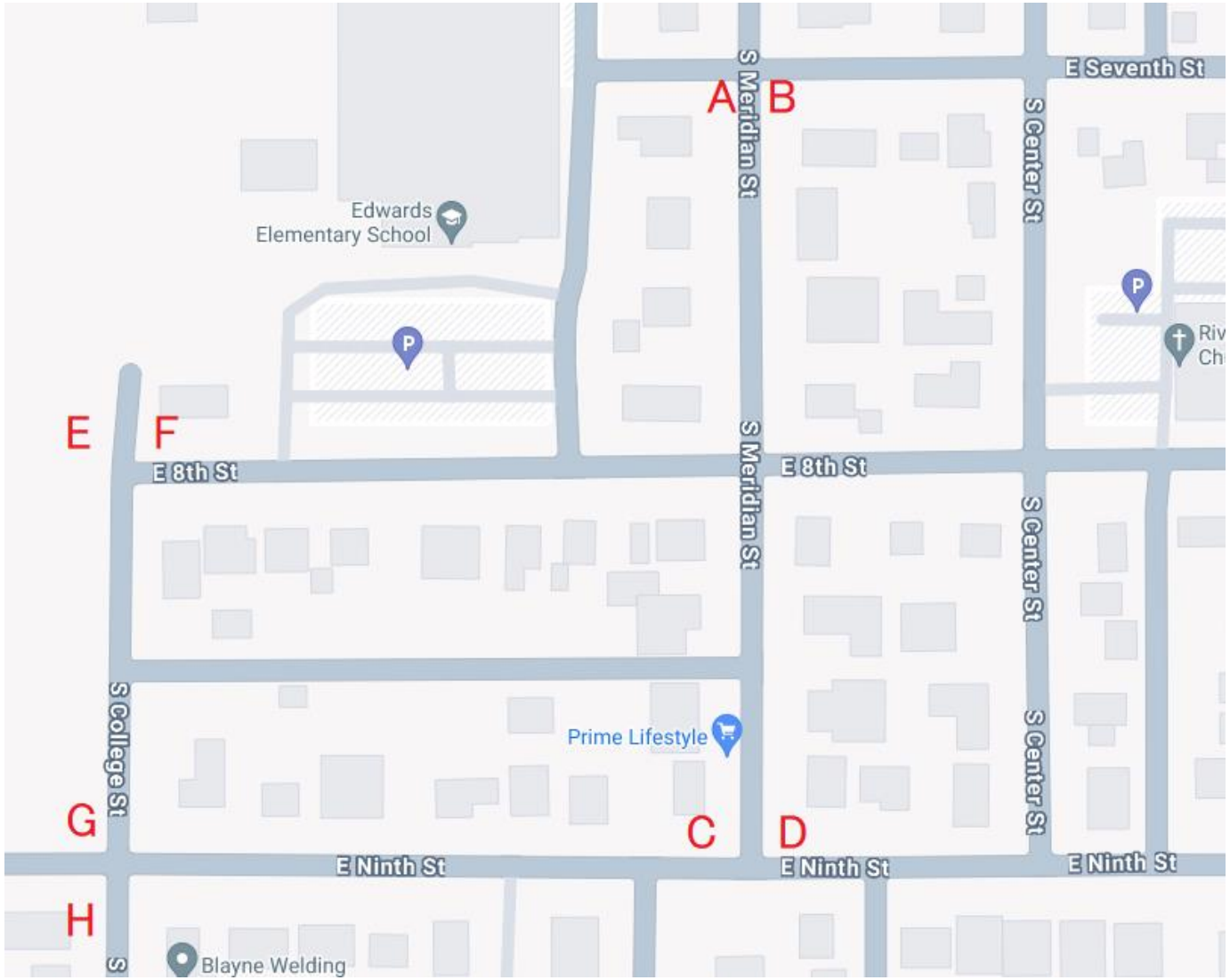
Monthly Events for August 2024

Well met!

Looking forward we are trying to get some sections of road near Edwards Elementary School resurfaced while the weather holds. This will involve building or re-building 12 sets of ramps for ADA reasons before the resurfacing can occur.

Our timeline is short, but we might just pull it off! On the next slide is an image of the locations in question.

We also have a crack sealing machine on order to allow our staff to tackle cracks like those on Mountainview in house.



This section of Meridian and S. College needs several road applications and has had to have constant pothole repairs.

We will be doing a lot more of this sort of work next year as there will be winter planning time.

Public Safety News:

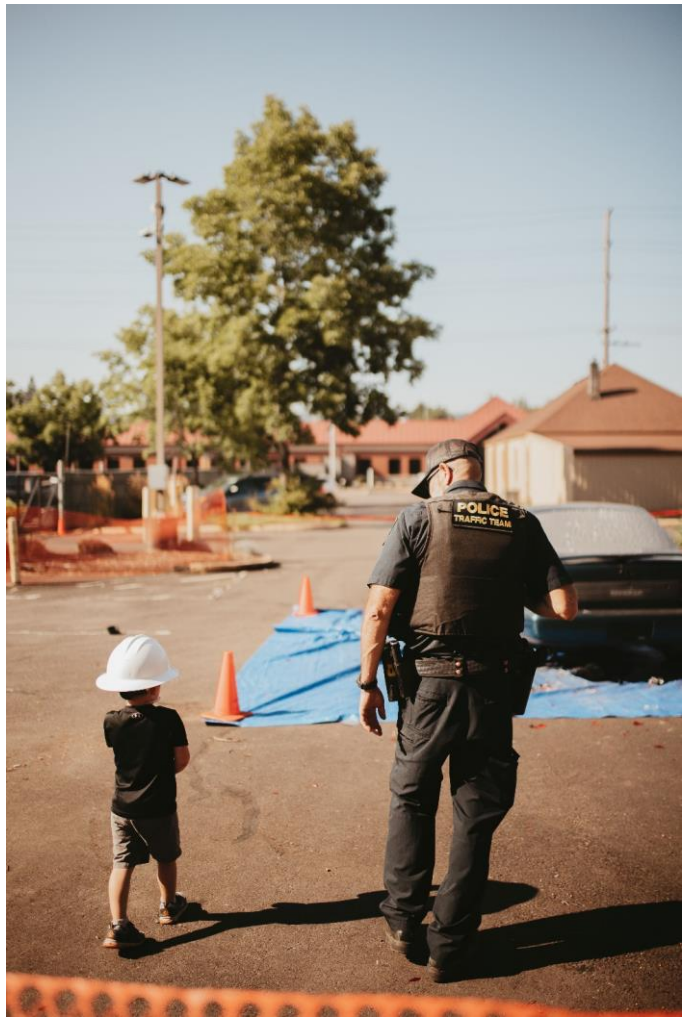
Safety Town Camp is a yearly program the department does every year in conjunction with CPRD. Officer McDonough teaches kindergarten school age kids about personal safety, water, fire and electrical safety, animal awareness and pedestrian and bicycle safety.

National Night Out was a huge success. Chief and CM cooked hot dogs. They served almost 300 dogs. Officers helped run the dunk tank, bounce house, car smash, drone, and obstacle course.

Vendors Kona Ice, Providence, the Newberg-Dundee Foundation, Newberg Animal Shelter Friends, Chaplain Leo, and face painter passed out free goodies.

National Night out pix:

Chief Kosmicki and our newest recruit.



Officer Sattler at the car smash!

K-9 Ike and Sam Plushies

National Night out, a lovely family friendly event :-

Public Works Emergency Management

With the seasonal rise in temperatures, we issued a general reminder about heat and smoke safety to all departments in early July.
E-Learn software was used to issue the annual refresher training to all employees on both topics.

Monitoring:

- 3 wildfire starts on the Yamhill / Washington County border north of Bald Peak
- County Heat Shelter announcements
- Smoke Air Quality

Public Works PLC at wastewater plant:
Waste Water Treatment Plant Programmable Logic Controller Replacement & Reprogramming Project:

The city executed the contract with Green Power Electrical Contractors, Inc. (GPEC) on August 2, 2024. As required by state regulations the city retained an archaeological vendor on July 31, 2024 to observe the proposed excavation work.

City staff checked in with EPA periodically and was informed on August 6, 2024 that they are still working on their review.

Public Works PLC at wastewater plant:
The notice to proceed has been given to the contractors. Since that time, they have hit the ground running making good progress. We are currently looking to move the first PLC cutover forward from October 1st to mid-September as a result.

While the electricians are continuing to prepare the wiring and replacement plans, the contractor HDR is continuing the programming of the units. City staff are preparing for the software changes that will be required as well as getting the plant ready for our composting system to be offline for a couple weeks during the cutover.

Groundwater Treatment Plant (GWTP) Filter Covers:

In a letter dated 10/18/21, the Oregon Health Authority placed an unfunded mandate on the city to install new covers over the existing filters and basins at the groundwater treatment plant.

Keller Associates, working as the new City Engineer of record, was able to provide a proposal to the city for consideration. The city is looking for cost-effective options to meet this unfunded mandate. The proposal is in review. Design costs are likely to be in the $95,000 price range.

Public Works Maintenance actions:

Water Mains Flushed –250 Ft
Water Valves Exercised – 1
Water Meter Service– 90
(Connects - 28, Disconnects - 25, Leak Checks – 37)
Water Meter Maintenance – 32
Water Meter MXU's Replaced – 1
Sweeping Debris – 48 yds
Sweeping Miles – 166.5 mi.

Improvements on 2nd St. involved grind and inlay work and slurry seal running from Main to River street.
This was a joint effort by our contractors, Engineering staff, Admin staff and PW Maintenance.

Clearing out Beaver Dam by E. Fernwood drive dip.

Public Works Water Treatment:

Backflow test notices were mailed to water customers who have an assembly located at their address during the month of April 2024.

So far 1720 completed test reports for 2024 have been received and entered the database for a completed test percentage of 57.04%. 85 new devices have been installed in the system in 2024 bringing the total number of devices in the system to 3,015.

Customers who have not yet submitted a test report for 2024 received a second test notice August 1, 2024

Hypochlorite Storage Tanks Replacement:

Community Engagement:

The month of August involved lots of Engineering and City Council support for a couple of community focused events. CE utilized social media to transmit messaging about road and parking lot improvements during the later half of August.

A list of downtown Newberg stakeholders were also kept in the loop on updates as they were received.

City of Newberg

2ND STREET

ROAD REPAIR & CLOSURES

2nd Street from River St to Main St will be closed August 13, 15-16 for necessary repairs.

Please find alternatives to parking on 2nd Street on these days. Vehicles will be towed at the owner's expense.

For more information, visit:
bit.ly/2ndstreetrepairs

CE advertised a Community Listening Session on Short-term Rentals in Newberg. This event was a great opportunity to have a face-to-face dialogue with community members who were invested in this issue.

The event had a great turnout, which is promising for potential future listening sessions or town halls.

CE also provided design work to Public Works Maintenance and the mapping team to create wayfinding signage for public parking lots in Newberg that should help visitors and residents alike find and access free public parking in the city.

The wayfinding sign design process for this project leaves open the opportunity to update QR code accessed maps of city parking if new lots are absorbed into Downtown Newberg or if any updates need to be made.

Of course, Community Engagement and the Admin team can't control the weather…

City Recorders Office:

August began with a visit from a student delegation from our sister city in Asago City, Japan. Students spent a day exploring the city with some city employees and enjoyed burgers and shakes at Jem 100.

We then welcomed two local students as Mayor and City Manager for a Day where they learned the ins and outs of City governance.

We received election filings for candidates for City Council wrapping up on August 17th.

The City Recorder also did extensive code review for the move to the two-year budget cycle, answered many records requests, trained staff on public meetings, developed, and offered training on our records management system.

The month finished up with a visit to the George Fox University community fair where we worked to recruit student commissioners and design and editing work on the City Council and City Recorder pages on the new website.

Finance News:

During the month of August, finance had the interim visit by the auditors where they begin their testing of internal controls of various aspects of the city's finances. They will complete their testing in November when the books are closed for last fiscal year and the Annual Comprehensive Financial Report (ACFR) is completed for their review.

Finance has also been working hard on ***Operation Quadratic*** to begin preparing for the biennial budget, doing research on Oregon Budget Law and relevant statutes that will need to be incorporated for the big move to 2-year budgeting. Finance and the CM have also met with several other cities, including Eugene, Sandy and Hillsboro to learn any tips and pitfalls they encountered when they moved to biennial budgeting. This was very informative.

Finance has also begun working on updating the Utility Billing policy which will be an informational session at Council on October 7th.

Human Resources has had a hand in two promotions this month: Connor to IT Systems Administrator following the earlier promotion of Joseph to IT Manager, and Adam to Public Works Maintenance Supervisor following the retirement of Supervisor Vance Barton.

HR also coordinated with NDPD at the beginning of the month to put on another Lunch and Learn, this time on the topic of what NOT to do at a traffic stop, aiming to shed light on some of the things our officers deal with on a daily basis, expertly put together and presented by Officer Levi Fergus.

Library Land:

That's a wrap on the 2024 Summer Reading Program for all ages! A big shout-out to library staff for an engaging and well-run program. This year the number of adult Summer Reading Program entries more than doubled from 2023 for a whopping 4,766 entries, and 331 registrations (pictured on the next slide in a pile on library carpet).

Librarian Jessica Otto has created a fun adult program that's simple and easy to participate in during a busy summer.

Adult Summer Reading Entries:

Children’s Librarian Amanda Lamb and Library Assistant Samantha Qualls also had a smashing success this summer!

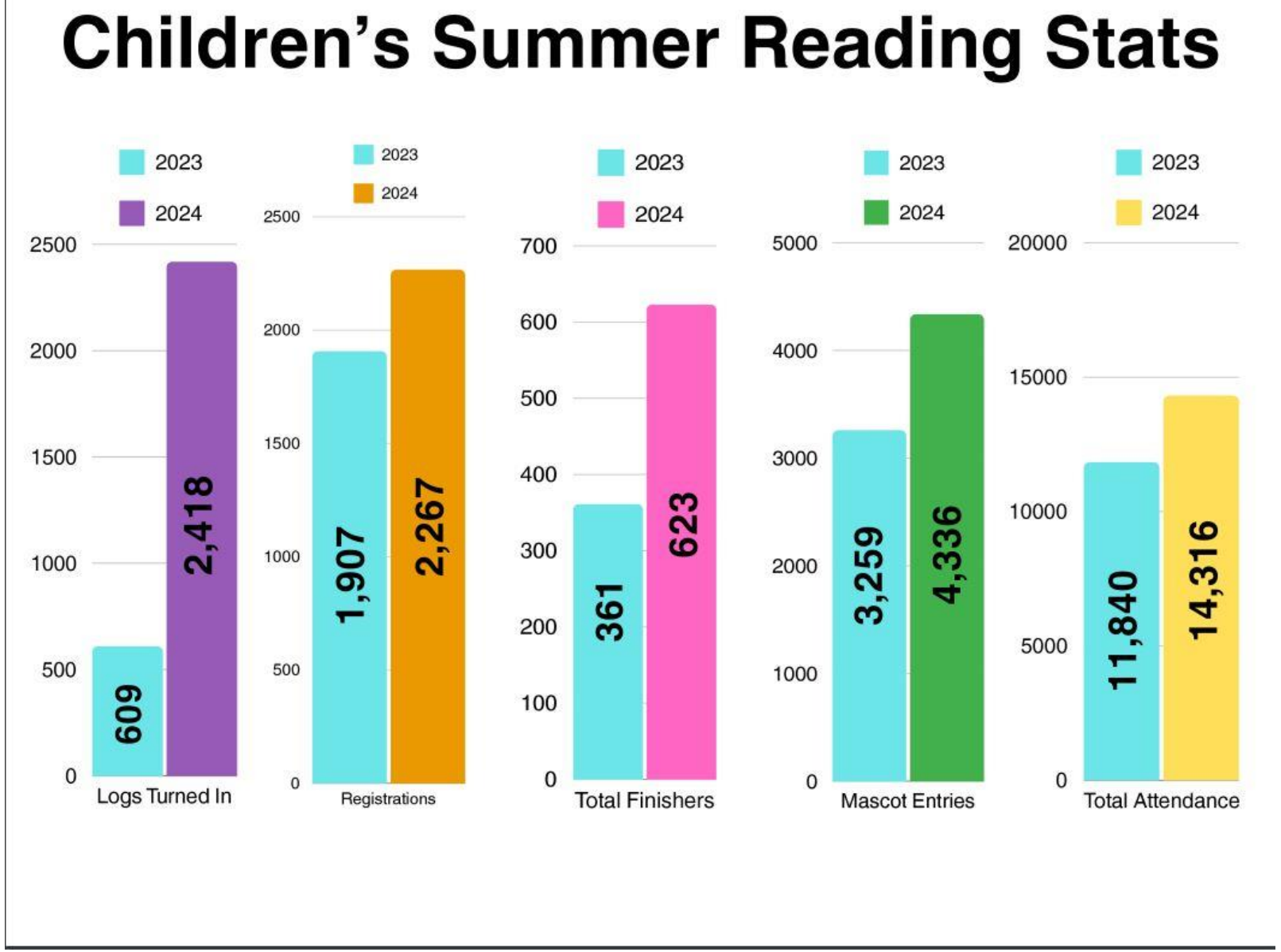
After re-working last year’s Summer Reading Program for babies and thru 5th grade students, they went from 609 returned reading logs returned in 2023 to 2,418 returned in 2024.

Registrations for babies to 5th grade students broke the 2,000 mark this year with 2,267 registrations. The Library Mascot program, a partnership with 20 downtown businesses, also had a record-breaking year with 4,336 entries returned.

Kids Summer Reading Entries:

The mascot was spotted 4,336 times by youth at different downtown Newberg locations, or at the library this summer.

As in previous years library staff heard many comments from people discovering new Newberg businesses!



Community Development:

City Council update and direction on the Sequential UGB Project was provided.
The Historic Preservation Commission approved modification of a historic house located south of downtown.
New applications for design review and conditional use permit were received for a 96-unit multifamily project, as well as a minor modification to a wireless communication facility, and 6 requests for minor permits such as right-of-way, and sign permits.
Pre-application meetings were held for a 20-unit mixed use development and another for expansion of a historic structure in the downtown area.

Community Development:

We completed the first round of OpenGov meetings with all impacted departments (the more customer service friendly replacement for our current permit system). The project is on schedule and within budget.

We received an update from ODOT on Hwy 99 Urban Design Verification Study for safety improvements.

So that’s it for August 2024!

As you can see, residents’ tax dollars have been hard at work as usual.

Questions?

REQUEST FOR COUNCIL ACTION

Date Action Requested: September 3, 2024

Order ☐ Ordinance ☐ Resolution ☒ Motion ☐ Information ☐ Proclamation ☐ No. 2024-3949	
Subject: Approval of a Resolution Granting a Hardship Exception for Extraterritorial Water Service at 901 S McKern Court (Community Development File GEN2-0010)	Staff: Scot Siegel, Director Department: Community Development
Business Session	Order On Agenda: Continued Item
Hearing Type: Not applicable	

Is this item state mandated? Yes ☐ No ☒

Recommendation: Move to approve Resolution 2024-3949 rescinding an existing extraterritorial water service agreement, approving a new extraterritorial water service agreement, and approving a waiver of the one-year period for annexation at 901 S McKern Court.

Executive Summary: Based on City Council direction on August 5, 2024, staff has prepared Resolution 2024-3949, and the following agreements, pursuant to the Council's motion to approve GEN 24-0010, an application for extraterritorial water service:

- Agreement to rescind a previously recorded contract for extraterritorial provision of water service and consent to annexation (Exhibit A-1),
- Contract for extraterritorial provision of water service and consent to annexation under certain conditions (Exhibit A-2), and
- Waiver of one year period and prescribing the period that the consent to annex shall be effective pursuant to ORS 222.173 (Exhibit A-3).

Background: As presented to City Council during public hearings on July 3 and August 5, 2024, the subject property, 901 S McKern Court (Tax Lot R3221 01901), contains a single-family dwelling on 0.68 acres. It is in unincorporated Yamhill County within the City of Newberg Urban Growth Boundary, and it abuts the City limits. The Comprehensive Plan designation is Industrial.

The subject property currently receives city water service through a 3/4-inch water meter on the abutting lot to the north that is under different ownership ("Lot 1900") and a 3/4-inch service lateral that traverses Lot 1900. That service is subject to existing Contract for Extraterritorial Water Service and Consent to Annexation approved in 2007 pursuant to City Council Resolution 2007-2700. The applicant requested approval of a new extraterritorial water service extension for 901 S McKern Court ("Lot 1901") due to

reasons of hardship (Exhibit A-2); the applicant specifically wants their own separate water service, and they have requested that the City not require annexation at this time.

On July 3, 2024, and again on August 5, 2024, the City Council approved the applicant's request to rescind the existing Contract for Extraterritorial Water Service and Consent to Annexation and replace it with a new contract for water service allowing Lot 1901 to remain unincorporated until it develops, or it has a change of use. The Council's motion would eliminate the existing contractual requirement that the City may annex Lot 1901 upon a change in its ownership. In addition, the City Council's August 5 motion denied the applicant's request to waive system development charges for a new water service to Lot 1901.

Newberg Municipal Code (NMC) 13.15.110 prohibits extraterritorial water services but provides for exceptions in cases of hardship when the criteria under NMC 13.15.120 are met. For Lot 1901 to have its own water service, it must have its own meter and service lateral installed from the public water main to the new meter. The attached draft Resolution 2024-3949 contains Council's findings in response to the applicable criteria in NMC 13.15.030-13.15.070 and 13.15.110-13.15.120; see Attachment A-1. The applicant's request is incorporated as Exhibit A-2.

With approval of Resolution 2024-3949 (Exhibit A), Council is authorizing the City Manager to execute agreements with the subject property owners to:

1. Rescind the 2007 Contract for Extraterritorial Water Service and Consent to Annex (Exhibit B);
2. Approve a new Contract for Extraterritorial Water Service and Consent to Annex (Exhibit C); and
3. Waive the one-year period for executing an annexation agreement (Exhibit D).

Fiscal Impact: None. The applicant will be required to pay all related system development charges (SDC's) and application fees associated with future development or land use decision including annexation.

Council Goals: This item is related to City Council Goal 1 to "identify Industrial land and attract employers to encourage family wage jobs." Specifically, this goal's Objective 1 to "identify land other than the Mill site to zone for Light Manufacturing."

Contents:

- Exhibit A. Resolution No. 2024-3949
    - A-1 Findings
    - A-2 Application for Water Service Hardship Exception
- Exhibit B. Agreement to Rescind a Previously Recorded Contract for Extraterritorial Provision of Water Service and Consent to Annexation
- Exhibit C. Contract for Extraterritorial Provision of Water Service and Consent to Annexation
- Exhibit D. Waiver of One Year Period Related to ORS 222.173

RESOLUTION NO. 2024-3949

A RESOLUTON RESCINDING THAT CERTAIN CONTRACT FOR EXTRA-TERRITORIAL WATER SERVICE BY AND BETWEEN MONTE BOWLIN AND THE CITY DATED FEBRUARY 6, 2007 and GRANTING A NEW HARDSHIP WATER CONNECTION FOR SERVICE OUTSIDE THE CITY LIMITS FOR THE ESTATE OF MONTE BOWLIN AT 901 S. McKERN CT pka 901 S. SPRINGBROOK RD, NEWBERG, OREGON

Recitals:

1. WHEREAS, prior to January 14, 2024, Monte Bowlin was the owner of real property located at 901 S. McKern Ct, pka 901 S. Springbrook Rd, Newberg, Oregon (which is located outside the City limits) and further identified as Tax Lot R3221-1901 ("Tax Lot 1901").

2. WHEREAS, on or about December 20, 2006, Roger Grahn, on behalf of Monte Bowlin, submitted a written application for a hardship connection to City water for Tax Lot 1901 based on the fact that the existing well, from which Monte Bowlin obtained water, located on real property owned by Grahn, would be decommissioned by ODOT as part of the "ODOT Bypass Project". As part of the said application, a ¾" lateral was to be constructed from the existing main on Springbrook Rd (nka McKern Ct) with the meter to be installed on contiguous property identified as Tax Lot R3221-1900 which is inside the city limits ("Tax Lot 1900"), with that said meter to act as a shared meter to provide water service to both Tax Lots 1900 and 1901.

3. WHEREAS, on or about February 5, 2007, the City Council conducted a public hearing regarding the aforesaid water hardship request, and approved the said request.

4. WHEREAS, on or about February 6, 2007, the City and Monte Bowlin entered into a Contract for Extra-Territorial Provision of Water Service and Consent to Annexation ("February 2007 Contract"), which allowed Monte Bowlin to receive water service from the City to Tax Lot 1901. The February 2007 Contract required annexation application for Tax Lot 1901 upon the occurrence of certain events.

5. WHEREAS, Monte Bowlin passed away on January 14, 2024, and his estate (herein known as "The Estate") has been admitted to probate in Yamhill County, OR, with Matthew Bowlin named as Personal Representative of the Estate. The Estate is now the owner of Tax Lot 1901.

6. WHEREAS, on or about June 17, 2024 (with a supplement submitted on or about June 20, 2024), the Estate applied for a Hardship Application for city water service to Tax Lot 1901 (which is still outside the city limits but within the Urban Growth Boundary) pursuant to a two-part application (see Exhibit "A-2"):

   A. Part one was for a Mutual Rescission of the February 2007 Contract.

   B. Part two was for approval of a hardship application for water service to Tax Lot 1901 as follows:

1). Disconnection of the existing connection from the shared meter located on Tax Lot 1900 which provides service to Tax Lot 1901.

2). Installation of a new ¾" lateral from the existing city main on McKern Ct to provide water service to Tax Lot 1901 with a new meter to be installed on Tax Lot 1901.

3). After approval of the above, the existing meter located on Tax Lot 1900 would remain on Tax Lot 1900 and continue to provide water service to Tax Lot 1900.

7. WHEREAS, the City of Newberg has an existing 14" water main in McKern Ct that runs along the east boundary of Tax Lot 1901. The City can provide a standard ¾" lateral to Tax Lot 1901 and a standard ¾" meter installed on Tax Lot 1901.

8. WHEREAS, the primary use of the property is for a single-family residence.

9. WHEREAS, Newberg Municipal Code ("NMC") Chapter 13, specifically §13.15.120, authorizes the Newberg City Council to approve hardship connections to the City's water system provided the criteria contained in §13.15.120 is satisfied. Findings relative to §13.15.120 are provided in Exhibit "A-1".

The City of Newberg Resolves as Follows:

1. The City Council hereby approves the request of applicant, The Estate, as follows:

A. The City and The Estate will jointly rescind the February 2007 Contract.

B. The City approves the hardship application for connection to the City water system for property located at 901 S. McKern Ct pka 901 S. Springbrook Rd, Newberg, OR, pursuant to the findings and testimony presented at the hearings on July 3, 2007 and August 5, 2024 with the following additional conditions:

1). The City will supply water to Tax Lot 1901 in accordance with the City Code via a new separate ¾" lateral and a new ¾" meter which is to be installed on the property located at 901 S. McKern Ct pka 901 S. Springbrook Rd, Newberg, OR

2). After disconnecting water service to Tax Lot 1901 from the existing shared meter located on Tax Lot 1900, the City agrees to allow the said meter to continue to reside on Tax Lot 1900 and to continue to provide water service to only Tax Lot 1900.

3). The Owner of Tax Lot 1900 agrees to pay all water usage charges associated with the meter that will remain located on Tax Lot 1900 which are assessed by the City normally on a monthly basis, in accordance with the City Code for water users inside the City limits.

4). The Estate agrees to pay the following costs:

a). Disconnecting the service to Tax Lot 1901 from the shared meter located on Tax Lot 1900.

b). Extending service to Tax Lot 1901, which will include installation of a new meter located on said property with all services meeting City standards, together with the reasonable amount of attorney

fees incurred by the City associated with the review of the Joint Rescission of the February 2007 Extra-Territorial Agreement, the September 2024 Extra-Territorial Agreement, the Waiver of One Year Time Period, and the Resolution to be adopted by the City Council, as prepared by the Estate's attorney that were required by the approval of the Hardship Application.

c). All water systems development charges ("SDC's) at the time of applying for a permit to connect to the City Water system).

d). All water usage charges associated with Tax Lot 1901 assessed by the City normally on a monthly basis, in accordance with the City Code for water users outside the City limits.

5). The Estate agrees to abide by the requirements of the City Code.

C. The City Council hereby approves the condition that the City may require annexation of Tax Lot 1901 only if either of the following events occur:

1). There is a change in usage of the property from primarily residential to another primary usage or

2). Development of the property, with development defined as any development that (a) includes partition or subdivision of the property, (b) increases water service requirements such that an additional or larger size meter is required, or (c) necessitates connection to a public wastewater system.

D. The expense for the annexation process shall be the responsibility of the owner of Tax Lot 1901.

2. The City Council affirms that this approval does not bind this Council or future councils, to hear, consider, or grant additional requests for water service outside the City limits, and that this decision is not a precedent for future decision.

3. The City Council adopts Exhibit "A-1" as the findings of fact for granting the hardship and incorporates Exhibit "A-2" as part of this resolution.

4. The City Council directs the City Manager to execute agreements with the Owners of Tax Lot 1900 and Tax Lot 1901 respectively to implement this Resolution. Said agreements shall substantially conform to the draft agreements in the September 3, 2024, Request for Council Action for casefile GEN 24-0010.

Effective Date of this resolution is the day after the adoption date, which is: _____, 2024.
Adopted by the City Council of Newberg, Oregon, this _____ day of _____, 2024.

_____
Rachel Thomas, City Recorder

Attest by the Mayor this _____ day of _____, 2024.

_____
Bill Rosacker, Mayor

Staff Findings for
Hardship Exception for Extraterritorial Water Service at 901 S Mckern Court
(Community Development File GEN24-0010)

The Community Development Director in consultation with Public Works-Engineering Division reviewed the application for Hardship Exception for Extraterritorial Water Service and found it meets the applicable criteria, as detailed below. Applicable code is in *italics*, with staff findings below.

13.15.120 Exceptions due to hardships.

An exception to NMC 13.15.110 may be granted by the city council in cases of hardship. The following process shall be used in determining whether the exception shall be granted, and the criteria shall be strictly applied with the burden of proof upon the applicant:

A. Eligibility. The applicant must meet the following criteria:

1. The new or additional water connection can be used only to supply water to an existing structure and will not be used to allow any new development.

Finding: The applicant requests water service for an existing residence at 901 S Mckern Court (Lot 1901). This would be a new water service to replace an existing service that is provided by a 3/4-inch meter on the neighboring property to the north, Lot 1900, that serves Lots 1900 and 1901. If a hardship exception is granted, staff recommends that it be conditioned on execution of a new Contract for Extraterritorial Water and Service and Consent to Annexation, and that the contract permit only one new water service to serve only the existing dwelling on Lot 1901. Annexation shall be required at the time of development, redevelopment, or change of use on Lot 1901. As conditioned, this criterion is met.

2. Annexation of the property upon which the structure is located is not immediately practical.

Finding: Staff concur with the applicant that annexation is not immediately practical or timely due to the property being in probate, which complicates the distribution or sale of assets. In addition, as discussed above, annexation would require application of City M-2 zoning, which does not allow the current residential use and would potentially reduce the property's value at a time when the owners are trying to liquidate the asset. This criterion is met.

B. Hardship Determination. A request for a new or additional water connection due to hardship shall be accompanied by evidence of the following:

1. A genuine hardship exists due to quality and/or quantity of water for domestic consumption.

Finding: Lot 1901 already receives city water service, but the service is substandard as it is provided from a 3/4-inch meter serving Lot 1901 and Lot 1900. A 1-inch meter is standard for two connections. Adequate water quantity for domestic consumption could be at risk, for example, if the concrete company on Lot 1900 were to expand or the lot were to redevelop with uses demanding additional domestic water. Groundwater is not a viable water source for Lot 1901 due to the existing surrounding urban development, small lot sizes, and potential water quality concerns. If water service to Lot 1901 were discontinued, the lot would have no other source of potable water. This criterion is met.

2. All other alternatives have been investigated and are not economically feasible.

Finding: The alternative to granting the hardship exemption is to deny the application and compel the owners to annex before creating a new or additional water service connection. For the reasons discussed in Criterion A.2, annexation is not immediately practical or economically feasible. This criterion is met.

3. The dwelling to be served is in close proximity of existing services, either private or public, and the granting of the additional connection would not overburden existing lines, either private or public, or overburden the city's water supply.

Finding: According to the City's Public Works-Engineering Division, water service can be provided from an existing 14-inch water main in Springbrook Road. Granting the additional connection would not overburden existing lines provided the new service is constructed in accordance with City standards. This criterion is met.

C. Application for Hardship. A request in letter form for a hardship exception to NMC 13.15.110 *shall be made to the city council. The request shall be accompanied by a statement and evidence to be used in the determination. The request shall be reviewed and a recommendation made to the city council by the public works department prior to the city council's consideration of the matter. A granting of the request for an exception can be made by the city council; provided, that all the conditions stated in subsection (B) of this section do exist.*

Finding: The applicant has met the burden of proof by submitting a letter and evidence. The request is before City Council. This criterion is met.

D. Conditions of Hardship. Any exception granted shall be subject to the following conditions:

1. The owner of the property shall agree to pay the full cost of extending services to the parcel with all services meeting city standards and including all water connection fees and water system development charges.

2. The owner of the subject property agrees to annex to the city at such time as annexation is legally possible and is requested by the city. At the time of annexation, the property owner shall pay all system development charges then in effect, except wastewater, which shall be assessed in accordance with Chapter 13.10 *NMC.*

3. Water shall be for domestic purposes only and no water granted under this exception shall be permitted for agricultural use.

4. A written agreement as to the conditions under which the exception was granted shall be recorded on the Yamhill County deed records with the applicant paying all fees.

5. The city council may waive all or any portion of the city system development charges as it feels is in the best interest of the city.

Finding: Resolution 2024-3949 requires execution of a Contract for Extraterritorial Water Service and Consent to Annexation consistent with the above conditions, with special provisions for when annexation will be required pursuant to subsection 2. Council denied applicant's request for waiver of system development charges.

Conclusion: Based on the foregoing analysis, the criteria for Water Service Hardship Exception are met.

RESOLUTION 2024-3949
EXHIBIT A-2

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Michael G. Gunn
Attorney at Law

June 17, 2024

Mayor and City Council
City of Newberg
Newberg City Hall
Newberg, OR 97132

SENT VIA E MAIL:

Re: Water Hardship Application - The Estate of Monte Bowlin – Tax Account R3221-1901
Address 901 S. Springbrook Rd, Newberg (located outside City limits of Newberg)

Dear Mayor and City Council:

This letter is to inform you that I represent, in a limited role, Matt Bowlin who is the Personal Representative of the Estate of Monte Bowlin as the Estate is the current owner of the aforesaid real property. My role as counsel is associated with this said Hardship Application for City water service via a separate meter to the said real property. Terry Hansen, attorney in Newberg, represents Matt Bowlin as Personal Representative associated with the administration of the Estate of Monte Bowlin.

The Estate is requesting approval of a Hardship Application for a separate meter providing water service to Tax Lot 1901 with this separate meter installed on Tax Lot 1901; specifically, the following:

1. A Joint Rescission (between Applicant and the City of Newberg) of the Hardship Application executed by the City Council which was previously approved on or about February 5, 2007 with the approval then memorialized in a Contract for Extra-Territorial Provision of Water Service and Consent to Annexation dated February 6, 2007 ("February 2007 Contract"), which was not recorded in the Deed and Mortgage Records of Yamhill County, State of OR, until February 8, 2010, in Instrument #201001821. A copy of the February 2007 Contract is enclosed herein as a separate document and also as part of the original Hardship Application file.

2. Approval of this new Hardship Application with the specific terms and conditions set forth later in this Application.

Before setting forth the Estate's reasons and justification for this said application, Applicant believes a detailed history of this matter is required for a complete understanding, as the history is somewhat convoluted.

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The applicable properties are as follows:

1. Tax Lot R3221-1900 ("Tax Lot 1900") which is now approximately .33 acres in size, is unimproved and located within the City limits and contiguous to the subject property, and is owned by ACG Concrete LLC ("ACG") whose members are Matt Bowlin and Christina Scott. This property was previously owned by DMR Concrete, Inc. (which is owned by Matt Bowlin and Christina Scott as sole stockholders) and was recently conveyed by DMR Concrete Inc. ("DMR") to ACG for tax and other purposes.

2. Tax Lot R3221-1901 ("Tax Lot 1901") which is the subject property that is approximately .68 acres in size, contains a residence and an outbuilding, is located outside the City limits of Newberg, and is owned by The Estate of Monte Bowlin.

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A chronological history of the matter is as follows:

1. In or about 1997, Roger Grahn or entities controlled by him ("Grahn") owned all of what was then known as Tax Lots 1900, 1901, and 1802 (at that time, tax lot 1900 was a small piece just south of Tax Lot 1802 but contiguous to Tax Lot 1900). The total size of Tax Lots 1802 and 1900 at that time was approximately 2.41 acres more or less. All these properties were located outside the City limits of Newberg in unincorporated Yamhill County.

A. There was an existing well on Tax Lot 1802, which provided water service to Tax Lot 1901, but the water produced by the well was "hard" water with potability issues. The access for both Tax Lots 1802 and 1900 was a driveway from the south end of Springbrook Rd to Tax Lot 1802 (reference to any access issues is only set forth to present to Staff, Mayor, and the City Council anecdotally various access issues which were caused by condemnation of real property for subsequent construction of the "Bypass" which is referenced later).

2. On or about 8/8/1997, Grahn sold Tax Lot 1901 to Monte Bowlin; see copy of recorded deed from Grahn to Monte Bowlin.

A. Subsequent to the closing date set forth above, Monte Bowlin resided in the house located on Tax Lot 1901 and used water from the well on Tax Lot 1802 to provide service to Tax Lot 1901 (his usage of the water for drinking purposes was complicated by the fact it was "hard" water with potability issues). For a certain period of time, Monte Bowlin also utilized Tax Lot 1901 as a storage facility for concrete trucks and other equipment as he was the owner of DMR, which was a concrete construction company. However, the primary usage of Tax Lot 1901 was as a residence as the storage usage was minimal and tangential in nature.

3. For the time period on or about 8/8/1997 to on or about 12/3/2004, Grahn allowed Monte Bowlin, pursuant to an oral agreement, to use water from the aforesaid well to provide water service to Tax Lot 1901.

4. On or about 3/26/2003, Grahn and Monte Bowlin applied for annexation into the City of Newberg associated with tax lots 1900, 1901, and 1802.

A. Before the annexation was final, Monte Bowlin withdrew his application for annexation of Tax Lot 1901, ostensibly because he wanted to continue living in the unincorporated area of Yamhill County. If Tax Lot 1901 had been annexed into the City of Newberg, the zoning would have been Light Industrial, and the house would no longer have been able to be utilized as a residence (residences are not allowed uses in Light Industrial Zoned property). Monte Bowlin would have been forced to move to another residence to live.

B. As part of the annexation application, assuming annexation was approved, Grahn proposed to develop Tax Lots 1802 and 1900 as light industrial property.

5. On or about 12/4/2004 (not recorded until 5/23/2005), Grahn and Monte Bowlin entered into a formal agreement whereby Monte Bowlin acquired an easement over a portion of Tax Lots 1802 and 1900 for the purpose of obtaining water from the well resident on Tax Lot 1802 to service Tax Lot 1901 (see copy of recorded Easement enclosed herein).

6. On or about 12/7/2004, annexation for tax lots 1802 and 1900 became final, and those tax lots are now within the city limits of Newberg as Tax Lot 1802 was incorporated into Tax Lot 1900 as part of the annexation process (see enclosed copy of complete annexation packet).

A. The said annexation approval included certain conditions (i.e, hook up to City water and sewer, etc.) to occur within 1 year subsequent to final approval of the annexation. Applicant

submits this time period was effectively stayed" by the intervening act of the "bypass condemnation" which is why city water and city sewer were never "hooked up" to the resultant Tax Lot 1900 (this is discussed later in this Application).

7. In or about 2005, the State of OR, acting by and through its Department of Transportation ("ODOT"), filed a condemnation action against both Grahn (the then owner of Tax Lot 1900) as well as Monte Bowlin [note: Monte Bowlin was named as a defendant because of his recorded rights under the aforesaid water well easement, not because of any fee ownership interest in the said real property]. In the said Complaint, ODOT asked the Court to condemn approximately 2 acres more or less of Grahn's property by reason of the "bypass" project. The aforesaid well was situated within the condemned area, and after the condemnation was completed, Monte Bowlin would no longer have access to the well as it would be decommissioned by ODOT. The legal action proceeded to mediation in 2007, at which time the parties reached a settlement agreement; see enclosed Stipulated General Judgment and hand written settlement agreement from mediation. Since both Grahn and Monte Bowlin are now deceased, it is unknown as to the allocation of the settlement proceeds between the two, but one can reasonably infer that Grahn received the vast majority of the settlement proceeds as Monte Bowlin only had an easement interest (i.e. no fee interest) being extinguished by the condemnation.

A. The end result of the condemnation was that ODOT acquired approximately 2 acres more or less of Grahn's property; the well located on Grahn's property and the easement in favor of Monte Bowlin were both extinguished, and the access from Springbrook Rd via the driveway to Tax Lot 1900 was extinguished. Tax Lot 1900 was then left without any approved access from Springbrook Rd or water source, and Monte Bowlin was left without any water source to Tax Lot 1901. Furthermore, any light industrial development plans Grahn had for Tax Lot 1900 were effectively extinguished by reason of the intervening action of the condemnation, because it would be extremely difficult, if not near impossible, to develop a light industrial parcel of approximately .33 acres and configured in the resultant shape of Tax Lot 1900 with the associated access issues (both these issues are extensively discussed later in this Hardship Application). Again, Applicant further submits that the city service "hook up" requirements set forth in the February 2007 Contract were never required because the results of the ODOT condemnation have caused Tax Lot 1900 as it now exists to be very difficult to develop.

8. In or about early 2007, ODOT, by and through its contractor "took" and decommissioned the aforesaid well resident on Tax Lot 1900, thereby leaving Monte Bowlin without any water source for Tax Lot 1901.

9. On or about 12/20/2006, Grahn submitted a Hardship Application Letter to the City of Newberg requesting City water service to Tax Lot 1901 (which was owned by Monte Bowlin).

This said Application was "acknowledged" by Monte Bowlin; see enclosed Application Letter dated 12/20/2006 which as separate enclosure and is contained within the Hardship Application Packet.

A. Included in that Application Letter is a paragraph which states the following:

"Accordingly, we respectfully request on behalf of Monte Bowlin that the city agree to install a ¾" service on a hardship basis, but on property within the cities (sic) boundary (Tax Lot 3221-901) (sic lot R3221-1900), the small piece left over from ODOT's condemnation. It is our intent for us to convey the piece to DMR Concrete, Mr. Bowlin's concrete company and this water service would serve not only the needs to his* company and its' (sic) equipment, but also for his residence at 901 S. Springbrook."* **[*Note: the aforesaid statements set forth by the * are incorrect, because Monte Bowlin and Matt Bowlin, as stockholders, incorporated DMR Concrete Inc. in 1993, and both of them were stockholders at the time the Application was submitted by Grahn. DMR was not solely owned by Monte Bowlin].**

The substantive information set forth in the above paragraph is extensively discussed later in this Application.

10. On or about 2/5/2007 (with an effective date of 2/6/2007), the City of Newberg approved the aforesaid Hardship Application in Resolution No. 2007-2700 (which also contained certain findings); see enclosed copy of Resolution as well as the findings attached to the Resolution, both of which are contained in the Hardship Application Packet.

11. On or about 2/6/2007, the City of Newberg and Monte Bowlin executed the aforesaid February 2007 Contract, which authorized water service to Tax Lot 1901. Applicant further submits that by execution of the said February 2007 Contract, the City also authorized water service to Tax Lot 1900 via the same water meter (this issue is discussed later in this Application).

12. In or about March 2007, after authorization by the City of Newberg to do so, a ¾" lateral was installed from the City "water main" on Springbrook Rd to Tax Lot 1900 and a corresponding ¾" water meter was installed on Tax Lot 1900, and service lines to both Tax Lots 1900 and 1901 were installed from the shared water meter. This "shared installation" is discussed in greater detail later in this Application.

13. Subsequent to the said water meter installation, as set forth above, both Tax Lots 1900 and 1901 have continually used the shared meter for water service. As set forth above, Tax Lot 1901 uses the water service for domestic usage, while Tax Lot 1900 uses the water service for light

industrial usage; i.e. washing the concrete trucks and other equipment. Applicant submits Tax Lot 1900's usage amount is minimal.

14. In or about 2008, ODOT instituted condemnation against the Swonger trust property (Tax Lot 1800) and acquired the fee interest in a large portion of that property as well as the two then existing accesses from Springbrook Rd which served the Swonger trust property. There were a series of 3 deeds (2 from Swonger to ODOT and 1 from ODOT to Swonger) associated with this condemnation.

A. As part of the condemnation action, ODOT replaced the existing two (2) accesses to the Swonger property from Springbrook Rd with a single 25' wide permitted access from Springbrook Rd. This access was authorized by ODOT not just for the Swonger trust property but also as an access for Tax Lot 1900. However, this access did not provide direct access to Tax Lot 1900 from Springbrook Rd; instead, it required travel over a certain portion of the Swonger property to access Tax Lot 1900.

A. From the time that the said 25' access was constructed (which was the 2008 – 2009 time period range), the owners of Tax Lot 1900 have continually utilized the said access and the associated area of Tax Lot 1800 to access Tax Lot 1900. See attached aerial view of the "access" area identified by cross-hatching.

B. In or about March 2018, ODOT issued Darlene Swonger, as trustee of the Swonger trust, a shared access permit to access both tax lots 1800 and 1900 from Springbrook Rd. This permit was associated with the current location of the existing access to these properties. The said permit states that it is for access from Springbrook Rd to Tax Lots 1800 and 1900. The permit also states the usage is for 2 residential units; i.e. one for each Tax Lot. However, Regina Thompson, Right of Way Agent for ODOT (whom Applicant's attorney has been communicating with for several months) has stated words to the effect that "ODOT will recognize the existing Light Industrial Usage of Tax Lot 1900 as being compliant with the conditions of the existing access permit", but that if the usage should change (i.e. become a higher intense usage which would increase the trip counts), that ODOT would reserve the right to require modification, mitigation, or possibly revocation of the terms and conditions of that access permit as relates to Tax Lot 1900. See attached copy of Access Permit issued by ODOT.

C. A formal access easement agreement over Tax Lot 1800 for the benefit of Tax Lot 1900 has not yet been completed and recorded as ACG is currently in negotiations with the current trustee of the Darlene Swonger Trust.

15. On or about 8/7/2010, Grahn sold what was then Tax Lot 1900 to DMR which was owned by both Monte Bowlin and Matt Bowlin; see enclosed copy of deed from Grahn to DMR.

A. Subsequent to 8/7/2010, DMR (and its successor in interest as owner) have utilized Tax Lot 1900 as a storage area for concrete trucks as well as other associated pieces of equipment).

16. In or about March 2021, Matt Bowlin and Christina Scott purchased from Monte Bowlin his stock of DMR. At that time, DMR owned Tax Lot 1900. Matt Bowlin and Christina Scott as sole stockholders continue to operate DMR as a concrete construction company,

17. On or about 3/8/2021, Monte Bowlin borrowed money from American Advisors Group pursuant to a reverse mortgage and pledged as security Tax Lot 1901.

A. As with all reverse mortgages, the "due on sale" clause is triggered upon the death of the borrower.

19. On or about 1/14/2024, Monte Bowlin passed away.

20. On or about 3/13/2024, a Petition for Probate of Testate Estate of Monte Bowlin was filed in Yamhill County, Case #24PB02211.

21. On or about 3/13/2024, Matt Bowlin was named Personal Representative of the Estate of Monte Bowlin, and Letters Testamentary were issued.

A. The only asset of the estate is Tax Lot 1901 as the Estate does not have any bank accounts or other assets of any nature.

B. The current amount owing the reverse mortgage lender is approximately $200,000; the reverse mortgage lender will allow a maximum of one (1) year from the date of death to pay the amount owing in full, so long as the owner (i.e., the Estate) is actively trying to sell the property to pay the debt in full.

C. There are various expenses associated with administration of the Estate which Matt Bowlin and Christina Scott have advanced and will have to continue to advance additional money to pay; i.e. utilities, insurance, court filing fees, etc.

22. On or about 6/4/2024, DMR conveyed Tax Lot 1900 to ACG for tax and other reasons. DMR now leases Tax Lot 1900 from ACG. DMR continues to utilize the said property as a storage facility for its concrete trucks and other equipment.

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Options for the Estate after Monte Bowlin passed away associated with the February 2007 Contract

1. The Estate basically has three (3) options as to how to deal with the February 2007 contract, to-wit:

A. Request a Joint Rescission of the February 2007 Contract and simultaneously submit a Request for a New Hardship Application for water service to Tax Lot 1901 that requires a separate lateral from the City main and a separate meter to be installed on Tax Lot 1901 with certain other conditions associated with the Hardship Application if approved.

B. Comply with the literal interpretation of the Contract and apply for annexation into the City of Newberg with the property being zoned Light Industrial and a Comprehensive Plan Designation of Industrial.

C. Comply with the literal interpretation of the Contract (with two variations) and apply for annexation into the City of Newberg with the property being zoned Residential (a zone change application would also have to be submitted) and a Comprehensive Plan Amendment Designation of Residential (a Comprehensive Plan Amendment would also have to be submitted).

Applicant has chosen Option A and this Application sets forth the specific reasons for said choice, discussed in detail below.

Specific Reasons for Joint Rescission of the February 2007 Contract

1. As set forth at the beginning of this Hardship Application, Applicant is requesting two separate requests in this Application with the first request being a Joint Rescission of the February 2007 Contract for the following reasons:

A. The intent and spirit of the annexation requirement set forth in the February 2007 Contract is not applicable to the facts of this situation.

1). Applicant acknowledges and concedes that Paragraph 4 of the February 2007 Contract between Monte Bowlin and the City of Newberg states the following:

a). "Consent to Annex: The Owner hereby consents to the eventual annexation of real property to the City of Newberg, Oregon. Owner hereby agrees to perform all acts required by the City Code of property owners requesting annexation. The Owner agrees that the intent is the property will be annexed into the City of Newberg at such time as Monte Bowlin no longer resides on the property, there is a change in ownership, or the property is developed for another use. … "

b). Arguably, a literal interpretation of the above Paragraph could require Tax Lot 1901 to be annexed into the City of Newberg (i.e. annexation initiated by the owner of Tax Lot 1901 with all costs the responsibility of the owner).

c). However, Applicant submits that one should interpret the said Paragraph (and the complete February 2007 Contract) as to the intent and spirit of the document. Applicant submits that the intent and sprit was such that if Monte Bowlin voluntarily moved from the property (i.e. he no longer resided at the property), or if he voluntarily sold the property, or if he voluntarily developed the property for another use (which would be highly unlikely as it would be very difficult to obtain Yamhill County approval to do so), then annexation would be required. Applicant further submits that the intent and spirit was such that annexation would not be required if Monte Bowlin passed away, triggering the necessity of selling the property to pay the debts of the estate. His passing away was an involuntary act which Applicant submits was not within the scope of the intent and spirit of the annexation language set forth in the February 2007 contract.

B. *Option B as set forth above is rejected,* because annexation of the property at the present time will cause a tremendous financial hardship to Applicant (the property if annexed will be zoned Light Industrial with a Comprehensive Plan Designation of Industrial).

1). The property is only .68 acres in size and contains several outbuildings as well as the residence.

2). If this property is annexed into the City as Light Industrial, the existing residence will be required to be "decommissioned" as a residence, as residential usage is not allowed in a Light Industrial zone. Perhaps the house could be used as an office incidental to an overall usage of Light Industrial, but the value is severely diminished if zoned as Light Industrial.

a. The enclosed letter from Diana Cooper, realtor, dated 5/24/2024, sets forth the following:

1)). The highest and best use of the property is that of Rural Residential (i.e., continue to remain outside the City limits of Newberg). Her letter sets forth that the property should be listed for sale at $650,00 based upon a comparable sale of property located at 3517 N. College St, Newberg, on 4/18/2024.

2)). However, if the property is required to be annexed into the City of Newberg as Light Industrial, the value decreases significantly. The letter states that Light Industrial properties of a small size are very difficult to develop (parking, landscaping, etc. being some of the reasons for the difficulty). She could only find two Light Industrial properties less than 3 acres in size in the Newberg/Dundee area which have actually sold in the last 8 years. The highest sales price per sq. ft. was the Fulquartz Rd, Dundee, property which sold at $7.50/sq. ft. Even if the subject property would sell at that price (which is highly doubtful), that would only result in a gross sales price of .68 acre x 43,560 sq. ft. in 1 acre x $7.50 = $222,156. Subtracting realtor commissions and closing costs would result in a net sales price of maybe $200,000 which would barely be enough to satisfy the reverse mortgage, let alone pay the administration costs of the probate and the debts owing by the Estate to Matt Bowlin and Christina Scott. That $200,000 amount to satisfy the reverse mortgage is only valid if the property was closed NOW. This is impossible since the property would have to be annexed into the City which takes months to accomplish, and the Applicant would have to expend a significant amount of attorney fees and costs. Applicant submits that no prudent real estate buyer who really desired it as Light Industrial property would close on this transaction without the property first being annexed into the City. This is impossible since the property would have to be annexed into the City which takes months to accomplish, and the Applicant would have to expend a significant amount of attorney fees and costs. Applicant submits that no prudent real estate buyer who really desired it as Light Industrial property would close on this transaction without the property first being annexed into the City. By then, the payoff amount to satisfy the reverse mortgage would be much greater than $200.000.

a)). Applicant further submits that the City's own Comprehensive Plan (copies of applicable Excerpts are enclosed) does not show a need for Light Industrial parcels < 20 acres in size, much less a parcel .68 acres in size. The most current Comprehensive Plan sets forth the following:

Page 68, Table V-10 Industrial Land Need (which is **overall** Industrial Land sets forth the following Needs

2005-2025	2026-2040
87 acres	76 acres

Page 69, Table V-11 Industrial Land Supply and Need
sets forth the following Needs and Supply

2025 Need Parcels < 20 acres	Supply (Inside UGB)	Surplus/Deficit
50 acres	99 acres	49 acres surplus

Page 69, Paragraph 3 2040 Industrial Land Supply and Need

States "The period 2025-2040 will have additional needs for industrial lands. There is projected to be a need for 37 acres of additional small/medium sites."

Page 69, Table V-12 2026-2040 Industrial Land Supply and Need
sets forth the following Needs

Small/Medium Sites < 20 acres 37 acres Need

Applicant submits that the total Need for Industrial < 20 acres size (50 acres + 37 acres) is less than the Existing Supply (99 acres) thus accounting for a Surplus. Thus, allowing this property to remain outside the City limits zoned Rural Residential will have no negative impact on the City's future need for Light Industrial parcels < 20 acres.

C. *Option C as set forth above is rejected,* because contemporaneously with the annexation request, Applicant would also be required to submit a Comprehensive Plan Amendment change (from Industrial to Residential) as well a Zone Change request from Light Industrial to Residential. The time period from applications to final decisions by the City would require many months, and would require the expenditure of a significant amount of attorney fees and. It is highly unlikely that the City would approve the aforesaid change requests, but even if the City approved them, it is very questionable as to whether or not those approvals would withstand appeals.

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Contemporaneously With the Application for Joint Rescission of the February 2007 Contract, Applicant is Also Requesting Approval of a New Hardship Application for Water Service to Tax Lot 1901 with a Separate Lateral Providing Water to a New Separate Meter Situated on Tax Lot 1901

Specifically, Applicant is requesting the following:

1. Disconnect the existing water service from the shared meter resident on Tax Lot 1900 which serves Tax Lot 1901 – the connection from this shared meter which serves Tax Lot 1900 will remain in place as the meter will then only service one (1) property, i.e. Tax Lot 1900.

2. Installation of a new ¾" lateral service from the existing water main under McKern Ct to Tax Lot 1901.

3. Installation of a new ¾" water meter on Tax Lot 1901.

4. Upon approval, only requiring annexation of the property upon the primary change of usage of the property from Residential to another usage or development of the property (i.e., subdividing, portioning, etc.).

The applicable Newberg City Ordinance is set forth as below, and the reasons that Applicant believes it has satisfied the Ordinance requirements are set forth *in italics* immediately below the specific Ordinance section:

Ordinance 13.15.120 – Exceptions Due to Hardship

An exception to NMC 13.15.110 may be granted by the city council in cases of hardship. The following process shall be used in determining whether the exception shall be granted, and the criteria shall be strictly applied with the burden of proof upon the applicant:

A. Eligibility. The applicant must meet the following criteria:

1. The new or additional water connection can be used only to supply water to an existing structure and will not be used to allow any new development.

Reasons for approval/satisfaction of this requirement:

. *There is already a shared meter in place resident on Tax Lot 1900 that serves both Tax Lots 1900 and 1901. There is already one existing residence on Tax Lot 1901 that is serviced by this shared meter. That is the only residence/structure that will be serviced by the installation of the new meter on Tax Lot 1901. There will be no increase in water usage for Tax Lot 1901 by reason of the new meter.*

. *Applicant does not want to continue with the shared meter serving both Tax Lots 1900 and 1901, because Tax Lot 1901 will be sold to satisfy debts of the Estate. While*

Monte Bowlin was still alive, both Tax Lots using the same shared water meter did not cause issues, because both properties were owned by family members (i.e. Monte Bowlin was Matt Bowlin's father). However, once Tax Lot 1901 is sold to a 3rd party, Applicant is concerned regarding the potentially of a myriad of issues that can arise with a shared water meter resident on Tax Lot 1900 when the owners of the two Tax Lots do not even know one another (i.e. allocation of payment of the monthly bill, one owner believes the other owner is using too much water, etc.).

2. Annexation of the property upon which the structure is located is not immediately practical.

Reasons for approval/satisfaction of this requirement:

. Annexation is not immediately practical for the following reasons:

- *Monte Bowlin passed away on 1/14/2024.*

- *Prior to his death, on or about 3/8/2021, he borrowed money pursuant to a reverse mortgage and pledged the property as collateral.*

- *The death of Monte Bowlin triggered the due on sale clause of the reverse mortgage (i.e. accelerating the entire amount due).*

- *The present amount owing associated with the reverse mortgage is approximately $200,000, and the reverse mortgage company will only allow the Estate of Monte Bowlin (current owner of the said property) until January, 2025 to pay off in full the reverse mortgage.*

- *The Estate of Monte Bowlin does not have sufficient funds to satisfy the amount due associated with the reverse mortgage as the only asset of the Estate at the present time is the real property.*

- *The total amount of debts of the Estate are in excess of $200,000.*

- *It is necessary to sell the property to satisfy the reverse mortgage as well as other debts of the Estate of Monte Bowlin.*

- *If the property is annexed into the City as Light Industrial property (pursuant to the Comprehensive Plan Designation of Industrial), the value of the property*

will be at most $223,156, with a net amount of available cash after sale of the property being no more than $200,000.

- Annexation will result in a financial hardship to the Estate, because the property sold as Light Industrial will not even result in a sufficient amount of funds to pay the debts of the Estate.

- If the property is ***not*** *annexed into the City (i.e., allowed to remain outside the City limits), the value of the property as Residential property is at least $600,00. A sale of the property at that amount will result in sufficient funds to the Estate to pay the debts of the Estate and have some remaining monies to distribute to the beneficiaries of the Estate.*

B. Hardship Determination. A request for a new or additional water connection due to hardship shall be accompanied by evidence of the following:

1. A genuine hardship exists due to quality and/or quantity of water for domestic consumption.

Reasons for approval/satisfaction of this requirement:

- Applicant submits that this request, if approved, will result in one new water meter, and arguably a "new or additional connection" per se; however, this new water meter is just a substitute for the existing Tax Lot 1901 connection from the shared meter. That connection will be disconnected upon approval of Hardship Application. Thus, from a strict usage standpoint, there will not be any additional usage.

- As far as a genuine hardship existing due to quality and/or quantity of water for domestic consumption, a well is not practical or feasible as there are severe quality issues associated with the potability of water from a well as water in that area is "hard" water. This is the main reason that the City approved the original Hardship Application.

- As set forth above, if this property remains Residential outside the City limits, there are only two choices to obtain City water for Tax Lot 1901:

. Continue with the same shared meter resident on Tax Lot 1900 that serves both Tax Lots, or disconnect service from the shared meter for Tax Lot 1901 and install a new lateral from the existing City main and a new meter on Tax Lot 1901.

. The City previously approved the shared meter to be installed on Tax Lot 1900 to service both Tax Lots 1900 and 1901. From 2010 until Monte Bowlin's death

in January 2024, both properties were owned by family members or entities controlled by family members. Applicant has already stated the potentiality for issues that may arise in the future if forced to continue with this shared meter arrangement. Applicant submits it is not fair, practical, or feasible for the City to require the owners of Tax Lot 1900 to continue with the current shared meter usage in light of the future sale of Tax Lot 1901 to an unknown 3rd party. It is also Applicant's understanding that the City prefers to discontinue with the shared meter and have a separate meter installed on Tax Lot 1901. Thus, Applicant submits that from a literal standpoint, if Tax Lot 1901's water service is discontinued from the shared meter, there is a genuine hardship as to the quantity of water available, because without the installation of a new meter on Tax Lot 1901, there would be no water available for Tax Lot 1901. The only feasible solution is to install a new lateral to provide service to a new meter installed on Tax Lot 1901, and contemporaneously disconnect service for Tax Lot 1901 from the meter resident on Tax Lot 1900.

2. All other alternatives have been investigated and are not economically feasible.

- The only other alternatives are a well or continuation of the existing shared meter, neither of which are practical or feasible as both have been discussed above.

3. The dwelling to be served is in close proximity of existing services, either private or public, and the granting of the additional connection would not overburden existing lines, either private or public, or overburden the city's water supply.

- There is an existing City water main under McKern Ct which serves the shared meter on Tax Lot 1900 and which is available for a new ¾" lateral to service the new meter to be installed on Tax Lot 1901.

- This new connection to be installed on Tax Lot 1901 is not "really an additional connection" but rather only a new meter, because the shared meter presently serves both Tax Lots 1900 and 1901.

- The installation of a new lateral to service a new meter to be installed on Tax Lot 1901 will not overburden existing lines, ... , or overburden the City's water supply, because the shared meter now services both Tax Lots. After approval and installation of the new lateral and new meter on Tax Lot 1901, the meter on Tax Lot 1900 will only serve Tax Lot 1900 (who uses a minimal amount of water), and the new meter will serve only Tax Lot 1901. Hence, there will be no increase in usage of City water.

C. Application for Hardship. A request in letter form for a hardship exception to NMC 13.15.110 shall be made to the city council. The request shall be accompanied by a

statement and evidence to be used in the determination. The request shall be reviewed and a recommendation made to the city council by the public works department prior to the city council's consideration of the matter. A granting of the request for an exception can be made by the city council; provided, that all the conditions stated in subsection (B) of this section do exist.

- *This entire Application in letter form together with all attached Exhibits satisfies this condition.*

D. Conditions of Hardship. Any exception granted shall be subject to the following conditions:

1. The owner of the property shall agree to pay the full cost of extending services to the parcel with all services meeting city standards and including all water connection fees and water system development charges.

- *Applicant, The Estate of Monte Bowlin, understands that it is responsible for the payment of the full cost of extending services to the parcel with all services meeting city standards together with the cost of the disconnection of the service for Tax Lot 1901 from the existing shared meter. Among these costs are the reasonable amount of attorney fees incurred by the City associated with this Application.*

- *Applicant intends to request waiver of the water SDC charges as allowed in Subsection 5 set forth below.*

2. The owner of the subject property agrees to annex to the city at such time as annexation is legally possible and is requested by the city. At the time of annexation, the property owner shall pay all system development charges then in effect, except wastewater, which shall be assessed in accordance with Chapter 13.10 NMC.

- *Applicant specifically requests that approval of this application only include the following requirements for annexation to the City:*

. *The City shall request annexation only upon a change in usage of the property from primarily residential to another usage or development of the property (i.e. subdividing, portioning, etc.), whichever occurs first.*

. *The City shall not request annexation if the owner dies or if the owner sells the property or if the owner no longer resides on the property, because if those conditions*

"triggered" annexation, this application would be meaningless. It would be impossible to sell the property to a buyer who had to accept these conditions.

3. Water shall be for domestic purposes only and no water granted under this exception shall be permitted for agricultural use.

- *There is only one residence on the property, and Applicant agrees that this application, if approved, will only allow water for domestic purposes.*

4. A written agreement as to the conditions under which the exception was granted shall be recorded on the Yamhill County deed records with the applicant paying all fees.

- *Applicant agrees to this condition.*

5. The city council may waive all or any portion of the city system development charges as it feels is in the best interest of the city. [Ord. 2666, 3-6-07; Ord. 1912, 7-3-78. Code 2001 § 52.12.]

- *Applicant requests a waiver of the water system development charges associated with the new meter to be installed on Tax Lot 1901 for the following reasons*:

. The Hardship Application submitted by Grahn on behalf of Monte Bowlin on or about 12/20/2006 contained the following language:

*"**Accordingly, we respectfully request on behalf of Monte Bowlin that the city agree to install a ¾" service on a hardship basis, but on property within the cities (sic) boundary (Tax Lot 3221-901) (sic lot R3221-1900), the small piece left over from ODOT's condemnation. It is our intent for us to convey the piece to DMR Concrete, Mr. Bowlin's concrete company and this water service would serve not only the needs to his company and its' (sic) equipment, but also for his residence at 901 S. Springbrook." Applicant has already set forth the incorrectness in the above statement relating to the ownership of DMR at the time of the original Hardship Application.***

. *The City, in approving the said Hardship Application authorized water service to Tax Lots 1900 and 1901 via a single shared meter. Since 2007, that meter has been providing service to both Tax Lots. Monte Bowlin, as a condition of approval of the Hardship Application, was required to pay the water SDC's for that meter which serviced two properties. The purpose of SDC payments is to offset the future burden on City services caused by the development. There is no additional future burden on City water*

services as the amount of water used by Tax Lots 1900 and 1901 after installation of a new water meter on Tax Lot 1901 should not result in any increase from the present usage. Hence, there is no need for the imposition of water SDC's in an amount in excess of $7,800 which will place a tremendous financial burden on Applicant as a condition of this approval.

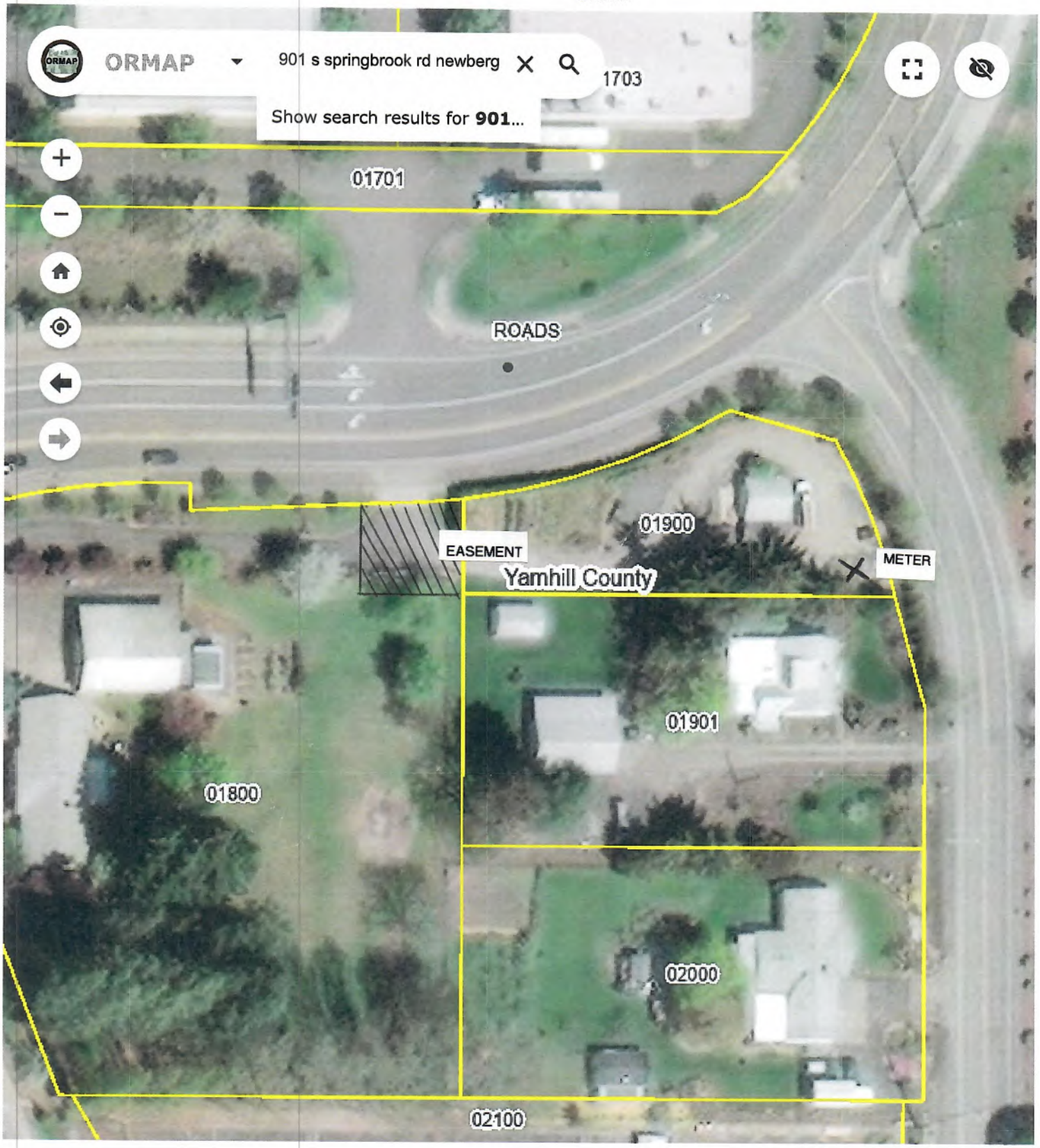
Applicant believes it has satisfied all conditions for this two-part Water Hardship Application approval. Thank you for your attention.

Yours very truly,

Michael G. Gunn
Attorney at Law

MGG;mgg
Enc: List of Exhibits/Enclosures to Hardship Application
Map Showing Area Before Condemnation and Location of Well
Aerial Map Showing Configuration of Lots Now and Location of Meter on Tax Lot 1900
The above two maps are also set forth in a Power Point File that is enclosed herein
Original February 2007 Contract Associated with Approval of Hardship Application
Deed Grahn to Monte Bowlin 1997 Tax Lot 1901
Well Easement Grahn to Monte Bowlin 2004/2005
Annexation Packet Associated with Annexation of Tax Lots 1802 and 1900
Original Hardship Application File 2006-2007
General Judgment from Mediation Settlement Condemnation ODOT v. Grahn and Monte Bowin 2007
2018 ODOT Access Permit for Tax Lot 1800 (Swonger Property) and Tax Lot 1900 (ACG Concrete LLC) Property
Deed Grahn to DMR Concrete Inc. 2010
Diana Cooper Realtor Analysis of Value Residential v. Light Industrial
Excerpts From City's Comprehensive Plan
Cc: Matt Bowlin and Tina Scott via e mail (with enc), Terry Hansen atty via e mail (with enc), Will Worthey City Mgr via e mail (with enc), Scot Siegel Planning Director via e mail (with enc), Regina Thompson ODOT (with enc), Diana Cooper via e mail (with enc)

AERIAL MAP SHOWING CONFIGURATION OF LOTS NOW AND LOCATION OF METER ON TAX LOT 1900

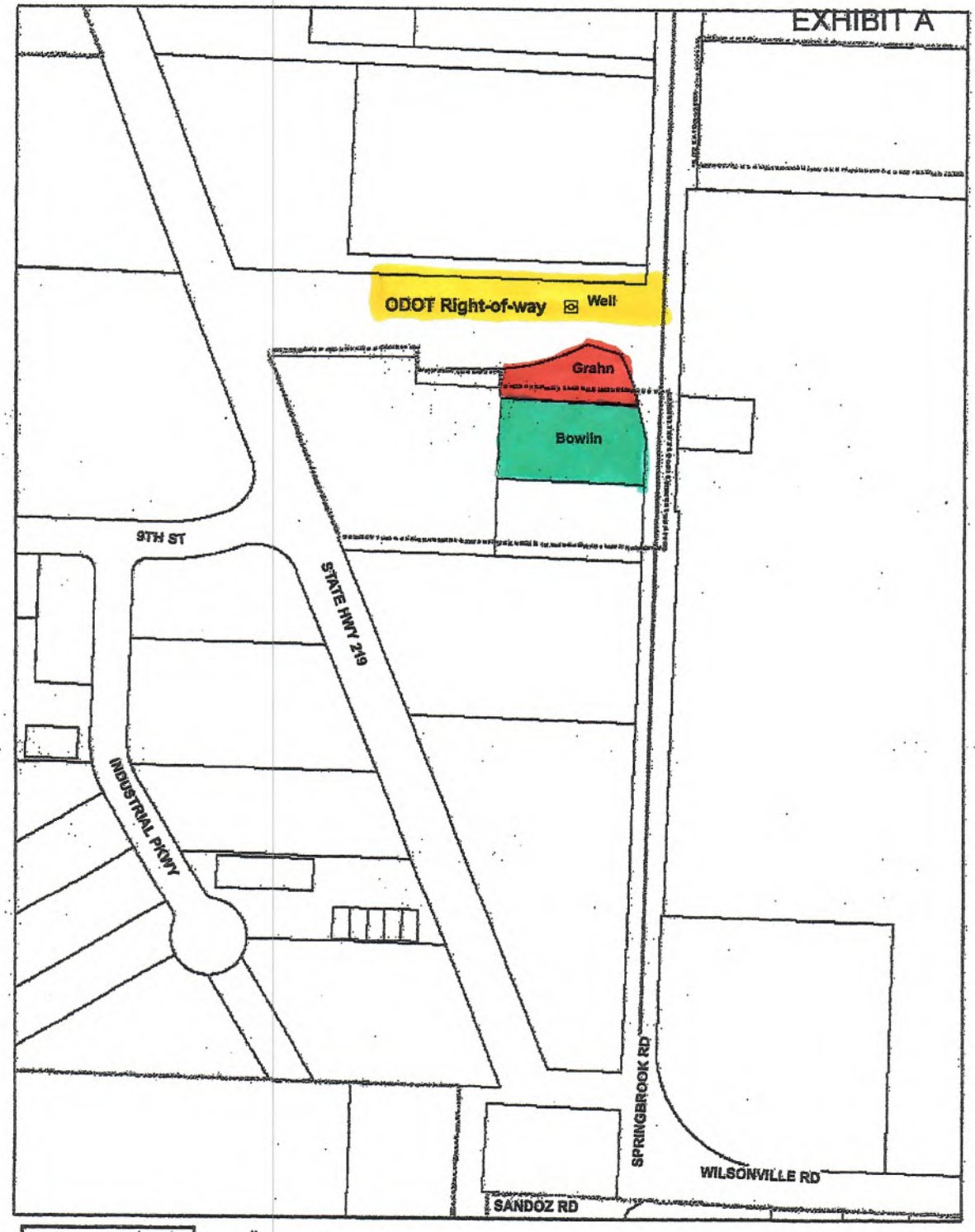


-122.948 45.294 Degrees

20m
60ft

MAP SHOWING AREA BEFORE CONDEMNATION AND LOCATION OF WELL

EXHIBIT A


ODOT Right-of-way
Well
Grahn
Bowlin
9TH ST
STATE HWY 219
INDUSTRIAL PKWY
SPRINGBROOK RD
WILSONVILLE RD
SANDOZ RD
City of Newberg
N
W
E
S
Legend
City of Newberg water system line
Newberg City Limits
200
Feet
P:\GIS_Engl\springbrookandwilsonvillerdwaterline.mxd
01/18/2007 @ 2:17:03 PM

ORIGINAL FEBRUARY 2007 CONTRACT ASSOCIATED WITH APPROVAL OF HARDSHIP APPLICATION

AFTER RECORDING RETURN TO:
City of Newberg – Public Works Department
PO Box 970 – 414 East First Street
Newberg, OR 97132
(503) 537-1273

OFFICIAL YAMHILL COUNTY RECORDS
REBEKAH STERN DOLL, COUNTY CLERK

00342415201000018210110118

201001821

$91.00

02/08/2010 03:20:10 PM

DMR-CONDMR Cnt=1 Stn=2 ANITA
$55.00 $10.00 $11.00 $15.00

CONTRACT FOR EXTRA-TERRITORIAL PROVISION OF WATER SERVICE and CONSENT TO ANNEXATION

(water service outside the City)

(ORS 221.115)

THIS AGREEMENT is entered into this 6 day of Feb 2007 by and between the City of Newberg, a municipal corporation of the State of Oregon, hereinafter called "**City**", and owner(s) of the real property, hereinafter described as "**real property**", hereinafter called "**Owner**". This is the accepted agreement:

RECITALS

1. **Owner and Real Property.** The **Owner** who is requesting service from the **City** and the **real property**, which is the subject of this connection are hereinafter described as follows:

   a. **Owner(s)** Name: Monte Bowlin

   b. **Owner(s)** Address: 901 S. Springbrook Rd.
   Newberg, Oregon 97132

   REAL PROPERTY:

   c. Property Address: 901 S. Springbrook Rd.
   Newberg, Oregon 97132

   d. Tax Lot No.: 3221-1901

   e. Legal Description recorded in Yamhill County Records, Instrument Number 199713551 on 08/12/97, is hereby referenced and by this reference fully incorporated.

2. **Request.** The **Owner** of the **real property** has requested water service from the **City** which will supply **City** water to the **real property** located outside the City limits of the City of Newberg.

91

3. **Hardship Exceptions.** The City Code at Title V, Chapter 52, provides for water connections outside the City limits under certain hardship conditions.

4. **City Council Approval.** Under certain hardship conditions, the City Council has approved this connection by City Resolution No. 2007-2700. The Resolution with attached hardship conditions is hereby referenced and by this reference fully incorporated.

5. **Intent to Annex.** The parties agree that the intent is that the property will be annexed into the City at such time as Monte Bowlin no longer resides on the property, there is a change in ownership, or the property is developed for another use.

NOW THEREFORE, The **City** and **Owner** for mutual consideration hereby agree as follows:

1. **Recitals.** The parties agree to the above recitals.

2. **City Obligations.**
   A. The **City** does hereby agree to supply water to the **Owner** in accordance with the City Code.
   B. The **City** consents to the **Owner** connecting to the City water system.

3. **Owner Obligations.**
   A. The **Owner** hereby agrees to pay the full cost of extending service to the parcel with all services meeting **City** standards.
   B. The **Owner** hereby agrees to pay all required systems development charges prior to connecting.
   C. The **Owner** hereby agrees to pay all water usage charges assessed by the **City** which are normally assessed on a monthly basis, in accordance with the City Code for water users outside of City limits.
   D. The **Owner** shall abide by all requirements of the City Code.

4. **Consent to Annex.** The **Owner** hereby consents to the eventual annexation of **real property** to the City of Newberg, Oregon. **Owner** hereby agrees to perform all acts required by the City Code of property owners requesting annexation. The **Owner** agrees that the intent is that the property will be annexed into the City at such time as Monte Bowlin no longer resides on the property, there is a change in ownership, or the property is developed for another use. The **Owner** wishes the consent to annexation be considered in any annexation procedure and waives the one-year time period provided for in ORS 222.173 within which the consent shall be effective for consideration and requests that this consent be valid as long as the property is receiving the extra-territorial services.

5. **Limitations on Water Connection.**
   A. The **Owner** hereby agrees that the water shall be used for domestic purposes only and no water granted under this exception shall be permitted for agriculture use. The water connection can be used only to supply water to an existing structure and will not be used to allow any new development.
   B. This water connection is not transferable to any other parcel. If the **real property** is partitioned or subdivided, the water connection shall only be allowed on the parcel containing the original structure.

6. **Covenant and Restriction Running with the Land.**
   A. This agreement shall be recorded in the Yamhill County Deed Records with **Owner** paying all recording costs and fees.

2/12

B. All of the terms, covenants, and conditions herein and imposed are for the benefit of the **City** and the **real property** of interest therein.

C. This agreement shall be binding upon the **real property** and the successors of interest of the **Owner** and shall act as a covenant and restriction running with the land.

7. **Termination of Agreement.** This agreement shall cease when the **real property** is annexed into the City of Newberg.

IN WITNESS WHEREOF, the parties have executed this Agreement this 6 day of Feb 2007.

STATE OF OREGON)
)s.s.
County of Yamhill)

OWNER

Monte Bowlin

This instrument was acknowledged before me this 6th day of February 2007 by Monte Bowlin.

Notary Public for Oregon
My Commission Expires: March 23, 2008

OFFICIAL SEAL
NORMA I. ALLEY
NOTARY PUBLIC-OREGON
COMMISSION NO. 378841
MY COMMISSION EXPIRES MARCH 23, 2008

CITY OF NEWBERG

Daniel Danicic, City Recorder

APPROVED AS TO FORM

Terrence D. Mahr, City Attorney

3/3

DEED GRAHN TO MONTE BOWLIN 1997 TAX LOT 1901

TICOR TITLE INSURANCE

WARRANTY DEED

This Space Reserved for Recorder's Use

GRANTOR: R.P. GRAHN, INC.

GRANTEE: MONTE BOWLIN

Until a change is requested, all tax statements shall be sent to the following address:
MONTE BOWLIN
735 N. COLLEGE
NEWBERG, OR 97132

Escrow No. 78890 Title No. 78890

After recording return to:
MONTE BOWLIN
735 N. COLLEGE
NEWBERG, OR 97132

Recorded in Yamhill County, Oregon
CHARLES STERN, COUNTY CLERK
35.00
199713551 10:50am 08/12/97
001 052710 09 05 000202
1 D DOC 1 5.00 10.00 20.00 0.00 0.00 0.00

STATUTORY WARRANTY DEED

R.P. GRAHN, INC., an Oregon Corporation Grantor, conveys and warrants to MONTE BOWLIN Grantee, the following described real property free of encumbrances except as specifically set forth herein situated in YAMHILL County, Oregon, to wit:

BEGINNING at the Northeast corner of a tract conveyed to Kenneth Wegter and wife by deed recorded December 8, 1953 in Book 171, Page 733, Deed Records, said point being also 971.12 feet North of the Southeast corner of the Richard Everest Donation Land Claim No. 52 in Section 21, Township 3 South, Range 2 West, of the Willamette Meridian in Yamhill County, Oregon; thence West along the North line of said Wegter tract, 260 feet; thence North 125 feet; thence East 260 feet to the East line of said Everest Claim; thence South along the East line of said Richard Everest Claim, 125 feet to the point of beginning.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930. The said property is free from encumbrances except: rights of the public in streets, roads and highways; 1997-98 taxes.

The true consideration for this conveyance is $150,000.00 (Here comply with the requirements of ORS 93.030)

Dated this 8th day of AUGUST 1997

R.P. GRAHN, INC.

ROGER GRAHN,

State of Oregon, County of YAMHILL

The foregoing instrument was acknowledged before me this 8th day of AUGUST, 1997 by ROGER GRAHN, of R.P. GRAHN, INC. a corporation, on behalf of the corporation.

Sheryl Lutz
Notary Public for Oregon
My commission expires: 2-6-98

OFFICIAL SEAL
SHERYL LUTZ
NOTARY PUBLIC-OREGON
COMMISSION NO. 050008
MY COMMISSION EXPIRES FEBRUARY 6, 1998

8-12-97

WELL EASEMENT GRAHN TO MONTE BOWLIN 2004/2005

FORM No. 926 – EASEMENT.

NN

COPYRIGHT 1999 STEVENS-NESS LAW PUBLISHING CO., PORTLAND, OR 97204

EASEMENT

Between

R P Grahn, Inc
23287 LaSalle Lane
Sherwood, OR 97140

And

Monte Bowlin
901 S Springbrook Rd
Newberg, OR 97132

After recording, return to (Name, Address, Zip):

Monte Bowlin
901 S Springbrook Rd
Newberg, OR 97132

STATE OF OREGON,
County of _____ } ss.

I certify that the within instrument was received for recording on _____, at _____ o'clock _____.M., and recorded in book/reel/volume No. _____ on page _____ and/or as fee/file/instrument/microfilm/reception

SPACE RESERVED

OFFICIAL YAMHILL COUNTY RECORDS
JAN COLEMAN, COUNTY CLERK

200510481

$36.00

00200012200500104810030031

05/23/2005 10:56:36 AM

DMR-EDMR Cnt=1 Stn=2 ANITA
$15.00 $10.00 $11.00

THIS AGREEMENT made and entered into on December 4, 2004 between R. P. Grahn, Inc., by and hereinafter called the first party, and Monte S. Bowlin, hereinafter called the second party, WITNESSETH:

WHEREAS: The first party is the record owner of the following described real property in Yamhill County, State of Oregon, to-wit:

See EXHIBIT "A" attached.

THIS IS AN ACCOMMODATION RECORDING ONLY
IT HAS NOT BEEN EXAMINED AS TO ITS CONTENT
NORTHWEST TITLE COMPANY

and has the unrestricted right to grant the easement hereinafter described relative to the real estate.

NOW, THEREFORE, in view of the premises and in consideration of $ none by the second party to the first party paid, the receipt of which is acknowledged by the first party, it is agreed:

The first party hereby grants, assigns and sets over to the second party an easement, to-wit:

The use of an existing water well situate on the herein described property of First Party, including the pump, supply lines, electrical power, pump house and equipment within, and the other incidentals necessary for the supply of water required by Second Party.

This easement is given to memorialize our verbal agreement of August 10, 1997.

(Insert a full description of the nature and type of easement granted by the first party to the second party.)

(OVER)

The second party shall have all rights of ingress and egress to and from the real estate (including the right from time to time, except as hereinafter provided, to cut, trim and remove trees, brush, overhanging branches and other obstructions) necessary for the second party's use, enjoyment, operation and maintenance of the easement hereby granted and all rights and privileges incident thereto.

Except as to the rights herein granted, the first party shall have the full use and control of the above described real estate.

The second party agrees to save and hold the first party harmless from any and all claims of third parties arising from the second party's use of the rights herein granted.

The period of this easement shall be 30 years, always subject, however, to the following specific conditions, restrictions and considerations:

This Easement shall terminate in the event of any of the following:

A. The existing well shall fail, or

B. One year after the death of Monte Bowlin, or

C. Six months after the sale of the Second Party's property.

If this easement is for a right of way over or across the real estate, the center line of the easement is described as follows:

not applicable

and the second party's right of way shall be parallel with the center line and not more than _____ feet distant from either side thereof.

During the existence of this easement, maintenance of the easement and costs of repair of the easement, if damaged by natural disasters or other events for which all holders of an interest in the easement are blameless, shall be the responsibility of (check one): ☐ the first party; ☐ the second party; ☐ both parties, share and share alike; ☐ both parties, with the first party responsible for _____% and the second party responsible for _____%. (If the last alternative is selected, the percentages allocated to each party should total 100.)

During the existence of this easement, holders of an interest in the easement who are responsible for damage to the easement because of negligence or abnormal use shall repair the damage at their sole expense.

This agreement shall bind and inure to the benefit of, as the circumstances may require, not only the parties hereto but also their respective heirs, executors, administrators, assigns, and successors in interest.

In construing this agreement, where the context so requires, the singular includes the plural and all grammatical changes shall be made so that this agreement shall apply equally to individuals and to corporations. If the undersigned is a corporation, it has caused its name to be signed and its seal, if any, affixed by an officer or other person duly authorized to do so by its board of directors.

IN WITNESS WHEREOF, the parties have hereunto set their hands in duplicate on the day and year first written above.

R. P. Grahn, Inc

by: Roger P. Grahn President
12/4/04
FIRST PARTY

R. P. GRAHN, INC.
by Roger P. Grahn PRES.
5/20/05

STATE OF OREGON, County of Yamhill) ss.

This instrument was acknowledged before me on _____,
by _____.

This instrument was acknowledged before me on May 20, 2005,
by Roger P Grahn
as President
R P Grahn, Inc.

OFFICIAL SEAL
VIRGINIA WILLETT
NOTARY PUBLIC - OREGON
COMMISSION NO. 354469
MY COMMISSION EXPIRES MARCH 10, 2006

Virginia Willett
Notary Public for Oregon
My commission expires 03-10-06

12/04/04
Monte Bowlin
SECOND PARTY

5/20/05

STATE OF OREGON, County of Yamhill) ss.

This instrument was acknowledged before me on May 20, 2005,
by Monte Bowlin

This instrument was acknowledged before me on _____,
by _____
as _____
of _____

OFFICIAL SEAL
VIRGINIA WILLETT
NOTARY PUBLIC - OREGON
COMMISSION NO. 354469
MY COMMISSION EXPIRES MARCH 10, 2006

Virginia Willett
Notary Public for Oregon
My commission expires 03-10-06

EXHIBIT "A"

PARCEL I:

A tract of land in Section 21, Township 3 South, Range 2 West of the Willamette Meridian, Yamhill County, Oregon being part of that certain tract of land conveyed to D.B. & Rose E. Rahier by deed recorded in Film Volume 42, Page 234, Yamhill County Deed Records and being described as follows:

BEGINNING at the Northeast corner of said Rahier tract; thence South 00°09'30" West along the East line of said Rahier tract, 168.02 feet to the Northeast corner of that certain tract of land conveyed to Arnold D. and Shirley A. Rahier by deed recorded in Film Volume 91, Page 2102 Yamhill County Deed Records; thence North 89°50'30" West, 260.00 feet to the Northwest corner thereof; thence South 00°09'30" West 20.00 feet to an iron rod at the Southwest corner thereof; thence North 89°50'30" West 135.68 feet to an iron rod; thence North 00°20'30" East, 60.81 feet to an iron rod; thence South 87°56' West, 231.40 feet to an iron rod in the Easterly line of St. Paul Highway; thence North 22°43' West along said Easterly line, 147.81 feet to an iron rod in the North line of said D.B. Rahier tract; thence South 89°51'30" East, 684.17 feet to the point of beginning.

PARCEL II:

BEGINNING at the Southeast corner of a tract of land conveyed to Arnold D. Rahier and Shirley A. Rahier, husband and wife, by deed recorded November 18, 1964 in Film Volume 41, Page 621, Yamhill County Deed Records, said point being also 971.12 feet North of the Southeast corner of the Richard Everest Donation Land Claim No. 52 in Section 21, Township 3 South, Range 2 West of the Willamette Meridian, Yamhill County, Oregon; thence North 125 feet to the Northeast corner of said Rahier tract and the true place of beginning of the description of the tract hereby conveyed; thence West 260 feet along the North line of said Rahier tract to the Northwest corner of said Rahier tract; thence North 20 feet to a point; thence East 260 feet parallel with the North line of said Rahier tract to the East line of the said Richard Everest Donation Land Claim, and thence South along the East line of said Everest Donation Land Claim 20 feet to the place of beginning.

ANNEXATION PACKET ASSOCIATED WITH ANNEXATION OF TAX LOTS 1802 AND 1900

TYPE III APPLICATION (QUASI-JUDICIAL REVIEW)

OFFICE USE ONLY:
Total Ap Fee: 1947.00 (Pre-Application Conference is required on Type 3) File #: ANX 2-03 Project Cost:
Less Pre-Ap Fee: Date: Receipt:
Balance Due: (1947.00) Date: 4/15/03 Receipt: 23861

TYPES - PLEASE CHECK ONE:

- [X] Annexation
- [ ] Historic Landmark Designation
- [ ] Comprehensive Plan Amendment (site specific)
- [ ] Conditional Use Permit
- [ ] Zoning Amendment (site specific)
- [ ] Historic Landmark Modification/alteration
- [ ] Planned Unit Development
- [ ] Sign Program
- [ ] Other: (Explain)

APPLICANT INFORMATION:

APPLICANT: R. P. GRAHN INC
ADDRESS: 23287 LaSALLE SHERWOOD OR 97140
PHONE: 625-4552 MOBILE: 314-7682 FAX: 625-1244
OWNER (if different from above): ABOVE & MONTE BOWLIN PHONE: 538-9452
ADDRESS: 901 S. SPRINGBROOK, NEWBERG
ENGINEER/SURVEYOR: — PHONE:
ADDRESS:

GENERAL INFORMATION:

PROJECT NAME: SPRINGBROOK ANNEXATION PROJECT LOCATION: 901 & 835 S. SPRINGBROOK
PROJECT DESCRIPTION/USE: APPROVAL OF AN ANNEXATION OF APPROX 3 ACRES.
MAP/TAX LOT NO.(i.e. 3200AB-400): 3221- 1802, 1900, 1901 ZONE: AF-10 SITE SIZE: 3.16 SQ. FT. ☐ ACRE:.
COMP PLAN DESIGNATION: IND TOPOGRAPHY: FLAT
CURRENT USE: VACANT & RESIDENTIAL

SURROUNDING USES:
NORTH: INDUSTRIAL - M-2 SOUTH: RESIDENTIAL NON CONFORMING M-
EAST: RESIDENTIAL R-2 WEST: INDUSTRIAL - M-2

SPECIFIC PROJECT CRITERIA AND REQUIREMENTS ARE ATTACHED

General Checklist: ☐ Fees ☐ Noticing Information ☐ Title Report ☐ Criteria Response ☐ Owner Signature/Letter of Consent
Annexation/Comprehensive Plan Amendment/Zoning Amendment Checklist: ☐ Site Plan ☐ Map & Legal Description ☐ Dedications ☐ Easements ☐ Annexation Consent Form
Conditional Use Checklist: ☐ Site Plan ☐ Landscape Plan ☐ Drives/Parking/Circulation ☐ Buffering/Screening ☐ Signs/Graphics ☐ Exterior Lighting ☐ Trash/Refuse Storage ☐ Roadways/Utilities ☐ Traffic Study
Historic Landmark Establishment/Modification Checklist: ☐ Historical Information ☐ Site Plan ☐ Architectural Drawings ☐ Existing Features/Natural Landscape
Planned Unit Development Checklist: ☐ Site Plan ☐ Landscape Plan ☐ Existing Features/Natural Landscape ☐ Drives/Parking/Circulation ☐ Buffering/Screening ☐ Signs/Graphics ☐ Roadways/Utilities ☐ Traffic Study
Sign Program Checklist: ☐ Copy of sign regulations

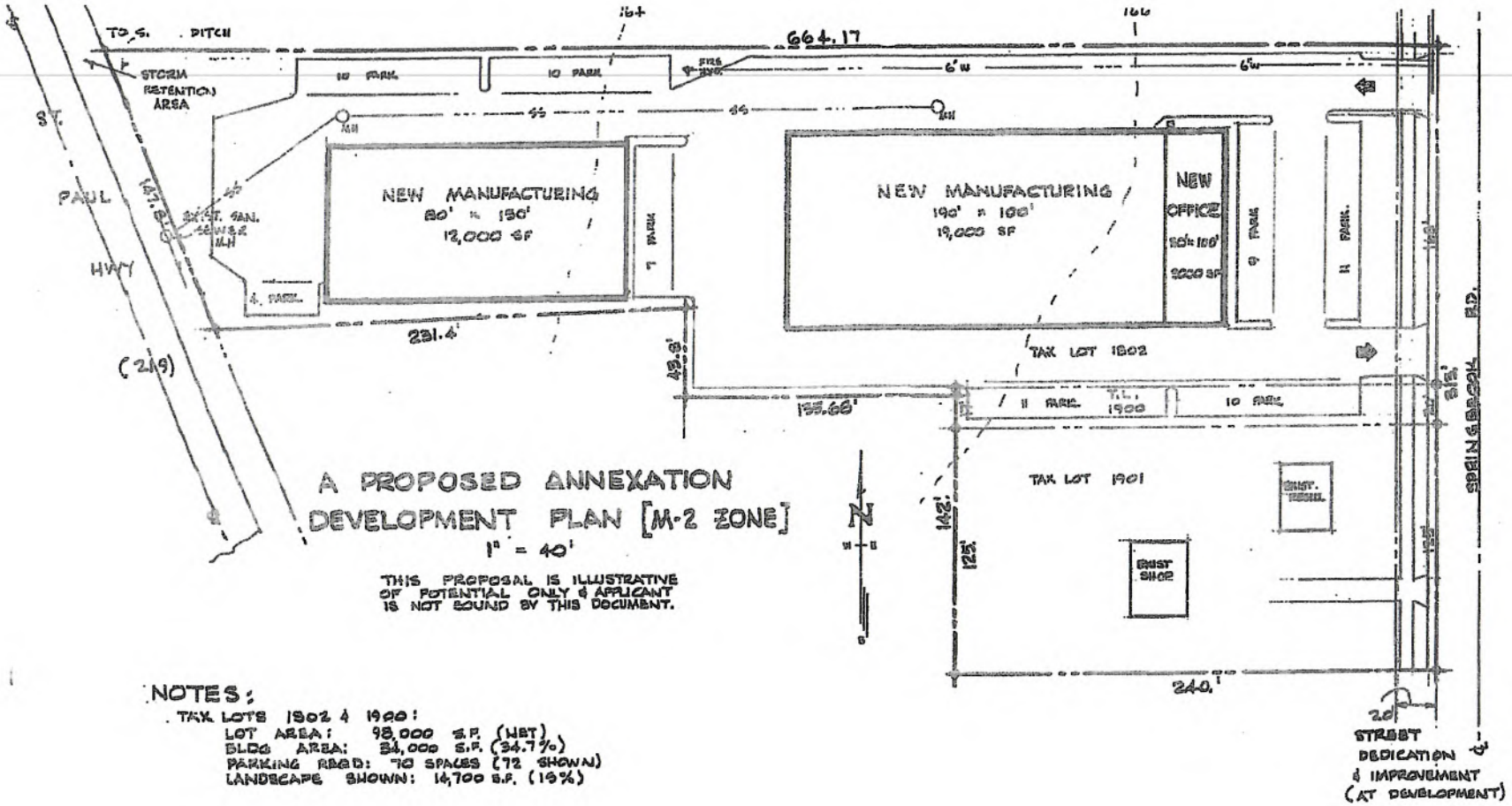
The above statements and information herein contained are in all respects true, complete, and correct to the best of my knowledge and belief. Tentative plans must substantially conform to all standards, regulations, and procedures officially adopted by the City of Newberg. All owners must either sign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

by Roger T. Grahn 4/14/03
Applicant Signature Date
R. P. GRAHN, INC.
Print Name

OWNER/ 4/14/03
Owner Signature Da.
MONTE S. BOWLIN
Print Name

Attachments: General Information, Criteria, Noticing Procedures, Fee Schedule, Checklist

5.3-14



NOTES:

. TAX LOTS 1902 & 1900:
LOT AREA: 98,000 S.F. (NET)
BLDG AREA: 34,000 S.F. (34.7%)
PARKING REQ'D: 70 SPACES (72 SHOWN)
LANDSCAPE SHOWN: 14,700 S.F. (19%)

TAX LOT 1901:
LOT AREA: 27,900 S.F. (NET)
BLDG AREA: ≥ 4000 SF.

ANX 29-03

S-3-15

ANX-29-03

McMinnville Office
P.O. Box 1239
445 Third Street
McMinnville, OR 97128
(503) 472-4627
(503) 538-8354
FAX (503) 434-4432

Northwest Title Company

Newberg Office
P.O. Box 746
515 E. Hancock
Newberg, OR 97132
(503) 538-7361
FAX (503) 538-0723

December 31, 2002

Title No. 77381
Grahn

PRELIMINARY TITLE REPORT

Roger Grahn
23287 LaSalle Lane
Sherwood, Oregon97140

Ladies and Gentlemen:

We are prepared to issue a Title Report, covering:

See EXHIBIT "A" attached;

as of December 5, 2002, at 8:00 A.M., vested in:

ROGER P. GRAHN, INC., as to Parcels I and II
and
MONTE BOWLIN, as to Parcel III;

Subject to the usual printed exceptions, and

1. Rights of the public in and to any portion of the herein described premises lying within the boundaries of roads or highways.

2. Trust Deed, including the terms and provisions thereof, given by Monte Bowlin as trustor, to David C. Haugeberg as trustee, and First Federal S&L Association as beneficiary, dated August 8, 1997, recorded August 12, 1997, as Instrument No. 199713552, Deed and Mortgage Records, to secure the payment of $90,000.00. (Affects part of Parcel III)

NOTE: Taxes, 2002-2003: $ 6.80 PAID. Tax Lot R3221-1900. Acct. No. 62746.
Taxes, 2002-2003: $ 688.43 PAID. Tax Lot R3221-1802. Acct. No. 62737.
Taxes, 2002-2003: $1,309.01 PAID. Tax Lot R3221-1901. Acct. No. 509548.

NOTE: The address of the herein described property is: 901 and 813 NE Springbrook Road, Newberg, Oregon 97132.

NORTHWEST TITLE COMPANY

Finis D. Carter
(503) 472-4627

FDC/db

5-3-10

Title No. 77381

EXHIBIT "A"

PARCEL I:

A tract of land in Section 21, Township 3 South, Range 2 West of the Willamette Meridian, Yamhill County, Oregon being part of that certain tract of land conveyed to D.B. & Rose E. Rahier by deed recorded in Film Volume 42, Page 234, Yamhill County Deed Records and being described as follows:

BEGINNING at the Northeast corner of said Rahier tract; thence South 00°09'30" West along the East line of said Rahier tract, 168.02 feet to the Northeast corner of that certain tract of land conveyed to Arnold D. and Shirley A. Rahier by deed recorded in Film Volume 91, Page 2102 Yamhill County Deed Records; thence North 89°50'30" West, 260.00 feet to the Northwest corner thereof; thence South 00°09'30" West 20.00 feet to an iron rod at the Southwest corner thereof; thence North 89°50'30" West 135.68 feet to an iron rod; thence North 00°20'30" East, 60.81 feet to an iron rod; thence South 87°56' West, 231.40 feet to an iron rod in the Easterly line of St. Paul Highway; thence North 22°43' West along said Easterly line, 147.81 feet to an iron rod in the North line of said D.B. Rahier tract; thence South 89°51'30" East, 684.17 feet to the point of beginning.

PARCEL II:

BEGINNING at the Southeast corner of a tract of land conveyed to Arnold D. Rahier and Shirley A. Rahier, husband and wife, by deed recorded November 18, 1964 in Film Volume 41, Page 621, Yamhill County Deed Records, said point being also 971.12 feet North of the Southeast corner of the Richard Everest Donation Land Claim No. 52 in Section 21, Township 3 South, Range 2 West of the Willamette Meridian, Yamhill County, Oregon; thence North 125 feet to the Northeast corner of said Rahier tract and the true place of beginning of the description of the tract hereby conveyed; thence West 260 feet along the North line of said Rahier tract to the Northwest corner of said Rahier tract; thence North 20 feet to a point; thence East 260 feet parallel with the North line of said Rahier tract to the East line of the said Richard Everest Donation Land Claim, and thence South along the East line of said Everest Donation Land Claim 20 feet to the place of beginning.

PARCEL III:

BEGINNING at the Northeast corner of a tract conveyed to Kenneth Wegter and wife by deed recorded December 8, 1953 in Book 171, Page 733, Deed Records, said point being also 971.12 feet North of the Southeast corner of the Richard Everest Donation Land Claim No. 52 in Section 21, Township 3 South, Range 2 West of the Willamette Meridian in Yamhill County, Oregon; thence West along the North line of said Wegter tract, 260 feet; thence North 125 feet; thence East 260 feet to the East line of said Everest Claim; thence South along the East line of said Richard Everest Claim, 125 feet to the place of beginning.

5.3-17

R P GRAHN, INC.
23287 LaSalle Lane
Sherwood, OR 97140
Phone: (503) 625-4552
Fax: (503) 625-1244
CCB# 5128

March 26, 2003

SPINGBROOK ANNEXATION
CRITERIA RESPONSE

(1) The proposed use for the site complies with the Newberg Comprehensive Plan and with the designation on the Newberg Comprehensive Plan Map.

This proposed annexation complies with the City's Comprehensive Plan. There are no proposed uses or development plans for the vacant portions (Parcels I and II) of this request. The intent is to eventually develop something that complies with the M-2 zoning proposed. The existing residence (Parcel III) will remain as is. This site currently abuts the city on nearly all sides, being approximately the North half of an non annexed "island".

(2) An adequate level of urban services must be available, or made available, within three years time of annexation.

> *(A) Municipal sanitary sewer and water service meeting the requirements enumerated in the Newberg Comprehensive Plan for provision of these services.*

Urban services are all available immediately to this site. These include:

Sewer: at Springbrook Rd and Hwy 219
Water: at Springbrook Rd and Hwy 219
Storm: at Springbrook Rd and Hwy 219
Power, Natural Gas, Etc.: at Springbrook Rd and Hwy 219

It may be noteworthy that Parcel III is being brought in to the city solely because the current water supply (a well) to the existing residence (the Bowlin Residence) is NOT Potable and represents a serious health hazard. A hardship connection request is prepared.

5.3-18

(B) Roads with an adequate design capacity for the proposed use and projected future uses.

Springbrook Road is the only access (access is not permitted on to Hwy 219) and is adequate for the only current use (one residence). A half street improvement by the developer such as that to the immediate North would be proposed and necessary at the time of any future improvements. There should be no other public improvements required as they already exist, hence no public costs.

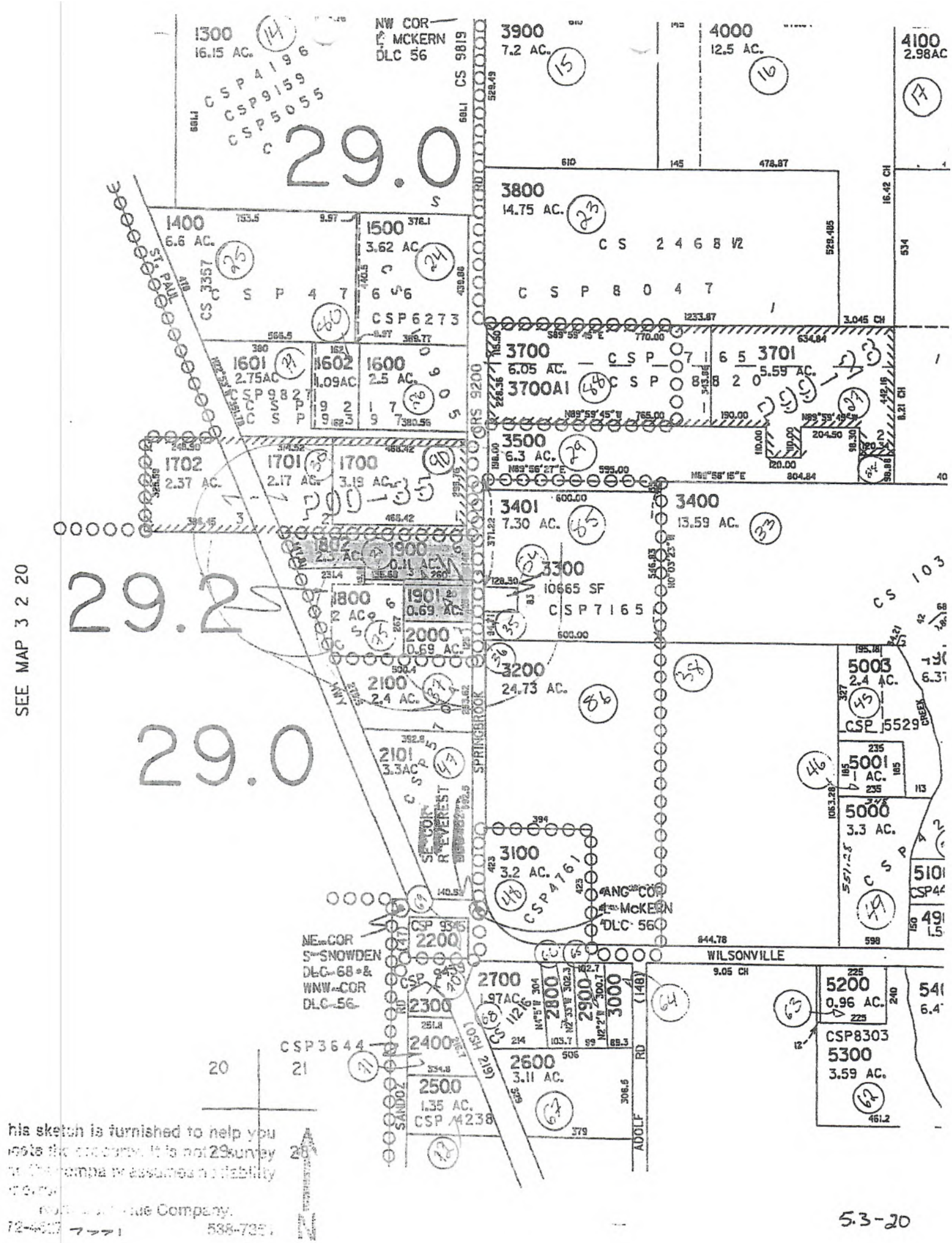
(3) Findings documenting the availability of police, fire, parks, and school facilities and services shall be made to allow for conclusionary findings either for or against the proposed annexation. The adequacy of these services shall be considered in relation to annexation proposals.

Availability of Services:

(l) Police: As an un-annexed "island", essential police services now are provided pro bono. The tax base increase of this annexation will more than offset these very minimal requirements. Similarly, any development of an M-2 type will create more than enough tax base increase to offset any increase in services in this, the least demanding type of development.

(2) Fire: Newberg has the unique distinction of having two fire departments in one, The Newberg Fire Department and the Newberg Rural Fire Department. Under this proposal, the legal responsibility for this site transfers to the Newberg Fire Department along with the increase in tax base. Thus, the city benefits from providing the same service for more money. As with police above, any future development will more than pay its own way.

(3) Parks and Schools: This proposal will create no new need for parks or schools, nor will any future development. This results in additional tax income for no services provided.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WNW COR
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ADOLF RD
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CS 103
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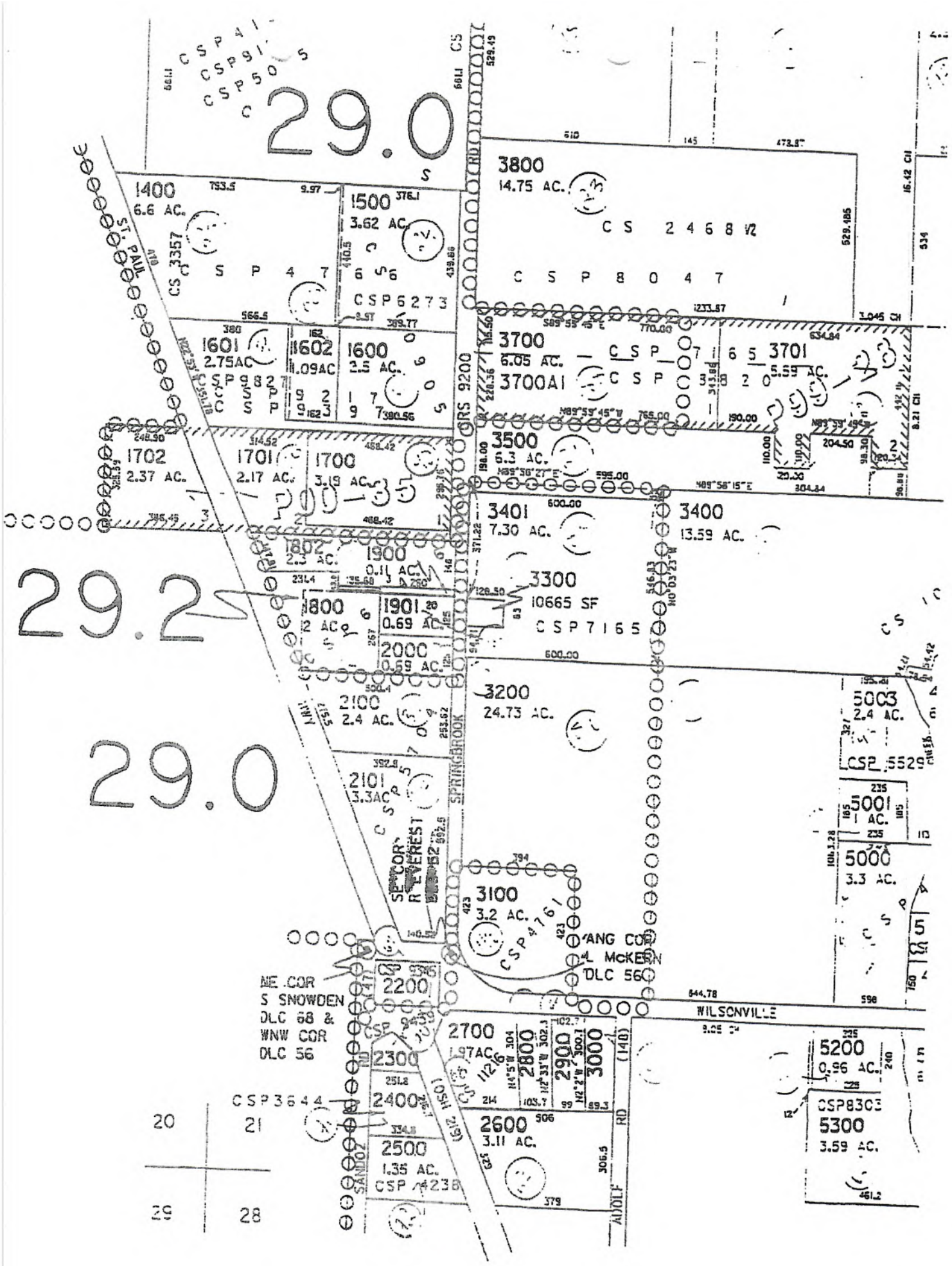
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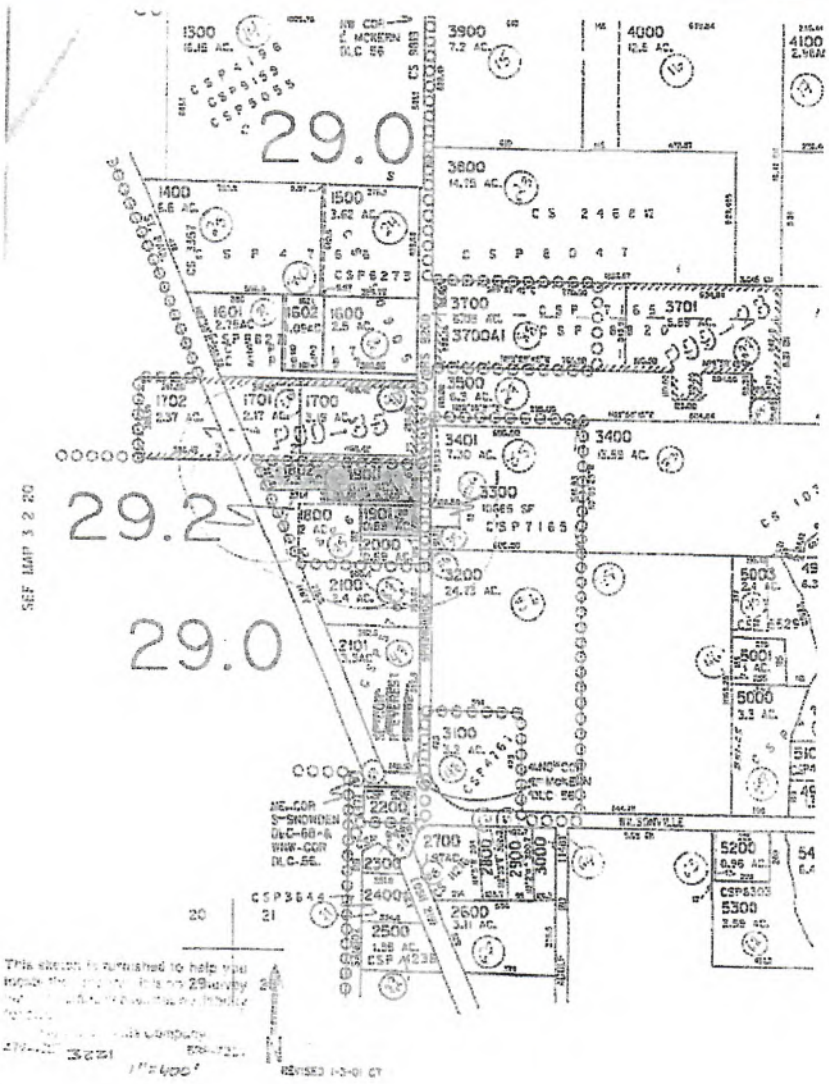

Description: Annexation of 3.16 acres

File: ANX-29-03
Date: April 8, 2004 - Planning Commission

EXHIBIT C
SITE MAP

Tax Lot: 3221-1802, -1900, 1901
Location: 901 & 813 S. Springbrook
Application By:
R. P. Grahn, Inc.

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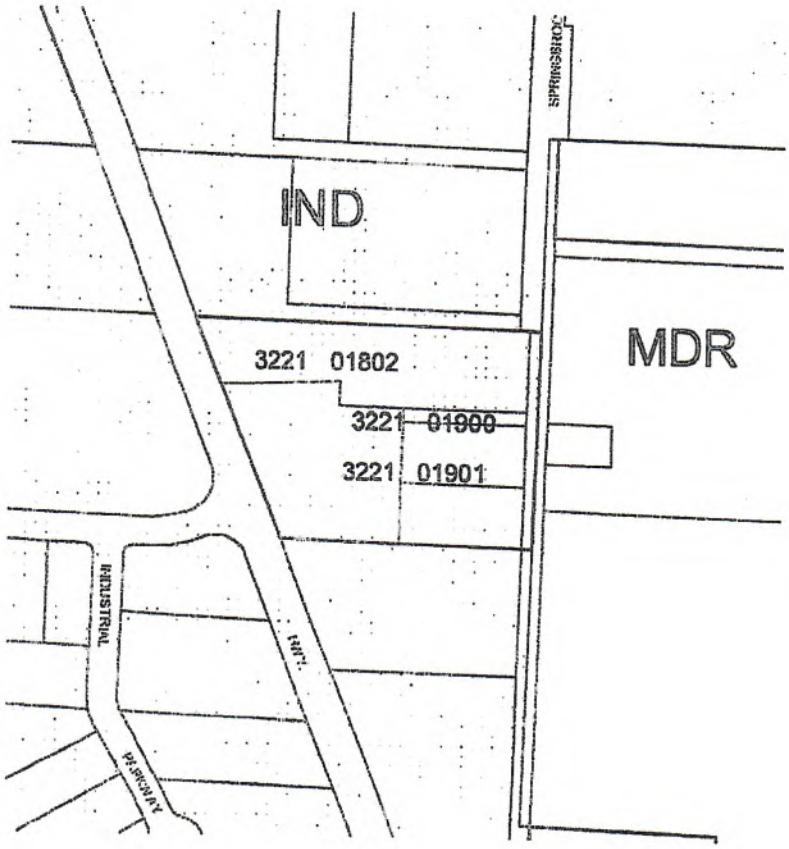

Description: Annexation of 3.16 acres **File:** ANX-29-03 **Date:** April 8, 2004 - Planning Commission	**EXHIBIT D** **COMPREHENSIVE PLAN MAP**	Tax Lot: 3221-1802, -1900, 1901 Location: 901 & 813 S. Springbrook Application By: R. P. Grahn, Inc.

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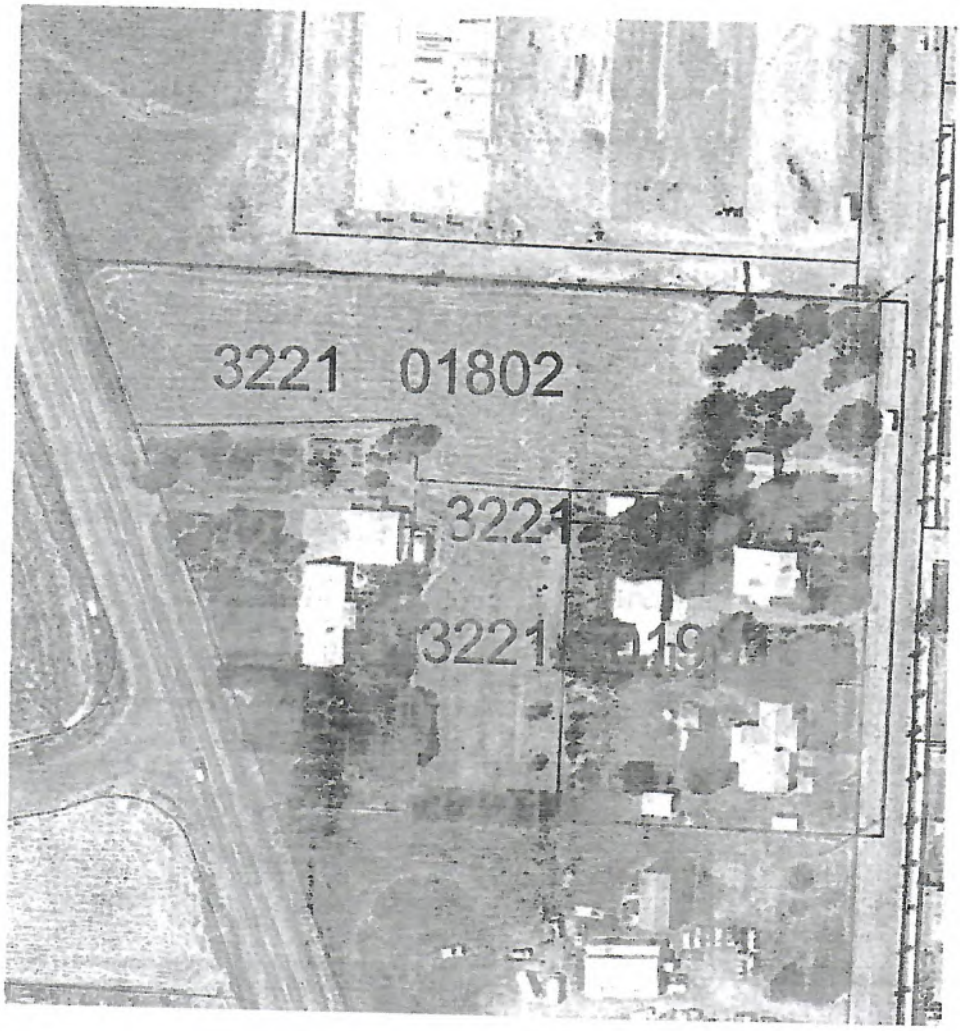


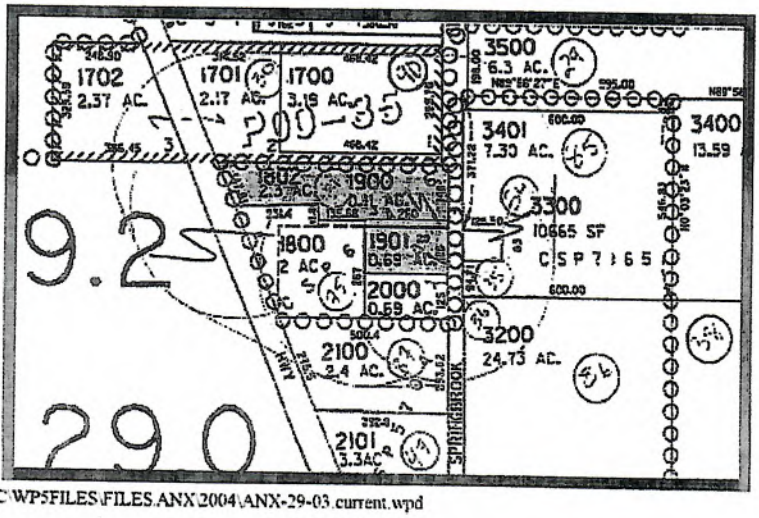
Description: Annexation of 3.16 acres **File:** ANX-29-03 **Date:** April 8, 2004 - Planning Commission	**EXHIBIT E** **TOPOGRAPHY MAP**	Tax Lot: 3221-1802, -1900, 1901 Location: 901 & 813 S. Springbrook Application By: R. P. Grahn, Inc.

CITY OF NEWBERG
ANNEXATION
STAFF REPORT

FILE NO:	ANX-29-03
REQUEST:	Annexation of 3.16 acres, zone change to M-2 (Light Industrial)
LOCATION:	901 & 813 S. Springbrook
TAX LOT:	3221-1802, -1900, -1901
APPLICANT:	R. P. Grahn, Inc.
OWNER:	R.P. Grahn / Monte Bowlin
ZONE:	AF-10 (County)
PLAN DESIGNATION:	IND (City)
PREPARED BY:	City of Newberg Planning Staff
DATE OF HEARING:	April 8, 2004 - Planning Commission

ATTACHMENTS:

A. Reso. 2004-179 w/map, findings, and legal description
B. ANX-29-03 Application - attached
C. Site Map - attached
D. Comprehensive Plan Map - attached
E. Topography Map - attached
F. Noticing Information
G. Newberg Comprehensive Plan - by reference
H. Newberg Development Code - by reference



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A. **PROCESS:** The applicant's request for approval of an annexation or zone change is being processed through the provisions of Newberg Development Code § 151.024 as follows:

3/11/04	The director determined the application was complete.
3/11/04 mail, 3/12/04 post	Public notice was mailed to property owners within 500 feet of the site for comment and the site was posted (Attachment F).
	No public comments were received prior to the publishing of this staff report.

B. **CRITERIA:** The Planning staff has determined that the following criteria apply to the subject proposal. The Planning Commission or other interested parties should direct their comments to the criteria listed or state why they feel other criteria may apply. The Newberg City Council has the authority to make the final decision on this matter. The Planning Commission has an advisory role.

§ 151.262 - TYPE III ANNEXATION CRITERIA

The following criteria shall apply to all annexation requests:

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

(B) **An adequate level of urban services must be available, or made available, within three years time of annexation. An adequate level of urban services shall be defined as:**

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

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

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

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

C. SITE INFORMATION:

1. The applicant has requested annexation of Tax Lots 3221-1802, -1900, and -1901 (3.16 acres), and that the lots, when annexed, be zoned Light Industrial (M-2).

2. The site is located at 901 & 813 S. Springbrook Road and contains approximately 3.16 acres. The site is zoned AF-10 (County), with a comprehensive plan designation of IND (City). The entire site is within the Airport Overlay. The western edge of Tax Lot 1802 is within the Transitional Surface area, and is limited to 1 foot of building height for every 7 feet of distance from the centerline of the airport runway. The rest of the site is within the Inner Horizontal Surface area and is limited to a maximum building height of 150 feet. The topography of the site is flat. Tax Lots 1802 and 1900 contain some trees and a small garage on their eastern ends, but are largely vacant lots. Tax Lot 1901 contains an existing residence and garage.

3. The conceptual development plan for Tax Lots 1802 and 1900 shows a new 19,000 square foot building for manufacturing and a new 22,000 square-foot building with 19,000 square feet of manufacturing space and 3,000 square feet of office space. 72 parking spaces are shown for the new development. Tax Lot 1901 is shown as remaining as an existing residential use. All three lots front on S. Springbrook Road. The conceptual plan shows a 20 foot wide street dedication and improvement, to be made at the time of development.

4. The property is adjacent to and will take access from S. Springbrook Road, a major arterial planned to have an 80-foot right-of-way. Upon development, the following transportation and access improvements will be completed:

   - Dedication: the applicant proposes a 20-foot street dedication along the front of each lot abutting S. Springbrook Road
   - Improvements: the applicant proposes improvements including 5 feet of additional paved street width and 15 feet of landscaping strip and sidewalk.

5. Current and proposed City sewer, water and storm water provisions to the site are shown in the following table:

Utility	Current Provisions	Proposed Provisions
Sanitary Sewer	In Hwy 219, and in Springbrook Road as far north as Tax Lot 1901	Private lateral to Hwy 219 line (The existing house on Tax Lot 1901 will need to be connected to the sewer line in Springbrook Road.)
Water	12 in. in Springbrook Rd.	Private laterals to Springbrook Rd

Storm Water	Storm ditch along Hwy 219	Surface flow to storm ditch along Hwy 219

D. ISSUES:

- Street Dedications: the applicant has offered to dedicate an additional 20 feet of right-of-way along Springbrook Road, and complete a half-street improvement at the time of development.
- Future Development Potential: the site is adjacent to by M-2 zoned properties on the north and west sides. To the south is a small island of County land zoned AF-10, which has a City comprehensive plan designation of IND. It is anticipated that this island will eventually be annexed into the City, creating a contiguous industrial district as shown on the Comprehensive Plan map.
- Non-conforming use: the existing residence on Tax Lot 1901 will become a non-conforming use if the annexation is approved and the zone changes to M-2. Section 151.269 of the Development Code states that when a non-conforming use is annexed into the City the applicant shall provide a schedule for the removal of the non-conforming use for the Planning Commission and City Council. At time of approval of the annexation, the City Council may add conditions to ensure the removal of the non-conforming use during a reasonable time period. The time period may vary from one to ten years at the discretion of the City Council.

E. PUBLIC AGENCY COMMENTS

- John Lindstrom, Building Official:
  Rain drains will need to go to the street.
  Fences over 6 feet will need permits.
  No concentrated flows will be allowed onto adjacent properties.
  Fire resistant construction may be required.
  ADA will need to be met.

- Russ Thomas, Public Works:
  All existing properties shall be connected to City water and sewer services upon successful completion of annexation and shall decommission wells and septic tanks as per City ordinance. All applicable SDCs and construction fees shall be paid and approval received prior to connections.

- Bob Knorr, Engineering:
  All properties shall connect to City utility services once annexation is successfully completed. All appropriate fees shall be paid.

F. PRIVATE UTILITY COMMENTS:

- Ralph Reisbeck, PGE

PGE has two connected overhead metered services that serve the house at 901 S. Springbrook Road and another meter pole (see drawings) that serves a meter pole service to the well pump.

G. **CITIZEN COMMENTS:**
None received at the time this staff report was published.

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

- Move to adopt Planning Commission Resolution 2004-179, which recommends to the City Council approval of the annexation of Tax Lots 3221-1802, -1900 and -1901 into the City, a corresponding zone change from AF-10 to M-2, and withdrawal of these lots from the Newberg Rural Fire Protection District.

PLANNING COMMISSION RESOLUTION NO. 2004-179

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWBERG RECOMMENDING THAT THE CITY COUNCIL APPROVE FILE ANX-29-03, AN ANNEXATION AND REZONING FOR PROPERTY LOCATED AT 901 & 813 S. SPRINGBROOK ROAD, YAMHILL COUNTY TAX LOT 3221-1802, -1900, -1901.

WHEREAS, On March 11, 2004 an application was submitted by R. P. Grahn, Inc. requesting annexation for property located at 901 & 813 S. Springbrook Road; and

WHEREAS, On March 11, 2004 notice of this proposed annexation/zone change and withdrawal from the Newberg Rural Fire Protection District was mailed to the owner of record as identified in Yamhill County Assessor's Office, and all adjoining property owners within a distance of 500 feet.

WHEREAS, Notice was published in the Graphic Newspaper on March 17, 2004, which is at least ten days prior to the public hearing before the Planning Commission on April 8, 2004, and on March 12, 2004 notice of the Planning Commission was posted on the site and at four public places to comply with Oregon Revised Statute requirements for annexations.

WHEREAS, On April 8, 2004 a hearing was held by the Newberg Planning Commission.

NOW THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Newberg that it recommends to the City Council approval of the requested annexation; zone change from County AF-10 to City M-2; and withdrawal from the Newberg Rural Fire Protection District. This recommendation is based on the staff report, findings and testimony, and is subject to the Conditions of Approval.

DATED this 8th day of April, 2004.

AYES: NAYS: ABSTAIN: ABSENT:

ATTEST:

_____ _____

Planning Commission Secretary Planning Commission Chair

Exhibits to be forwarded to Council as part of adoption ordinance:
Findings, Legal Description and Area Map

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ANNEXATION/ZONE CHANGE FINDINGS
ANX-29-03
Annexation of 3.16 acres - 901 & 813 S. Springbrook
CONDITIONS FOR ANNEXATION - FILE ANX-29-03

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

1. ***The subject site must be located within the Newberg Urban Growth Boundary or Newberg Urban Reserve Areas.***

Finding: The Newberg Comprehensive Plan Map indicates that this site is within the Newberg Urban Growth Boundary. This condition is met.

2. ***The subject site must be contiguous to the existing City limits.***

Finding: The Newberg Comprehensive Plan Map indicates that this site is contiguous to the existing City limits, abutting them on the west, north and east sides of the site. This condition is met.

B. An application for an annexation may be granted through a Type III procedure only if the proposal conforms to the annexation criteria found in NDC § 151.262, as follows:

1. ***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.***

The applicant states "This proposed annexation complies with the City's Comprehensive Plan. There are no proposed uses or development plans for the vacant portions (Parcels I and II) of this request. The intent is to eventually develop something that complies with the M-2 zoning proposed. The existing residence (Parcel III) will remain as is. This site currently abuts the city on nearly all sides, being approximately the North half on an non-annexed island." The applicant later supplemented this statement with a conceptual development plan.

Finding: The proposed use for the majority of the site complies with the Newberg comprehensive plan and with the designation on the Newberg comprehensive plan map. The comprehensive plan map designation for the site is IND, which Newberg Development Code states is equivalent to a zoning designation of M-1, M-2, or M-3. The applicant is proposing that the entire site be zoned M-2 and that a majority of the site (Tax Lots 1802 and 1900) will be developed for manufacturing, which is an approved use. The residential use on Tax Lot 1901 will be a non-conforming use if the annexation and zone change is approved. The Newberg Development Code requires that the applicant provide a schedule to the Planning Commission and City Council for the removal of the non-conforming use.

The Comprehensive Plan is implemented through the Development Code. There are issues related to the development standards for the M-2 zone that should be considered:

The front yard setback in M-2 is a minimum of 20 feet. The interior yard setbacks are zero adjacent to other commercial or industrial zoned land, and 10 feet when adjacent to residential land. The interior yard setbacks from the adjacent AF-10 lots will be zero because the Comprehensive Plan designation for the AF-10 lots is Industrial (IND).

The minimum lot area standard in M-2 is 20,000 square feet. Lots 1802 and 1901 meet the standard, but lot 1900 is only 0.11 acre (approx. 4792 square feet), and so does not meet the standard. The applicant should combine lot 1900 with lot 1802 to eliminate the substandard lot.

The lot width to depth ratio standard states that the average depth cannot exceed 2.5 times the average width. The lot width is also required to be at least 25 feet wide at the street frontage. Lot 1900 does not meet either standard, but this will not be relevant if the applicant consolidates lot 1900 with lot 1802.

The landscaping standards require a landscaped buffer along the property line between lots 1802 and 1900. This would be impractical in the conceptual development, but would not be relevant if the applicant consolidates the two lots.

The access spacing standards for a major arterial requires 300 feet of additional frontage in order to have more than one driveway. Tax lots 1802 and 1900 have 188 feet of frontage, so they are limited to one driveway. The existing residence on Tax Lot 1901 is also limited to one driveway.

2. ***An adequate level of urban services must be available, or made available, within three years time of annexation. An adequate level of urban services shall be defined as:***
   - ***(a) Municipal sanitary sewer and water service meeting the requirements enumerated in the Newberg comprehensive plan for provision of these services.***
   - ***(b) 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.***

The applicant states "Urban service are all available immediately to this site. These include:
Sewer: at Springbrook Road and Hwy 219
Water: at Springbrook Road and Hwy 219

Storm: at Springbrook Road and Hwy 219
Power, Natural Gas, Etc.: at Springbrook Road and Hwy 219
It may be noteworthy that Parcel III is being brought in to the city solely because the current water supply (a well) to the existing residence (the Bowlin Residence) is NOT potable and represents a serious health hazard. A hardship connection request is prepared."

The applicant further states "Springbrook Road is the only access (access is not permitted onto Hwy 219) and is adequate for the only current use (one residence). A half street improvement by the developer such as that to the immediate North would be proposed and necessary at the time of any future improvements. There should be no other public improvements required as they already exist, hence no public costs."

Finding: An adequate level of urban services is available or will be made available at the time that this site is developed. Development is anticipated to occur within three years. This criterion (a) is met. The road dedication and improvements will occur at the time that the site is developed. Development is anticipated to occur within three years. This criterion (b) is met.

City standards require public sanitary sewer, water and stormwater services to be extended to each lot within the city. Existing septic tanks and wells will have to be decommissioned in accordance with City Ordinances. The sanitary sewer connection for lot 1802 and/or lot 1900 shall be made to the public line along Highway 219. A permit from ODOT will be required to perform work within the state highway right-of-way. The sanitary sewer connection for lot 1901 shall be made to the existing public line in Springbrook Road. The stormwater surface flow from the site can run to the stormwater ditch along Highway 219 on the western edge of the property.

3. ***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.***

The applicant states " Availability of Services:
1. Police: As an un-annexed "island", essential police services now are provided pro bono. The tax base increase of this annexation will more than offset these very minimal requirements. Similarly, any development of an M-2 type will create more than enough tax base increase to offset any increase in services in this, the least demanding type of development.
2. Fire: Newberg has the unique distinction of having two fire departments in one, the Newberg Fire Department and Newberg Rural Fire Department. Under this proposal, the legal responsibility for this site transfers to the Newberg Fire Department along with the increase in tax base. Thus, the city benefits from providing the same service for more money. As with police above, any future development will more than pay its own way.
3. Parks and Schools: This proposal will create no new need for parks or schools, nor will

any future development. This results in additional tax income for no services provided."

Finding:
Police and Fire service can be provided to the lot and the proposed development. The development will cause a very small increase in service needs. The development will generate additional City tax revenues. It is estimated that the revenues received will more than offset the costs.

In that the proposed annexation is not new residential uses, it is anticipated that the annexation will have no effect on school or park facilities.

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

Finding: The applicant has provided findings for the criteria of this section, which are shown before the staff findings. The applicants findings were used to inform the staff findings.

Conditions of Approval

1. Extend a half-width street improvements along Springbrook Road at the time of development. Match the right-of-way width and extend the improvements made by the industrial park on the parcel just to the north of the site.
2. Apply for a lot consolidation at the time of development that will combine lots 1802 and 1900 to eliminate the non-conforming aspects of lot 1900.
3. Applicant will comply with all City development standards at the time of development.
4. All existing properties shall be connected to City water and sewer services and shall decommission wells and septic tanks as per City ordinance within one year of annexation. All applicable SDCs and construction fees shall be paid and approval received prior to connections.
5. The non-conforming use (Single Family Residential) on Tax Lot 1901 shall be removed within 5 years of the date the annexation is final.

EXHIBIT B - LEGAL DESCRIPTION

South Springbrook Annexation
2004

A tract of land in Section 21, Township 3 South, Range 2 West of the Willamette Meridian, Yamhill County, Oregon being a part of that parcel excepted from being within the city limits of Newberg called Parcel #3 of the Newberg City Limits Legal Description, said tract also being all of Parcel 1, Parcel 2, and Parcel 3 as described in deed to R.P. Grahn, Inc., an Oregon Corporation, recorded as Fee#199713561, Yamhill County Deed Records.

BEGINNING at the southeast corner of said Grahn Parcel 2, said point being 971.12 feet North of the southeast corner of the Richard Everest Donation Land Claim No. 52 and on the east line of said Parcel #3 excepted from Newberg City Limits;

THENCE WEST, along the South line of said Grahn Parcel 2, 260.00 feet to the southwest corner of said Grahn Parcel 2;

THENCE NORTH, along the west line of said Grahn Parcel 2, 125.00 feet to the northwest corner of said Grahn Parcel 2, said point also being the southwest corner of said Grahn Parcel 3 and the most southerly southeast corner of said Grahn Parcel 1;

THENCE WEST, along the most southerly south line of said Grahn Parcel 1, 135.68 feet to the most southerly southwest corner of said Grahn Parcel 1;

THENCE North 00° 11′ 00′′ East, along the most easterly west line of said Grahn Parcel 1, 60.81 feet to the most westerly interior corner of said Grahn Parcel 1;

THENCE North 87° 46′ 30′′ East, along the most northerly south line of said Grahn Parcel 1, 231.40 feet to the east line of Highway 219, also known as the Saint Paul Highway, and the west line of said Parcel #3 excepted from Newberg City Limits, said point being the most westerly southwest corner of said Grahn Parcel 1;

THENCE North 22° 52′ 30″ West, along the East line of said Highway 219 and along the west line of said Parcel #3 excepted from Newberg City Limits and along the most westerly west line of said Grahn Parcel 1, 147.81 feet to the northwest corner of said Grahn Parcel 1, said point also being the northwest corner of said Parcel #3 excepted from Newberg City Limits;

THENCE EAST, along the north line of said Grahn Parcel 1 and the north line of said Parcel #3 excepted from Newberg City Limits, to the east line of said Everest DLC, said point being the northeast corner of said Grahn Parcel 1 and the northeast corner of said Parcel #3 excepted from Newberg City Limits;

THENCE SOUTH, along the east line of said Everest DLC, said line also being the East line of said Parcel #3 excepted from Newberg City Limits, and along the east lines of said Grahn Parcel 1, said Grahn Parcel 3, and said Grahn Parcel 2, to the Point of Beginning.

ANNEXATION CONSENT

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

The undersigned Monte S. Bowlin & R.P. Grahn, Inc.

being the sole owner of the real premises described in Exhibit A attached hereto and incorporated by reference herein, and generally known as (address) 813 & 901 S. Springbrook and (tax lot) 1802, 1900 & 1901, & 3221, does hereby consent to the annexation of such territory above described to the City of Newberg, Oregon.

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

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

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

IN WITNESS WHEREOF, Petitioner has caused these presents to be executed this 14th day of April, 2003, 19xx.

R.P. Grahn, Inc.
by

STATE OF Oregon, County of Yamhill ss 4/14/03
month / day / year

Personally appeared the above named Roger P. Grahn and Monte S. Bowlin

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

OFFICIAL SEAL
KATHLEEN NIENUS
NOTARY PUBLIC-OREGON
COMMISSION NO. 323165
MY COMMISSION EXPIRES MAY 5, 2003

Before me:

Notary Public for State of Oregon

My commission expires 5-5-2003

WAIVER OF EXPIRATION OF ANNEXATION CONSENT

WHEREAS: The undersigned Monte S. Bowlin & R.P. Grahn, Inc.

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

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

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

NOW, THEREFORE:

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

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

IN WITNESS WHEREOF, Petitioner has caused these presents to be executed this 14th day of April, 2003

R.P. Grahn Inc

by

STATE OF Oregon, County of Yamhill ss 4/14/03
month / day / year

Personally appeared the above named Roger P. Grahn and Monte S. Bowlin

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

OFFICIAL SEAL
KATHLEEN NIEHUS
NOTARY PUBLIC-OREGON
COMMISSION NO. 323166
MY COMMISSION EXPIRES MAY 5, 2003

Before me:

Notary Public for State of Oregon

My commission expires 5-5-2003

RESOLUTION NO. 2004-2546

A RESOLUTION ADOPTING THE RESULTS OF THE BALLOTS CAST FOR THE NOVEMBER 2, 2004, GENERAL ELECTION AS PROVIDED BY JAN COLEMAN, YAMHILL COUNTY CLERK, FOR THE FOLLOWING: THE OFFICE OF THE MAYOR, TWO CITY COUNCIL POSITIONS, FOUR MEASURES (ANNEXATIONS) - MEASURE 36-63 KNOWN AS "NORTH MAIN STREET ANNEXATION," MEASURE 36-64 KNOWN AS "NORTH COLLEGE STREET ANNEXATION," MEASURE 36-65 KNOWN AS "GREENS-FERNWOOD ROAD ANNEXATION," AND MEASURE 36-66 KNOWN AS "SPRINGBROOK ROAD ANNEXATION."

RECITALS:

1. At the November 2, 2004, General Election, the City had placed on the ballot before the voters of the City the following items.

MUNICIPAL OFFICES	PERSON
Mayor	Robert "Bob" V. Stewart
	Edward Leffler
Council Position - District 1	Robert Soppe
Council Position - District 2	Dwayne Brittell
	Roger Currier
Council Position - District 3	Mike Boyes

MEASURES

Annexations:

North Main Street Annexation (0.22 acres – Measure 36-63)
North College Street Annexation (0.55 acres – Measure 36-64)
Greens-Fernwood Road Annexation (20.58 acres – Measure 36-65)
Springbrook Road Annexation (2.41 acres – Measure 36-66)

2. On November 23, 2004, the City received from Jan Coleman, County Clerk of Yamhill County, a Certificate certifying the true, actual, and final results of the ballots cast in the November 2, 2004, General Election.

3. In accordance with the City Ordinances and state law, the City should accept the results as presented by the County Clerk.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. The City accepts the Certificate of the Yamhill County Clerk Certifying the true, actual, and final results of the ballots cast in the November 2, 2004, General Election. A copy of the Certificate and the final results are attached as Exhibit "A."

2. Based upon these results, the City declares the following persons elected to the Offices and the following measures to have passed.

MUNICIPAL OFFICES	PERSON
Mayor	Robert "Bob" V. Stewart
Council Position - District 1	Robert Soppe
Council Position - District 2	Roger Currier
Council Position - District 3	Mike Boyes

MEASURES

Annexations:

North Main Street Annexation (0.22 acres – Measure 36-63) **PASSED.**
North College Street Annexation (0.55 acres – Measure 36-64) **PASSED.**
Greens-Fernwood Road Annexation (20.58 acres – Measure 36-65) **PASSED.**
Springbrook Road Annexation (2.41 acres – Measure 36-66) **PASSED.**

3. The unofficial Yamhill County election results were obtained from the Internet and posted on November 3, 2004. A Certificate of Posting is hereby attached as Exhibit "B" and incorporated herein.

➢ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: December 7, 2004.

ADOPTED by the City Council of the City of Newberg, Oregon, this 6th day of December, 2004.

James H. Bennett, City Recorder

ATTEST by the Mayor this 23rd day of December, 2004.

Bob Stewart, Mayor

LEGISLATIVE HISTORY

North Main Street Annexation:
By and through Planning Commission at 05/13/2004 meeting.
By and through City Council at 07/06/04 meeting.

North College Street Annexation:
By and through Planning Commission at 06/10/04 meeting.
By and through City Council at 07/19/04 meeting.

Greens-Fernwood Road Annexation:
By and through Planning Commission at 06/10/04 meeting.
By and through City Council at 07/19/04 meeting.

Springbrook Road Annexation:
By and through Planning Commission at 04/08/04 meeting.
By and through City Council at 05/17/04 meeting.

PLANNING DIVISION FILE #: ANX 29-03

CITY OF NEWBERG
AFFIDAVIT OF NOTICING

REFERENCE ATTACHED LIST(S)/NOTICE(S)

I, Roger P. Grahn, do hereby certify that the attached Notice of Land Use Action was:

a. mailed to the following list of property owners, by United States mail, postage prepaid on March 11, 2004 (date)

b. posted on the site according to standards established in 10.14.060 of the Newberg Development Code on March 11, 2004 (date)

12
RP

Signature

March 11, 2004
Date

Roger P. Grahn
Print name

RECEIVED
MAR 11 2004
BY

Revised May 10, 2001 Page 1

Description: Annexation of 3.16 acres **File:** ANX-29-03 **Date:** April 8, 2004 - Planning Commission	**EXHIBIT F** **AFFIDAVIT OF NOTICING**	Tax Lot: 3221-1802, -1900, 1901 Location: 901 & 813 S. Springbrook Application By: R. P. Grahn, Inc.

K:\WP\PLANNING\MISC\WP5FILES\FILES.ANX\2004\ANX-29-03.current.wpd

5.3-25

ORDINANCE NO. 2004-2600

AN ORDINANCE DECLARING THAT PROPERTY AT 813 S. SPRINGBROOK BE ANNEXED INTO THE CITY OF NEWBERG, WITHDRAWN FROM THE NEWBERG RURAL FIRE PROTECTION DISTRICT, AND ZONED M-2.

SUBJECT TO A PUBLIC VOTE

RECITALS:

1. Roger Grahn submitted an application to annex property he owns at 813 S. Springbrook Road (Yamhill County Tax Lot 3221-1802 & 1900). The property includes 2.41 acres. The property is part of an island of unincorporated property within Newberg.

2. On April 8, 2004, the Planning Commission held a hearing on the item, considered public testimony from various individuals, and voted to recommend that the City Council approve the annexation.

3. Notice was published in the Graphic Newspaper on April 28, 2004, which is at least ten days before the May 17, 2004 City Council meeting; and on April 28, 2004 notice of the City Council meeting was posted at four public places. On April 26, 2004, notice was mailed to property owners within 500 feet of the proposal, and notice was posted on-site.

4. Requirements of the City of Newberg Comprehensive Plan and Newberg Development Code regarding annexations have been met; and

5. After proper notice, on May 17, 2004 at the hour of 7:00 PM in the Newberg Public Safety Building, 401 E. Third, the City Council held a public hearing on the item: accurately stated objections to jurisdiction, bias, and ex-parte contact; considered public testimony; examined the record; heard the presentation from staff and the applicant; examined and discussed the appropriate criteria to judge the project (as listed in the staff report); considered all relevant information regarding the item; and deliberated.

THE CITY OF NEWBERG ORDAINS AS FOLLOWS:

1. The City Council adopts the findings which are attached hereto as Exhibit A and incorporated herein by reference.

2. Owners understand that annexation to the city must be approved by the voters of the City. The City may place the matter before the voters of the City at a biennial General Election (held in November of each even numbered year), unless otherwise approved by resolution of the City Council.

3. At this time, the City does not have to pay any election costs to place a matter on the ballot before the voters at the biennial General Election. The State of Oregon, which conducts the election, has the authority and may change the rules to require the City to pay some costs. In which case, the applicant/owners will be required to pay their proportionate share of such costs. The City Council directs that all costs associated with placing the item on the ballot

be paid for by the applicant/owners. This includes but is not limited to noticing, signage, advertising, and costs assessed by the Yamhill County Clerk to place the item on the ballot. Owners may be required to place monies in escrow to cover such costs of election(s).

4. Should this annexation request be approved by a majority of the electorate of the City of Newberg at the election date as identified by resolution of the City Council, the property shall be annexed and the following events shall occur:

   A. It is hereby ordered and declared that the property described in Exhibit B and shown in Exhibit C, is annexed and withdrawn from the Newberg Rural Fire Protection District.

   B. The territory described in Exhibit B and shown in Exhibit C, shall be zoned M-2 (Light Industrial). The "Newberg, Oregon Zoning Map" shall be amended to indicate this change.

   C. The Recorder of the City of Newberg is hereby authorized and directed to make and submit to the Secretary of State, the Department of Revenue, the Yamhill County Elections Officer, and the Assessor of Yamhill County, a certified copy of the following documents:
      1. A copy of this ordinance.
      2. A map identifying the location of said territory.

5. Following annexation, the owner shall complete the following:

   A. Extend a half-width street improvements along Springbrook Road at the time of development. Match the right-of-way width and extend the improvements made by the industrial park on the parcel just to the north of the site.

   B. Apply for a lot consolidation at the time of development that will combine lots 1802 and 1900 to eliminate the non-conforming aspects of lot 1900.

   C. Comply with all City development standards at the time of development.

   D. Connect all uses to City water and sewer services and decommission wells and septic tanks as per City ordinances within one year of annexation. All applicable SDCs and construction fees shall be paid and approval received prior to connections.

ADOPTED by the Newberg City Council this 17th day of May, 2004, by the following votes:

AYE: 6 NAY: 0 ABSENT: 0 ABSTAIN: 0

James H. Bennett, City Recorder

ATTEST by the Council President this 18th day of May, 2004.

Bob Larson, Council President

LEGISLATIVE HISTORY

By and through Newberg Planning Commission (*committee name*) at 4/8/2004 (*date*) meeting. Or, ___ None. (*check if applicable*)

EXHIBIT A TO ORDINANCE 2004-2600
ANNEXATION/ZONE CHANGE FINDINGS - ANX-29-03

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

1. ***The subject site must be located within the Newberg Urban Growth Boundary or Newberg Urban Reserve Areas.***

Finding: The Newberg Comprehensive Plan Map indicates that this site is within the Newberg Urban Growth Boundary. This condition is met.

2. ***The subject site must be contiguous to the existing City limits.***

Finding: The Newberg Comprehensive Plan Map indicates that this site is contiguous to the existing City limits, abutting them on the west and north sides of the site. This condition is met.

B. An application for an annexation may be granted through a Type III procedure only if the proposal conforms to the annexation criteria found in NDC § 151.262, as follows:

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

Finding: The proposed use for the site complies with the Newberg comprehensive plan and with the designation on the Newberg comprehensive plan map. The comprehensive plan map designation for the site is IND, which Newberg Development Code states is equivalent to a zoning designation of M-1, M-2, or M-3. The applicant is proposing that the entire site be zoned M-2 and that the site will be developed for manufacturing, which is an approved use.

The Comprehensive Plan is implemented through the Development Code. There are issues related to the development standards for the M-2 zone that should be considered:

The front yard setback in M-2 is a minimum of 20 feet. The interior yard setbacks are zero adjacent to other commercial or industrial zoned land, and 10 feet when adjacent to residential land. The interior yard setbacks from the adjacent AF-10 lots will be zero because the Comprehensive Plan designation for the AF-10 lots is Industrial (IND).

The minimum lot area standard in M-2 is 20,000 square feet. Lot 1802 meets the standard, but lot 1900 is only 0.11 acre (approx. 4792 square feet), and so does not meet the standard. The applicant should combine lot 1900 with lot 1802 to eliminate the substandard lot.

The lot width to depth ratio standard states that the average depth cannot exceed 2.5 times the average width. The lot width is also required to be at least 25 feet wide at the street frontage. Lot 1900 does not meet either standard, but this will not be relevant if the applicant consolidates lot 1900 with lot 1802.

The landscaping standards require a landscaped buffer along the property line between lots 1802 and 1900. This would be impractical in the conceptual development, but would not be relevant if the applicant consolidates the two lots.

The access spacing standards for a major arterial requires 300 feet of additional frontage in order to have more than one driveway. Tax lots 1802 and 1900 have 188 feet of frontage, so they are limited to one driveway.

2. ***An adequate level of urban services must be available, or made available, within three years time of annexation. An adequate level of urban services shall be defined as:***
   - ***(a) Municipal sanitary sewer and water service meeting the requirements enumerated in the Newberg comprehensive plan for provision of these services.***
   - ***(b) Roads with an adequate design capacity for the proposed use and projected future uses. Where construction of the road is not deemed necessary within the three-year time period, the city shall note requirements such as dedication of right-of-way, waiver of remonstrance against assessment for road improvement costs, or participation in other traffic improvement costs, for application at the appropriate level of the planning process. The city shall also consider public costs for improvement and the ability of the city to provide for those costs.***

Finding: An adequate level of urban services is available or will be made available at the time that this site is developed. Development is anticipated to occur within three years. This criterion (a) is met. The road dedication and improvements will occur at the time that the site is developed. Development is anticipated to occur within three years. This criterion (b) is met.

City standards require public sanitary sewer, water and stormwater services to be extended to each lot within the city. Existing septic tanks and wells will have to be decommissioned in accordance with City Ordinances. The sanitary sewer connection for lot 1802 and/or lot 1900 shall be made to the public line along Highway 219. A permit from ODOT will be required to perform work within the state highway right-of-way. The stormwater surface flow from the site can run to the stormwater ditch along Highway 219 on the western edge of the property.

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

Finding:
Police and Fire service can be provided to the lot and the proposed development. The development will cause a very small increase in service needs. The development will generate additional City tax revenues. It is estimated that the revenues received will more than offset the costs.

In that the proposed annexation is not new residential uses, it is anticipated that the annexation will have no effect on school or park facilities.

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

Finding: The applicant has provided findings for the criteria of this section, which are shown before the staff findings. The applicants findings were used to inform the staff findings.

EXHIBIT B - LEGAL DESCRIPTION

South Springbrook Annexation

A tract of land in Section 21, Township 3 South, Range 2 West of the Willamette Meridian, Yamhill County, Oregon being a part of that parcel excepted from being within the city limits of Newberg called Parcel #3 of the Newberg City Limits Legal Description, said tract also being all of Parcel 1 and Parcel 3 as described in deed to R.P. Grahn, Inc., an Oregon Corporation, recorded as Fee#199713561, Yamhill County Deed Records.

BEGINNING at the southeast corner of said Grahn Parcel 3, said point being 1096.12 feet North of the southeast corner of the Richard Everest Donation Land Claim No. 52 and on the east line of said Parcel #3 excepted from Newberg City Limits;

THENCE WEST, along the South line of said Grahn Parcel 3, 260.00 feet to the southwest corner of said Grahn Parcel 3, said point also being the most southerly southeast corner of said Grahn Parcel 1;

THENCE WEST, along the most southerly south line of said Grahn Parcel 1, 135.68 feet to the most southerly southwest corner of said Grahn Parcel 1;

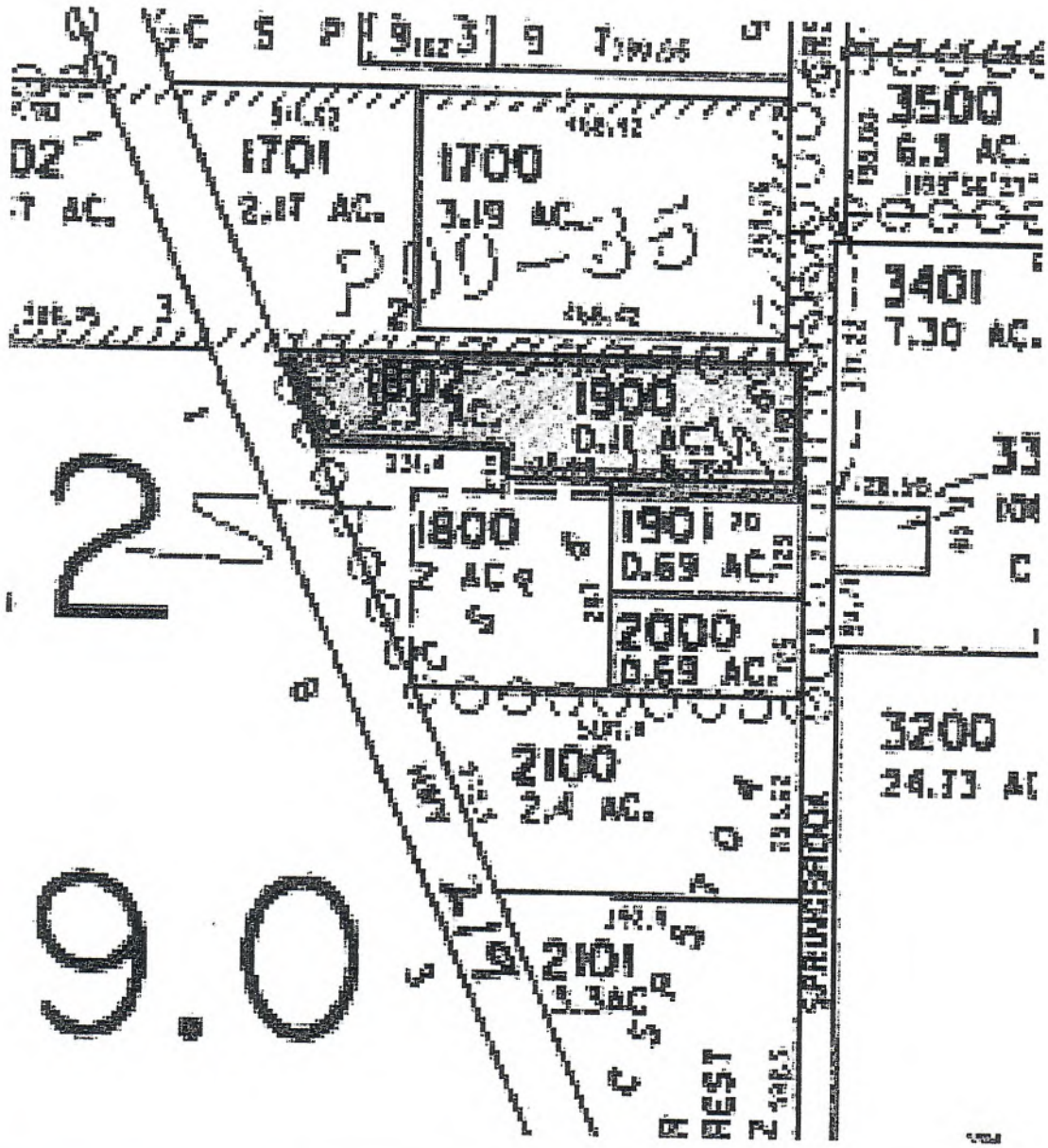
THENCE North 00° 11' 00'' East, along the most easterly west line of said Grahn Parcel 1, 60.81 feet to the most westerly interior corner of said Grahn Parcel 1;

THENCE North 87° 46' 30'' East, along the most northerly south line of said Grahn Parcel 1, 231.40 feet to the east line of Highway 219, also known as the Saint Paul Highway, and the west line of said Parcel #3 excepted from Newberg City Limits, said point being the most westerly southwest corner of said Grahn Parcel 1;

THENCE North 22° 52' 30" West, along the East line of said Highway 219 and along the west line of said Parcel #3 excepted from Newberg City Limits and along the most westerly west line of said Grahn Parcel 1, 147.81 feet to the northwest corner of said Grahn Parcel 1, said point also being the northwest corner of said Parcel #3 excepted from Newberg City Limits;

THENCE EAST, along the north line of said Grahn Parcel 1 and the north line of said Parcel #3 excepted from Newberg City Limits, to the east line of said Everest DLC, said point being the northeast corner of said Grahn Parcel 1 and the northeast corner of said Parcel #3 excepted from Newberg City Limits;

THENCE SOUTH, along the east line of said Everest DLC, said line also being the East line of said Parcel #3 excepted from Newberg City Limits, and along the east lines of said Grahn Parcel 1, said Grahn Parcel 3, to the Point of Beginning.



Description: Annexation of 2.41 acres **File:** ANX-29-03 **Date:** May 17, 2004	**EXHIBIT C** **SITE MAP**	Tax Lot: 3221-1802, -1900 Location: 813 S. Springbrook Application By: R. P. Grahn, Inc.

RESOLUTION NO. 2004-2498

A RESOLUTION AUTHORIZING AND DIRECTING THE CITY ELECTIONS OFFICER TO CERTIFY TO THE YAMHILL COUNTY CLERK A BALLOT TITLE FOR A MEASURE TO BE SUBMITTED TO THE ELECTORATE OF THE CITY OF NEWBERG FOR THEIR APPROVAL OF AN ANNEXATION FOR PROPERTY AT 813 S. SPRINGBROOK ROAD

RECITALS:

1. On May 17, 2004, the City Council adopted Ordinance No. 2004-2600, annexing the property at 813 S. Springbrook Road (Yamhill County Tax Lot 3221-1802 & 1900), subject to a public vote.

2. The City of Newberg Charter requires that territory may be annexed into the City of Newberg only upon approval by a majority vote among the electorate of the City.

3. The City Council has requested that this matter be placed before the voters at the general election in November, 2004.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. The City Attorney of the City of Newberg is hereby authorized and directed to prepare in proper form a ballot title placing before the voters the question of the annexation of the property at 813 S. Springbrook Road (Yamhill County Tax Lot 3221-1802 & 1900), as described in Ordinance No. 2004-2600, and file such ballot title with the City Elections Officer.

2. The City Elections Officer of the City of Newberg is hereby authorized and directed to certify to the Yamhill County Clerk the ballot title for the annexation measure to be placed before the voters at the next general election in November, 2004. Further, the City Elections Officer is directed to give all necessary notices of the ballot title and do all other necessary acts and deeds which may be required to place the matter before the voters of the City of Newberg at said election.

3. The City Council directs that all costs associated with placing the item on the ballot be paid for by the applicant/owners. This includes but is not limited to noticing, signage, advertising, and costs assessed by the Yamhill County Clerk to place the item on the ballot.

4. The City Attorney is directed to have prepared and review the explanatory statement which shall be submitted to the Yamhill County Clerk with the ballot title. Such explanatory statement shall be filed with the City Elections Officer and the City Elections Officer is further directed to certify this explanatory statement to the Yamhill County Clerk.

The City Elections Officer is authorized to do all other necessary acts and deeds which may be required to conduct the election concerning this measure.

➢ **EFFECTIVE DATE** of this resolution is the day after the adoption date which is: May 18, 2004.

ADOPTED by the City Council of the City of Newberg, Oregon, this 17th day of May, 2004.

James H. Bennett, City Recorder

ATTEST by the Council President this 17th day of May, 2004.

Bob Larson, Council President

LEGISLATIVE HISTORY

By and through Newberg Planning Commission (*committee name*) at 4 / 8 /2004 (*date*) meeting. Or, ___ None. (*check if applicable*)

PLEASE POST:

___ **Newberg Fire Station** ***(Attn: Jill)***
___ **Newberg Public Library** ***(Attn: Leah)***
___ **Newberg City Hall** ***(Attn: Mariann)***
___ **Newberg Public Safety Building** ***(Attn: Mary)***

OFFICIAL
Election Results (Ballots Cast)
For the November 2, 2004, General Election
Newberg Measures and Candidates Only

* *SEE ATTACHED FOR RESULTS* *

OFFICIAL Election Results POSTED *on November 29, 2004, at the following locations:*

Newberg Fire Station, 414 East Second Street, Newberg, Oregon
Newberg Public Library, 503 East Hancock Street, Newberg, Oregon
Newberg City Hall, 414 East First Street, Newberg, Oregon
Newberg Public Safety Building, 401 East Third Street, Newberg, Oregon

For Questions, Please Contact:
Dawn Wilson, Paralegal/Elections Officer
(503) 537-1206

Posting Expiration: 12/15/04

MAIL GENERAL ELECTION
NOVEMBER 2, 2004
YAMHILL COUNTY CLERK
MCMINNVILLE, OREGON

CITY OF NEWBERG MAYOR — 2 YEAR TERM
NONPARTISAN
VOTE FOR 1

238 EDWARD LEFFLER
239 ROBERT "BOB" V. STEWART
240 WRITE-IN
241 Overvotes
242 Undervotes

CITY OF NEWBERG COUNCILPERSON - DIST #1 — 4 YEAR TERM
NONPARTISAN
VOTE FOR 1

243 ROBERT SOPPE
244 WRITE-IN
245 Overvotes
246 Undervotes

	238	239	240	241	242	243	244	245	246
0002 NEWBERG CITY CENTRAL NE	664	1,389	17	1	520	1,576	22	0	993
0003 NEWBERG CITY N & NW	801	1,922	16	2	591	1,931	18	0	1,383
0004 NEWBERG CITY S	735	1,224	24	1	418	1,489	28	0	885
TOTAL	2,200	4,535	57	4	1,529	4,996	68	0	3,261

RECEIVED
NOV 23 2004
By Norma

YAMHILL COUNTY CLERK
STATE OF OREGON

I CERTIFY THAT THE VOTES RECORDED ON THIS ABSTRACT CORRECTLY SUMMARIZE THE TALLY OF VOTES CAST AT THE ELECTION INDICATED.

SIGNATURE OF COUNTY CLERK:

DATE OF ABSTRACT: 11-19-2004

MAIL GENERAL ELECTION
NOVEMBER 2, 2004
YAMHILL COUNTY CLERK
MCMINNVILLE, OREGON

CITY OF NEWBERG COUNCILPERSON - DIST #2 4 YEAR TERM
NONPARTISAN
VOTE FOR 1

247 ROGER CURRIER
248 DWAYNE BRITTELL
249 WRITE-IN
250 Overvotes
251 Undervotes

	247	248	249	250	251
0002 NEWBERG CITY CENTRAL NE	1,003	940	12	1	635
0003 NEWBERG CITY N & NW	1,211	1,389	12	4	716
0004 NEWBERG CITY S	1,078	809	6	1	508
TOTAL	3,292	3,138	30	6	1,859

CITY OF NEWBERG COUNCILPERSON - DIST #3 4 YEAR TERM
NONPARTISAN
VOTE FOR 1

252 MIKE BOYES
253 WRITE-IN
254 Overvotes
255 Undervotes

	252	253	254	255
0002 NEWBERG CITY CENTRAL NE	1,668	38	0	885
0003 NEWBERG CITY N & NW	2,091	27	0	1,214
0004 NEWBERG CITY S	1,623	29	0	750
TOTAL	5,382	94	0	2,849

YAMHILL COUNTY CLERK
STATE OF OREGON

I CERTIFY THAT THE VOTES AS ORDERED ON THIS ABSTRACT CORRECTLY SUMMARIZE THE TALLY OF VOTES CAST AT THE ELECTION INDICATED.

SIGNATURE OF COUNTY CLERK

11-19-2004
DATE OF ABSTRACT

MAIL GENERAL ELECTION
NOVEMBER 2, 2004
YAMHILL COUNTY CLERK
MCMINNVILLE, OREGON

36-63 CITY OF NEWBERG ANNEX 0.22 ACRES - NORTH MAIN
VOTE FOR 1
256 YES
257 NO
258 Overvotes
259 Undervotes

	256	257	258	259
0002 NEWBERG CITY CENTRAL NE	1,927	333	0	331
0003 NEWBERG CITY N & NW	2,550	504	1	277
0004 NEWBERG CITY S	1,744	413	0	245
TOTAL	6,221	1,250	1	853

36-64 CITY OF NEWBERG ANNEX 0.55 ACRES - NORTH COLLEGE
VOTE FOR 1
260 YES
261 NO
262 Overvotes
263 Undervotes

	260	261	262	263
0002 NEWBERG CITY CENTRAL NE	1,824	421	0	346
0003 NEWBERG CITY N & NW	2,357	692	0	283
0004 NEWBERG CITY S	1,635	499	0	268
TOTAL	5,816	1,612	0	897

YAMHILL COUNTY CLERK
STATE OF OREGON

I CERTIFY THAT THE VOTES RECORDED ON THIS ABSTRACT CORRECTLY SUMMARIZE THE TALLY OF VOTES CAST AT THE ELECTION INDICATED.

SIGNATURE OF COUNTY CLERK: Jan M. Coleman

DATE OF ABSTRACT: 11-19-2004

Exhibit "A"
to Resolution No. 2004-2546
Page 4 of 5

MAIL GENERAL ELECTION
NOVEMBER 2, 2004
YAMHILL COUNTY CLERK
MCMINNVILLE, OREGON

36-65 NEWBERG CITY - ANNEX 20.58 ACRES - FERNHOOD ROAD
VOTE FOR 1
264 YES
265 NO
266 Overvotes
267 Undervotes

	264	265	266	267
0002 NEWBERG CITY CENTRAL NE	1,667	582	0	342
0003 NEWBERG CITY N & NW	2,126	891	1	314
0004 NEWBERG CITY S	1,488	633	0	281
TOTAL	5,281	2,106	1	937

36-66 NEWBERG CITY - ANNEX 2.41 ACRES - S SPRINGBROOK
VOTE FOR 1
268 YES
269 NO
270 Overvotes
271 Undervotes

	268	269	270	271
0002 NEWBERG CITY CENTRAL NE	1,749	504	0	338
0003 NEWBERG CITY N & NW	2,348	673	0	311
0004 NEWBERG CITY S	1,640	492	0	270
TOTAL	5,737	1,669	0	919

YAMHILL COUNTY CLERK
STATE OF OREGON

I CERTIFY THAT THE VOTES RECORDED ON THIS ABSTRACT CORRECTLY SUMMARIZE THE TALLY OF VOTES CAST AT THE ELECTION INDICATED.

SIGNATURE OF COUNTY CLERK

11-19-2004
DATE OF ABSTRACT

Exhibit "A"
to Resolution No. 2004-2546
Page 5 of 5

CERTIFICATE OF POSTING

UNOFFICIAL YAMHILL COUNTY ELECTION RESULTS AS OF NOVEMBER 3, 2004

CITY OF NEWBERG ELECTION RESULTS
Biennial General Election: November 2, 2004

I, Dawn M. Wilson, Paralegal/Elections Officer, City of Newberg Legal Department, hereby acknowledge that I posted the Unofficial Election Results held on November 2, 2004, at the following locations on November 3, 2004:

Newberg City Hall, 414 East First Street, Newberg, Oregon
Newberg Public Safety Building, 401 East Third, Newberg, Oregon
Newberg Community Development Department, 719 East First Street, Newberg, Oregon
Newberg Fire Department, 414 East Second Street, Newberg, Oregon

DATED this 29th day of November, 2004.

Dawn M. Wilson, Paralegal/Elections Officer

PROCLAMATION
by
Mayor Bob Stewart

CITY OF NEWBERG ELECTION RESULTS
General Election: November 2, 2004

WHEREAS, a General Election for the State of Oregon was held on November 2, 2004, in which the Office of the Mayor, three City Council member positions, and three measures were presented to the voters.

WHEREAS, on November 23, 2004, the City received from Jan Coleman, County Clerk of Yamhill County, a Certificate certifying the true, actual, and final results of the ballots cast in the November 2, 2004, General Election; a copy of which is attached to this Proclamation;

NOW, THEREFORE, I, BOB STEWART, Mayor of the City of Newberg, do hereby proclaim the results of the November 2, 2004, General Election, as Certified to the City by Jan Coleman, County Clerk of Yamhill County. A certified true copy of the results of the ballots cast for the November 2, 2004, General Election are attached as Exhibit "A."

***DATED** this 23rd day of December, 2004.*

Bob Stewart

Bob Stewart, Mayor

***POSTED** on November 29, 2004, at the following locations:*

Newberg Fire Station, 414 East Second Street, Newberg, Oregon
Newberg Public Library, 503 East Hancock Street, Newberg, Oregon
Newberg City Hall, 414 East First Street, Newberg, Oregon
Newberg Public Safety Building, 401 East Third Street, Newberg, Oregon

ORIGINAL HARDSHIP APPLICATION FILE 2006 -2007

EXHIBIT B

Roger P Grahn
23287 Lasalle Lane
Sherwood, OR 97140
(503)625-4552

December 20, 2006

Dab Danicic, Director Public Works Dept.
City of Newberg
414 E First Street
PO Box 970
Newberg OR 97132

Dear Mr. Danicic:

Re: Water Service Installation at Tax Lot 3221-901 (Monte Bowlin).

This is a modified hardship request for a water service on behalf of Monte Bowlin at 901 S. Springbrook.

To Summarize the facts; Mr. Bowlin's property at 901 S. Springbrook is adjacent to the south of the property we lost to condemnation by ODOT. By a legal easement documenting our agreement, Mr. Bowlin has for several years, used the well located on the property taken by ODOT. The well on his own property goes dry intermittently and is unfit for consumption without the poor flow. The well currently in use has good flow, but is also of unsafe water quality. It is not used for consumption but rather only for washing clothes, bathing and irrigation. Drinking and cooking is done with bottled water. Because of this fact, our discussions with Arrow Drilling and the neighbors, we feel there is a very small likelihood of successfully drilling a new well with safe drinking water and satisfactory flow.

Accordingly, we respectfully request on behalf of Mr. Bowlin, that the city agree to install a ¾" service on a hardship basis, but on property within the cities boundary (Tax Lot 3221-901), the small piece left over from ODOT's condemnation. It is our intent for us to convey this piece to DMR Concrete, Mr. Bowlin's concrete company and this water service would serve not only the needs of his company and its' equipment, but also for his residence at 901 S. Springbrook.

1/4

EXHIBIT B

Further, Mr. Bowlin would be amenable to agree to a future annexation requirement AFTER his ownership ends.

Thank you in advance for your assistance in this matter.

Sincerely,

Roger P. Grahn,

jjg

ACKNOWLEDGED

8/11

RESOLUTION NO. 2007-2700

A RESOLUTION GRANTING A HARDSHIP WATER CONNECTION FOR SERVICE OUTSIDE OF THE CITY LIMITS FOR MONTE BOWLIN AT 901 S. SPRINGBROOK ROAD

RECITALS:

1. Monte Bowlin resides and owns property at 901 S. Springbrook Road (Tax Lot No. 3221-1901). The property is located outside the Newberg City Limits, but is within the Urban Growth Boundary and the Newberg Urban Reserve Area. Refer to **Exhibit A** for a vicinity map.

2. The house at 901 S. Springbrook Road was built in 1948 and receives water service from an off-site well that had been owned by his neighbour Roger Grahn. That well and land has been transferred to ODOT for construction of a new approach to Highway 219 for Wilsonville Road.

3. ODOT has notified Mr. Bowlin that they plan on decommissioning the well as of February 23, 2007. That will leave Mr. Bowlin without any potable water service to his property.

4. On December 20, 2006, Mr. Grahn and Mr. Bowlin submitted a written request for a hardship connection to City water based on the fact that the existing well will be closed down by ODOT. The letter is attached as **Exhibit B**.

5. The City of Newberg has an existing 14" water service line in Springbrook Road that runs along the east boundary of Mr. Bowlin's property. The City can provide a standard ¾" water meter from that service line to the property. Cost to install the meter and SDC's are estimated to be $5,000.

6. In January 2007, City staff visited the site and confirmed that the primary use of the property is for a single family residence. Mr. Bowlin does own and operate a small concrete finishing company (DMR Concrete) at this location; however this is an incidental use of the property.

7. Municipal Code of Ordinances Title V Chapter 52 authorizes the Newberg City Council to approve hardship connections to the City's water system provided the criteria contained in Section 52.12 is met. Staff has prepared findings relative to Section 52.12 (**Exhibit C**).

4/61

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. The City Council hereby approves the request to provide a hardship connection to the City water system for property located at 901 S. Springbrook Road based on the criteria, findings and testimony presented in the hearing on February 5, 2007.

2. The City Council hereby approves the condition that the City will not request annexation until such time as Monte Bowlin no longer resides on the property, there is a change in ownership, or the property is developed for another use whichever occurs first. The expense for the annexation process shall be the responsibility of the applicant.

3. The City Council affirms that this approval does not bind this Council or future Councils, to hear, consider, or grant additional requests for water service outside the City limits, and that this decision is not a precedent for future decisions.

4. The City Council adopts **Exhibit C** as the findings of fact for granting the hardship and incorporates **Exhibit C** as part of this resolution.

➢ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is February 6, 2007.

ADOPTED by the City Council of the City of Newberg, Oregon, this 5th day of February 2007.

James H. Bennett, City Recorder

ATTEST by the Mayor this 8th day of February 2007

Bob Andrews, Mayor

LEGISLATIVE HISTORY

By and through _____ Committee at ___/___/2007 meeting. Or, X None.

5/11

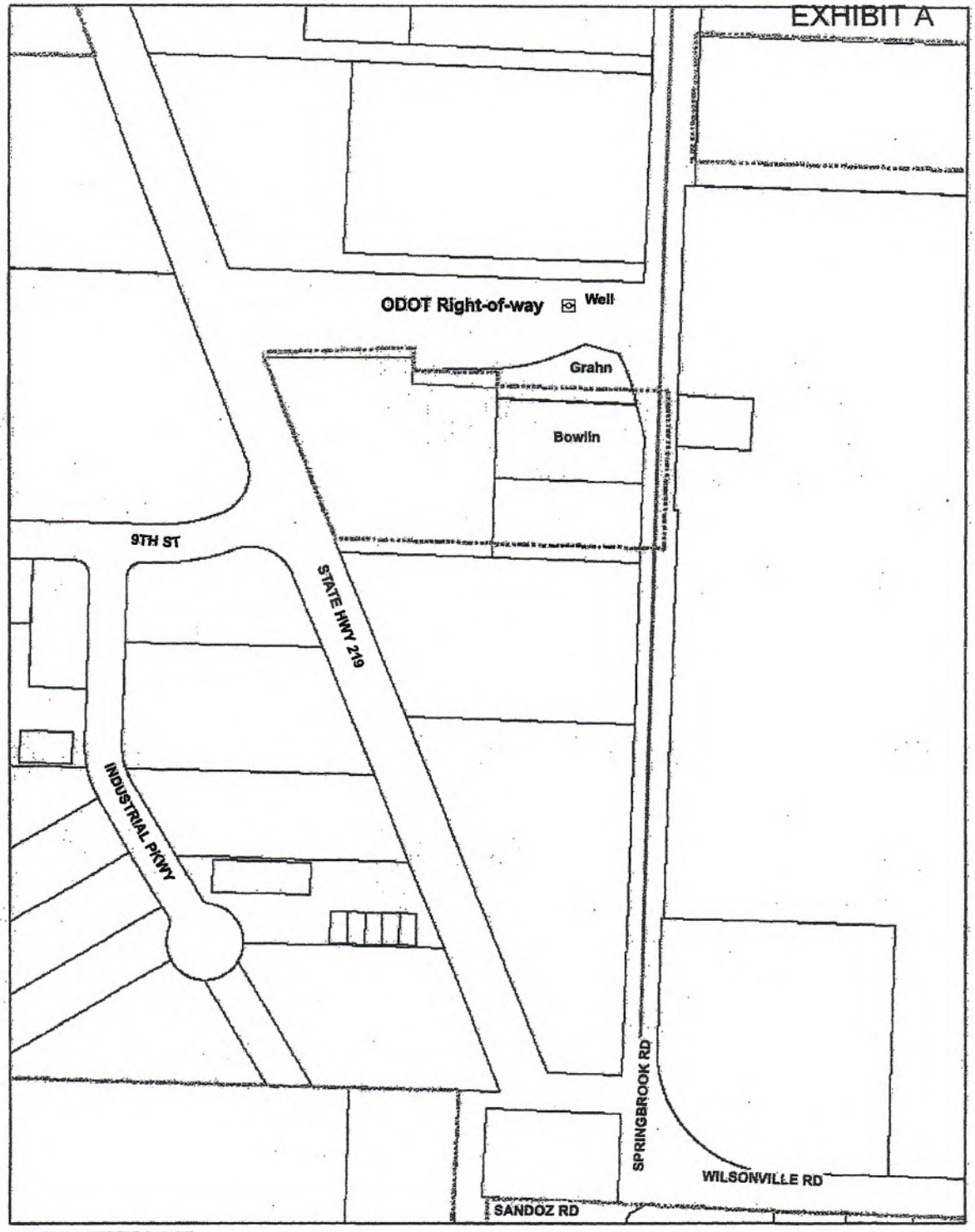


EXHIBIT A
ODOT Right-of-way
Well
Grahn
Bowlin
9TH ST
STATE HWY 219
INDUSTRIAL PKWY
SPRINGBROOK RD
WILSONVILLE RD
SANDOZ RD
City of Newberg
N
W
E
S
Legend
City of Newberg water system line
Newberg City Limits
200
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EXHIBIT C

FINDINGS

Requests for hardship exceptions to allow water connections outside of City limits are governed by City Municipal Code of Ordinances Title V Chapter 52.

Section 52.12. Exceptions due to Hardships. An exception to Section 52.11 may be granted by the City Council in cases of hardship. The following process shall be used in determining whether the exception shall be granted, and the criteria shall be strictly applied with the burden of proof upon the applicant:

(A) Eligibility. The applicant must meet the following criteria:

1. The new or additional water connection can be used only to supply water to an existing structure and will not be used to allow any new development.

Response: The existing home was originally constructed in 1948 and was purchased by Mr. Bowlin in 1997.

2. Annexation of the property upon which the structure is located is not immediately feasible.

Response: Annexation of the property at this time is not desired by the property owner, who agrees to annexation to the City of Newberg as such time as he leaves the property, there is a change in ownership, or the property is developed for another use. Staff recommends that the City accept Mr. Bowlin's consent to annex in the future.

The Council grants the request without requiring immediate annexation, because the hardship was occasioned by a transportation improvement project resulting in condemnation of the property on which the well that furnishes water to the Bowlin property is situated. That well is required to be decommissioned by ODOT who is now the owner of the property to be used in the transportation project. Further, immediate annexation would result in a zone change to industrial and require residence which is the home of Mr. Bowlin to be removed within a certain period of time. Due to these circumstances, the City is willing to accept Mr. Bowlin's consent to annex in the future as satisfying the condition that annexation is "not immediately feasible".

(B) Hardship Determination. A request for a new or additional water connection due to hardship shall be accompanied by evidence of the following:

1. A genuine hardship exists due to quality and/or quantity of water for domestic consumption.

a/u

Response: Domestic drinking water for this home was provided by a well located on the northern neighbor's property. ODOT has obtained title to the portion of that property that contains the well. They plan to construct the new Wilsonville Road and Highway 219 route over that well. The property owner will not have any suitable domestic water service, due to the action by ODOT.

2. All other alternatives have been investigated and are not economically feasible.

Response: The property owner has researched the feasibility of drilling another well. The current well does provide quality water. Mr. Bowlin and his family drink bottle water exclusively. His discussions indicate that there is little likelihood of successfully drilling a new well.

3. The dwelling to be served is in close proximity of existing services, either private or public and the granting of the additional connection would not overburden existing lines, either private or public, or overburden the City's water supply.

Response: The new meter will be a standard ¾" domestic meter that connects from the existing City potable water system at a 14" cast iron main on Springbrook Road. The new service will not over-burden the water line or the City's water supply.

(C) Application for Hardship. A request in letter form, for a hardship exception to Section 52.11 shall be made to the City Council. The request shall be accompanied by a statement and evidence to be used in the determination. The request shall be reviewed and a recommendation made to the Council by the Public Works Department prior to the Council's consideration of the matter. A granting of the request for an exception can be made by the Council, provided that all the conditions stated in division (B) do exist.

Response: A letter has been submitted by the owner and adjacent property owner. It is attached to the Request for Council Action (Exhibit B) for review by City Council.

(D) Conditions of Hardship. Any exception granted shall be subject to the following conditions:

1. The owner of the property shall agree to pay the full cost of extending services to the parcel with all services meeting City standards and including all development charges.

2. The owner of the subject property agrees to annex to the City at such time as annexation is legally possible and is requested by the City.

3. Water shall be for domestic purposes only and no water granted under this exception shall be permitted for agricultural use.

4. A written agreement as to the conditions under which the exception was granted shall be recorded on the Yamhill County Deed Records with the applicant paying all fees.

Response: The owner agrees to pay the appropriate cost of extending services to the parcel in accordance with City standards at this time. The owner shall pay the appropriate systems development charges at the time the property is connected to the City services. At this time the appropriate charges would be water system development charges. Further he agrees to annexation by the City of Newberg at such time as he leaves the property, there is a change in ownership, or the property is developed for another use. These conditions will be incorporated into a legal agreement should City Council choose to approve this hardship.

11/9

AFTER RECORDING RETURN TO:
City of Newberg – Public Works Department
PO Box 970 – 414 East First Street
Newberg, OR 97132
(503) 537-1273

OFFICIAL YAMHILL COUNTY RECORDS
REBEKAH STERN DOLL, COUNTY CLERK

00342415201000018210110118

201001821

$91.00

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DMR-CONDMR Cnt=1 Stn=2 ANITA
$55.00 $10.00 $11.00 $15.00

CONTRACT FOR EXTRA-TERRITORIAL PROVISION OF WATER SERVICE and CONSENT TO ANNEXATION

(water service outside the City)

(ORS 221.115)

THIS AGREEMENT is entered into this 6 day of Feb 2007 by and between the City of Newberg, a municipal corporation of the State of Oregon, hereinafter called "**City**", and owner(s) of the real property, hereinafter described as "**real property**", hereinafter called "**Owner**". This is the accepted agreement:

RECITALS

1. **Owner and Real Property.** The **Owner** who is requesting service from the **City** and the **real property**, which is the subject of this connection are hereinafter described as follows:

   a. **Owner(s)** Name: Monte Bowlin

   b. **Owner(s)** Address: 901 S. Springbrook Rd.
   Newberg, Oregon 97132

   REAL PROPERTY:

   c. Property Address: 901 S. Springbrook Rd.
   Newberg, Oregon 97132

   d. Tax Lot No.: 3221-1901

   e. Legal Description recorded in Yamhill County Records, Instrument Number 199713551 on 08/12/97, is hereby referenced and by this reference fully incorporated.

2. **Request.** The **Owner** of the **real property** has requested water service from the **City** which will supply **City** water to the **real property** located outside the City limits of the City of Newberg.

91

3. **Hardship Exceptions.** The City Code at Title V, Chapter 52, provides for water connections outside the City limits under certain hardship conditions.

4. **City Council Approval.** Under certain hardship conditions, the City Council has approved this connection by City Resolution No. 2007-2700. The Resolution with attached hardship conditions is hereby referenced and by this reference fully incorporated.

5. **Intent to Annex.** The parties agree that the intent is that the property will be annexed into the City at such time as Monte Bowlin no longer resides on the property, there is a change in ownership, or the property is developed for another use.

NOW THEREFORE, The **City** and **Owner** for mutual consideration hereby agree as follows:

1. **Recitals.** The parties agree to the above recitals.

2. **City Obligations.**
   A. The **City** does hereby agree to supply water to the **Owner** in accordance with the City Code.
   B. The **City** consents to the **Owner** connecting to the City water system.

3. **Owner Obligations.**
   A. The **Owner** hereby agrees to pay the full cost of extending service to the parcel with all services meeting **City** standards.
   B. The **Owner** hereby agrees to pay all required systems development charges prior to connecting.
   C. The **Owner** hereby agrees to pay all water usage charges assessed by the **City** which are normally assessed on a monthly basis, in accordance with the City Code for water users outside of City limits.
   D. The **Owner** shall abide by all requirements of the City Code.

4. **Consent to Annex.** The **Owner** hereby consents to the eventual annexation of **real property** to the City of Newberg, Oregon. **Owner** hereby agrees to perform all acts required by the City Code of property owners requesting annexation. The **Owner** agrees that the intent is that the property will be annexed into the City at such time as Monte Bowlin no longer resides on the property, there is a change in ownership, or the property is developed for another use. The **Owner** wishes the consent to annexation be considered in any annexation procedure and waives the one-year time period provided for in ORS 222.173 within which the consent shall be effective for consideration and requests that this consent be valid as long as the property is receiving the extra-territorial services.

5. **Limitations on Water Connection.**
   A. The **Owner** hereby agrees that the water shall be used for domestic purposes only and no water granted under this exception shall be permitted for agriculture use. The water connection can be used only to supply water to an existing structure and will not be used to allow any new development.
   B. This water connection is not transferable to any other parcel. If the **real property** is partitioned or subdivided, the water connection shall only be allowed on the parcel containing the original structure.

6. **Covenant and Restriction Running with the Land.**
   A. This agreement shall be recorded in the Yamhill County Deed Records with **Owner** paying all recording costs and fees.

2/12

B. All of the terms, covenants, and conditions herein and imposed are for the benefit of the **City** and the **real property** of interest therein.

C. This agreement shall be binding upon the **real property** and the successors of interest of the **Owner** and shall act as a covenant and restriction running with the land.

7. **Termination of Agreement.** This agreement shall cease when the **real property** is annexed into the City of Newberg.

IN WITNESS WHEREOF, the parties have executed this Agreement this 6 day of Feb 2007.

STATE OF OREGON)
)s.s.
County of Yamhill)

OWNER

Monte Bowlin

This instrument was acknowledged before me this 6th day of February 2007 by Monte Bowlin.

Norma I. Alley
Notary Public for Oregon
My Commission Expires: March 23, 2008

OFFICIAL SEAL
NORMA I. ALLEY
NOTARY PUBLIC-OREGON
COMMISSION NO. 378841
MY COMMISSION EXPIRES MARCH 23, 2008

CITY OF NEWBERG

Daniel Danicic - City Recorder

APPROVED AS TO FORM

Terrence D. Mahr, City Attorney

3/2

GENERAL JUDGMENT FROM MEDIATION SETTLEMENT CONDEMNATION ODOT V. GRAHN AND MONTE BOWLIN 2007

OFFICIAL YAMHILL COUNTY RECORDS
JAN COLEMAN, COUNTY CLERK
200618315
$66.00
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08/09/2006 10:57:08 AM
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$55.00 $11.00

FILED
STATE OF OREGON
YAMHILL COUNTY
TRIAL COURT
06 JUL 26 AM 11: 19
TRIAL COURT ADMINISTRATOR
BY

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF YAMHILL

STATE OF OREGON, by and through its Department of Transportation,

Plaintiff,

v.

R & J GRAHN PROPERTIES, LLC, and Oregon limited liability company; FIRST FEDERAL SAVINGS AND LOAN ASSOCIATION OF MCMINNVILLE; and MONTE S. BOWLIN,

Defendants.

Case No. CV050258

GENERAL JUDGMENT

This matter comes to the Court following a day-long mediation between the two property owners and ODOT; Hon. Edwin J. Peterson, mediator. Plaintiff was represented there by Paul J. Sundermier, Senior Assistant Attorney General and defendants R & J Grahn Properties, LLC and Monte S. Bowlin were represented there by Donald Joe Willis, and Schwabe Williamson and Wyatt, their attorneys; and the Court finds,

That the parties reached an agreement settling the case at that mediation, a copy of which is attached and incorporated herein;

That no good cause exists for setting aside the settlement agreement or setting this case for trial;

That this judgment reflects a settlement of all issues raised or raiseable in this action;

That a Judgment of Dismissal has been entered herein against First Federal Savings and Loan Association of McMinnville, defendant herein;

WESTERN TITLE & ESCROW 40-08 77504

YAMHILL COUNTY COURTS
STATE OF OREGON
I CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF THE ORIGINAL
TRIAL COURT ADMINISTRATOR

Department of Justice
1162 Court Street NE
Salem, OR 97301-4096
(503) 947-4700 / Fax: (503) 947-4792

1/11

That the real property described in Exhibit A, pages 1 – 3 and the attached map of the properties showing Parcel 3 (not previously described in the plaintiff's Complaint) which map and properties were the subject of the settlement agreement in mediation, is necessary for public use;

That the plaintiff, prior to the commencement of this action and pursuant to its resolution, attempted to acquire the real property described in the Complaint by agreement and purchase, but was unable to do so;

That the sum to be paid to the defendants for the property is $625,000;

That plaintiff, on August 24, 2005, deposited $405,000 and on February 10, 2006 deposited $500 for a total deposit of $405,500 with the clerk of this court for use and benefit of the defendants;

That defendants have pursuant to order of the court, withdrawn all but $500 of plaintiff's deposit;

That plaintiff will deposit with the clerk of this court the balance due in the amount of $219,500 and that plaintiff is now entitled to judgment, appropriating the real property described in the attached Exhibit A, to the State of Oregon, by and through its Department of Transportation, free and clear of all liens and encumbrances except as hereinafter provided; now, therefore,

IT IS HEREBY ORDERED AND ADJUDGED:

1.

The real property described in Exhibit A attached to the Settlement Agreement is appropriated for public purposes; and title to said acquisition, together with all rights and easements therein is vested in the State of Oregon, by and through its Department of Transportation, free and clear of all liens and encumbrances, except as herein provided.

The acquisition and use consist of:

Department of Justice
1162 Court Street NE
Salem, OR 97301-4096
(503) 947-4700 / Fax: (503) 947-4792

2/11

The property, fee simple, described as Parcels 1, 2 and 3 in the Exhibit A attached hereto.

2.

Defendant First Federal Savings and Loan Association of McMinnville has been adjudged dismissed.

3.

Defendants R & J Grahn Properties, LLC and Monte S. Bowlin may withdraw the total sum deposited into the court, on account of just compensation for this property, to wit, $220,000, upon order of this court.

4.

The real property shall be used for the public purposes named in the Complaint within ten (10) years of the filing of this judgment pursuant to ORS 35.385(2)(a).

5.

None of the parties shall recover from another party costs or attorney fees incurred herein.

DATED this 24th day of July, 2006.

Circuit Court Judge

Submitted by: Paul J. Sundermier
Senior Assistant Attorney General

Department of Justice
1162 Court Street NE
Salem, OR 97301-4096
(503) 947-4700 / Fax: (503) 947-4792

3/11

State of Ore
Dept of Transportation

v.

R & J Strahn Properties LLC,
Monte S. Boulin, et al

Yamhill County
Circuit Court Case
CV050258

SETTLEMENT AGREEMENT

Plaintiff agrees to pay Defendants $625,000.00 TOTAL, which sum includes the $405,500.00 already paid, for the property described in the Complaint filed herein, plus the remainder property between the new Right of Way and the Strayer property, as shown on Exhibit A attached, for which ODOT will provide a legal description

This settlement includes resolution of all issues between Plaintiff and Defendants Relating TO the easement for water well use dated 12/4/04 and recorded on 5/23/ as in the Official Yamhill County Records.

DOJ will prepare a stipulated Judgment acceptable TO counsel.
Parties TO share mediation costs + TO otherwise pay their own costs.

4/11

ODOT agrees to cooperate and support efforts to provide city water to the Bowlin property.

Should there be any need for clarification or assistance in the implementation of this agreement, the parties agree to first seek the assistance of the Hon Edwin Peterson.

June 27, 2006

By ODOT

Richard K.

ODOT Right of Way Operations Manager

Approved as to form by Deborah Curtis

June 27, 2006

R & L Grahn Properties, LLC

by Roger P. Grahn

Roger P. Grahn, Managing Member

Monty S. Bowlin

by Roger P. Grahn RP

Actual Authority

EXHIBIT A - Page 1 of 3

File 7154001
Drawing 10B-20-3
6/30/2006

Parcel 1 – Fee

A parcel of land lying in the Richard Everest D.L.C. No. 52, Township 3 South, Range 2 West, W.M., Yamhill, Oregon and being a portion of that property designated as Parcel I in that Statutory Warranty Deed to Roger P. Grahn, Inc., recorded August 12, 1997 as Instrument No. 199713561, Records of Yamhill County; the said parcel being that portion of said property included in a strip of variable in width lying on the Southerly side of the "C" center line which center line is described as follows:

Beginning at Engineer's center line Station "C" 10+00.00, said station being 1,139.79 feet North and 620.76 feet West of the Southeast Corner of the Richard Everest D.L.C. No. 52, Township 3 South, Range 2 West, W.M.; thence North 68° 23′ 11″ East 86.99 feet; thence on a 400.00 foot radius curve right (the long chord of which bears North 80° 03′ 09″ East 161.77 feet) 162.89 feet; thence South 88° 16′ 52″ East 118.50 feet; thence an a 301.56 foot radius curve left (the long chord of which bears North 46° 47′ 24″ East 425.94 feet) 472.94 feet; thence North 1° 51′ 40″ East 158.68 feet to Engineer's center line Station "C" 20+00.00.

The width in feet of said strip of land is as follows:

		Width on Southerly Side of Center Line
"C" 10+30.00	"C" 12+49.88	51.50
"C" 12+49.88	"C" 13+68.38	51.50 in a straight line to 46.50
"C" 13+68.38	"C" 18+41.32	46.50

ALSO that portion of the said property lying on the Northerly side of said center line.

Bearings are based on County Survey No. 11833 Filed January 29, 2004, Yamhill County, Oregon.

This parcel of land contains 1.76 acres, more or less.

6/11

File 7154001
Drawing 10B-20-3
6/30/2006

Parcel 2 – Fee

A parcel of land lying in the Richard Everest D.L.C. No. 52, Township 3 South, Range 2 West, W.M., Yamhill, Oregon and being a portion of that property designated as Parcel I and Parcel III in that Statutory Warranty Deed to Roger P. Grahn, Inc., recorded August 12, 1997 as Instrument No. 199713561, Records of Yamhill County; the said parcel being that portion of said property included in a strip of land variable in width lying on the Westerly side of the center line of relocated Springbrook Road which center line is described as follows:

Beginning at Engineer's center line Station "S" 18+00.00, said station being 799.58 feet North and 25.98 feet East of the Southeast Corner of the Richard Everest D.L.C. No. 52, Township 3 South, Range 2 West, W.M.; thence North 1° 51′ 40″ East 241.70 feet; thence on a 301.56 foot radius curve left (the long chord of which bears North 19° 11′ 38″ West 216.68 feet) 221.63 feet; thence North 40° 14′ 56″ West 30.02 feet to Engineer's center line Station "S" 22+93.35.

The width in feet of said strip of land is as follows:

Station	to	Station	Width on Westerly Side of Center Line
"S" 20+41.70		"S" 21+02.93	30.00 in a straight line to 39.50
"S" 21+02.93		"S" 22+00.00	39.50
"S" 22+00.00		"S" 22+51.69	39.50 in a straight line to 74.63
"S" 22+51.69		"S" 22+93.35	74.63

ALSO that portion of said property lying on the Easterly side of said center line.

EXCEPT therefrom Parcel 1.

This parcel of land contains 6,701 square feet, more or less.

7/11

File 7154001
Drawing 10B-20-3
6/30/2006

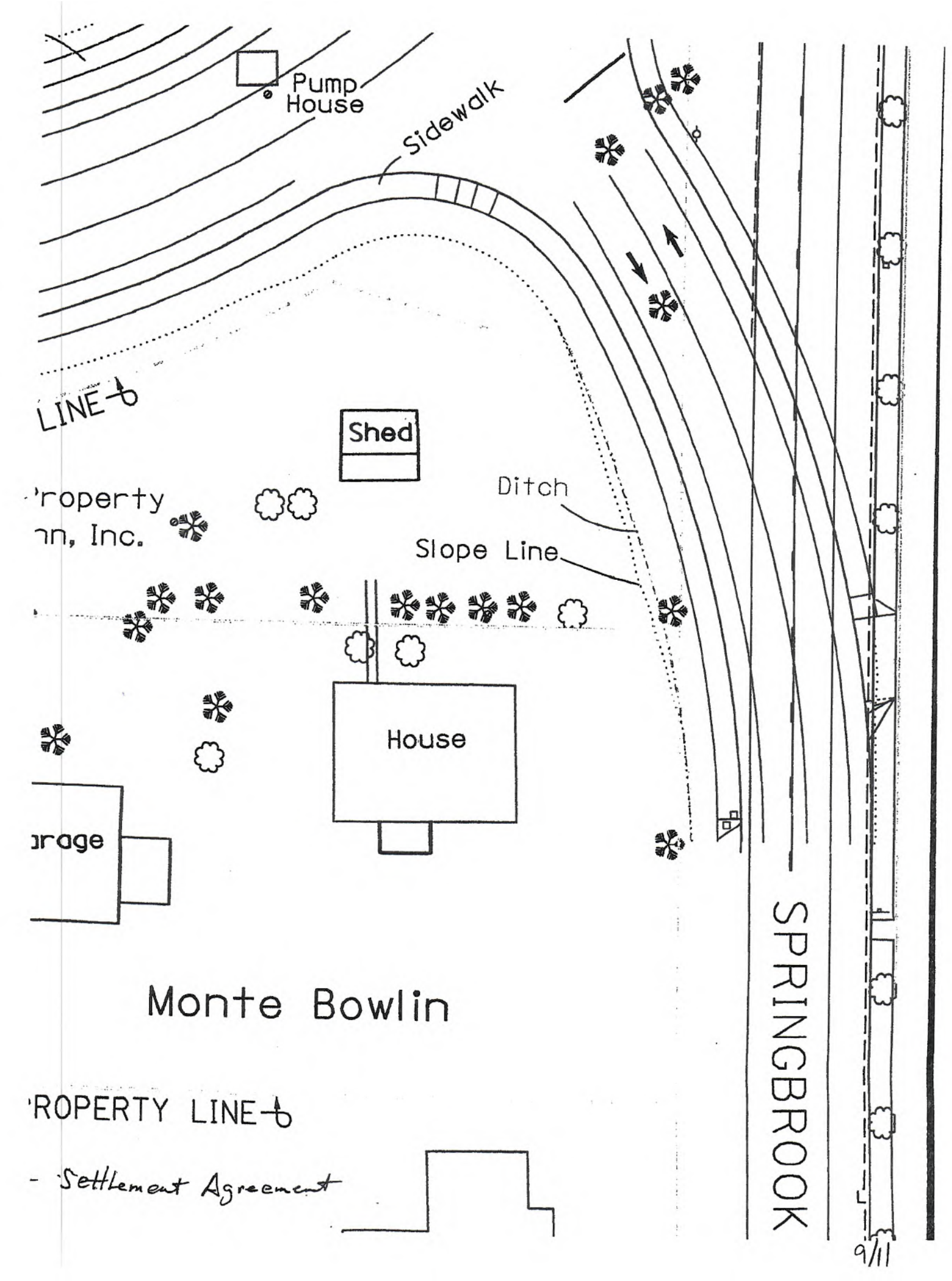
PARCEL 3 - Fee

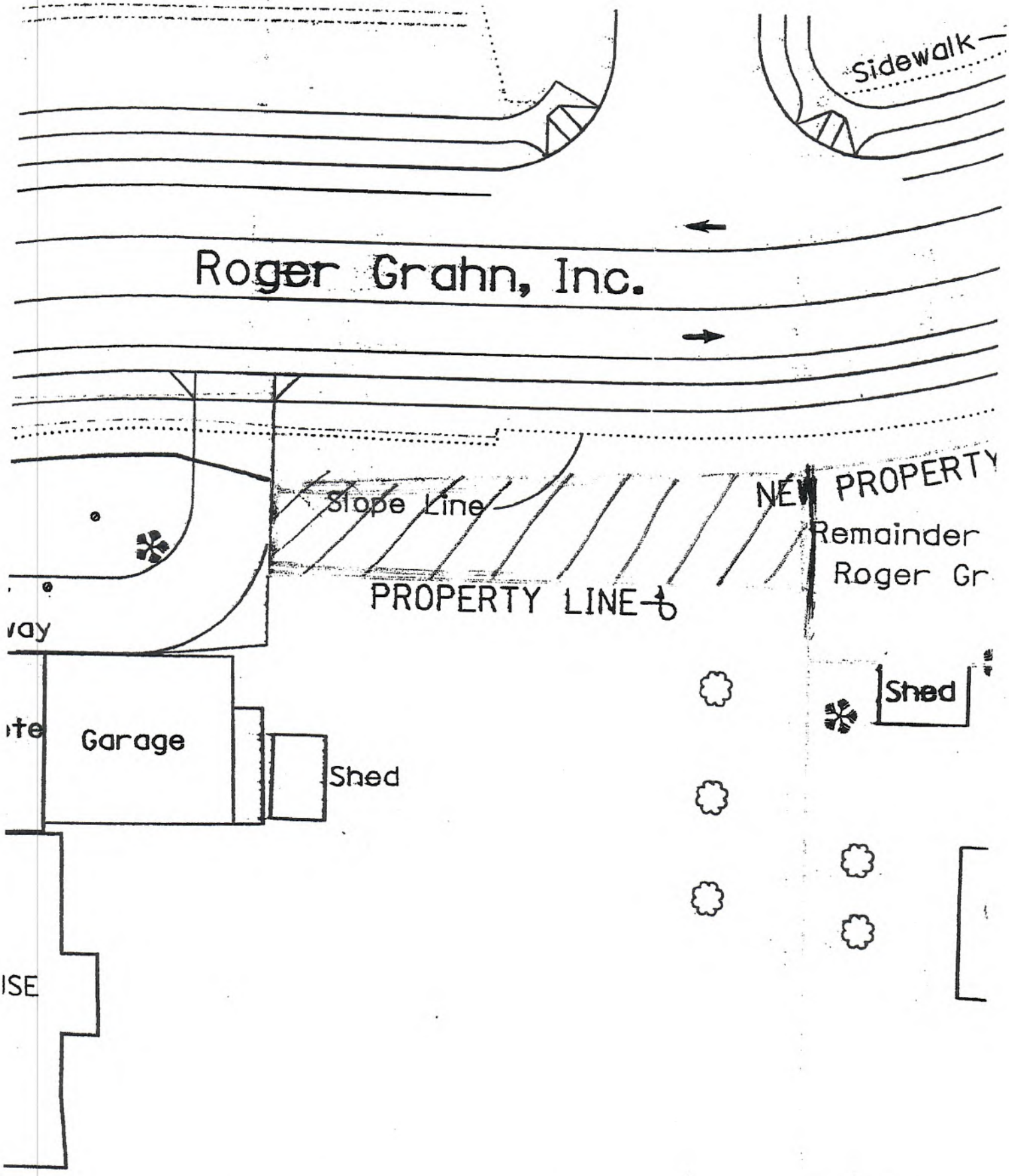
A parcel of land lying in the Richard Everest D.L.C. No. 52, Township 3 South, Range 2 West, W.M., Yamhill, Oregon and being a portion of that property designated as Parcel I in that Statutory Warranty Deed to Roger P. Grahn, Inc., recorded August 12, 1997 as Instrument No. 199713561, Records of Yamhill County; the said parcel being that portion of said property lying Southerly of and adjoining Parcel 1 and Westerly of the following described line:

Beginning at a point opposite and 76.23 feet Southerly of Engineer's Station 14+01.20 on the "C" center line; thence Northerly in a straight line to a point opposite and 46.50 feet Southerly of Engineer's Station 14+04.09 on said center line.

The "C" center line referred to herein is described in Parcel 1.

This parcel of land contains 3,545 square feet, more or less.


Pump House
Sidewalk
LINE
Shed
roperty
nn, Inc.
Ditch
Slope Line
House
arage
SPRINGBROOK
Monte Bowlin
ROPERTY LINE
- Settlement Agreement
9/11


Sidewalk
Roger Grahn, Inc.
Slope Line
NEW PROPERTY
Remainder
Roger Gr
PROPERTY LINE
Shed
Garage
Shed
Jack & Darlene Swonger

Ex. A

10/11

CERTIFICATE OF SERVICE

I certify that on July 20, 2006, I served the foregoing proposed General Judgment upon the parties hereto by the method indicated below, and addressed to the following:

Donald Joe Willis
Steve C. Morasch
Schwabe Williamson Wyatt PC
1211 SW 5th Ave Ste 1600-1900
Portland OR 97204

___ HAND DELIVERY
_✓_ MAIL DELIVERY
___ OVERNIGHT MAIL
___ TELECOPY (FAX)

PAUL J. SUNDERMIER #82407
Senior Assistant Attorney General
Trial Attorney
Tel (503) 947-4700
Fax (503) 947-4792
paul.sundermier@doj.state.or.us

Department of Justice
1162 Court Street NE
Salem, OR 97301-4096
(503) 947-4700 / Fax: (503) 947-4792

2018 ODOT ACCESS PERMIT FOR TAX LOT 1800 (SWONGER PROPERTY) AND TAX LOT 1900 (ACG CONCRETE LLC) PROPERTY

PERMIT NO: 56992

Appl No.: 92142

PERMIT TO OPERATE, MAINTAIN AND USE A STATE HIGHWAY APPROACH

Oregon Department of Transportation

Reason for Request: ODOT Project

Site ADT: 20

Permittee Information

Name: Darlene Swonger

Company: Swonger

Mailing Address: 832 S Springbrook Road
Newberg, OR 97132

Phone: (503) 538-3534 FAX: ( ) -

eMail:

Property Information

Address: 832 S. Springbrook Rd.
Newberg OR 97132

County: Yamhill District: 03

Highway: Salmon River Hwy #: 039 Route: ORE18

MilePoint: 59.970 Engineering Station: C 13+81 Side of Hwy: R Public/Private: Public

Permit Description: Shared access - 2 SF residences

Plan View

See Custom Drawing

Effective Period

(1) General Provisions: A permit to operate, maintain and use ("permit to operate") an approach runs with the land. Except as otherwise provided, a permit to operate is effective until:

(a) Revoked by mutual consent;

(b) Revoked for failure to abide by the terms and conditions;

(c) The approach is subject to a change of use as set forth in OAR 734-051-3020;

(d) The development of safety or operational concerns as set forth in OAR 734-051-5120 Project Delivery; or

(e) By other operation of law.

(2) Successors and Assignees: The permit to operate is binding on successors and assignees including successors in interest to the property being served by the approach.

The Permit is issued subject to the provisions of Oregon Administrative Rules 734-051.

Specification

Width (W): 25.00ft			Angle (A): 90
Radius 1 (R1): .00ft			Radius 2 (R2): .00ft
Paving Lmt (P1) .00ft			Paving Lmt (P2) .00ft
Surf (Ds): 25.00ft	Ditch (Dd): .00ft		R/W (Drw) .00ft
Culvert: None		Diam.	Len:
Sub Base Crse.			Thickness
Base Crse:			Thickness
Level Crse:			Thickness
Wear Crse: Concrete			Thickness

Land Use

Land Use Description:	Units of Measure:	
Residential	2.00	DU

Tax Lot

Township	Range	Section	Tax Lot
3S	2W	21	1800
3S	2W	21	1900

This permit is not valid until signed by a duly authorized representative of the Oregon Department of Transportation.

Authorized ODOT Signature: Eric Z Walker

Date: 9 April 18

PERMIT NO: 56992

PROVISIONS FOR ENCROACHMENT, CONSTRUCTION ON OR USE OF STATE HIGHWAY PROVISIONS

Oregon Department of Transportation

Application Id: 92142 Highway Number: 039 MilePoint 59.970

Reason for Request: ODOT Project

Applicant: Darlene Swonger

Company: Swonger

Maintenance of Approach

Prior to performing any maintenance work on the approach, which will interfere with or interrupt traffic upon or along the highway, the applicant shall obtain approval and necessary permits from the District Office. In all cases where traffic signals have been required, signal maintenance will be performed by the Oregon Department of Transportation or as assigned by a Cooperative Cost Agreement. The Permittee is responsible for maintenance of the approach in accordance with ORS 374.315

374.317 https://www.oregonlegislature.gov/bills_laws/ors/ors374.html

ORS 374.317 Approach road maintenance. An owner of real property abutting a state highway with an existing approach road that is presumed to have written permission under ORS 374.308 or that has an approach permit under ORS 374.310 is responsible for the cost and performance of maintaining the approach road, in accordance with the Department of Transportation's requirements, from the outermost edge of the highway pavement, shoulder or curb line to the right-of-way line, and shall maintain all portions of the approach road on the owner's property. [2013 c.476 §3]

Note: See note under 374.308.

DEED GRAHN TO DMR CONCRETE INC.

2010

THIS SPACE RESERVED FOR RECORDER'S USE

OFFICIAL YAMHILL COUNTY RECORDS
REBEKAH STERN DOLL, COUNTY CLERK 201012521

$51.00

00355778201000125210030031

09/09/2010 02:36:21 PM

DMR-DDMR Cnt=1 Stn=2 ANITA
$15.00 $10.00 $11.00 $15.00

Until a change is requested all tax statements shall be sent to the following address:
Monte Bowlin Wilsonville
901 ~~NE Springbrook~~ Road
Newberg OR 97132

Date: September 7, 2010

FIRST AMERICAN TITLE 0123

STATUTORY BARGAIN AND SALE DEED

R & J Grahn Properties, LLC, an Oregon Limited Liability Company, Grantor, conveys to **DMR Concrete, Inc.** Grantee, the following described real property:

LEGAL DESCRIPTION: SEE EXHIBIT 'A' ATTACHED

The true consideration for this conveyance is **$Zero.** (Here comply with requirements of ORS 93.030)

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, OF CHAPTER 424, OREGON LAWS 2007, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930 AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, OF CHAPTER 424, OREGON LAWS 2007, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009.

Dated this 7th day of August, 2010

R & J Grahn Properties, LLC.

By Roger P. Grahn, Managing Member

STATE OF Oregon)
County of Yamhill)

This instrument was acknowledged before me on this 7th day of September, 2010 by **Roger P. Grahn, Managing Member of R&J Grahn Properties, LLC.**

OFFICIAL SEAL
JANELL WALKER
NOTARY PUBLIC - OREGON
COMMISSION NO. 415300
MY COMMISSION EXPIRES APRIL 5, 2011

Janell Walker
Notary Public for Oregon
My commission expires: 4/5/2011

EXHIBIT "A"

PARCEL I:

A tract of land in Section 21, Township 3 South, Range 2 West of the Willamette Meridian, Yamhill County, Oregon being part of that certain tract of land conveyed to D.B. & Rose E. Rahier by deed recorded in Film Volume 42, Page 234, Yamhill County Deed Records and being described as follows:

BEGINNING at the Northeast corner of said Rahier tract; thence South 00°09'30" West along the East line of said Rahier tract, 168.02 feet to the Northeast corner of that certain tract of land conveyed to Arnold D. and Shirley A. Rahier by deed recorded in Film Volume 91, Page 2102 Yamhill County Deed Records; thence North 89°50'30" West, 260.00 feet to the Northwest corner thereof; thence South 00°09'30" West 20.00 feet to an iron rod at the Southwest corner thereof; thence North 89°50'30" West 135.68 feet to an iron rod; thence North 00°20'30" East, 60.81 feet to an iron rod; thence South 87°56' West, 231.40 feet to an iron rod in the Easterly line of St. Paul Highway; thence North 22°43' West along said Easterly line, 147.81 feet to an iron rod in the North line of said D.B. Rahier tract; thence South 89°51'30" East, 684.17 feet to the point of beginning.

PARCEL II:

BEGINNING at the Southeast corner of a tract of land conveyed to Arnold D. Rahier and Shirley A. Rahier, husband and wife, by deed recorded November 18, 1964 in Film Volume 41, Page 621, Yamhill County Deed Records, said point being also 971.12 feet North of the Southeast corner of the Richard Everest Donation Land Claim No. 52 in Section 21, Township 3 South, Range 2 West of the Willamette Meridian, Yamhill County, Oregon; thence North 125 feet to the Northeast corner of said Rahier tract and the true place of beginning of the description of the tract hereby conveyed; thence West 260 feet along the North line of said Rahier tract to the Northwest corner of said Rahier tract; thence North 20 feet to a point; thence East 260 feet parallel with the North line of said Rahier tract to the East line of the said Richard Everest Donation Land Claim, and thence South along the East line of said Everest Donation Land Claim 20 feet to the place of beginning.

007652151

DIANA COOPER RALTOR ANALYSIS OF VALUE RESIDENTIAL V. LIGHT INDUSTRIAL

Forest Grove Market Center Office
1936 Pacific Ave
Forest Grove, OR 97116

May 24, 2024

RE: Estate of Monte Bowlin- Hardship Application City of Newberg

To whom it may concern:

My name is Diana Cooper, I am the Real Estate Broker representing the Estate of Monte Bowlin. I would like to tell you a little about myself and my real estate experience. Newberg has been my home since 1983. In 1994, thirty (30) years ago, I became a licensed Oregon Real Estate Broker. I began my career in real estate at Newberg Realty as a Real Estate Agent and went on to get my Principal Brokers license. My license currently is hung at John L Scott Market Center, but I work out from home in Newberg. For the past Thirty (30) years I have gained experience and training in residential, commercial, bare land, acreage and light industrial property. I am required to complete Thirty (30) hours of Continuing Real Estate Education every two years. I have made it my mission to know the real estate market, especially in Yamhill County. As requested by the Bowlin Estate I have researched the Residential Verses Light Industrial market value of the property located at 901 S McKern Ct Newberg, OR 97132.

Residential: There has been limited inventory for the past few years which does not give many active, pending or sold for the past year. The property located at **3517 N College St Newberg OR** is most comparable. This residential property that is similar in lot size, age of dwelling, not annexed into the city, on public water and septic system. They started the price at **$650,000** and sold at **$578,500** on **April 18, 2024.** However, the lot is .19 acres smaller, the house is 169 square feet smaller and does not have a large shop. (see attached brochure page showing characteristics of this property). Our current listing contract has the list price of $650,000 and I still stand by that list price recommendation.

I can only find two (2) Light Industrial properties of small size (less than 3 acres) that sold in the Newberg/Dundee area in the last eight (8) years. There is little interest in properties the size of the subject property, particularly when there is a residence on the subject property that would probably have to be removed upon annexation. That is because a parcel approximately .68 acres in size is extremely hard to develop as Light Industrial property (i.e., parking, landscaping, and other requirements are just several reasons for the difficulty in developing a parcel of that size). The two parcels that sold were:

1. 1001 S. McKern Ct pka 1001 NE Wilsonville Rd, Newberg (see attached brochure page showing characteristics of this property). This property is approximately 2.07 acres in size and sold on June 20, 2016, for $530,000 which calculates to approximately $5.90/sq. ft. I feel that price is probably still a valid price per sq. ft. as industrial property of this size has not increased that much in price in the past 8 or so years.

2. Fulquartz Rd, Dundee (see attached brochure page showing characteristics of this property). This property is approximately 2 acres in size and sold for $650,000 on March 14, 2023, which

calculates to $7.50/sq. ft. I believe this property may have had a higher price per sq. ft. than the McKern Ct property in that it did not contain a house that would have to be removed.

Even if you use the value of $7.50/sq. ft. to calculate an approximate value for the subject property (which I don't think is accurate, because the subject property has a house that will probably have to be removed, and the property is much smaller in size than the Fulquartz Rd property, the calculated value is still only $7.50/sq. ft. x .68 acre x 43,560 sq. ft./acre = approximately $222,157 maximum value if the property is annexed into the City of Newberg as Light Industrial.

In my opinion, after serious review of the options the current zoning of residential is the highest and best use and financial option for the Monte Bowlin Estate. I have attached copies of the supporting documentation. Please let me know if you have any questions.

Sincerely,

Diana Cooper

Diana Cooper, Principal Real Estate Broker
John L Scott Market Center
Your2realtors@yahoo.com
503-380-0270

Diana Cooper | John L. Scott Market Center 503-844-9800 your2realtors@yahoo.com

2023

her: Virtual Tour #1

her: Virtual Tour #2

PEN HOUSE 3/16 2-4 PM .Introducing this one-level home with meless appeal this 3-bedroom, 2-bath residence has vintage aracter while boasting modern amenities. Located on a sprawling 9-acre lot that's not annexed to the city, this property offers the erfect blend of peaceful suburban living and convenient cessibility. Inside, you'll immediately notice the classic original ardwood floors that add warmth and character providing a cozy nd welcoming atmosphere for your family guests. Natural light ours in through a large window, illuminating the living area. One the highlights of this home is the outdoor oasis it offers. In the ackyard, you'll discover a large, serene water feature that creates tranquil setting to unwind and relax. The covered stamped oncrete patio is perfect for outdoor entertaining, and a pergola dds a touch of elegance to your outdoor gatherings. The built-in prinkler system ensures that your lawn and garden remain vibrant nd lush. For those who love working on cars or have a passion for afts, the 24'x45' ft garage is a dream come true. Equipped with a aftsman bench and storage lockers, it's a versatile space that can ter to your hobbies and needs. The garage features a compressor nd dehumidifier to maintain the ideal working environment, and s heated by a propane furnace, making it comfortable year-round. he included car lift makes it possible to accommodate up to 5 ehicles, and there's even a urinal and sink, adding a touch of onvenience. Additional loft space in the garage provides extra orage options. If you're an RV enthusiast or need extra storage pace, you'll appreciate the extensive 10'x61' covered RV/storage ea with a concrete floor, providing protection for your creational vehicles and other belongings. The property also asts the potential for division due to its size and location, making an attractive opportunity for investment or expansion.Agent lated to seller. BUMPABLE BUYER STATUS

Client Full **Residential** **5/24/2024 2:02PM**

$578,500 3 bd | 2 / 0 ba | 1515 sqft

Status: Sold
List Date: 10/25/2023
DOM: 143 **Acres:** 0.49 **MLS#:** 23246348
Year Built: 1950 / RESALE

3517 N COLLEGE ST Newberg, OR 97132

Unit #: **Condo Loc:**
XST/Dir: Turn off of 99w or Pacific Hwy onto College street

Property Details:

Property Type: Detached
Style: 1 Story, Craftsman
County: Yamhill
Nhood/Bldg:
CC&Rs: No
Legal: TOWNSHIP 3S RANGE 2W SECTION 07 QTR A QQTR D TAXLOT 03500
Warranty:
55+ w/Affidavit Y/N: No
Open House:

Area: 156
Zoning:
Seller Disclosure: Disclosure
Waterfront:
Lot Desc:
Lot Size: 20,000 SqFt to .99 Acres
Lot Dimensions:
View:
Body Water:
Tax ID: 23398
Opportunity Zone:
Short Term Rental Allowed:
Floor #:

Upcoming Open House:
Lot/Land Lease/Rent Payment: /
Lot/Land Lease: No

Schools:

Elementary: Antonia Crater
Middle: Chehalem Valley
High: Newberg

Residence Information:

Upper SQFT: 0
Main SQFT: 1515
Lower SQFT: 0
Additional SQFT:
Unreinforced Masonry Building:

SQFT Source: owner
Total Up/Main: 1515
Fireplaces: 1
Garage: 1 / Extra Deep, Carport, Detached
Foundation: Concrete Perimeter

Levels: 1
Roof: Shingle
Parking: Driveway, Parking Pad
Basement:
Road Surface: Concrete, Paved

Green Certification:
Energy Efficiency:
Exterior: Brick, Cedar
RV Description: RV/Boat Storage

Approximate Room Sizes and Descriptions:

Living:	M	Daylight, Fireplace, Hardwood Floors
Kitchen:	M	Built-in Dishwasher, Disposal
Primary Bedroom:	M	Bathroom, Closet, Sliding Doors, Tile Floor
2nd Bedroom:	M	

Baths - Full/Part **Upper Level:** 0/0 **Main Level:** 2/0 **Lower Level:** 0/0 **Total Baths:** 2/0

Features and Utilities:

Kitchen: Built-in Dishwasher, Free-Standing Refrigerator, Tile
Interior: Hardwood Floors, Tile Floor, Washer/Dryer, Wood Floors
Exterior: Covered Patio, Fenced, Garden, Outbuilding, Patio, Porch, RV Parking, RV/Boat Storage, Sprinkler, Tool Shed, Workshop, Water Feature, Yard
Accessibility: One Level, Main Floor Bedroom w/Bath
Security:
Internet:
Windows: Vinyl Frames
Cool: Central Air
Water: Public Water

Heat: Forced Air
Sewer: Septic Tank

Fuel: Gas
Hot Water:

Financial:

Property Tax/Yr: $2,239.40 / 2022
HOA: No
Association Amenities:
Terms Considered: Cash, Conventional, VA Loan
Assumable Interest Rate:
Assumable Remaining Months Ending:

Rent, If Rented:
Dues:

Short Sale: No
BAC: % 2.25
Other Dues:

Bank Owned/Real Estate Owned: No

Comparable Information:

Pending Date: 3/16/2024
Sold Date: 4/18/2024

Original Price: $650,000
List Price: $599,000

Sold Price: $578,500
Sold Terms: Conventional

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SQUARE FOOTAGE IS APPROXIMATE & MAY INCLUDE BOTH FINISHED & UNFINISHED AREAS - CONSULT BROKER FOR INFO.
SCHOOL AVAILABILITY SUBJECT TO CHANGE.

Diana Cooper | John L. Scott Market Center 503-844-9800 your2realtors@yahoo.com

Client Full | Comm/Industrial | 5/24/2024 2:02PM

$530,000 2160 gross sqft

Status: Sold
List Date: 6/20/2016
DOM: 274 **Acres:** 2.07 **MLS#:** 16603206
Year Built: 1980 / EXISTNG
1001 NE WILSONVILLE RD Newberg, OR 97132
Unit #:
XST/Dir: Hwy 219 or Springbrook to Wilsonville Hwy interchange

reat location bordered by Hwy 219 and Wilsonville Road. Zoning M2 Light Industrial. 60x36 metal building currently used as auto pair shop. House is of little value. City water & sewer to the operty w/2 RV sewer connections. Existing well & septic not in e. Lot size differs from legal due to recent ODOT acquisition.

Property Details:

Property Type: Light Industrial
Property Tax/Yr: $2,722.95 /
County: Yamhill
Sale Inc: Building, Land
Legal: 2.23 ACRES IN SEC 21 T3S R2W
Area: 156
Zoning: M2
Tax ID: 62773
CC&Rs: No
Open House:
Upcoming Open House:
Features:
Equipment:
Internet:
Lot Size: 1 to 2.99 Acres
Seller Disclosure:

Lot Dimensions:
Approx. Lot SQFT: 2.07 acres
 # Stry/Bldg: 1/2
Parking: / On Site
Construction: Metal
Ceiling Ht/Ft:
Truck Door: /
Roof: Metal
Occupancy: Other
Loading:
Office SqFt:
Whse SqFt:
Mfg SqFt:
Road Frontage:
Road Surface: Paved
View:
Waterfront:
Body Water:
Current Use: Automotive
Unreinforced Masonry Building:

Utilities:

Heat: Zoned
Fuel: Gas
Water: Public Water
Sewer: Public Sewer, Septic Tank
Cool:
Volts:
Amps:

Business and Lease Information:

Restrictions:
Actual Gross Income: $0
Proj. Gross Income:
Lease Expire:

Business Name:
Actual Net Income: $0
Proj. Net Income:
Lease Equip

Yr Estab:
Actual Oper. Expenses: $0
Proj. Oper. Expenses:
Lease Amount:

Short Sale: No
BAC: % 2.5
Bank Owned/Real Estate Owned: No
Inventory:
Lease Deposit:

Lease Type:
Terms: CONV
Doc Available: Deeds, Plot - Plat Map
Assumable Interest Rate:
Assumable Remaining Months Ending:

Comparable Information:

Pending Date: 3/21/2017
Sold Date: 9/5/2017

Original Price: $795,000
List Price: $695,000

Sold Price: $530,000
Sold Terms: Conventional

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SQUARE FOOTAGE IS APPROXIMATE & MAY INCLUDE BOTH FINISHED & UNFINISHED AREAS - CONSULT BROKER FOR INFO.
SCHOOL AVAILABILITY SUBJECT TO CHANGE.

Diana Cooper | John L. Scott Market Center 503-844-9800 your2realtors@yahoo.com

Client Full | Comm/Industrial | 5/24/2024 2:02PM

$650,000 2400 gross sqft

Status: Sold
List Date: 3/14/2023
DOM: 8 **Acres:** 2 **MLS#:** 23446783
Year Built: 2020 / APPROX
Fulquartz DR Dundee, OR 97115
Unit #:
XST/Dir: 99W to Fulquartz Landing Rd

parcels. Ideal for RV or boat storage. Nice 60x40 shop included us fenced on property line. Listing agent related to seller.

Utilities:

Heat: None
Fuel: None
Water: Shared Well
Sewer: Other
Cool: None
Volts:
Amps:

Property Details:

Property Type: Industrial
Property Tax/Yr: $2,108.00 / 2022
County: Yamhill
Sale Inc: Building, Land
Legal: Parcel 1 and parcel 2 of partion plat 2020-16
Area: 156
Zoning: industr
Tax ID: 712810
CC&Rs:
Open House:
Upcoming Open House:
Features: Fenced
Equipment:
Internet:
Lot Size: 1 to 2.99 Acres
Seller Disclosure:

Lot Dimensions:
Approx. Lot SQFT:
 # Stry/Bldg: 1/1
Parking: /
Construction: Frame, Wood Siding
Ceiling Ht/Ft: 17
Truck Door: /
Roof: Composition
Occupancy: Other
Loading:
Office SqFt:
Whse SqFt:
Mfg SqFt:
Road Frontage:
Road Surface: Gravel
View:
Waterfront:
Body Water:
Current Use: Automotive, Industrial
Unreinforced Masonry Building:

Business and Lease Information:

Restrictions:
Actual Gross Income: $0
Proj. Gross Income:
Lease Expire:

Business Name:
Actual Net Income: $0
Proj. Net Income:
Lease Equip

Yr Estab:
Actual Oper. Expenses: $0
Proj. Oper. Expenses:
Lease Amount:

Short Sale: No
BAC: % 2.5
Bank Owned/Real Estate
Owned: No
Inventory:
Lease Deposit:

Lease Type:
Terms: CASH
Doc Available:
Assumable Interest Rate:
Assumable Remaining Months Ending:

Comparable Information:

Pending Date: 3/22/2023
Sold Date: 4/7/2023

Original Price: $650,000
List Price: $650,000

Sold Price: $650,000
Sold Terms: Cash

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SQUARE FOOTAGE IS APPROXIMATE & MAY INCLUDE BOTH FINISHED & UNFINISHED AREAS - CONSULT BROKER FOR INFO.

EXCERPTS FROM CITY'S COMPREHENSIVE PLAN

small, scattered sites, with only 8 parcels larger than 5 acres and only 3 parcels that are 20 acres or larger. Second, several sites are hindered because of proximity to residential neighborhoods or other factors. Thus, some of the industrial should be rezoned for other uses. Third, a significant part of the "buildable" land is in fact in industrial use, such as storage yards. Also, the land need is adjusted to account for existing industrial uses that are displaced by the Newberg Dundee Bypass.

Table V- 11. 2025 Industrial Land Supply and Need

Industrial Site Size	2025 Need	Supply	*Surplus/(Deficit)*
Small/Medium sites (< 20 ac)	50 ac	99 ac	49 ac
Large sites (20+ ac)	100 ac	60 ac	(40) ac

Inside the current UGB, the only one large site (20 acres) that is viable in the long term is at the Sportsman Airpark. Two other sites are better suited for other uses long term. Therefore, Newberg needs to look to add additional industrial land to its UGB.

3. 2040 Industrial Land Supply and Need

The period 2025-2040 will have additional needs for industrial lands. There is projected to be a need for 37 acres of additional small/medium sites. In addition, there will be a need for six large industrial sites (20 acres each).

Table V- 12. 2026-2040 Industrial Land Supply and Need

Industrial Site Size	2026-2040 Need
Small/Medium sites (< 20 ac)	37 ac
Large sites (20+ ac)	120 ac

E. INSTITUTIONAL LAND SUPPLY AND NEED

Newberg has estimated the land need for public and quasi-public institutional uses based on consultation with the Newberg School District, the Chehalem Park and Recreation District, and per capita needs based on the future population forecast (Table V-13).[e]

Table V- 13. Summary of Institutional Land Needs (acres)

Category	2025	2040
Schools	85 acres	105 acres
Parks	85 acres	115 acres
Other	79 acres	128 acres
Total	**249 acres**	**348 acres**

e Ad Hoc Committee on Newberg's Future (2005), Report to Newberg City Council

2. Commercial Land Supply

The commercial buildable land inventory inside the current Newberg UGB has approximately 105 acres, but consists mostly of small, scattered sites, with only 3 parcels larger than 5 acres. Overall, Newberg has a deficit of commercial land through 2025. Appropriate land will need to be designated commercial to meet future needs, through some combination of changing the plan designation of lands within the UGB and/or adding additional land to the UGB. To meet the commercial land needs through 2040, additional land will need to be designated commercial.

Table V- 9. Commercial Land Need and Supply

Commercial Land Need 2005-2025 (acres)	Commercial Land in UGB (2004)	2025 Surplus (Deficit) (acres)	Commercial Land Need 2026-2040 (acres)
111	105	(6)	109

D. INDUSTRIAL LAND NEED AND SUPPLY

1. Industrial Land Need

Johnson-Gardner prepared future industrial land forecasts based on long-range employment forecasts and converted the new jobs to space needs for each employment sector (Table V-10). This forecast is based on a high employment growth scenario consistent with Newberg's economic development goals to bring more family-wage jobs to the area and to avoid becoming a bedroom community.[d]

Table V- 10. Industrial Land Need

	2005-2025	2026-2040
Industrial	87 acres	75 acres

Source: Johnson Gardner

In addition to an overall supply of buildable land, Newberg needs to have sites available the meet the specific needs of potential industrial users, so-called "target industries". A variety of parcel sizes, building types, and land use designations are required to attract target industries and provide market choice. In 2005, there is a general lack of suitable large (20+ acre) industrial sites with access to a state highway and physical separation or transitional buffering from residential neighborhoods. Therefore, Newberg needs 4 large (20+ acre) industrial sites for the period 2005-2025 and an additional 6 sites for the period 2026-2040. The assumption is that approximately 50 percent of the future industrial employment will take place on large parcels.

2. 2025 Industrial Land Supply and Need

The industrial buildable land inventory inside the current UGB has approximately 159 acres. While this may seem to be a large supply, it is disadvantaged by a number of elements. First, it consists mostly of

d Johnson-Gardner (2004), Industrial and office land need

SUPPLEMENT TO HARDSHIP APPLICATION

Dundee Law PC
PO Box 272
Dundee, OR 97115
503-537-6977
Gunn1947law@gmail.com

Michael G. Gunn
Attorney at Law

June 20, 2024

Mayor and City Council
City of Newberg
Newberg City Hall
Newberg, OR 97132

SENT VIA E MAIL:

Re: Water Hardship Application - The Estate of Monte Bowlin – Tax Account R3221-1901
Address 901 S. Springbrook Rd, Newberg (located outside City limits of Newberg)
Supplement to Original Application dated June 17, 2024

Dear Mayor and City Council:

This letter acts as a supplement to the Water Hardship Application submitted on June 17, 2024. This Supplement is associated with the fiscal impact to the City should the Council approve the Hardship Application.

The fiscal impact is divided into two (2) areas, to-wit:

1. The actual dollar and cent impact to the City associated with future revenue if the Application is approved:

A. Approval will result in the property not being annexed into the City; however, if annexation actually occurred, the property would be annexed with a zoning of Light Industrial. The analysis letter of Diana Cooper which was enclosed with the original Application, set forth that the maximum value of the property as Light Industrial was approximately $222,156. Applicant submits that is the maximum amount of assessed value of the property that would be associated with property tax assessments. Using a millage rate of $5.00/$1,000 assessment (the maximum amount that a city can assess), calculates to approximately $1,100. That amount arguably is the maximum amount of future property tax revenue per year that the City would lose by approving this Application. However, that is not a cost but rather a loss of potential future property tax revenue. Applicant submits that amount is miniscule when compared to the

projected amount of property tax revenue of $7.4 million dollars to be collected as set forth in the proposed 2024-25 City budget. Therefore, Applicant submits the property tax impact to the City is negligible.

2. The dollar and cent impact to the City if the Council grants the waiver of water SDC's as requested by the Applicant.

A. Applicant concedes that the City will not receive some $7,800 in water SDC monies if the waiver of water SDC's is approved. Applicant has already set forth an extensive discussion as to the fact there will be no increase in future usage of water simply by the approval of the Application, and that the purpose of water SDC's is to charge the applicant for the potential increased future burden on City water usage the applicant will cause by the installation of a new meter. Hence, Applicant submits there should be no water SDC's charged now, because there will be no increased future burden on City water usage caused by approval. Additionally, Applicant does not want the City to think there will be no water SDC's collected in perpetuity simply by approval of Applicant's waiver request. Applicant fully understands that upon development of Tax Lot 1900, the owner will be required to pay water SDC's based upon the amount of flow required for the proposed development.

B. Additionally, the City will actually gain future revenue by approval of the Application. Presently, there are two properties sharing usage from a single meter, but there is only one monthly bill created by the City. After the new meter is installed on Tax Lot 1901, there will be two monthly water bills – one for Tax Lot 1900 (the present shared meter but which will only service Tax Lot 1900 after approval), and a separate bill for Tax Lot 1901 where the new meter will be installed. While the usage by Tax Lot 1900 will be minimal (as it now is), nonetheless, the City will still receive the minimum monthly amount for City water. Hence, the City will gain additional monthly revenue.

Please place this Letter as a supplement to the original Application dated June 17, 2024. Thank you for your consideration.

Yours very truly,

Michael G. Gunn
Attorney at Law

MGG:mgg
Cc – Scot Siegel via e mail, Will Worthey via e mail, ACG Concrete LLC via e mail, Terry Hansen, via e mail, Regina Thompson via e mail

Exhibit B.

Agreement to Rescind a Previously Recorded Contract for Extraterritorial Provision of Water Service and Consent to Annexation

AFTER RECORDING RETURN TO:
City of Newberg – Public Works Dept.
PO Box 970 414 E. 1st St
Newberg, OR 97132

RESCISSION OF PREVIOUSLY RECORDED CONTRACT FOR EXTRA-TERRITORIAL PROVISION OF WATER SERVICE AND CONSENT TO ANNEXATION

Pursuant to Newberg City Council Resolution Nbr 2024-3949, the City of Newberg (a municipal corporation) and the Estate of Monte Bowlin (who is the successor in interest to Monte Bowlin, deceased), hereby jointly rescind that certain Contract for Extra-Territorial Provision of Water Service and Consent to Annexation dated February 6, 2007 ("February 2007 Contract"), and recorded on February 8, 2010 in Instrument #201001821 of the Deed and Mortgage Records of Yamhill County, State of Oregon.

By their signatures affixed hereto, both parties hereby affirm and agree that the aforesaid February 2007 Contract is of no further force and effect.

Dated this _____ day of _____, 2024.

CITY OF NEWBERG

_____
The Estate of Monte Bowlin
By: Matthew Bowlin
Personal Representative

_____
Will Worthey, City Manager

APPROVED AS TO FORM:

_____
James Walker, Newberg City Attorney

State of Oregon)
)ss
County of Yamhill)

Personally appeared before me the above-named Matthew Bowlin, Personal Representative of the Estate of Monte Bowlin, Yamhill County Circuit Ct Case Nbr 24PB02211, who stated he was the Personal Representative of the said Estate and that he had the authority to execute the said document, and who further acknowledged execution of the said document to be his voluntary act and deed.

Subscribed and sworn to before me this _____ day of _____, 2024.

_____
Notary Public for Oregon
My commission expires_____

State of Oregon)
)ss
County of Yamhill)

Personally appeared before me the above-named Will Worthey who stated he was the City Manager of the City of Newberg and that he had the authority to execute the said document, and who further acknowledged execution of the said document to be his voluntary act and deed.

Subscribed and sworn to before me this _____ day of _____, 2024.

_____
Notary Public for Oregon
My commission expires _____

Exhibit C.

Contract for Extraterritorial Provision of Water Service
and Consent to Annexation

AFTER RECORDING RETURN TO:
City of Newberg – Public Works Dept
PO Box 970 414 E. 1st St
Newberg, OR 97132

CONTRACT FOR EXTRA-TERRITORIAL PROVISION OF WATER SERVICE and CONSENT TO ANNEXATION

(water service outside the City water system)
With Agreement entitled:
WAIVER OF ONE YEAR PERIOD AND PRESCRIBING THE PERIOD OF TIME THAT THE CONSENT TO ANNEX SHALL BE EFFECTIVE
(ORS 222. 173)
Attached

City Water System
(ORS 222. 115)

This Agreement (herein known as "AGREEMENT") is made and executed this _____ day of _____, 2024, by and between The City of Newberg, a municipal corporation of the State of Oregon (herein known as "City"), The Estate of Monte Bowlin (herein known as "The Estate"), and ACG Concrete LLC (an OR Limited Liability Company herein known as "ACG").

RECITALS:

1. Owner of Real Property Requesting Service and Owner of Associated Real Property:

   A. Owner Name: The Estate of Monte Bowlin ("the Estate")

   B. Owner Address: Matthew Bowlin
   Personal Representative of the Estate of Monte Bowlin
   PO Box 805
   Newberg, OR 97132

   Real Property Requesting

Service:

C. Property Address: 901 S. McKern Ct pka 901 S. Springbrook Rd
Newberg, OR 97132 ("the Estate Property")

D. Tax Lot No: R3221 1901 ("Tax Lot 1901")

E. Legal Description: See attached Exhibit "A" – TRACT 1

Associated Real Property Upon Which
Existing Shared Meter is Located; The Existing Shared Meter
Serves Both Tax Lots 1900 and 1901:

F. Owner Name: ACG

G. Owner address: PO Box 763
Newberg, OR 97243

H. Property Address: Bare Land – no physical address

I. Tax Lot No. R3221 1900 ("Tax Lot 1900")

J. Legal Description: See attached Exhibit "A" – TRACT 2

2. Water System. The water system to which the Estate Property, Tax Lot 1901, is to be connected to provide water service, is the Newberg Municipal Water System (herein known as "Water System").

3. Request: The Estate has requested that the February 6, 2007 Contract for Extra-Territorial Provision of Water Service and Consent to Annexation between the City and Monte Bowlin be mutually rescinded (this Contract was recorded on February 8, 2010 in Instrument #201001821 of the Deed and Mortgage Records of Yamhill County, State of Oregon). The Estate has also requested disconnection of the existing water service to the Estate Property, Tax Lot 1901, that is provided through a shared meter located on Tax Lot 1900. Additionally, the Estate has requested water service from the City and permission to connect to the Water System via a new meter to be installed on the Estate Property, Tax Lot 1901, which will supply City water to the Estate Property which is located outside the City limits of the City of Newberg. The existing water service to Tax Lot 1900 from the shared meter on Tax Lot 1900, will remain and will provide water service only to Tax Lot 1900. Once the new meter is installed on the Estate Property, Tax Lot 1901, a separate monthly water bill for usage from the new meter will be sent to the Estate, and a separate monthly water usage bill will be sent to the owner of Tax Lot 1900 for water usage from

the exiting meter on Tax Lot 1900. Approval of ACG is necessary for a separate monthly bill to be sent to ACG, the owner of Tax Lot 1900.

4. Hardship Exceptions: The Newberg Municipal Code, Section 13.15.120, provides for water connections outside the City limits under certain hardship conditions.

5. City Council Approval: Under certain hardship conditions, the City Council has approved this hardship connection by City Resolution No. 2024-3949. The Resolution with attached hardship conditions is hereby referenced and by this reference fully incorporated into this Agreement and is on file at the City of Newberg.

6. Intent to Annex: The Estate and the City agree that the intent for purposes of this CONTRACT is the Estate Property, Tax Lot 1901, will be annexed into the City only at such time as there is a change in usage of the Estate Property from primarily residential to another usage or Development of the Estate Property. "Development" of the property is defined as follows:

Any development that (a) includes partition or subdivision of the property, (b) increases water service requirements such that an additional or larger size meter is required, or (c) necessitates connection to a public wastewater system.

NOW, WHEREFORE, in consideration of the mutual covenants and restrictions contained herein, The City, the Estate, and ACG bargain and agree as follows:

1. The RECITALS set forth above are true and accurate and are incorporated herein.

2. Joint Rescission of Prior Agreement.

A. The February 2007 Contract recorded on February 8, 2010 in Instrument #201001821 of the Deed and Mortgage Records of Yamhill County, State of Oregon, was jointly rescinded by the City and the Estate via that certain document dated September ___, 2024 and recorded on September ___, 2024 in Instrument #2024-_____ of the Deed and Mortgage Records of Yamhill County, State of Oregon.

3. City Obligations.

A. The City does hereby agree to supply water to the Estate Property, Tax Lot 1901, in accordance with the City Code via a new separate ¾" lateral and a new ¾" meter which is to be installed on the Estate Property, Tax Lot 1901.

B. The City consents to the Estate Property, Tax Lot 1901, being connected to the Water System as set forth herein.

C. After disconnecting water service to the Estate Property, Tax Lot 1901, from the existing shared meter located on Tax Lot 1900, the City agrees to allow the said meter to continue to reside on Tax Lot 1900 and to continue to provide water service to only Tax Lot 1900.

4. ACG Obligation.

A. ACG agrees to pay all water usage charges associated with the meter that will remain located on Tax Lot 1900 which are assessed by the City normally on a monthly basis, in accordance with the City Code for water users inside the City limits.

B. ACG in no way assumes the Estate's obligations set forth in this Agreement.

5. The Estate's Obligations.

A. The Estate agrees to pay the full cost of the following:

1). Disconnecting the service to the Estate Property, Tax Lot 1901, from the shared meter located on Tax Lot 1900.

2). Extending service to the Estate Property, which will include installation of a new meter located on said property, Tax Lot 1901, with all services meeting City standards, together with the reasonable amount of attorney fees incurred by the City associated with the review of the Joint Rescission of the February 2007 Extra-Territorial Agreement, this Agreement, the Waiver of One Year Time Period, and the Resolution to be adopted by the City Council, as prepared by the Estate's attorney that were required by the approval of the Estate's hardship application.

B. The Estate agrees to pay all water systems development charges ("SDC's) as set forth in Newberg Municipal Code at the time of applying for a permit to connect to the Water System.

C. The Estate agrees to pay all water usage charges associated with Tax Lot 1901 assessed by the City normally on a monthly basis, in accordance with the City Code for water users outside the City limits.

D. The Estate shall abide by all requirements of the City Code.

6. Request to Annex.

A. The City may require the Estate to annex the Estate Property, Tax Lot 1901, only if one of the following events occur:

1). There is a change in usage of the Estate Property, Tax Lot 1901, from primarily residential to another usage.

2). The property is developed, with development of the property defined as follows:

Any development that (a) includes partition or subdivision of the property, (b) increases water service requirements such that an additional or larger size meter is required, or (c) necessitates connection to a public wastewater system.

B. The City may require the Estate or a successor in interest of the Estate to annex the Estate Property, Tax Lot 1901, only upon the occurrence of either of the specific events set forth above in Sub-Paragraphs 6A1) and 6A2). At the time annexation is required by the City, the current owner of the Estate Property, Tax Lot 1901, shall take all necessary action to have the Estate Property, Tax Lot 1901, annexed into the City of Newberg, with all necessary action including but not limited to the following:

1). Filing of application for annexation and payment of all necessary fees including, but not limited to, the application fee.

2). Support of annexation application process before the City.

7. Consent to Annex.

A. The Estate hereby consents to the annexation of the Estate Property, Tax Lot 1901, into the City of Newberg, Oregon, only upon the occurrence of either of those specific events set forth above in Sub-Paragraphs 6A1) and 6A2) that entitle the City to request the current owner of the Estate Property, Tax Lot 1901, to file an annexation application associated with the Estate Property, Tax Lot 1901.

B. The Estate agrees to have the consent to annexation be considered only in any annexation application and procedure triggered by the occurrence of either of those specific events set forth above in Sub-Paragraphs 6A1) and 6A2).

8. Waiver of One-Year period for Consent and Prescribing New Period.

A. The City and The Estate have executed a separate agreement concerning the time period that the consent to annex will be effective (the "Waiver Agreement"), and that agreement is attached hereto as Exhibit "B" and incorporated herein by reference.

B. Subject to the conditions set forth above in Sub-Paragraphs 6A1), 6A2), and 6B) and as set forth in the said Waiver Agreement, the Estate waives the one-year time period set forth in ORS 222.173 within which the consent to annex is effective, and the Estate agrees to a new time period which is effective until the occurrence of the earlier of the following two events:

1). The Estate Property, Tax Lot 1901, is annexed into the City.

2). The City ceases to provide extra-territorial water services to the Estate Property, Tax Lot 1901, before such annexation, and the City is in violation of the said Agreement.

9. Limitations on Water Connections.

A. The Estate hereby agrees that the water shall be used for domestic purposes only, and no water granted under this exception shall be used for agricultural use. The water connection can

be used only to supply water to an existing structure and will not be used to allow any new development.

B. The water connection is not transferrable to any other parcel. If the real property is partitioned or subdivided, the water connection shall only be allowed on the parcel containing the original structure.

10. Covenant and Restrictions Running with the Land.

A. This Agreement shall be recorded with the Yamhill County Deed Records with The Estate paying all recording costs and fees.

B. All of the terms, covenants, and conditions herein and imposed are for the benefit of the City, Tax Lot 1900 only as to the terms, covenants, and conditions applicable to Paragraph 4 as above stated, and the Estate Property, Tax Lot 1901.

C. This Agreement shall be binding on Tax Lot 1900 and the Estate Property, Tax Lot 1901, and the successors in interest of the owners of the aforesaid properties and shall act as a covenant and restriction running with the land.

11. Termination of Agreement.

A. As to the Estate Property, Tax Lot 1901, this Agreement shall cease when (1) the Estate Property, Tax Lot 1901, is annexed into the City of Newberg, or (2) The City ceases to provide extra-territorial water services to the Estate Property, Tax Lot 1901, before such annexation, and the City is in violation of the said Agreement.

B. As to Tax Lot 1900, this Agreement shall be perpetual in nature, but only as to the obligations as set forth above in paragraph 4.

IN WITNESS WHEREOF, the parties have executed this Agreement this ___ day of _____, 2024.

_____	_____
The Estate of Monte Bowlin By: Matthew Bowlin Personal Representative	ACG Concrete LLC by: Matthew Bowlin, Member
	_____ ACG Concrete LLC by: Christina Scott, Member
THE CITY OF NEWBERG	APPROVED AS TO FORM:
_____ Will Worthey, City Manager	_____ James Walker, City Attorney

State of Oregon)
)ss
County of Yamhill)

Personally appeared before me the above-named Matthew Bowlin, Personal Representative of the Estate of Monte Bowlin, Yamhill County Circuit Ct Case Nbr 24PB02211, who stated he was the Personal Representative of the said Estate and that he had the authority to execute the said document, and who further acknowledged execution of the said document to be his voluntary act and deed.

Subscribed and sworn to before me this _____ day of _____, 2024.

_____
Notary Public for Oregon
My commission expires _____

State of Oregon)
)ss
County of Yamhill)

Personally appeared before me the above-named Matthew Bowlin and Christina Scott, who stated they were the only members of ACG Concrete LLC and that they had the authority to execute the said document on behalf of the LLC, and who further acknowledged execution of the said document to be their voluntary act and deed.

Subscribed and sworn to before me this _____ day of _____, 2024.

_____
Notary Public for Oregon
My commission expires _____

State of Oregon)
)ss
County of Yamhill)

Personally appeared before me the above-named Will Worthey who stated he was the City Manager of the City of Newberg and that he had the authority to execute the said document, and who further acknowledged execution of the said document to be his voluntary act and deed.

Subscribed and sworn to before me this _____ day of _____, 2024.

_____
Notary Public for Oregon
My commission expires _____

Exhibit "A"

Real property in the County of Yamhill, State of Oregon, described as follows:

TRACT 1: [3221-1901]

Beginning at the Northeast corner of a tract conveyed to Kenneth Wegter and wife by deed recorded December 8, 1953 in Book 171, Page 733, Deed Records, said point being also 971.12 feet North of the Southeast corner of the Richard Everest Donation Land Claim No. 52 in Section 21, Township 3 South, Range 2 West, of the Willamette Meridian in Yamhill County, Oregon; thence West along the North line of said Wegter tract, 260 feet; thence North 125 feet; thence East 260 feet to the East line of said Everest Claim; thence South along the East line of said Richard Everest Claim, 125 feet to the Point of Beginning.

Save and except that portion conveyed to the State of Oregon, by and through its Department of Transportation in the Circuit Court of the State of Oregon for the County of Yamhill in case CV070267 General Judgment filed June 10, 2008 and recorded July 8, 2008 as Instrument No. 200811584.

TRACT 2: [3221-1900]

Parcel 1:

A tract of land in Section 21, Township 3 South, Range 2 West of the Willamette Meridian, Yamhill County, Oregon being part of that certain tract of land conveyed to D.B. & Rose E. Rahier by deed recorded in Film Volume 42, Page 234, Yamhill County Deed Records and being described as follows:

Beginning at the Northeast corner of said Rahier tract; thence South 00°09'30" West along the East line of said Rahier tract, 168.02 feet to the Northeast corner of that certain tract of land conveyed to Arnold D. and Shirley A. Rahier by deed recorded in Film Volume 91, Page 2102 Yamhill County Deed Records; thence North 89°50'30" West, 260.00 feet to the Northwest corner thereof; thence South 00°09'30" West 20.00 feet to an iron rod at the Southwest corner thereof; thence North 89°50'30" West 135.68 feet to an iron rod; thence North 00°20'30" East, 60.81 feet to an iron rod; thence South 87°56' West, 231.40 feet to an iron rod in the Easterly line of St. Paul Highway; thence North 22°43' West along said Easterly line, 147.81 feet to an iron rod in the North line of said D.B. Rahier tract; thence South 89°51'30" East, 684.17 feet to the Point of Beginning.

Excepting therefrom a portion of that land described as Parcel 1 in the conveyance of land to Roger P. Grahn, Inc., by deed recorded as Instrument No. 199713561 recorded August 12, 1997 in Yamhill County Deed and Mortgage Records,

Parcel 2:

Beginning at the Southeast corner of a tract of land conveyed to Arnold D. Rahier and Shirley A. Rahier, husband and wife, by deed recorded November 18, 1964 in Film Volume 41, Page 621, Yamhill County Deed Records, said point being also 971.12 feet North of the Southeast corner of the Richard Everest Donation Land Claim No. 52 in Section 21, Township 3 South, Range 2 West of the Willamette Meridian, Yamhill County, Oregon; thence North 125 feet to the Northeast corner of said Rahier tract and the True Place of Beginning of the description of the tract hereby conveyed; thence West 260 feet along the North line of said Rahier tract to the Northwest corner of said Rahier tract; thence North 20 feet to a point; thence East 260 feet parallel with the North line of said Rahier tract to the East line of the said Richard Everest Donation Land Claim, and thence South along the East line of said Everest Donation Land Claim 20 feet to the Place of Beginning.

Save and except from the above parcels those portions conveyed to the State of Oregon, by and through its Department of Transportation in the Circuit Court of the State of Oregon for the County of Yamhill in case CV050258 General Judgment filed July 26, 2006 and recorded August 9, 2006 as Instrument No. 200618315.

ILLUSTRATIVE EXHIBIT B TO EXTRA-TERRITORIAL CONTRACT A COPY OF SIGNED DOCUMENT WILL BE ATTACHED AS EXHIBIT B BEFORE RECORDING

AFTER RECORDING RETURN TO:
City of Newberg – Public Works Dept
PO Box 970 414 E. 1st St
Newberg, OR 97132

WAIVER OF ONE-YEAR TIME PERIOD AND PRESCRIBING THE PERIOD OF TIME THAT THE CONSENT TO ANNEX SHALL BE EFFECTIVE (ORS 222.173)

City Water System
(ORS 222. 115)

This Agreement (herein known as "AGREEMENT") is made and executed this _____ day of _____, 2024, by and between The City of Newberg, a municipal corporation of the State of Oregon (herein known as "City") and The Estate of Monte Bowlin (herein known as "The Estate").

RECITALS:

1. Owner of Real Property Requesting Service and Owner of Associated Real Property:

A. Owner Name: The Estate of Monte Bowlin

B. Owner Address: Matthew Bowlin
Personal Representative of the Estate of Monte Bowlin
PO Box 805
Newberg, OR 97132

Real Property Requesting Service:

C. Property Address: 901 S. McKern Ct pka 901 S. Springbrook Rd

Newberg, OR 97132

D. Tax Lot No: R3221-1901 ("Tax Lot 1901")

E. Legal Description: See attached Exhibit "A" – TRACT 1

2. Contract. The City and The Estate have executed a CONTRACT FOR EXTRA-TERRITORIAL PROVISION OF WATER SERVICE AND CONSENT TO ANNEXATION (herein called "Contract") dated _____, 2024 and recorded in the Yamill County deed and mortgage records. ACG Concrete LLC is also a party to the CONTRACT but only because ACG Concrete LLC is the owner of contiguous property upon which a shared water meter is located; in no way did ACG Concrete LLC's execution of the said CONTRACT bind ACG Concrete LLC to any obligations of the Estate associated with the said CONTRACT.

3. Consent to Annex. The CONTRACT contains specific terms and conditions which the Estate has agreed will trigger the Estate's consent to annexation. Additionally, the Estate agrees to waive the one-year time period prescribed by ORS 222.173 and agrees to a longer period of time for the consent to annex to be effective subject to the specific terms and conditions set forth in the said CONTRACT.

NOW, THEREFORE, the City and The Estate for mutual consideration hereby bargain and agree as follows:

1. The RECITALS set forth above are true and accurate and are incorporated herein.

2. Waiver. Subject to those specific terms and conditions set forth in the CONTRACT, the Estate waives the one year time period set forth in ORS 222.173 within which the consent to annex contained in the CONTRACT will be effective.

3. Time Period. Subject to those specific terms and conditions set forth in the CONTRACT, the Estate agrees that the time period that the consent to annex shall be effective is until the occurrence of the earlier of the following two events:

1). The Estate Property, Tax Lot 1901, is annexed into the City.

2). The City ceases to provide extra-territorial water services to the Estate Property, Tax Lot 1901, before such annexation, and the City is in violation of the said CONTRACT.

4. Recording. This waiver shall be recorded in the Yamhill County deed and mortgage records and shall be a covenant and restriction running with the land.

IN WITNESS WHEREOF, the parties have executed this AGREEMENT this ____ day of _____, 2024.

_____

The Estate of Monte Bowlin by:
Matthew Bowlin
Personal Representative

CITY OF NEWBERG

_____

Will Worthey, City Manager

APPROVED AS TO FORM:

_____

James Walker , Newberg City Attorney

State of Oregon)
)ss
County of Yamhill)

Personally appeared before me the above-named Matthew Bowlin, Personal Representative of the Estate of Monte Bowlin, Yamhill County Circuit Ct Case Nbr 24PB02211, who stated he was the Personal Representative of the said Estate and that he had the authority to execute the said document, and who further acknowledged execution of the said document to be his voluntary act and deed.

Subscribed and sworn to before me this _____ day of _____, 2024.

_____

Notary Public for Oregon
My commission expires _____

State of Oregon)
)ss
County of Yamhill)

Personally appeared before me the above-named Will Worthey who stated he was the City Manager of the City of Newberg and that he had the authority to execute the said document, and who further acknowledged execution of the said document to be his voluntary act and deed.

Subscribed and sworn to before me this _____ day of _____, 2024.

_____
Notary Public for Oregon
My commission expires _____

Exhibit "A"

Real property in the County of Yamhill, State of Oregon, described as follows:

TRACT 1: [3221-1901]

Beginning at the Northeast corner of a tract conveyed to Kenneth Wegter and wife by deed recorded December 8, 1953 in Book 171, Page 733, Deed Records, said point being also 971.12 feet North of the Southeast corner of the Richard Everest Donation Land Claim No. 52 in Section 21, Township 3 South, Range 2 West, of the Willamette Meridian in Yamhill County, Oregon; thence West along the North line of said Wegter tract, 260 feet; thence North 125 feet; thence East 260 feet to the East line of said Everest Claim; thence South along the East line of said Richard Everest Claim, 125 feet to the Point of Beginning.

Save and except that portion conveyed to the State of Oregon, by and through its Department of Transportation in the Circuit Court of the State of Oregon for the County of Yamhill in case CV070267 General Judgment filed June 10, 2008 and recorded July 8, 2008 as Instrument No. 200811584.

TRACT 2: [3221-1900]

Parcel 1:

A tract of land in Section 21, Township 3 South, Range 2 West of the Willamette Meridian, Yamhill County, Oregon being part of that certain tract of land conveyed to D.B. & Rose E. Rahier by deed recorded in Film Volume 42, Page 234, Yamhill County Deed Records and being described as follows:

Beginning at the Northeast corner of said Rahier tract; thence South 00°09'30" West along the East line of said Rahier tract, 168.02 feet to the Northeast corner of that certain tract of land conveyed to Arnold D. and Shirley A. Rahier by deed recorded in Film Volume 91, Page 2102 Yamhill County Deed Records; thence North 89°50'30" West, 260.00 feet to the Northwest corner thereof; thence South 00°09'30" West 20.00 feet to an iron rod at the Southwest corner thereof; thence North 89°50'30" West 135.68 feet to an iron rod; thence North 00°20'30" East, 60.81 feet to an iron rod; thence South 87°56' West, 231.40 feet to an iron rod in the Easterly line of St. Paul Highway; thence North 22°43' West along said Easterly line, 147.81 feet to an iron rod in the North line of said D.B. Rahier tract; thence South 89°51'30" East, 684.17 feet to the Point of Beginning.

Excepting therefrom a portion of that land described as Parcel 1 in the conveyance of land to Roger P. Grahn, Inc., by deed recorded as Instrument No. 199713561 recorded August 12, 1997 in Yamhill County Deed and Mortgage Records,

Parcel 2:

Beginning at the Southeast corner of a tract of land conveyed to Arnold D. Rahier and Shirley A. Rahier, husband and wife, by deed recorded November 18, 1964 in Film Volume 41, Page 621, Yamhill County Deed Records, said point being also 971.12 feet North of the Southeast corner of the Richard Everest Donation Land Claim No. 52 in Section 21, Township 3 South, Range 2 West of the Willamette Meridian, Yamhill County, Oregon; thence North 125 feet to the Northeast corner of said Rahier tract and the True Place of Beginning of the description of the tract hereby conveyed; thence West 260 feet along the North line of said Rahier tract to the Northwest corner of said Rahier tract; thence North 20 feet to a point; thence East 260 feet parallel with the North line of said Rahier tract to the East line of the said Richard Everest Donation Land Claim, and thence South along the East line of said Everest Donation Land Claim 20 feet to the Place of Beginning.

Save and except from the above parcels those portions conveyed to the State of Oregon, by and through its Department of Transportation in the Circuit Court of the State of Oregon for the County of Yamhill in case CV050258 General Judgment filed July 26, 2006 and recorded August 9, 2006 as Instrument No. 200618315.

Exhibit D.

Waiver of One Year Period Related to ORS 222.173

AFTER RECORDING RETURN TO:
City of Newberg – Public Works Dept
PO Box 970 414 E. 1st St
Newberg, OR 97132

WAIVER OF ONE-YEAR TIME PERIOD AND PRESCRIBING THE PERIOD OF TIME THAT THE CONSENT TO ANNEX SHALL BE EFFECTIVE (ORS 222.173)

City Water System
(ORS 222. 115)

This Agreement (herein known as "AGREEMENT") is made and executed this _____ day of _____, 2024, by and between The City of Newberg, a municipal corporation of the State of Oregon (herein known as "City") and The Estate of Monte Bowlin (herein known as "The Estate").

RECITALS:

1. Owner of Real Property Requesting Service and Owner of Associated Real Property:

A. Owner Name: The Estate of Monte Bowlin

B. Owner Address: Matthew Bowlin
Personal Representative of the Estate of Monte Bowlin
PO Box 805
Newberg, OR 97132

Real Property Requesting Service:

C. Property Address: 901 S. McKern Ct pka 901 S. Springbrook Rd
Newberg, OR 97132

D. Tax Lot No: R3221-1901 ("Tax Lot 1901")

E. Legal Description: See attached Exhibit "A" – TRACT 1

2. Contract. The City and The Estate have executed a CONTRACT FOR EXTRA-TERRITORIAL PROVISION OF WATER SERVICE AND CONSENT TO ANNEXATION (herein called "Contract") dated _____, 2024 and recorded in the Yamill County deed and mortgage records. ACG Concrete LLC is also a party to the CONTRACT but only because ACG Concrete LLC is the owner of contiguous property upon which a shared water meter is located; in no way did ACG Concrete LLC's execution of the said CONTRACT bind ACG Concrete LLC to any obligations of the Estate associated with the said CONTRACT.

3. Consent to Annex. The CONTRACT contains specific terms and conditions which the Estate has agreed will trigger the Estate's consent to annexation. Additionally, the Estate agrees to waive the one-year time period prescribed by ORS 222.173 and agrees to a longer period of time for the consent to annex to be effective subject to the specific terms and conditions set forth in the said CONTRACT.

NOW, THEREFORE, the City and The Estate for mutual consideration hereby bargain and agree as follows:

1. The RECITALS set forth above are true and accurate and are incorporated herein.

2. Waiver. Subject to those specific terms and conditions set forth in the CONTRACT, the Estate waives the one year time period set forth in ORS 222.173 within which the consent to annex contained in the CONTRACT will be effective.

3. Time Period. Subject to those specific terms and conditions set forth in the CONTRACT, the Estate agrees that the time period that the consent to annex shall be effective is until the occurrence of the earlier of the following two events:

1). The Estate Property, Tax Lot 1901, is annexed into the City.

2). The City ceases to provide extra-territorial water services to the Estate Property, Tax Lot 1901, before such annexation, and the City is in violation of the said CONTRACT.

4. Recording. This waiver shall be recorded in the Yamhill County deed and mortgage records and shall be a covenant and restriction running with the land.

IN WITNESS WHEREOF, the parties have executed this AGREEMENT this ____ day of _____, 2024.

_____
The Estate of Monte Bowlin by:
Matthew Bowlin
Personal Representative

CITY OF NEWBERG

_____

Will Worthey, City Manager

APPROVED AS TO FORM:

_____

James Walker , Newberg City Attorney

State of Oregon)
)ss
County of Yamhill)

Personally appeared before me the above-named Matthew Bowlin, Personal Representative of the Estate of Monte Bowlin, Yamhill County Circuit Ct Case Nbr 24PB02211, who stated he was the Personal Representative of the said Estate and that he had the authority to execute the said document, and who further acknowledged execution of the said document to be his voluntary act and deed.

Subscribed and sworn to before me this _____ day of _____, 2024.

_____
Notary Public for Oregon
My commission expires _____

State of Oregon)
)ss
County of Yamhill)

Personally appeared before me the above-named Will Worthey who stated he was the City Manager of the City of Newberg and that he had the authority to execute the said document, and who further acknowledged execution of the said document to be his voluntary act and deed.

Subscribed and sworn to before me this _____ day of _____, 2024.

_____
Notary Public for Oregon
My commission expires _____

REQUEST FOR COUNCIL ACTION

Date Action Requested: September 3, 2024

Order ☐ Ordinance ☒ Resolution ☐ Motion ☐ Information ☐ Proclamation ☐ No. 2024-2928	
Subject: An ordinance amending Title 15 Development Code related to daycare facilities	Staff: Jeremiah Cromie, Associate Planner Department: Community Development File: DCA23-0002
Business Session	Order On Agenda: Public Hearing
Hearing Type: Legislative ☒ Quasi-Judicial ☐ Administrative ☐ Not Applicable ☐	

Is this item state mandated? Yes ☒ No ☐

If yes, please cite the state house bill or order that necessitated this action:
HB3109 (2021)– For a portion of proposed amendments related to day cares in light industrial zones

Recommendation: Adopt Ordinance No. 2024-2928 as proposed.

Executive Summary:

On November 20, 2023, the Newberg City Council considered challenges faced by local employers and households in finding childcare, including barriers to establishing new daycare operations in Newberg. In March 2024, City staff completed initial review of those barriers and provided a memorandum (Exhibit C) recommending strategies to remedy identified barriers. The memorandum, which was shared with City Counselors and an interested parties list, cited excessive land use regulations as one of the many barriers to establishing daycare operations in Newberg. However, the memorandum also noted that only some of the identified barriers were within the city government's span of control. The community discussion and initial research led to prioritization of Development Code reforms to provide additional childcare by easing regulations for daycare operators in the 2024 Planning Division Work Plan. Based on the findings related to childcare barriers, the City is proposing to amend portions of the Development Code to comply with state law and make it easier for new daycare uses to operate within the City, as follows:

1. Allow daycare facilities to be a *permitted use* in Limited and Light Industrial Zones (M-1 and M-2 districts) instead of a *conditional use* which will also bring the City into compliance with state law pursuant to HB3109 (2021).

2. Decrease the amount of required parking for new daycare facilities by going to an employee and child ratio (1 per employee plus 1 per 10 children) rather than the current building size ratio of 5 spaces per 1,000 square feet of gross floor area.

3. Create a definition for play structures and allow them to be within 3 feet of a property line for interior yards.

Additional details can be found in the Planning Commission staff report in Exhibit G.

Fiscal Impact: There is no anticipated fiscal impact for these amendments.

Council Goals: Goal 2: Identify industrial land and attract employers to encourage family wage jobs, Policy 4: Remove barriers/deterrents to new, "clean"/light industrial employers that will provide family wage jobs.

Contents:

Exhibit A: Ordinance 2024-2928
Exhibit A-1: Ordinance 2024-2928 Development Code Amendments
Exhibit A-2: Ordinance 2024-2928 Findings
Exhibit B: Planning Commission Resolution 2024-394
Exhibit C: November 20, 2023 City Council Minutes
Exhibit D: March 2024 Day Care Barriers Memorandum
Exhibit E: Other Cities Parking Day Care Survey
Exhibit F: Agency Comments
Exhibit G: Planning Commission Staff Report (DCA23-0002)

Day Care Code Amendments Proposed Ordinance 2024-2928

City Council Legislative Public Hearing

File DCA23-0002

September 3, 2024

Background

- Councilor Member Olson presented on daycare barriers at the November 20, 2023 Council meeting
- City Council approved the Planning Division's Work Plan that included childcare updates as a critical project at their January 16, 2024 meeting
- Staff conducted a review of the barriers previously presented and shared results in a memo given to Councilor Olson and interested parties

Proposal

- Daycares would be permitted outright in light industrial zones (currently requires CUP) to comply with State Law (Oregon House Bill 3109 from 2021)
- Reduce Parking Requirements for Daycare
- Add definition of play structures and where they can be located

Code Language Changes

15.305.020. Zoning Use Table

#	Use	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-E	M-1	M-2	M-3	M-4-I	M-4-C	CF	I	AR	AI	Notes and Special Use Standards
300	**INSTITUTIONAL AND PUBLIC USES**																				
310	**INSTITUTIONAL CARE AND HOUSING**																				
Def.	Family child care home	P	P	P(13)	P(13)	P	P(13)	P(13)	P(13)	P(13)	X							P	P(13)		ORS Chapter 657A
312	Day care	P	P	P	C	P	P	P	P		P	~~C~~ P	~~C~~ P	C	C	P		P		P(14)	ORS Chapter 657A

Code Language Changes

15.05.030 (Definitions)

- "**Play Structure**" means swing sets, slides, playhouses, jungle gyms, sandboxes or other similar structures intended specifically for outdoor recreational activity for persons but not including dwellings, garages, carports, accessory structures, or sheds.

15.410.070

Yard exceptions and permitted intrusions into required yard setbacks.
The following intrusions may project into required yards to the extent and under the conditions and limitations indicated:

H. Play structures may intrude into the required front yard by no more than five feet and into the required interior yard by no more than two feet; provided that such intrusions are no closer than three feet from any interior lot line and 10 feet from any front lot line.

Code Language Changes

15.440.030 (Off-street parking requirements)

Day care facility	**~~5 spaces per each 1,000 gross sq. ft.~~ 1 space per employee plus 1 space per 10 children/adults cared for**
Family child care homes	No off-street parking other than for the required dwelling

Findings

A. Statewide Planning Goals (the “Goals”)

B. Newberg Comprehensive Plan

C. Newberg Municipal Code

15.100.060 Type IV procedure – Legislative

Recommendation

Planning Commission unanimously passed Resolution 2024-394 on July 11, 2024, recommending the Council adopt the proposed code changes and findings in proposed Ordinance 2024-2928.

Ordinance amending the Newberg Municipal Code, Title 15 Development Code, 15.05.030, 15.305.030, 15.410.070, and 15.440.030 related to daycare facilities and play structures (File No. DCA 23-0002)

Exhibit A

Ordinance 2024-2928

ORDINANCE NO. 2024-2928

An Ordinance amending Title 15 Development Code related to day care facilities and play structures

Recitals:

1. On November 20, 2023, the Newberg City Council directed the Community Development Department to evaluate barriers to the provision of childcare that are within control of the City.

2. On January 16, 2024, the Newberg City Council approved the 2024 Planning Division Work Plan including childcare updates as a Critical Project.

3. On March 18, 2024, staff shared a memorandum with City Councilors and interested parties which provided initial findings regarding childcare barriers and opportunities for further action by the City of Newberg that including code amendments.

4. On June 6, 2024, staff published a Post-Acknowledgement Plan Amendment (PAPA) notice with the Department of Land Conservation and Development (DLCD).

5. On July 11, 2024, after proper notice, the Newberg Planning Commission opened a public hearing, considered public testimony, deliberated, found that the proposed amendments were in the best interests of the City of Newberg.

6. On July 11, 2024, the Newberg Planning Commission adopted resolution 2024-394, recommends approval of the code amendments based on staff findings.

7. The Newberg City Council opened the hearing on September 3, 2024, considered testimony and deliberated.

The City of Newberg Ordains as Follows:

1. The code amendments shown in Exhibit "1-A" are hereby approved and adopted.

2. The findings shown in Exhibit "1-B" are hereby adopted. Exhibit "1-B" are hereby incorporated by reference.

Effective Date of this ordinance is the day after the adoption date, which is: _____, 2024. **Adopted** by the City Council of Newberg, Oregon, this _____ day of _____, 2024, by the following votes: **AYE:** **NAY:** **ABSTAIN:**

_____

Rachel Thomas, City Recorder

Attest by the Mayor this _____ day of _____, 2024.

_____
Bill Rosacker, Mayor

Ordinance amending the Newberg Municipal Code, Title 15 Development Code, 15.05.030, 15.305.030, 15.410.070, and 15.440.030 related to daycare facilities and play structures (File No. DCA 23-0002)

Exhibit A-1

Ordinance 2024-2928 Development Code Amendments

Development Code Amendment – File DCA23-0002

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

The Newberg Development Code shall be amended as follows:

Section 1. Newberg Development Code, 15.05.030 shall be amended to read for the following definitions:

"**Play Structure**" means swing sets, slides, playhouses, jungle gyms, sandboxes or other similar structures intended specifically for outdoor recreational activity for persons but not including dwellings, garages, carports, accessory structures, or sheds.

Section 2. Section 15.305.020 is amended to read as follows:

Newberg Development Code – Zoning Use Table

#	Use	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-E	M-1	M-2	M-3	M-4-I	M-4-C	CF	I	AR	AI	Notes and Special Use Standards
100	**AGRICULTURAL USES**																				
Def.	Horticulture	P	P	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	
Def.	Livestock and poultry farming	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
Def.	Home gardening	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Def.	Home livestock and poultry raising	S	S								X								S		NMC Title 6
200	**RESIDENTIAL USES**																				

#	Use	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-E	M-1	M-2	M-3	M-4-I	M-4-C	CF	I	AR	AI	Notes and Special Use Standards
Def.	Dwelling, single-family detached	P(2)	P	P(3)		P		C(4)	C(5)		X							P	P(6)		Subject to lot or development site area requirements of NMC 15.405.010
Def.	Dwelling, townhouse	P(2)	P	P(3)		P		C(4)	C(5)		X							P	P(6)		NMC 15.415.050(B); subject to lot or development site area requirements of NMC 15.405.010
Def.	Manufactured home on individual lot	S(2)	S	S(3)	P(7)	S					X								P(6)		NMC 15.445.050 – 15.445.070; subject to lot or development site area requirements of NMC 15.405.010
Def.	Manufactured dwelling park		S	S	S						X										NMC 15.445.075 – 15.445.160
Def.	Mobile home park		S	S	S						X										NMC 15.445.075 – 15.445.160
Def.	Manufactured home subdivision		S		S						X										NMC 15.445.075 – 15.445.160
Def.	Dwelling, duplex	P(2)	P	P	C	P		C(4)	P(8)/C(5)		X							P	P(6)		Subject to lot or development site area requirements of NMC 15.405.010
Def.	Dwelling, triplex	P	P	P		P												P	P(6)		NMC 15.415.050(A); subject to lot or development site area requirements of NMC 15.405.010
Def.	Dwelling, quadplex	P	P	P		P												P	P(6)		NMC 15.415.050(A); subject to lot or development site area requirements of NMC 15.405.010
Def.	Cottage cluster project	P	P	P		P												P	P(6)		NMC 15.415.050(C); subject to lot or development site area requirements of NMC 15.405.010

#	Use	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-E	M-1	M-2	M-3	M-4-I	M-4-C	CF	I	AR	AI	Notes and Special Use Standards
Def.	Dwelling, multifamily	C	P	P	C	P		C(4)	P(8)/C(5)		X							P			Subject to lot or development site area requirements of NMC 15.405.010
Def.	Dwelling, accessory	S	S	S		S		C	C		X							S	S		Chapter 15.445 NMC, Article V
Def.	Dwelling, mixed use						P(9)	P(10)	P(8)/C(5)	P(11)	X	C	C								
Def.	Dwelling, caretaker										X	P	P	P	C					P(12)	Limited to one per lot, and allowed whenever the use requires the on-site residence of such person.
Def.	Dormitory		C	P		P					X							P			
Def.	Home occupation (no more than one outside paid employee)	S	S	S(13)	S	S	S(13)	S(13)	S(13)	S(13)	X	S(13)	S(13)	S(13)	S(13)	S(13)	S(13)	S	S	S(13)	NMC 15.415.060
Def.	Home occupation (more than one outside paid employee)	C	C	C(13)	C	C	C(13)	C(13)	C(13)	C(13)	X	C(13)	C(13)	C(13)	C(13)	C(13)	C(13)	C	C	C(13)	NMC 15.415.060
300	**INSTITUTIONAL AND PUBLIC USES**																				
310	**INSTITUTIONAL CARE AND HOUSING**																				
Def.	Family child care home	P	P	P(13)	P(13)	P	P(13)	P(13)	P(13)	P(13)	X							P	P(13)		ORS Chapter 657A
312	Day care	P	P	P	C	P	P	P	P		P	~~C~~ P	~~C~~ P	C	C	P		P		P(14)	ORS Chapter 657A
Def.	Residential care home (5 or fewer people)	P	P	P(13)	P(13)	P	P(13)	P(13)	P(13)	P(13)	X							P	P(13)		ORS 197.665
Def.	Residential care facility (6 – 15 people)	C	P	P	C	P		C	C		X							P			ORS 197.665
315	Group care facility (16+ people)	C	C	C		C		C			X							P			
316	Hospital	C	C	C		C		P	P		C							P			
Def.	Prison										X	C	C	C	C						
320	**ASSEMBLY**																				

#	Use	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-E	M-1	M-2	M-3	M-4-I	M-4-C	CF	I	AR	AI	Notes and Special Use Standards
321	Religious institution, place of worship	P	P	P	P	P	P	P	P	P	X		P(29)				C	P			
322	Private club, lodge, meeting hall			C	C			P	P	C	X							P			
330	**SCHOOLS**																				
330	School, primary or secondary	P	P	P		P					X						C				
331	College	P	P	P		P	P	P	P(15)		P(15)						C	P			
332	Commercial educational services	C	C	C		C	P	P	P		P							C			
340	**PARKS AND OPEN SPACES**																				
341	Open space	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
342	Park	P	P	P	P	P	P	P	P	P	X				P(16)		P(17)	P			
Def.	Golf course	P	P	P							X						P(17)				
350	**PUBLIC SERVICES**																				
351	Community services	C	C	C	C	P		P	P	P	P						C	P			
352	Emergency services	P	P	P	P	P	P	P	P	P	X	P	P	P	P	P	P	P	P	P	
Def.	Pound, dog or cat							C	C		C	C	P	P	C	C					
Def.	Cemetery	C	C	C	C	C	C	C	C	C	X	C	C	C	C	C	C	C	C	C	ORS Chapter 97.46
360	**TRANSPORTATION**																				
Def.	Transportation facilities and improvements	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Def.	Transit center							P	P	P	X	P	P	P							
Def.	Parking facility			P		C	C	P	P(18)	C	P	P	P	P		P		P			
Def.	Airport, landing field										X		C	C						P	
Def.	Heliport, helipad	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	P	

#	Use	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-E	M-1	M-2	M-3	M-4-I	M-4-C	CF	I	AR	AI	Notes and Special Use Standards
Def.	Marina									C	X						C				
	Pilings, piers, docks, and similar in-water structures									C	X						C				
370	**UTILITIES**																				
Def.	Basic utilities	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Def.	Utility distribution plant or yard										X		P	P	P						
Def.	Wastewater treatment plant										X		C	P	C						
Def.	Telecommunication facility incorporated into existing structure/utility pole and no taller than 18 feet above existing structure/utility pole	C	C	C	C	C	S	S	S	S	S	S	S	S	S	S		S			Chapter 15.445 NMC, Article IV
Def.	Telecommunication facility, including radio towers and transmitters, which are 100 feet or less in height, except those incorporated into an existing structure no taller than 18 feet above that structure						C	C	C		C	C	S(19)	S(19)	P	C		C			Chapter 15.445 NMC, Article IV
Def.	Telecommunication facility, including radio towers and transmitters, which are over 100 feet						C	C	C		C	C	C	C	C	C		C			Chapter 15.445 NMC, Article IV
400	**COMMERCIAL USES**																				
410	**COMMERCIAL OFFICES**																				
411	Medical office			C		P	P(20)	P	P(21)		P							P			
412	Local business office					P(22)	P(20)	P	P(21)		P										
420	**COMMERCIAL SALES AND RENTALS**																				

#	Use	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-E	M-1	M-2	M-3	M-4-I	M-4-C	CF	I	AR	AI	Notes and Special Use Standards
421	Retail sales – General						P(20)	P	P(15)/(21)	P	P		P(23)								
422	Retail sales – Bulk outdoor							P	C		P		P								
423	Retail sales – Convenience						P(20)	P	P(21)	P	X		P(24)			P(25)					
Def.	Temporary merchant							S	S(21)		S										NMC 5.15.050 et seq.
425	Retail food and beverage production							S	S		P										Chapter 15.445 NMC, Article VIII
430	**EATING AND DRINKING ESTABLISHMENTS**																				
430	Eating and drinking – Alcohol-related							P	P(21)	P	P										Requires liquor license
430	Eating and drinking – Non-alcohol-related						P(20)	P	P(21)	P	P	P	P							C(26)	
440	**COMMERCIAL SERVICES**																				
441	Personal services					P	P(20)	P	P(21)	P	P										
442	Commercial services						P(20)	P	P(21)		P										
443	Commercial vehicle service							P	C		X	P(27)	P			P(28)					
Def.	Kennel, commercial							C	C		X	C	P	P	C	C					
450	**COMMERCIAL RECREATION**																				
451	Commercial recreation – Indoors							P	P(15)		P	P(29)	P(29)								
452	Commercial recreation – Outdoors							P			X		C								
453	Commercial recreation – Motor-vehicle-related										X		C							C(33)	
460	**COMMERCIAL LODGING**																				
Def.	Vacation rental home	C	C	S	S	S	S(13)	S(13)	S(13)	S(13)	X										Chapter 15.445 NMC, Article VII

#	Use	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-E	M-1	M-2	M-3	M-4-I	M-4-C	CF	I	AR	AI	Notes and Special Use Standards
Def.	Bed and breakfast (2 or fewer rooms)	C	S	S		S	S	S	S	S	X										NMC 15.445.010
Def.	Bed and breakfast (3 or more rooms)	C	C	C		C	C	S	S	S	X										NMC 15.445.010
Def.	Hotel or motel							P	P(15)	P	P									C(26)	
Def.	Recreational vehicle park							C		C	X	C	C	C							NMC 15.445.170
500	**INDUSTRIAL USES**																				
501	Traded sector industry office					P(30)	P(30)	P	P		P	P	P		P					P(33)	
502	Industrial services							C			P		P	P	P					P(33)	
503	Wholesale and industry sales							C(31)			P	P(31)	P	P	P					P(33)	
504	Warehouse, storage, and distribution										P	P(32)	P	P	P					P(33)	
505	Self-service storage							P			X	P	P	P	P						
506	Light manufacturing										P	P	P	P	P					P(33)	
507	Heavy manufacturing										X		P(34)	P	C						
508	Waste-related										X			C	C						
600	**MISCELLANEOUS USES**																				
Def.	Accessory building and use incidental to other permitted uses in the zone	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
	Uses similar to permitted uses in the zone and not defined or categorized	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
	Uses similar to conditional uses in the zone and not defined or categorized	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	
	Medical marijuana dispensary	X	X	X	X	X	P(35)	P(35)	P(35)	P(35)	X	X	X	X	X	X	X	X	X	X	

#	Use	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-E	M-1	M-2	M-3	M-4-I	M-4-C	CF	I	AR	AI	Notes and Special Use Standards
	Medical marijuana processor	X	X	X	X	X	X	P(38)	X	X	P(37)	P(37)	P(37)	P(37)	P(37)	X	X	X	X	X	
	Medical marijuana grow site	P(36)	P(36)	P(36)	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	X	
	Medical marijuana wholesaler	X	X	X	X	X	X	C(31)/(38)	X	X	P(38)	P(38)	P(38)	P(38)	P(38)	X	X	X	P(38)	X	
	Recreational marijuana processor	X	X	X	X	X	X	C(38)	X	X	P(37)	P(37)	P(37)	P(37)	P(37)	X	X	X	X	X	
	Recreational marijuana producer (indoor)	X	X	X	X	X	X	X	X	X	P	P	P	P	P	X	X	X	X	X	
	Recreational marijuana producer (outdoor)	X	X	X	X	X	X	X	X	X	C	C	C	C	C	X	X	X	X	X	
	Recreational marijuana retailer	X	X	X	X	X	P(38) /(39) /(40)	P(38) /(39) /(40)	P(38) /(39) /(40)	P(38) /(39) /(40)	X	X	X	X	X	X	X	X	X	X	
	Recreational marijuana wholesaler	X	X	X	X	X	X	C(31)/(38)	X	X	P(38)	P(38)	P(38)	P(38)	P(38)	X	X	X	P(38)	X	
	Marijuana laboratories	X	X	X	X	X	P	P	P	P	P	P	P	P	P	P	X	P	X	X	
	Marijuana research certificate	X	X	X	X	X	P	P	P	P	P	P	P	P	P	P	X	P	X	X	

Key:

P: Permitted use

S: Special use – Use requires a special use permit

C: Conditional use – Requires a conditional use permit

X: Prohibited use

(#): See notes for limitations

Notes.

(1) Limited to sites with preexisting agricultural uses, including at time of annexation.

(2) Limited to one per lot as a permitted use. More than one per lot allowed only through a conditional use permit or planned unit development, subject to density limits of NMC 15.405.010(B).

(3) Permitted on individual lots created prior to November 17, 1992. Homes on individual lots created on or after November 17, 1992, will only be permitted through the planned unit development process.

(4) The permitted density shall be stated on the conditional use permit.

(5) The dwelling units must front onto Hancock Street. No more than 30 percent of a single street frontage of a block may be occupied by residential uses. Contiguous residential street frontage must be less than 60 lineal feet. Density and parking standards for allowable dwelling units must be met.

(6) One single-family, duplex, triplex or quadplex dwelling, or up to four townhouses or cottage dwellings per lot with the addition of a tie-down or hangar for an airplane. At a minimum, a paved tie-down or hangar shall be provided on the property, or the property shall include permanent rights to a private hangar within the subdivision. See Chapter 15.336 NMC.

(7) The homes are not subject to the development standards set forth in NMC 15.445.050 through 15.445.070.

(8) The units must be located on the same lots as another use permitted or conditionally permitted in the C-3 zone and may not occupy the first floor storefront area (the portion of the building closest to the primary street), except on E/W Second Street where dwelling units are permitted to occupy the first floor of a building. There shall be no density limitation. Private parking areas or garages are not required for dwelling units located within buildings in existence prior to and including June 30, 1999. Parking shall be provided for all new dwelling units within any building constructed after June 30, 1999, in private parking areas or garages on the basis of one parking space for each dwelling unit.

(9) Permitted on the ground floor, one per lot in conjunction with any other use permitted or conditional use in the C-1 zone. On upper floors, dwelling units are unlimited and one parking space per dwelling unit is required.

(10) Permitted above any permitted use in the C-2 zone. There shall be no density limitation. Parking shall be provided in private parking areas or garages on the basis of one parking space for each dwelling unit.

(11) The units must be located on the same lot as another use permitted or conditionally permitted in the C-4 district and may not occupy the first-floor storefront area (the portion of the building closest to the primary street). There shall be no density limitation. Parking shall be provided for all new dwelling units in private parking areas or garages on the basis of a maximum of one parking space for each dwelling unit.

(12) One residence of area not more than 40 percent of the area of the hangar floor, up to a maximum of 1,500 square feet, for an airport caretaker or security officer on each separate parcel.

(13) Permitted in existing dwelling units only. New dwelling units may not be created for this use unless the dwelling unit would otherwise be allowed.

(14) Allowed exclusively for employers or employees of businesses located within this district.

(15) Facility over 40,000 square feet gross floor area requires a conditional use permit.

(16) Allowed in areas designated in industrial area plans.

(17) Limited to facilities owned or operated by a public agency.

(18) Parking garages are a conditional use, and must have first floor street frontage of 40 feet or less for ingress or egress. First floor development must be commercial.

(19) A conditional use permit is required if the facility is less than 2,000 feet from the nearest telecommunication facility.

(20) Businesses in the C-1 zone that have hours of operation between 10:00 p.m. and 7:00 a.m. require a conditional use permit.

(21) Drive-up service windows accessory to an existing business on the site with walk-in customer service, such as a drive-up bank window, are allowed only with a conditional use permit. Otherwise, drive-up service windows, except those in service on April 1, 2002, are prohibited. Changes in use will not be allowed.

(22) Retail sales of goods on site not allowed.

(23) Limited to secondhand stores.

(24) Store size is limited to 2,000 square feet gross floor area.

(25) Store size is limited to 5,000 square feet gross floor area.

(26) Use must demonstrate that it is compatible with airport operations.

(27) Limited to service stations.

(28) Limited to card lock fueling only. Retail services are limited to self-vending services.

(29) Permitted provided the structure is designed for easy conversion to industrial use, including not having fixed seating.

(30) Limited to 10,000 square feet maximum floor area.

(31) Allowed indoors only.

(32) Allowed indoors only. Outdoor use requires a conditional use permit.

(33) Must be aviation-related. See Chapter 15.332 NMC.

(34) Limited to expansion or change of existing heavy manufacturing uses.

(35) Shall not be located at the same address as a state-registered marijuana grow site, or within 1,000 feet of the real property comprising a public park, a public elementary or secondary school for which attendance is compulsory under ORS 339.020 or a private or parochial elementary or secondary school, teaching children as described in ORS 339.030(1)(a). Distance is measured in a straight line in a radius extending for 1,000 feet or less in any direction from the closest point anywhere on the boundary line of the real property comprising an existing public park, public elementary or secondary school or a private or parochial elementary or secondary school to the closest point of the premises of a dispensary. The premises consist of the dispensary building, or the portion of the building used for a dispensary. Shall not be located within 1,000 feet of another medical marijuana dispensary. Operating hours are limited to the hours between 9:00 a.m. and 10:00 p.m.

(36) Allows up to 12 mature plants; indoor operations only.

(37) Indoor use only.

(38) The use is not allowed within 1,000 feet of the real property comprising a public park, a public elementary or secondary school for which attendance is compulsory under ORS 339.020 or a private or parochial elementary or

secondary school, teaching children as described in ORS 339.030(1)(a). Distance is measured in a straight line in a radius extending for 1,000 feet or less in any direction from the closest point anywhere on the boundary line of the real property comprising an existing public park, public elementary or secondary school or a private or parochial elementary or secondary school to the closest point of the premises of a recreational processor, wholesaler or retailer, or medical marijuana processor and wholesaler.

(39) One-thousand-foot separation between retailer to retailer premises and 1,000-foot separation between retailer to dispensary premises.

(40) Operating hours limited to the hours between 9:00 a.m. and 10:00 p.m. [Ord. 2889 § 2 (Exh. B § 14), 12-6-21; Ord. 2880 § 2 (Exh. B § 16), 6-7-21; Ord. 2868 § 1 (Exh. A), 11-16-20; Ord. 2857 § 1 (Exh. A §§ 1, 2), 3-16-20; Ord. 2851 § 1 (Exh. A § 1), 1-21-20; Ord. 2840 § 1 (Exh. A § 1, Att. 1), 10-15-18; Ord. 2832 § 1 (Exh. A, Att. 1), 7-2-18; Ord. 2820 § 1 (Exh. A § 1, Att. 1), 9-18-17; Ord. 2809 § 1 (Exh. A § 1), 9-19-16; Ord. 2801 § 1 (Exh. A § 2), 6-6-16; Ord. 2798 § 1 (Exh. A § 2), 4-4-16; Ord. 2793 § 2 (Exh. A § 1), 2-1-16; Ord. 2780 § 1 (Exh. A § 2), 4-6-15; Ord. 2763[1] § 1 (Exh. A § 6), 9-16-13.]

Section 3. Section 15.410.070 is amended to read as follows:

Yard exceptions and permitted intrusions into required yard setbacks.
The following intrusions may project into required yards to the extent and under the conditions and limitations indicated:

A. Depressed Areas. In any district, open work fences, hedges, guard railings or other landscaping or architectural devices for safety protection around depressed ramps, stairs or retaining walls may be located in required yards; provided, that such devices are not more than three and one-half feet in height.

B. Accessory Buildings. In front yards on through lots, where a through lot has a depth of not more than 140 feet, accessory buildings may be located in one of the required front yards; provided, that every portion of such accessory building is not less than 10 feet from the nearest street line.

C. Projecting Building Features. The following building features may project into the required front yard no more than five feet and into the required interior yards no more than two feet; provided, that such projections are no closer than three feet to any interior lot line:

1. Eaves, cornices, belt courses, sills, awnings, buttresses or other similar features.

2. Chimneys and fireplaces, provided they do not exceed eight feet in width.

3. Porches, platforms or landings which do not extend above the level of the first floor of the building.

4. Mechanical structures (heat pumps, air conditioners, emergency generators and pumps).

D. Fences and Walls.

1. In the residential district, a fence or wall shall be permitted to be placed at the property line or within a yard setback as follows:

a. Not to exceed six feet in height. Located or maintained within the required interior yards. For purposes of fencing only, lots that are corner lots or through lots may select one of the street frontages as a front yard and all other yards shall be considered as interior yards, allowing the placement of a six-foot fence on the property line. In no case may a fence extend into the clear vision zone as defined in NMC 15.410.060.

b. Not to exceed four feet in height. Located or maintained within all other front yards.

2. In any commercial, industrial, or mixed employment district, a fence or wall shall be permitted to be placed at the property line or within a yard setback as follows:

a. Not to exceed eight feet in height. Located or maintained in any interior yard except where the requirements of vision clearance apply. For purposes of fencing only, lots that are corner lots or through lots may select one of the street frontages as a front yard and all other yards shall be considered as interior yards, allowing the placement of an eight-foot fence on the property line.

b. Not to exceed four feet in height. Located or maintained within all other front yards.

3. If chain link (wire-woven) fences are used, they are manufactured of corrosion-proof materials of at least 11-1/2 gauge.

4. The requirements of vision clearance shall apply to the placement of fences.

E. Parking and Service Drives (Also Refer to NMC 15.440.010 through 15.440.080).

1. In any district, service drives or accessways providing ingress and egress shall be permitted, together with any appropriate traffic control devices in any required yard.

2. In any residential district, public or private parking areas and parking spaces shall not be permitted in any required yard except as provided herein:

a. Required parking spaces shall be permitted on service drives in the required front yard in conjunction with any single-family detached dwelling, duplex dwelling, triplex dwelling, quadplex dwelling, or townhouse dwelling on a single lot.

b. Recreational vehicles, boat trailers, camperettes and all other vehicles not in daily use are restricted to parking in the front yard setback for not more than 48 hours; and recreational vehicles, boat trailers, camperettes and all other vehicles not in daily use are permitted to be located in the required interior yards.

c. Public or private parking areas, parking spaces or any building or portion of any building intended for parking which have been identified as a use permitted in any residential district shall be permitted in any interior yard that abuts an alley, provided

said parking areas, structures or spaces shall comply with NMC 15.440.070, Parking tables and diagrams (Diagrams 1 through 3).

d. Public or private parking areas, service drives or parking spaces which have been identified as a use permitted in any residential district shall be permitted in interior yards; provided, that said parking areas, service drives or parking spaces shall comply with other requirements of this code.

3. In any commercial or industrial district, except C-1, C-4, M-1, and M-E, public or private parking areas or parking spaces shall be permitted in any required yard (see NMC 15.410.030). Parking requirements in the C-4 district and the M-E district within the riverfront overlay subdistrict are described in NMC 15.352.040(H).

4. In the I district, public or private parking areas or parking spaces may be no closer to a front property line than 20 feet, and no closer to an interior property line than five feet.

F. Public Telephone Booths and Public Transit Shelters. Public telephone booths and public transit shelters shall be permitted; provided, that vision clearance is maintained for vehicle requirements for vision clearance.

G. Hangars within the AR airport residential district may be constructed with no yard setbacks to property lines adjacent to other properties within the airport residential or airport industrial districts. [Ord. 2889 § 2 (Exh. B § 31), 12-6-21; Ord. 2880 § 2 (Exh. B § 40), 6-7-21; Ord. 2868 § 1 (Exh. A), 11-16-20; Ord. 2647, 6-5-06; Ord. 2619, 5-16-05; Ord. 2564, 4-15-02; Ord. 2561, 4-1-02; Ord. 2451, 12-2-96. Code 2001 § 151.556.]

H. Play structures may intrude into the required front yard by no more than five feet and into the required interior yard by no more than two feet; provided that such intrusions are no closer than three feet from any interior lot line and 10 feet from any front lot line.

Penalty: See NMC 15.05.120.

Section 4. Section 15.440.030 is amended to read as follows:

Parking spaces required.

Use	Minimum Parking Spaces Required
Residential Types	
Dwelling, multifamily and multiple single-family dwellings on a single lot	
Studio or one-bedroom unit	1 per dwelling unit
Two-bedroom unit	1.5 per dwelling unit
Three- and four-bedroom unit	2 per dwelling unit
Five- or more bedroom unit	0.75 spaces per bedroom

Use	Minimum Parking Spaces Required
• Unassigned spaces	If a development is required to have more than 10 spaces on a lot, then it must provide some unassigned spaces. At least 15 percent of the total required parking spaces must be unassigned and be located for convenient use by all occupants of the development. The location shall be approved by the director.
• Visitor spaces	If a development is required to have more than 10 spaces on a lot, then it must provide at least 0.2 visitor spaces per dwelling unit.
• On-street parking credit	On-street parking spaces may be counted toward the minimum number of required spaces for developments required to have more than 10 spaces on a lot. The on-street spaces must be directly adjoining and on the same side of the street as the subject property, must be legal spaces that meet all city standards, and cannot be counted if they could be removed by planned future street widening or a bike lane on the street.
• Available transit service	At the review body's discretion, affordable housing projects may reduce the required off-street parking by 10 percent if there is an adequate continuous pedestrian route no more than 1,500 feet in length from the development to transit service with an average of less than one hour regular service intervals during commuting periods or where the development provides its own transit. A developer may qualify for this parking reduction if improvements on a proposed pedestrian route are made by the developer, thereby rendering it an adequate continuous route.
Commercial neighborhood district (C-1)	1 for each dwelling
Dwelling, single-family	2 for each dwelling unit on a single lot
Dwelling, duplex	1 for each dwelling unit
Dwelling, triplex	1 for each dwelling unit

Use	Minimum Parking Spaces Required
	Except that conversion of a detached single-family dwelling to a triplex dwelling shall not be subject to this requirement
Dwelling, quadplex	1 for each dwelling unit Except that conversion of a detached single-family dwelling to a quadplex dwelling shall not be subject to this requirement
Dwelling, townhouse	1 for each dwelling unit
Dwelling, cottage	1 for each dwelling unit
Fraternities, sororities, cooperatives and dormitories	1 for each three occupants for which sleeping facilities are provided
Hotels, motels, motor hotels, etc.	1 for each guest room
Rooming or boarding houses	1 for each guest room
Special needs housing	1 space per 3 beds or actual parking needs as demonstrated through a parking analysis.
Institutional Types	
Churches, clubs, lodges	1 for every 4 fixed seats or every 8 feet of bench length or every 28 sq. ft. where no permanent seats or benches are maintained – in main auditorium (sanctuary or place of worship)
Continuing care retirement community not including nursing care	1 space per living unit
Day care facility	~~5 spaces per each 1,000 gross sq. ft.~~ 1 space per employee plus 1 space per 10 children/adults cared for.
Family child care homes	No off-street parking other than for the required dwelling.
Hospitals (including accessory retail wholly contained within a hospital building)	2 spaces for each 1,000 gross sq. ft.
Libraries, museums, art galleries	1 for each 250 sq. ft. of gross floor area
Medical/dental offices and laboratories	3.5 spaces for each 1,000 gross sq. ft.
Nursing homes, homes for the aged, group care homes, asylums, etc.	1 for each 3 beds

Use	Minimum Parking Spaces Required
Schools	Colleges – "commuter" type, 1 for every full-time equivalent student (plus 1/2 of the requirements for accessory buildings, i.e., 1.-E* and 3.-G(1)**)
Schools	Colleges – "resident" type, 1 for every 3 full-time equivalent students (plus 1/2 of the requirements for accessory buildings, i.e., 1.-E* and 3.-G(1)**)
Schools	Elementary or junior high, 1-1/2 for each teaching station plus 4 for every classroom, or 1 for every 42 sq. ft. of seating area where there are no fixed seats in an auditorium or assembly area
Schools	High schools, 1-1/2 for each teaching station, plus 8 for every classroom, or 1 for every 28 sq. ft. of seating area where there are no fixed seats in an auditorium or assembly area
Schools	Colleges – commercial or business, 1 for every 3 classroom seats (plus 1/2 of the requirements for accessory buildings, i.e., 1.-E* and 3.-G(1)**)
Welfare or correctional institutions	1 for each 5 beds
Commercial Types	
Barber and beauty shops	1 for each 75 sq. ft. of gross floor area
Bowling alleys	6 for each bowling lane
Establishments or enterprises of a recreational or an entertainment nature:	
Establishments for the sale and consumption on the premises of food and beverages with a drive-up window	1 for each 75 sq. ft. of gross floor area
Establishments for the sale and consumption on the premises of food and beverages without a drive-up window	1 for each 100 sq. ft. of gross floor area
Participating type, e.g., skating rinks, dance halls	1 for each 75 sq. ft. of gross floor area
Spectator type, e.g., auditoriums, assembly halls, theaters, stadiums, places of public assembly	1 parking space for each 4 seats

Use	Minimum Parking Spaces Required
Office buildings, business and professional offices	1 for every 400 sq. ft. of gross floor area
Pharmacies	1 for each 150 sq. ft. of gross floor area
Retail establishments, except as otherwise specified herein	1 for each 300 sq. ft. of gross floor area
Retail stores handling bulky merchandise, household furniture, or appliance repair	1 for each 600 sq. ft. of gross floor area
Industrial Types	
Except as specifically mentioned herein, industrial uses listed as permitted in the M districts: M-1, M-2, M-3, and M-4	1 for each 500 sq. ft. of gross floor area
Aircraft storage hangars up to 3,600 sq. ft. each enclosed hangar area	None (parking occurs in hangar)
Aircraft storage hangars over 3,600 sq. ft. each enclosed hangar area	1 for every 700 sq. ft. of hangar area over 3,600 sq. ft.
Aircraft hangars intended for repair and maintenance operations	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
Laboratories and research facilities	1 for each 300 sq. ft. of gross floor area
Machinery or equipment	1 for each 400 sq. ft. of gross sales floor area
Wholesale and storage operations	1 for each 700 sq. ft. of gross floor area

Notes:

* "1-E" refers to fraternities, sororities, cooperatives and dormitories that require one parking space for each three occupants for whom sleeping facilities are provided.

** "3.-G(1)" refers to establishments or enterprises of a recreational or an entertainment nature (spectator type, e.g., auditoriums, assembly halls, theaters, stadiums, places of public assembly) that require one parking space for each four seats.

[Ord. 2889 § 2 (Exh. B § 37), 12-6-21; Ord. 2880 § 2 (Exh. B § 45), 6-7-21; Ord. 2862 § 1 (Exh. A § 2), 6-15-20; Ord. 2763 § 1 (Exh. A § 16), 9-16-13; Ord. 2730[1] § 1 (Exh. A (13)), 10-18-10; Ord. 2720 § 1(19), 11-2-09; Ord. 2710 § 1, 3-2-09; Ord. 2647, 6-5-06; Ord. 2550, 5-21-01; Ord. 2451, 12-2-96. Code 2001 § 151.612.]

Penalty: See NMC 15.05.120.

Ordinance amending the Newberg Municipal Code, Title 15 Development Code, 15.05.030, 15.305.030, 15.410.070, and 15.440.030 related to daycare facilities and play structures (File No. DCA 23-0002)

Exhibit A-2

Ordinance 2024-2928 Findings

APPLICABLE CRITERIA

A. FINDINGS FOR STATEWIDE PLANNING GOALS (THE "GOALS")

GOAL 1: CITIZEN INVOLVEMENT

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

Finding: Councilor Olson engaged with daycare stakeholders and listened to the problems they had which she later shared with City Council. On November 20, 2023, during a public meeting, City Council discussed the issue and directed staff to investigate opportunities for reducing barriers to daycare operations which were negatively impacting the availability of childcare. A memorandum (Attachment 3) regarding the issues was sent to City Councilors and relevant stakeholders in March 2024. There will be at least one public hearing with the Planning Commission and one public hearing with City Council where the anyone in the public can submit comments.

The Goal is met.

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 amendments to allow the daycare use in the light industrial zones in Newberg will bring the City's regulations into compliance with HB3209 (2021) now codified as ORS 329A.440.4(a), which provides an actual factual basis. Further, daycares have a fair amount of turnover relating to drop off and pickup activities, and are not long term parking stays as illustrated by other jurisdictions' required off-street parking requirements for daycares. The alternatives considered are

- To leave the code as is which would not be in compliance with state law and not opening up opportunities for new daycares to serve the childcare needs locally, or

- To amend the City regulations in a way that brings local code into compliance with state law while regulatory reducing barriers to daycare operations

The proposed code amendment is an implementation measure which is consistent with the City's acknowledged Comprehensive Plan as addressed in the findings for the Comprehensive Plan.

The Goal is met.

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. The proposal is for lands inside 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 resource lands. The proposal is for lands inside 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 amendment will not negatively impact inventoried Goal 5 resources because the amendments do not change protections that already exist in the Newberg Municipal Code, Specific Plans and Master Plans to protect these resources. Newberg has an acknowledged Stream Corridor designation, inventoried historic resources, and identified open spaces in compliance with Goal 5.

For designated historic resources, all locally designated historic resources that require review per Chapter 15.344 HISTORIC LANDMARKS (H) SUBDISTRICT for exterior modifications and construction on historic sites.

This Goal is met.

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 does not modify the existing goals and policies.

This Goal is met.

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 or landslide areas. This proposal does not modify the existing goals and policies.

This Goal is met.

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. This proposal does not modify the City's recreational goals and policies.

This Goal 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 proposed changes would allow daycares as an outright permitted use in the light industrial districts of Newberg (M-1 and M-2) while reducing the parking requirements. The proposed amendment will act as an incentive for new daycare facilities to locate within Newberg and may lead to the provision of additional childcare services which supports creation and retention of family wage jobs within the community.

The Goal is met.

GOAL 10: HOUSING

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

Finding: The proposed amendments do not change anything related to housing.

The Goal is met.

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: Existing public facilities and services will be used for daycares within industrial zones (M-1 and M-2) that were already allowed in those zones (M-1 and M-2) as a conditional use. The amendment will modify parking requirements by reducing the off-street parking requirements. The reduced off-street parking requirements are anticipated to result in the creation of less impervious surface during future development of daycare facilities which reduce the demand for additional stormwater facilities that the City would otherwise be required to manage.

The Goal is met.

GOAL 12: TRANSPORTATION

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

Finding: The City of Newberg's adopted Transportation System Plan has been acknowledged by DLCD. The transportation system is planned to accommodate the population growth of the community for a 20-year planning period. There are no proposed modifications to the transportation system with the adoption of the daycare updates regarding industrial zoning or reduced off-street parking requirements. The proposed amendments do not significantly affect any transportation facility or change the functional classification of any street.

The Goal is met.

GOAL 13: ENERGY CONSERVATION

To conserve energy.

Finding: The proposed amendment does not change the way in which energy will be utilized.

This Goal is met.

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 existing Urban Growth Boundary for the projected population and employment opportunities within the City and meets the goal. The proposal will maintain Newberg's identity and enhance the quality living and employment environment by balancing growth with the demands for childcare through a reduction in the regulatory barriers of daycare operations.

This Goal is met.

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: The City of Newberg is located along the Willamette River on its southern border. The proposed amendment does not alter any area or regulations within the boundaries of the Willamette River Greenway.

This Goal is not applicable.

B. FINDINGS FOR THE NEWBERG COMPREHENSIVE PLAN – 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: Councilor Olson engaged with daycare stakeholders and listened to the problems they had which she later shared with City Council. On November 20, 2023, during a public meeting, City Council discussed the issue and directed staff to investigate opportunities for reducing barriers to daycare operations which were negatively impacting the availability of childcare. A memorandum (Attachment 3) regarding the issues was sent to City Councilors and relevant

stakeholders in March 2024. There will be at least one public hearing with the Planning Commission and one public hearing with City Council where the anyone in the public can submit comments.

The amendments are considered a legislative action subject to the City's Type IV procedures pursuant to NMC 15.100, which requires public notification and public hearings before the Planning Commission makes a recommendation to the City Council, and the City Council makes a final decision on the proposed amendment. This process has been established by the City and determined to be consistent with Goal 1 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 recognized as opportunities for citizen participation.

The Goal is met.

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.

Finding: The City meets this goal by having an acknowledged comprehensive plan that follows state goals and by following implementation procedures pursuant to NMC 15.100.

The Goal is met.

C. AGRICULTURAL LANDS

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

Finding: The proposed amendment does not change any land use designation and does not create any new uses in any zoning district.

This Goal is not applicable.

D. WOODED AREAS

GOAL: To retain and protect wooded areas.

Finding: The proposed amendment does not change any land use designation and does not create any new uses in any zoning district.

This Goal is not applicable.

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.
2. Water quality in the Willamette River and tributary streams shall be protected.
3. As public sanitary sewer systems become available, all development shall connect to the public system. To encourage economic development, the City may permit subsurface sewerage disposal where the system meets State and County requirements and where unique circumstances exist.
4. The Newberg airshed shall be protected from excessive pollution levels resulting from urbanization.
5. New industry should be located in area which minimize the impacts upon the air, water, and land resources base, as well as upon surrounding land uses.
6. The City will cooperate with State and Federal agencies which regulate environmental quality and shall adhere to the standards established by these agencies in the issuance of any permits or approvals given by the City. This policy is intended to cover discharges and emissions which may impair air, water or land quality or exceed the established standards for noise or other emissions.
7. The threat of excessive noise will be considered when reviewing land use requests. In addition, and new commercial and industrial developments shall conform to DEQ noise pollution standards.
8. The City will continue to support soil conservation measures designed to prevent unnecessary losses through excavation, stripping, erosion, and sedimentation.
9. The City will seek abatement of the aesthetic degradation of the environment resulting from blighted neighborhoods, indiscriminate waste disposal, offensive outdoor storage.
10. The City shall promote community cleanup programs.
11. The City will continue to encourage and support the three R's of recycling (re-use, reduction, and recycling)

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 does not modify the existing goals and policies. Any permit submittal will be required to meet state requirements regarding emissions and noise as well as local ordinances, as applicable.

The Goal and Policies are met.

F. AREAS SUBJECT TO NATURAL HAZARDS

GOAL: To protect life and property from flooding and other 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 or landslide areas. This proposal does not modify the existing goals and policies.

This Goal is met.

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.

POLICY 3. Historic Resources Policies

a. The continued preservation of Newberg's designated historic sites and structures shall be encouraged.

d. The City will encourage the re-use of historic structures such as the establishment of bed and breakfast operations, specialty shops, restaurants and professional offices.

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

The Goals and Policy are met.

H. THE ECONOMY

GOAL: To develop a diverse and stable economic base.

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.

b. The City shall encourage economic expansions consistent with local needs
c. The City will encourage creation the creation of a diversified employment base, the strengthening of trade centers and the attraction of both capital and labor intensive enterprises.
d. Newberg will encourage the development of industries which represent the most efficient use of existing resources including land, air, water, energy and labor
e. Economic expansion shall not exceed the carrying capacity of the air, water or land resource quality of the planning area.
f. The City shall participate with local and regional groups to coordinate economic planning.
g. The City shall encourage business and industry to locate within the Newberg City limits.
h. Yamhill County history, products and activities should be promoted.
i. The City shall encourage tourist-related activities and services such as motor inns, restaurants, parks and recreation facilities, a visitor center, conference and seminar activities.
j. A mixed-use river-oriented commercial area should be encourage to be developed near the Willamette River.
k. The City shall promote Newberg as a tourist destination location.
l. The City shall promote the expansion of local viticulture and wine productions as a method for increasing tourism.

Finding: The proposed amendments for daycare uses will give incentives for new daycares to locate in Newberg and increase the availability of childcare in the community. Additional childcare availability will support a more diverse and stable economic base that can in turn attract other businesses that provide family wage jobs.

The Goal and Policies are met.

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).

Finding: The proposed amendments do not change anything related to housing.

The Goal is not applicable.

J. URBAN DESIGN

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

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

Finding: The proposed amendment would reduce the required parking spaces for daycare operations. Reduced parking requirements may result in retention of the natural environment and a reduction in impermeable surfaces during future development which would enhance visual character and support the livability of Newberg.

The Goals are met.

K. TRANSPORTATION

GOAL 1: Establish cooperative agreements to address transportation based planning, development, operation and maintenance.

GOAL 2: Establish consistent policies which require concurrent consideration of transportation/land use system impacts.

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

GOAL 4: Minimize the impact of regional traffic on the local transportation system.

GOAL 5: Maximize pedestrian, bicycle and other non-motorized travel throughout the City.

GOAL 6: Provide effective levels of non-auto oriented support facilities (e.g. bus shelters, bicycle racks, etc.).

GOAL 8: Maintain and enhance the City's image, character and quality of life.

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

GOAL 10: Maintain the viability of existing rail, water and air transportation systems.

GOAL 11: Establish fair and equitable distribution of transportation improvement costs.

GOAL 12: Minimize the negative impact of a Highway 99 bypass on the Newberg community.

GOAL 13: Utilize the Yamhill County Transit Authority (YCTA) Transit Development Plan (TDP) as a Guidance Document.

GOAL 14: Coordinate with Yamhill County Transit Area.

GOAL 15: Implement Transit-Supportive Improvements.

Finding: The City of Newberg's adopted Transportation System Plan has been acknowledged by DLCD. The transportation system is planned to accommodate the population growth of the community for a 20-year planning period. There are no proposed modifications to the transportation system with the adoption of the daycare updates regarding industrial zoning or reduced off-street parking requirements. The proposed amendments do not significantly affect any transportation facility or change the functional classification of any street.

The proposed amendments reduce parking requirements which may reduce less reliance on the automobile and encourage use of multi-modal transportation.

The Goals are met.

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.

Finding: Existing public facilities and services will be used for daycares within industrial zones (M-1 and M-2) which are already allowed as a conditional use. The amendment will modify parking requirements by reducing off-street parking requirements. The reduced off-street parking requirement are anticipated to result in the creation of less impervious surfaces during future development of daycare facilities which reduces the demand for additional stormwater facilities that the City would otherwise be required to manage.

The Goal is met.

M. ENERGY

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

Finding: The proposed amendment does not change the way in which energy will be utilized.

The Goal is not applicable.

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 proposed amendment is within City Limits and will not create any new growth or transition from rural to urban land uses.

The Goals are met.

Ordinance amending the Newberg Municipal Code, Title 15 Development Code, 15.05.030, 15.305.030, 15.410.070, and 15.440.030 related to daycare facilities and play structures (File No. DCA 23-0002)

Exhibit B

Planning Commission Resolution 2024-394

PLANNING COMMISSION RESOLUTION 2024-394

A RESOLUTION RECOMMENDING THE NEWBERG MUNICIPAL CODE, TITLE 15 DEVELOPMENT CODE, SECTIONS 15.05.030, 15.305.020, 15.410.070, AND 15.440.030 RELATED TO DAYCARE FACILITIES AND PLAY STRUCTURES

RECITALS

1. On November 20, 2023, the Newberg City Council directed the Community Development Department to evaluate barriers to the provision of childcare that are within control of the City.

2. On January 16, 2024, the Newberg City Council approved the 2024 Planning Division Work Plan including childcare updates as a Critical Project.

3. On March 18, 2024, staff shared a memorandum with City Councilors and interested parties which provided initial findings regarding childcare barriers and opportunities for further action by the City of Newberg that including code amendments.

4. On June 6, 2024, staff published a Post-Acknowledgement Plan Amendment (PAPA) notice with the Department of Land Conservation and Development (DLCD).

5. On July 11, 2024, after proper notice, the Newberg Planning Commission opened a public hearing, considered public testimony, deliberated, found that the proposed amendments were in the best interests of the City of Newberg.

The Newberg Planning Commission resolves as follows:

1. The Planning Commission of the City of Newberg recommends the City Council adopt the proposed Newberg Municipal Code amendments for Title 15 Development Code.

2. This recommendation is based on the staff report, Exhibit "A" Development Code Amendment language and Findings in Exhibit "B".

3. Exhibits "A" and "B" are incorporated by reference.

Adopted by the Newberg Planning Commission this 11th day of July 2024.

ATTEST:

Planning Commission Chair

Planning Commission Secretary

List of Exhibits:

Exhibit "A". Development Code Amendments
Exhibit "B": Findings

Exhibit "A" to Planning Commission Resolution No. 2024-394
Development Code Amendment – File DCA23-0002

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

The Newberg Development Code shall be amended as follows:

Section 1. Newberg Development Code, 15.05.030 shall be amended to read for the following definitions:

"**Play Structure**" means swing sets, slides, playhouses, jungle gyms, sandboxes or other similar structures intended specifically for outdoor recreational activity for persons but not including dwellings, garages, carports, accessory structures, or sheds.

Section 2. Section 15.305.020 is amended to read as follows:

Newberg Development Code – Zoning Use Table

#	Use	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-E	M-1	M-2	M-3	M-4-I	M-4-C	CF	I	AR	AI	Notes and Special Use Standards
100	**AGRICULTURAL USES**																				
Def.	Horticulture	P	P	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	
Def.	Livestock and poultry farming	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
Def.	Home gardening	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Def.	Home livestock and poultry raising	S	S								X								S		NMC Title 6
200	**RESIDENTIAL USES**																				

#	Use	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-E	M-1	M-2	M-3	M-4-I	M-4-C	CF	I	AR	AI	Notes and Special Use Standards
Def.	Dwelling, single-family detached	P(2)	P	P(3)		P		C(4)	C(5)		X							P	P(6)		Subject to lot or development site area requirements of NMC 15.405.010
Def.	Dwelling, townhouse	P(2)	P	P(3)		P		C(4)	C(5)		X							P	P(6)		NMC 15.415.050(B); subject to lot or development site area requirements of NMC 15.405.010
Def.	Manufactured home on individual lot	S(2)	S	S(3)	P(7)	S					X								P(6)		NMC 15.445.050 – 15.445.070; subject to lot or development site area requirements of NMC 15.405.010
Def.	Manufactured dwelling park		S	S	S						X										NMC 15.445.075 – 15.445.160
Def.	Mobile home park		S	S	S						X										NMC 15.445.075 – 15.445.160
Def.	Manufactured home subdivision		S		S						X										NMC 15.445.075 – 15.445.160
Def.	Dwelling, duplex	P(2)	P	P	C	P		C(4)	P(8)/C(5)		X							P	P(6)		Subject to lot or development site area requirements of NMC 15.405.010
Def.	Dwelling, triplex	P	P	P		P												P	P(6)		NMC 15.415.050(A); subject to lot or development site area requirements of NMC 15.405.010
Def.	Dwelling, quadplex	P	P	P		P												P	P(6)		NMC 15.415.050(A); subject to lot or development site area requirements of NMC 15.405.010
Def.	Cottage cluster project	P	P	P		P												P	P(6)		NMC 15.415.050(C); subject to lot or development site area requirements of NMC 15.405.010

#	Use	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-E	M-1	M-2	M-3	M-4-I	M-4-C	CF	I	AR	AI	Notes and Special Use Standards
Def.	Dwelling, multifamily	C	P	P	C	P		C(4)	P(8)/C(5)		X							P			Subject to lot or development site area requirements of NMC 15.405.010
Def.	Dwelling, accessory	S	S	S		S		C	C		X							S	S		Chapter 15.445 NMC, Article V
Def.	Dwelling, mixed use						P(9)	P(10)	P(8)/C(5)	P(11)	X	C	C								
Def.	Dwelling, caretaker										X	P	P	P	C					P(12)	Limited to one per lot, and allowed whenever the use requires the on-site residence of such person.
Def.	Dormitory		C	P		P					X							P			
Def.	Home occupation (no more than one outside paid employee)	S	S	S(13)	S	S	S(13)	S(13)	S(13)	S(13)	X	S(13)	S(13)	S(13)	S(13)	S(13)	S(13)	S	S	S(13)	NMC 15.415.060
Def.	Home occupation (more than one outside paid employee)	C	C	C(13)	C	C	C(13)	C(13)	C(13)	C(13)	X	C(13)	C(13)	C(13)	C(13)	C(13)	C(13)	C	C	C(13)	NMC 15.415.060
300	**INSTITUTIONAL AND PUBLIC USES**																				
310	**INSTITUTIONAL CARE AND HOUSING**																				
Def.	Family child care home	P	P	P(13)	P(13)	P	P(13)	P(13)	P(13)	P(13)	X							P	P(13)		ORS Chapter 657A
312	Day care	P	P	P	C	P	P	P	P		P	~~C~~ P	~~C~~ P	C	C	P		P		P(14)	ORS Chapter 657A
Def.	Residential care home (5 or fewer people)	P	P	P(13)	P(13)	P	P(13)	P(13)	P(13)	P(13)	X							P	P(13)		ORS 197.665
Def.	Residential care facility (6 – 15 people)	C	P	P	C	P		C	C		X							P			ORS 197.665
315	Group care facility (16+ people)	C	C	C		C		C			X							P			
316	Hospital	C	C	C		C		P	P		C							P			
Def.	Prison										X	C	C	C	C						
320	**ASSEMBLY**																				

#	Use	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-E	M-1	M-2	M-3	M-4-I	M-4-C	CF	I	AR	AI	Notes and Special Use Standards
321	Religious institution, place of worship	P	P	P	P	P	P	P	P	P	X		P(29)				C	P			
322	Private club, lodge, meeting hall			C	C			P	P	C	X							P			
330	**SCHOOLS**																				
330	School, primary or secondary	P	P	P		P					X						C				
331	College	P	P	P		P	P	P	P(15)		P(15)						C	P			
332	Commercial educational services	C	C	C		C	P	P	P		P							C			
340	**PARKS AND OPEN SPACES**																				
341	Open space	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
342	Park	P	P	P	P	P	P	P	P	P	X				P(16)		P(17)	P			
Def.	Golf course	P	P	P							X						P(17)				
350	**PUBLIC SERVICES**																				
351	Community services	C	C	C	C	P		P	P	P	P						C	P			
352	Emergency services	P	P	P	P	P	P	P	P	P	X	P	P	P	P	P	P	P	P	P	
Def.	Pound, dog or cat							C	C		C	C	P	P	C	C					
Def.	Cemetery	C	C	C	C	C	C	C	C	C	X	C	C	C	C	C	C	C	C	C	ORS Chapter 97.46
360	**TRANSPORTATION**																				
Def.	Transportation facilities and improvements	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Def.	Transit center							P	P	P	X	P	P	P							
Def.	Parking facility			P		C	C	P	P(18)	C	P	P	P	P		P		P			
Def.	Airport, landing field										X		C	C						P	
Def.	Heliport, helipad	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	P	

#	Use	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-E	M-1	M-2	M-3	M-4-I	M-4-C	CF	I	AR	AI	Notes and Special Use Standards
Def.	Marina									C	X						C				
	Pilings, piers, docks, and similar in-water structures									C	X						C				
370	**UTILITIES**																				
Def.	Basic utilities	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Def.	Utility distribution plant or yard										X		P	P	P						
Def.	Wastewater treatment plant										X		C	P	C						
Def.	Telecommunication facility incorporated into existing structure/utility pole and no taller than 18 feet above existing structure/utility pole	C	C	C	C	C	S	S	S	S	S	S	S	S	S	S		S			Chapter 15.445 NMC, Article IV
Def.	Telecommunication facility, including radio towers and transmitters, which are 100 feet or less in height, except those incorporated into an existing structure no taller than 18 feet above that structure						C	C	C		C	C	S(19)	S(19)	P	C		C			Chapter 15.445 NMC, Article IV
Def.	Telecommunication facility, including radio towers and transmitters, which are over 100 feet						C	C	C		C	C	C	C	C	C		C			Chapter 15.445 NMC, Article IV
400	**COMMERCIAL USES**																				
410	**COMMERCIAL OFFICES**																				
411	Medical office			C		P	P(20)	P	P(21)		P							P			
412	Local business office					P(22)	P(20)	P	P(21)		P										
420	**COMMERCIAL SALES AND RENTALS**																				

#	Use	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-E	M-1	M-2	M-3	M-4-I	M-4-C	CF	I	AR	AI	Notes and Special Use Standards
421	Retail sales – General						P(20)	P	P(15)/(21)	P	P		P(23)								
422	Retail sales – Bulk outdoor							P	C		P		P								
423	Retail sales – Convenience						P(20)	P	P(21)	P	X		P(24)			P(25)					
Def.	Temporary merchant							S	S(21)		S										NMC 5.15.050 et seq.
425	Retail food and beverage production							S	S		P										Chapter 15.445 NMC, Article VIII
430	**EATING AND DRINKING ESTABLISHMENTS**																				
430	Eating and drinking – Alcohol-related							P	P(21)	P	P										Requires liquor license
430	Eating and drinking – Non-alcohol-related						P(20)	P	P(21)	P	P	P	P							C(26)	
440	**COMMERCIAL SERVICES**																				
441	Personal services					P	P(20)	P	P(21)	P	P										
442	Commercial services						P(20)	P	P(21)		P										
443	Commercial vehicle service							P	C		X	P(27)	P			P(28)					
Def.	Kennel, commercial							C	C		X	C	P	P	C	C					
450	**COMMERCIAL RECREATION**																				
451	Commercial recreation – Indoors							P	P(15)		P	P(29)	P(29)								
452	Commercial recreation – Outdoors							P			X		C								
453	Commercial recreation – Motor-vehicle-related										X		C							C(33)	
460	**COMMERCIAL LODGING**																				
Def.	Vacation rental home	C	C	S	S	S	S(13)	S(13)	S(13)	S(13)	X										Chapter 15.445 NMC, Article VII

#	Use	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-E	M-1	M-2	M-3	M-4-I	M-4-C	CF	I	AR	AI	Notes and Special Use Standards
Def.	Bed and breakfast (2 or fewer rooms)	C	S	S		S	S	S	S	S	X										NMC 15.445.010
Def.	Bed and breakfast (3 or more rooms)	C	C	C		C	C	S	S	S	X										NMC 15.445.010
Def.	Hotel or motel							P	P(15)	P	P									C(26)	
Def.	Recreational vehicle park							C		C	X	C	C	C							NMC 15.445.170
500	**INDUSTRIAL USES**																				
501	Traded sector industry office					P(30)	P(30)	P	P		P	P	P		P					P(33)	
502	Industrial services							C			P		P	P	P					P(33)	
503	Wholesale and industry sales							C(31)			P	P(31)	P	P	P					P(33)	
504	Warehouse, storage, and distribution										P	P(32)	P	P	P					P(33)	
505	Self-service storage							P			X	P	P	P	P						
506	Light manufacturing										P	P	P	P	P					P(33)	
507	Heavy manufacturing										X		P(34)	P	C						
508	Waste-related										X			C	C						
600	**MISCELLANEOUS USES**																				
Def.	Accessory building and use incidental to other permitted uses in the zone	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
	Uses similar to permitted uses in the zone and not defined or categorized	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
	Uses similar to conditional uses in the zone and not defined or categorized	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	
	Medical marijuana dispensary	X	X	X	X	X	P(35)	P(35)	P(35)	P(35)	X	X	X	X	X	X	X	X	X	X	

#	Use	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-E	M-1	M-2	M-3	M-4-I	M-4-C	CF	I	AR	AI	Notes and Special Use Standards
	Medical marijuana processor	X	X	X	X	X	X	P(38)	X	X	P(37)	P(37)	P(37)	P(37)	P(37)	X	X	X	X	X	
	Medical marijuana grow site	P(36)	P(36)	P(36)	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	X	
	Medical marijuana wholesaler	X	X	X	X	X	X	C(31)/(38)	X	X	P(38)	P(38)	P(38)	P(38)	P(38)	X	X	X	P(38)	X	
	Recreational marijuana processor	X	X	X	X	X	X	C(38)	X	X	P(37)	P(37)	P(37)	P(37)	P(37)	X	X	X	X	X	
	Recreational marijuana producer (indoor)	X	X	X	X	X	X	X	X	X	P	P	P	P	P	X	X	X	X	X	
	Recreational marijuana producer (outdoor)	X	X	X	X	X	X	X	X	X	C	C	C	C	C	X	X	X	X	X	
	Recreational marijuana retailer	X	X	X	X	X	P(38) /(39) /(40)	P(38) /(39) /(40)	P(38) /(39) /(40)	P(38) /(39) /(40)	X	X	X	X	X	X	X	X	X	X	
	Recreational marijuana wholesaler	X	X	X	X	X	X	C(31)/(38)	X	X	P(38)	P(38)	P(38)	P(38)	P(38)	X	X	X	P(38)	X	
	Marijuana laboratories	X	X	X	X	X	P	P	P	P	P	P	P	P	P	P	X	P	X	X	
	Marijuana research certificate	X	X	X	X	X	P	P	P	P	P	P	P	P	P	P	X	P	X	X	

Key:

P: Permitted use

S: Special use – Use requires a special use permit

C: Conditional use – Requires a conditional use permit

X: Prohibited use

(#): See notes for limitations

Notes.

(1) Limited to sites with preexisting agricultural uses, including at time of annexation.

(2) Limited to one per lot as a permitted use. More than one per lot allowed only through a conditional use permit or planned unit development, subject to density limits of NMC 15.405.010(B).

(3) Permitted on individual lots created prior to November 17, 1992. Homes on individual lots created on or after November 17, 1992, will only be permitted through the planned unit development process.

(4) The permitted density shall be stated on the conditional use permit.

(5) The dwelling units must front onto Hancock Street. No more than 30 percent of a single street frontage of a block may be occupied by residential uses. Contiguous residential street frontage must be less than 60 lineal feet. Density and parking standards for allowable dwelling units must be met.

(6) One single-family, duplex, triplex or quadplex dwelling, or up to four townhouses or cottage dwellings per lot with the addition of a tie-down or hangar for an airplane. At a minimum, a paved tie-down or hangar shall be provided on the property, or the property shall include permanent rights to a private hangar within the subdivision. See Chapter 15.336 NMC.

(7) The homes are not subject to the development standards set forth in NMC 15.445.050 through 15.445.070.

(8) The units must be located on the same lots as another use permitted or conditionally permitted in the C-3 zone and may not occupy the first floor storefront area (the portion of the building closest to the primary street), except on E/W Second Street where dwelling units are permitted to occupy the first floor of a building. There shall be no density limitation. Private parking areas or garages are not required for dwelling units located within buildings in existence prior to and including June 30, 1999. Parking shall be provided for all new dwelling units within any building constructed after June 30, 1999, in private parking areas or garages on the basis of one parking space for each dwelling unit.

(9) Permitted on the ground floor, one per lot in conjunction with any other use permitted or conditional use in the C-1 zone. On upper floors, dwelling units are unlimited and one parking space per dwelling unit is required.

(10) Permitted above any permitted use in the C-2 zone. There shall be no density limitation. Parking shall be provided in private parking areas or garages on the basis of one parking space for each dwelling unit.

(11) The units must be located on the same lot as another use permitted or conditionally permitted in the C-4 district and may not occupy the first-floor storefront area (the portion of the building closest to the primary street). There shall be no density limitation. Parking shall be provided for all new dwelling units in private parking areas or garages on the basis of a maximum of one parking space for each dwelling unit.

(12) One residence of area not more than 40 percent of the area of the hangar floor, up to a maximum of 1,500 square feet, for an airport caretaker or security officer on each separate parcel.

(13) Permitted in existing dwelling units only. New dwelling units may not be created for this use unless the dwelling unit would otherwise be allowed.

(14) Allowed exclusively for employers or employees of businesses located within this district.

(15) Facility over 40,000 square feet gross floor area requires a conditional use permit.

(16) Allowed in areas designated in industrial area plans.

(17) Limited to facilities owned or operated by a public agency.

(18) Parking garages are a conditional use, and must have first floor street frontage of 40 feet or less for ingress or egress. First floor development must be commercial.

(19) A conditional use permit is required if the facility is less than 2,000 feet from the nearest telecommunication facility.

(20) Businesses in the C-1 zone that have hours of operation between 10:00 p.m. and 7:00 a.m. require a conditional use permit.

(21) Drive-up service windows accessory to an existing business on the site with walk-in customer service, such as a drive-up bank window, are allowed only with a conditional use permit. Otherwise, drive-up service windows, except those in service on April 1, 2002, are prohibited. Changes in use will not be allowed.

(22) Retail sales of goods on site not allowed.

(23) Limited to secondhand stores.

(24) Store size is limited to 2,000 square feet gross floor area.

(25) Store size is limited to 5,000 square feet gross floor area.

(26) Use must demonstrate that it is compatible with airport operations.

(27) Limited to service stations.

(28) Limited to card lock fueling only. Retail services are limited to self-vending services.

(29) Permitted provided the structure is designed for easy conversion to industrial use, including not having fixed seating.

(30) Limited to 10,000 square feet maximum floor area.

(31) Allowed indoors only.

(32) Allowed indoors only. Outdoor use requires a conditional use permit.

(33) Must be aviation-related. See Chapter 15.332 NMC.

(34) Limited to expansion or change of existing heavy manufacturing uses.

(35) Shall not be located at the same address as a state-registered marijuana grow site, or within 1,000 feet of the real property comprising a public park, a public elementary or secondary school for which attendance is compulsory under ORS 339.020 or a private or parochial elementary or secondary school, teaching children as described in ORS 339.030(1)(a). Distance is measured in a straight line in a radius extending for 1,000 feet or less in any direction from the closest point anywhere on the boundary line of the real property comprising an existing public park, public elementary or secondary school or a private or parochial elementary or secondary school to the closest point of the premises of a dispensary. The premises consist of the dispensary building, or the portion of the building used for a dispensary. Shall not be located within 1,000 feet of another medical marijuana dispensary. Operating hours are limited to the hours between 9:00 a.m. and 10:00 p.m.

(36) Allows up to 12 mature plants; indoor operations only.

(37) Indoor use only.

(38) The use is not allowed within 1,000 feet of the real property comprising a public park, a public elementary or secondary school for which attendance is compulsory under ORS 339.020 or a private or parochial elementary or

secondary school, teaching children as described in ORS 339.030(1)(a). Distance is measured in a straight line in a radius extending for 1,000 feet or less in any direction from the closest point anywhere on the boundary line of the real property comprising an existing public park, public elementary or secondary school or a private or parochial elementary or secondary school to the closest point of the premises of a recreational processor, wholesaler or retailer, or medical marijuana processor and wholesaler.

(39) One-thousand-foot separation between retailer to retailer premises and 1,000-foot separation between retailer to dispensary premises.

(40) Operating hours limited to the hours between 9:00 a.m. and 10:00 p.m. [Ord. 2889 § 2 (Exh. B § 14), 12-6-21; Ord. 2880 § 2 (Exh. B § 16), 6-7-21; Ord. 2868 § 1 (Exh. A), 11-16-20; Ord. 2857 § 1 (Exh. A §§ 1, 2), 3-16-20; Ord. 2851 § 1 (Exh. A § 1), 1-21-20; Ord. 2840 § 1 (Exh. A § 1, Att. 1), 10-15-18; Ord. 2832 § 1 (Exh. A, Att. 1), 7-2-18; Ord. 2820 § 1 (Exh. A § 1, Att. 1), 9-18-17; Ord. 2809 § 1 (Exh. A § 1), 9-19-16; Ord. 2801 § 1 (Exh. A § 2), 6-6-16; Ord. 2798 § 1 (Exh. A § 2), 4-4-16; Ord. 2793 § 2 (Exh. A § 1), 2-1-16; Ord. 2780 § 1 (Exh. A § 2), 4-6-15; Ord. 2763[1] § 1 (Exh. A § 6), 9-16-13.]

Section 3. Section 15.410.070 is amended to read as follows:

Yard exceptions and permitted intrusions into required yard setbacks.
The following intrusions may project into required yards to the extent and under the conditions and limitations indicated:

A. Depressed Areas. In any district, open work fences, hedges, guard railings or other landscaping or architectural devices for safety protection around depressed ramps, stairs or retaining walls may be located in required yards; provided, that such devices are not more than three and one-half feet in height.

B. Accessory Buildings. In front yards on through lots, where a through lot has a depth of not more than 140 feet, accessory buildings may be located in one of the required front yards; provided, that every portion of such accessory building is not less than 10 feet from the nearest street line.

C. Projecting Building Features. The following building features may project into the required front yard no more than five feet and into the required interior yards no more than two feet; provided, that such projections are no closer than three feet to any interior lot line:

1. Eaves, cornices, belt courses, sills, awnings, buttresses or other similar features.

2. Chimneys and fireplaces, provided they do not exceed eight feet in width.

3. Porches, platforms or landings which do not extend above the level of the first floor of the building.

4. Mechanical structures (heat pumps, air conditioners, emergency generators and pumps).

D. Fences and Walls.

1. In the residential district, a fence or wall shall be permitted to be placed at the property line or within a yard setback as follows:

a. Not to exceed six feet in height. Located or maintained within the required interior yards. For purposes of fencing only, lots that are corner lots or through lots may select one of the street frontages as a front yard and all other yards shall be considered as interior yards, allowing the placement of a six-foot fence on the property line. In no case may a fence extend into the clear vision zone as defined in NMC 15.410.060.

b. Not to exceed four feet in height. Located or maintained within all other front yards.

2. In any commercial, industrial, or mixed employment district, a fence or wall shall be permitted to be placed at the property line or within a yard setback as follows:

a. Not to exceed eight feet in height. Located or maintained in any interior yard except where the requirements of vision clearance apply. For purposes of fencing only, lots that are corner lots or through lots may select one of the street frontages as a front yard and all other yards shall be considered as interior yards, allowing the placement of an eight-foot fence on the property line.

b. Not to exceed four feet in height. Located or maintained within all other front yards.

3. If chain link (wire-woven) fences are used, they are manufactured of corrosion-proof materials of at least 11-1/2 gauge.

4. The requirements of vision clearance shall apply to the placement of fences.

E. Parking and Service Drives (Also Refer to NMC 15.440.010 through 15.440.080).

1. In any district, service drives or accessways providing ingress and egress shall be permitted, together with any appropriate traffic control devices in any required yard.

2. In any residential district, public or private parking areas and parking spaces shall not be permitted in any required yard except as provided herein:

a. Required parking spaces shall be permitted on service drives in the required front yard in conjunction with any single-family detached dwelling, duplex dwelling, triplex dwelling, quadplex dwelling, or townhouse dwelling on a single lot.

b. Recreational vehicles, boat trailers, camperettes and all other vehicles not in daily use are restricted to parking in the front yard setback for not more than 48 hours; and recreational vehicles, boat trailers, camperettes and all other vehicles not in daily use are permitted to be located in the required interior yards.

c. Public or private parking areas, parking spaces or any building or portion of any building intended for parking which have been identified as a use permitted in any residential district shall be permitted in any interior yard that abuts an alley, provided

said parking areas, structures or spaces shall comply with NMC 15.440.070, Parking tables and diagrams (Diagrams 1 through 3).

d. Public or private parking areas, service drives or parking spaces which have been identified as a use permitted in any residential district shall be permitted in interior yards; provided, that said parking areas, service drives or parking spaces shall comply with other requirements of this code.

3. In any commercial or industrial district, except C-1, C-4, M-1, and M-E, public or private parking areas or parking spaces shall be permitted in any required yard (see NMC 15.410.030). Parking requirements in the C-4 district and the M-E district within the riverfront overlay subdistrict are described in NMC 15.352.040(H).

4. In the I district, public or private parking areas or parking spaces may be no closer to a front property line than 20 feet, and no closer to an interior property line than five feet.

F. Public Telephone Booths and Public Transit Shelters. Public telephone booths and public transit shelters shall be permitted; provided, that vision clearance is maintained for vehicle requirements for vision clearance.

G. Hangars within the AR airport residential district may be constructed with no yard setbacks to property lines adjacent to other properties within the airport residential or airport industrial districts. [Ord. 2889 § 2 (Exh. B § 31), 12-6-21; Ord. 2880 § 2 (Exh. B § 40), 6-7-21; Ord. 2868 § 1 (Exh. A), 11-16-20; Ord. 2647, 6-5-06; Ord. 2619, 5-16-05; Ord. 2564, 4-15-02; Ord. 2561, 4-1-02; Ord. 2451, 12-2-96. Code 2001 § 151.556.]

H. Play structures may intrude into the required front yard by no more than five feet and into the required interior yard by no more than two feet; provided that such intrusions are no closer than three feet from any interior lot line and 10 feet from any front lot line.

Penalty: See NMC 15.05.120.

Section 4. Section 15.440.030 is amended to read as follows:

Parking spaces required.

Use	Minimum Parking Spaces Required
Residential Types	
Dwelling, multifamily and multiple single-family dwellings on a single lot	
Studio or one-bedroom unit	1 per dwelling unit
Two-bedroom unit	1.5 per dwelling unit
Three- and four-bedroom unit	2 per dwelling unit
Five- or more bedroom unit	0.75 spaces per bedroom

Use	Minimum Parking Spaces Required
• Unassigned spaces	If a development is required to have more than 10 spaces on a lot, then it must provide some unassigned spaces. At least 15 percent of the total required parking spaces must be unassigned and be located for convenient use by all occupants of the development. The location shall be approved by the director.
• Visitor spaces	If a development is required to have more than 10 spaces on a lot, then it must provide at least 0.2 visitor spaces per dwelling unit.
• On-street parking credit	On-street parking spaces may be counted toward the minimum number of required spaces for developments required to have more than 10 spaces on a lot. The on-street spaces must be directly adjoining and on the same side of the street as the subject property, must be legal spaces that meet all city standards, and cannot be counted if they could be removed by planned future street widening or a bike lane on the street.
• Available transit service	At the review body's discretion, affordable housing projects may reduce the required off-street parking by 10 percent if there is an adequate continuous pedestrian route no more than 1,500 feet in length from the development to transit service with an average of less than one hour regular service intervals during commuting periods or where the development provides its own transit. A developer may qualify for this parking reduction if improvements on a proposed pedestrian route are made by the developer, thereby rendering it an adequate continuous route.
Commercial neighborhood district (C-1)	1 for each dwelling
Dwelling, single-family	2 for each dwelling unit on a single lot
Dwelling, duplex	1 for each dwelling unit
Dwelling, triplex	1 for each dwelling unit

Use	Minimum Parking Spaces Required
	Except that conversion of a detached single-family dwelling to a triplex dwelling shall not be subject to this requirement
Dwelling, quadplex	1 for each dwelling unit Except that conversion of a detached single-family dwelling to a quadplex dwelling shall not be subject to this requirement
Dwelling, townhouse	1 for each dwelling unit
Dwelling, cottage	1 for each dwelling unit
Fraternities, sororities, cooperatives and dormitories	1 for each three occupants for which sleeping facilities are provided
Hotels, motels, motor hotels, etc.	1 for each guest room
Rooming or boarding houses	1 for each guest room
Special needs housing	1 space per 3 beds or actual parking needs as demonstrated through a parking analysis.
Institutional Types	
Churches, clubs, lodges	1 for every 4 fixed seats or every 8 feet of bench length or every 28 sq. ft. where no permanent seats or benches are maintained – in main auditorium (sanctuary or place of worship)
Continuing care retirement community not including nursing care	1 space per living unit
Day care facility	~~5 spaces per each 1,000 gross sq. ft.~~ 1 space per employee plus 1 space per 10 children/adults cared for.
Family child care homes	No off-street parking other than for the required dwelling.
Hospitals (including accessory retail wholly contained within a hospital building)	2 spaces for each 1,000 gross sq. ft.
Libraries, museums, art galleries	1 for each 250 sq. ft. of gross floor area
Medical/dental offices and laboratories	3.5 spaces for each 1,000 gross sq. ft.
Nursing homes, homes for the aged, group care homes, asylums, etc.	1 for each 3 beds

Use	Minimum Parking Spaces Required
Schools	Colleges – "commuter" type, 1 for every full-time equivalent student (plus 1/2 of the requirements for accessory buildings, i.e., 1.-E* and 3.-G(1)**)
Schools	Colleges – "resident" type, 1 for every 3 full-time equivalent students (plus 1/2 of the requirements for accessory buildings, i.e., 1.-E* and 3.-G(1)**)
Schools	Elementary or junior high, 1-1/2 for each teaching station plus 4 for every classroom, or 1 for every 42 sq. ft. of seating area where there are no fixed seats in an auditorium or assembly area
Schools	High schools, 1-1/2 for each teaching station, plus 8 for every classroom, or 1 for every 28 sq. ft. of seating area where there are no fixed seats in an auditorium or assembly area
Schools	Colleges – commercial or business, 1 for every 3 classroom seats (plus 1/2 of the requirements for accessory buildings, i.e., 1.-E* and 3.-G(1)**)
Welfare or correctional institutions	1 for each 5 beds
Commercial Types	
Barber and beauty shops	1 for each 75 sq. ft. of gross floor area
Bowling alleys	6 for each bowling lane
Establishments or enterprises of a recreational or an entertainment nature:	
Establishments for the sale and consumption on the premises of food and beverages with a drive-up window	1 for each 75 sq. ft. of gross floor area
Establishments for the sale and consumption on the premises of food and beverages without a drive-up window	1 for each 100 sq. ft. of gross floor area
Participating type, e.g., skating rinks, dance halls	1 for each 75 sq. ft. of gross floor area
Spectator type, e.g., auditoriums, assembly halls, theaters, stadiums, places of public assembly	1 parking space for each 4 seats

Use	Minimum Parking Spaces Required
Office buildings, business and professional offices	1 for every 400 sq. ft. of gross floor area
Pharmacies	1 for each 150 sq. ft. of gross floor area
Retail establishments, except as otherwise specified herein	1 for each 300 sq. ft. of gross floor area
Retail stores handling bulky merchandise, household furniture, or appliance repair	1 for each 600 sq. ft. of gross floor area
Industrial Types	
Except as specifically mentioned herein, industrial uses listed as permitted in the M districts: M-1, M-2, M-3, and M-4	1 for each 500 sq. ft. of gross floor area
Aircraft storage hangars up to 3,600 sq. ft. each enclosed hangar area	None (parking occurs in hangar)
Aircraft storage hangars over 3,600 sq. ft. each enclosed hangar area	1 for every 700 sq. ft. of hangar area over 3,600 sq. ft.
Aircraft hangars intended for repair and maintenance operations	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
Laboratories and research facilities	1 for each 300 sq. ft. of gross floor area
Machinery or equipment	1 for each 400 sq. ft. of gross sales floor area
Wholesale and storage operations	1 for each 700 sq. ft. of gross floor area

Notes:

* "1-E" refers to fraternities, sororities, cooperatives and dormitories that require one parking space for each three occupants for whom sleeping facilities are provided.

** "3.-G(1)" refers to establishments or enterprises of a recreational or an entertainment nature (spectator type, e.g., auditoriums, assembly halls, theaters, stadiums, places of public assembly) that require one parking space for each four seats.

[Ord. 2889 § 2 (Exh. B § 37), 12-6-21; Ord. 2880 § 2 (Exh. B § 45), 6-7-21; Ord. 2862 § 1 (Exh. A § 2), 6-15-20; Ord. 2763 § 1 (Exh. A § 16), 9-16-13; Ord. 2730[1] § 1 (Exh. A (13)), 10-18-10; Ord. 2720 § 1(19), 11-2-09; Ord. 2710 § 1, 3-2-09; Ord. 2647, 6-5-06; Ord. 2550, 5-21-01; Ord. 2451, 12-2-96. Code 2001 § 151.612.]

Penalty: See NMC 15.05.120.

APPLICABLE CRITERIA

A. FINDINGS FOR STATEWIDE PLANNING GOALS (THE "GOALS")

GOAL 1: CITIZEN INVOLVEMENT

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

Finding: Councilor Olson engaged with daycare stakeholders and listened to the problems they had which she later shared with City Council. On November 20, 2023, during a public meeting, City Council discussed the issue and directed staff to investigate opportunities for reducing barriers to daycare operations which were negatively impacting the availability of childcare. A memorandum (Attachment 3) regarding the issues was sent to City Councilors and relevant stakeholders in March 2024. There will be at least one public hearing with the Planning Commission and one public hearing with City Council where the anyone in the public can submit comments.

The Goal is met.

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 amendments to allow the daycare use in the light industrial zones in Newberg will bring the City's regulations into compliance with HB3209 (2021) now codified as ORS 329A.440.4(a), which provides an actual factual basis. Further, daycares have a fair amount of turnover relating to drop off and pickup activities, and are not long term parking stays as illustrated by other jurisdictions' required off-street parking requirements for daycares. The alternatives considered are

- To leave the code as is which would not be in compliance with state law and not opening up opportunities for new daycares to serve the childcare needs locally, or

- To amend the City regulations in a way that brings local code into compliance with state law while regulatory reducing barriers to daycare operations

The proposed code amendment is an implementation measure which is consistent with the City's acknowledged Comprehensive Plan as addressed in the findings for the Comprehensive Plan.

The Goal is met.

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. The proposal is for lands inside 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 resource lands. The proposal is for lands inside 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 amendment will not negatively impact inventoried Goal 5 resources because the amendments do not change protections that already exist in the Newberg Municipal Code, Specific Plans and Master Plans to protect these resources. Newberg has an acknowledged Stream Corridor designation, inventoried historic resources, and identified open spaces in compliance with Goal 5.

For designated historic resources, all locally designated historic resources that require review per Chapter 15.344 HISTORIC LANDMARKS (H) SUBDISTRICT for exterior modifications and construction on historic sites.

This Goal is met.

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 does not modify the existing goals and policies.

This Goal is met.

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 or landslide areas. This proposal does not modify the existing goals and policies.

This Goal is met.

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. This proposal does not modify the City's recreational goals and policies.

This Goal 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 proposed changes would allow daycares as an outright permitted use in the light industrial districts of Newberg (M-1 and M-2) while reducing the parking requirements. The proposed amendment will act as an incentive for new daycare facilities to locate within Newberg and may lead to the provision of additional childcare services which supports creation and retention of family wage jobs within the community.

The Goal is met.

GOAL 10: HOUSING

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

Finding: The proposed amendments do not change anything related to housing.

The Goal is met.

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: Existing public facilities and services will be used for daycares within industrial zones (M-1 and M-2) that were already allowed in those zones (M-1 and M-2) as a conditional use. The amendment will modify parking requirements by reducing the off-street parking requirements. The reduced off-street parking requirements are anticipated to result in the creation of less impervious surface during future development of daycare facilities which reduce the demand for additional stormwater facilities that the City would otherwise be required to manage.

The Goal is met.

GOAL 12: TRANSPORTATION

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

Finding: The City of Newberg's adopted Transportation System Plan has been acknowledged by DLCD. The transportation system is planned to accommodate the population growth of the community for a 20-year planning period. There are no proposed modifications to the transportation system with the adoption of the daycare updates regarding industrial zoning or reduced off-street parking requirements. The proposed amendments do not significantly affect any transportation facility or change the functional classification of any street.

The Goal is met.

GOAL 13: ENERGY CONSERVATION

To conserve energy.

Finding: The proposed amendment does not change the way in which energy will be utilized.

This Goal is met.

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 existing Urban Growth Boundary for the projected population and employment opportunities within the City and meets the goal. The proposal will maintain Newberg's identity and enhance the quality living and employment environment by balancing growth with the demands for childcare through a reduction in the regulatory barriers of daycare operations.

This Goal is met.

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: The City of Newberg is located along the Willamette River on its southern border. The proposed amendment does not alter any area or regulations within the boundaries of the Willamette River Greenway.

This Goal is not applicable.

B. FINDINGS FOR THE NEWBERG COMPREHENSIVE PLAN – 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: Councilor Olson engaged with daycare stakeholders and listened to the problems they had which she later shared with City Council. On November 20, 2023, during a public meeting, City Council discussed the issue and directed staff to investigate opportunities for reducing barriers to daycare operations which were negatively impacting the availability of childcare. A memorandum (Attachment 3) regarding the issues was sent to City Councilors and relevant

stakeholders in March 2024. There will be at least one public hearing with the Planning Commission and one public hearing with City Council where the anyone in the public can submit comments.

The amendments are considered a legislative action subject to the City's Type IV procedures pursuant to NMC 15.100, which requires public notification and public hearings before the Planning Commission makes a recommendation to the City Council, and the City Council makes a final decision on the proposed amendment. This process has been established by the City and determined to be consistent with Goal 1 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 recognized as opportunities for citizen participation.

The Goal is met.

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.

Finding: The City meets this goal by having an acknowledged comprehensive plan that follows state goals and by following implementation procedures pursuant to NMC 15.100.

The Goal is met.

C. AGRICULTURAL LANDS

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

Finding: The proposed amendment does not change any land use designation and does not create any new uses in any zoning district.

This Goal is not applicable.

D. WOODED AREAS

GOAL: To retain and protect wooded areas.

Finding: The proposed amendment does not change any land use designation and does not create any new uses in any zoning district.

This Goal is not applicable.

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.
2. Water quality in the Willamette River and tributary streams shall be protected.
3. As public sanitary sewer systems become available, all development shall connect to the public system. To encourage economic development, the City may permit subsurface sewerage disposal where the system meets State and County requirements and where unique circumstances exist.
4. The Newberg airshed shall be protected from excessive pollution levels resulting from urbanization.
5. New industry should be located in area which minimize the impacts upon the air, water, and land resources base, as well as upon surrounding land uses.
6. The City will cooperate with State and Federal agencies which regulate environmental quality and shall adhere to the standards established by these agencies in the issuance of any permits or approvals given by the City. This policy is intended to cover discharges and emissions which may impair air, water or land quality or exceed the established standards for noise or other emissions.
7. The threat of excessive noise will be considered when reviewing land use requests. In addition, and new commercial and industrial developments shall conform to DEQ noise pollution standards.
8. The City will continue to support soil conservation measures designed to prevent unnecessary losses through excavation, stripping, erosion, and sedimentation.
9. The City will seek abatement of the aesthetic degradation of the environment resulting from blighted neighborhoods, indiscriminate waste disposal, offensive outdoor storage.
10. The City shall promote community cleanup programs.
11. The City will continue to encourage and support the three R's of recycling (re-use, reduction, and recycling)

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 does not modify the existing goals and policies. Any permit submittal will be required to meet state requirements regarding emissions and noise as well as local ordinances, as applicable.

The Goal and Policies are met.

F. AREAS SUBJECT TO NATURAL HAZARDS

GOAL: To protect life and property from flooding and other 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 or landslide areas. This proposal does not modify the existing goals and policies.

This Goal is met.

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.

POLICY 3. Historic Resources Policies

a. The continued preservation of Newberg's designated historic sites and structures shall be encouraged.

d. The City will encourage the re-use of historic structures such as the establishment of bed and breakfast operations, specialty shops, restaurants and professional offices.

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

The Goals and Policy are met.

H. THE ECONOMY

GOAL: To develop a diverse and stable economic base.

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.

b. The City shall encourage economic expansions consistent with local needs
c. The City will encourage creation the creation of a diversified employment base, the strengthening of trade centers and the attraction of both capital and labor intensive enterprises.
d. Newberg will encourage the development of industries which represent the most efficient use of existing resources including land, air, water, energy and labor
e. Economic expansion shall not exceed the carrying capacity of the air, water or land resource quality of the planning area.
f. The City shall participate with local and regional groups to coordinate economic planning.
g. The City shall encourage business and industry to locate within the Newberg City limits.
h. Yamhill County history, products and activities should be promoted.
i. The City shall encourage tourist-related activities and services such as motor inns, restaurants, parks and recreation facilities, a visitor center, conference and seminar activities.
j. A mixed-use river-oriented commercial area should be encourage to be developed near the Willamette River.
k. The City shall promote Newberg as a tourist destination location.
l. The City shall promote the expansion of local viticulture and wine productions as a method for increasing tourism.

Finding: The proposed amendments for daycare uses will give incentives for new daycares to locate in Newberg and increase the availability of childcare in the community. Additional childcare availability will support a more diverse and stable economic base that can in turn attract other businesses that provide family wage jobs.

The Goal and Policies are met.

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).

Finding: The proposed amendments do not change anything related to housing.

The Goal is not applicable.

J. URBAN DESIGN

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

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

Finding: The proposed amendment would reduce the required parking spaces for daycare operations. Reduced parking requirements may result in retention of the natural environment and a reduction in impermeable surfaces during future development which would enhance visual character and support the livability of Newberg.

The Goals are met.

K. TRANSPORTATION

GOAL 1: Establish cooperative agreements to address transportation based planning, development, operation and maintenance.

GOAL 2: Establish consistent policies which require concurrent consideration of transportation/land use system impacts.

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

GOAL 4: Minimize the impact of regional traffic on the local transportation system.

GOAL 5: Maximize pedestrian, bicycle and other non-motorized travel throughout the City.

GOAL 6: Provide effective levels of non-auto oriented support facilities (e.g. bus shelters, bicycle racks, etc.).

GOAL 8: Maintain and enhance the City's image, character and quality of life.

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

GOAL 10: Maintain the viability of existing rail, water and air transportation systems.

GOAL 11: Establish fair and equitable distribution of transportation improvement costs.

GOAL 12: Minimize the negative impact of a Highway 99 bypass on the Newberg community.

GOAL 13: Utilize the Yamhill County Transit Authority (YCTA) Transit Development Plan (TDP) as a Guidance Document.

GOAL 14: Coordinate with Yamhill County Transit Area.

GOAL 15: Implement Transit-Supportive Improvements.

Finding: The City of Newberg's adopted Transportation System Plan has been acknowledged by DLCD. The transportation system is planned to accommodate the population growth of the community for a 20-year planning period. There are no proposed modifications to the transportation system with the adoption of the daycare updates regarding industrial zoning or reduced off-street parking requirements. The proposed amendments do not significantly affect any transportation facility or change the functional classification of any street.

The proposed amendments reduce parking requirements which may reduce less reliance on the automobile and encourage use of multi-modal transportation.

The Goals are met.

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.

Finding: Existing public facilities and services will be used for daycares within industrial zones (M-1 and M-2) which are already allowed as a conditional use. The amendment will modify parking requirements by reducing off-street parking requirements. The reduced off-street parking requirement are anticipated to result in the creation of less impervious surfaces during future development of daycare facilities which reduces the demand for additional stormwater facilities that the City would otherwise be required to manage.

The Goal is met.

M. ENERGY

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

Finding: The proposed amendment does not change the way in which energy will be utilized.

The Goal is not applicable.

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 proposed amendment is within City Limits and will not create any new growth or transition from rural to urban land uses.

The Goals are met.

Ordinance amending the Newberg Municipal Code, Title 15 Development Code, 15.05.030, 15.305.030, 15.410.070, and 15.440.030 related to daycare facilities and play structures (File No. DCA 23-0002)

Exhibit C

November 20, 2023 City Council Minutes

City of Newberg
City Council Minutes
November 20, 2023
Hybrid meeting format

BUSINESS SESSION –
Meeting called to order at 6:00 p.m.

Councilors Present:	Mayor Bill Rosacker, Councilors Elise Yarnell Hollamon, Molly Olson, Mike McBride, Robyn Wheatley, and Peggy Kilburg
Councilors Absent:	Derek Carmon
Staff Present:	City Engineer Lance Calvert, City Emergency Coordinator Karen Tarmichael, City Attorney James Walker, City Manager Will Worthey, Sergeant Eric Roning, Sergeant Nathan Jones, Finance Director Kady Strode, IT Manager Ian Rodriguez, Planning Manager Clay Downing, Library Director Korie Burkle, City Recorder Rachel Thomas, Gabriella McMahan, Project Specialist Alison Seiler, Assistant Planner James Dingwall, Senior Engineer Paul Chiu, Regulatory Compliance Officer April Catan

PROCLAMATIONS
Small Business Saturday Proclamation
RCA Small Business Saturday Proclamation.docx
Mayor Rosacker read the proclamation and declared Saturday, November 25, 2023 Small Business Saturday. Residents were encouraged to support small businesses.

CITY MANAGER'S REPORT
Month CM statistics - SEP.pdf
CM Worthey reported on the statistics for the month of September 2023.

PUBLIC COMMENTS
Newberg Affordable Housing Commission Public Comment Jim Talt.docx
Public Comment 11-20-23 Rogers.pdf

Public Comments were addressed immediately following Item 9.A Elliott Road Improvement Project Change Order.

Jim Talt said he had previously sent the above attached public comment to the Newberg Affordable Housing Commission (NAHC) to CM Worthey. Mr. Talt stated that the Housing Authority of Yamhill County (HAYC) had been managing Newberg's Manufactured Home Grant program for the last 18 months and the program was winding down after helping more than 40 homeowners but leaving over 50 homeowners on the application list and others who did not apply due to a clause that prevented helping anyone in a home built before 1978. Jim Talt proposed that the Council give CM Worthey the authority to explore extending the Manufactured Home Grant program using Construction Excise Tax (CET) funds and removing the clause excluding homes built before 1978. There was an opinion that CET funds could not be used to

expand the grant program, but the Newberg Municipal Code Section 3.60.90 Use of Funds Paragraph D said, "The City may fund affordable housing programs in accordance with Section 9 Chapter 59 Oregon Laws 2016 including but not limited to rent buydowns and subsidies, downpayment assistance, and foreclosure prevention assistance." The language "but not limited to" gave the Council discretion to make additional choices for the use of CET funds. Newberg's manufactured home parks were arguably the largest single source of affordable housing in Newberg. The NAHC housing program matrix had a goal to preserve manufactured homes which was in line with Mr. Talt's proposal to use CET funds to repair and preserve manufactured homes. Mr. Talt believed that Newberg and the HAYC could collaborate to make a new contract with cost savings for both parties, thereby helping Newberg's manufactured home owners. The current program was winding down but was still operational and could be funded through CET funds.

The Council addressed Item 10.A A Potential CET Project at this time.

REPORTS AND PRESENTATIONS

Scoping the Childcare Issue
Childcare in Newberg Dec 2023.pptx

Councilor Olson presented a PowerPoint slide on work that had been done by Staff on the issue of providing childcare in Newberg. Interviews were held with employers and organizations that provided childcare to identify issues around childcare in Newberg. The State, County, and City all had laws regarding childcare. Public Schools, churches, and homes were also in the business of childcare. The availability of affordable childcare, especially for infants, was a challenge. Code and zoning changes could make it easier to open childcare businesses in Newberg. There was no adequate, affordable daycare available in Newberg. Families were driving to other nearby communities to get childcare. Employers saw childcare availability as the number one issue in employee retention and productivity. The Council was requested to focus Staff time on removing barriers to those opening daycare facilities in Newberg.

CM Worthey encouraged Councilors to consider taking a methodical approach and working on one issue at a time rather than creating a package to try to deal with everything at once.

The Council and Staff discussed:

- The issues and possible solutions available to the City had not been sorted by priority. Possible solutions included creating a more customer-service-oriented planning process, going from paper to electronic, aligning City Code with State Code, adjusting zoning to not require a conditional use permit in areas where other cities were not requiring them, and reducing the excessive parking requirements. System Development Charges (SDC) which had been cost prohibitive were already in the process of being reduced. Staff could be directed come back to Council to present more solutions.
- As an employer, how could the City better support Staff with childcare options?
- Removing barriers to childcare availability in Newberg would support City Staff and residents.
- CM Worthey stated that Staff could potentially receive a group rate discount going through certain childcare service providers.
- Planning Manager Downing stated he had enough information to prioritize a list of solutions if Staff was directed to do so. The Planning Department would come back within a month or two with a prioritized list of projects to share with the Council, which could include work on solutions for childcare in Newberg.

The Council directed Staff to prepare possible solutions for affordable childcare availability in Newberg.

2023 Emergency Operations Plan Presentation
Newberg_EOP_Base.docx
Emergency Operations Plan update2023 - final.pdf

City Emergency Coordinator Tarmichael gave a PowerPoint slideshow sharing updates to the Emergency Operations Plan (EOP) which provided guidelines on how to mitigate, prepare for, respond to, and recover from emergencies or disasters. The EOP was updated in response to Council Goal 4 to enhance community safety as well as having been identified by City Department Heads as a priority in 2022. The current EOP was a "one size fits all" design that was adopted in 2013 and included language regarding the Newberg Fire Department which no longer existed. When the Fire Department was discontinued, the City lost the Staff member who had been over emergency planning and training. The current EOP did not address urban wildfires, health pandemics, cyber security risks, droughts and other weather conditions. Work on the new EOP began in April 2022 using a hybrid mix of the plan provided by the consultant and customized information regarding Newberg capabilities and resources. The framework was scalable, compatible with partner agencies, and followed the Incident Command System (ICS) structure which would provide flexibility for future revisions.

CM Worthey stated the old EOP was based on linear responses to specific disasters and the new EOP would operate more like a toolkit to build an appropriate response to any situation.

The new EOP would fit the required Federal Emergency Management Agency (FEMA) standards, comply with State and Federal regulations, provide clarity around roles, responsibilities, and limitations, include clear appendixes and procedures, and use simplified language. The EOP would be a living document which would require regular attention. As Emergency Coordinator, CEC Tarmichael would update the EOP and appendixes regularly to keep the information current. The EOP was not a continuity plan and did not address how the City would continue paying bills and doing business during an emergency.

The EOP would need to be exercised and tested to ensure it was sufficient. CM Worthey warned that some of the planned emergency training exercises may be orchestrated and rolled out with little notice and may feel very real and unexpected.

CEC Tarmichael encouraged Councilors to read the EOP, view the online videos and guidebook, attend training exercises, encourage constituents to be prepared to survive for 72 hours in an emergency, and to sign up for Everbridge and National Weather Service alerts to stay informed and facilitate being able to warn others in the case of an emergency.

CM Worthey stated that a key feature of the new EOP was the flexibility to use the resources found in the appendices to construct a custom plan for any given situation within the framework of the base plan.

The Natural Hazard Plan had assessed the City's ability to respond to varying levels of emergencies and coded the levels of risk in the framework of the EOP. Yamhill County Emergency Management (YCEM) and Tualatin Valley Fire and Rescue (TVF&R) collaborated on

the EOP to make sure the assessed levels of risk and language used would be compatible with their policies for emergency response.

CM Worthey stated that a high-level incident that would trigger a FEMA response would be considered a higher risk level because it would initiate a statewide response.

Vacation Rental Home and Short-Term Rental Update
RCA 11-06-23 CC GEN23-0007.pdf
Attachment 1. Vacation Rental Home and STR White Paper.pdf

PM Downing and Assistant Planner Dingwall presented the update on vacation rentals and short-term rentals. The Staff recommendation was to receive and file the updated research, receive and file the vacation rental home and short-term rental white paper, and provide direction to Staff on future actions related to vacation and short-term rentals. The white paper contained background information, trends, existing conditions in Newberg, public comments received, and sample policy approaches based on policies used by other jurisdictions. Recent activities included a meeting of the Short-Term Rental Ad Hoc Committee and a review of the white paper by the Planning Commission.

PM Downing shared the background on the activities of the City Council, Planning Commission, and Short-Term Rental Ad Hoc Committee regarding short-term rentals, discussed the existing requirements and criteria to get a conditional use permit for a short-term rental in Newberg, and noted the current restrictions and limitations. Numbers of vacation rental applications have continually increased over the last few years.

PM Downing shared data regarding vacation rentals taken from information provided in permit applications, business license applications, and Transient Lodging Tax (TLT) payments which indicated a total of 74 operating vacation rentals in Newberg as of August 2023, with only 57 paying TLT, 42 with City permits, and 18 with a business license. Only 12 vacation rentals were operating under full compliance. It was hard to tell which operators were not in full compliance because some vacation rentals were grandfathered in when regulations were instated in 2013.

PM Downing shared a map showing the locations of vacation rentals in Newberg which were clustered toward the downtown area, maps of the zoning districts and associated review process types and discussed charts categorizing the concerns expressed in public comments regarding vacation rentals with major concerns being parking, safety, traffic increases, noise, livability, social cohesion, and housing availability. The Police were requested to report back regarding the numbers of different types of complaints they received about vacation rentals. Sergeant Roning had written a letter stating vacation rentals were not significantly associated with higher rates of crime or complaints and there had only been fourteen complaints called in regarding eight of the vacation rental properties in a twelve-month period with some complaints about dogs, or behavioral health issues. Currently, there were no connections between the vacation rental permitting process, paying TLT, and enforcement regarding complaints, but connecting those processes could increase compliance.

PM Downing discussed the current types of review procedures and what activities would fall under which type of review procedure according to the Code.

PM Downing discussed possible regulatory approaches including policies determining how to bring non-conforming vacation rentals into compliance through grandfathering or amortization, and regulating vacation rentals by concentration, operations, compliance, or enforcement in the case of complaints or violations. AP Dingwall noted that no single regulation would address all of the issues, and that nearby jurisdictions layered multiple regulatory elements to manage vacation rentals.

PM Downing read the Planning Commission's list of recommendations for the City Council:
1. The City Council and Planning Commission engage in a joint work session to investigate and consider regulatory approaches for vacation rentals.
2. Consider enhanced enforcement of permitting and TLT activities for improved compliance.
3. Consider enhanced monitoring of violations and complaints associated with vacation rentals.
4. Discuss the need for a regulation based on a density cap.
5. Discuss the amortization of non-compliant operators similar to the policy used in Lincoln City.

Mayor Rosacker noted he had attended several Short-Term Rental Ad Hoc Committee meetings and the committee was running smoothly. He looked forward to further collaboration with the committee and the Planning Commission. Mayor Rosacker called for a five-minute break.

Pretreatment Code Changes
Pretreatment Code Changes.pptx

Regulatory Compliance Officer Catan gave a PowerPoint presentation on the pretreatment-related Code changes. RCO Catan worked at the Wastewater Treatment Plant in Regulatory Compliance. The City was required by the Department of Environmental Quality (DEQ) to have and report on a pre-treatment program which was occasionally audited. The most recent DEQ findings required the City to revise and add some Code changes.

RCO Catan explained that pretreatment was a process undertaken by businesses to remove hazards before draining used water into the sewer lines to address issues such as oil, grease, chemicals, or a high pH in the water. Pretreatment protected sanitary sewer lines from caustic chemicals that could corrode the pipes, and also protected the Willamette River, City employees, the public, and the quality of biosolid compost and recycled water.

RCO Catan discussed proposed changes to the Code including revised or added definitions related to pretreatment to match federal language, and an addition to the Newberg Municipal Code regarding pH range limitations for wastewater.

RCO Catan stated that businesses in town were regularly checked for pretreatment compliance and that all restaurants were required to have a device to pretreat the water. Councilor McBride requested a report be brought back to the Council in the future regarding levels of compliance with wastewater standards in Newberg without disclosing names of businesses.

RCO Catan stated that the numbers in the pH range limitations were determined by Environmental Protection Agency (EPA) studies.

Water Treatment Plant Closeout Presentation
Newberg GWTP Project Closeout Presentation.pdf

Consor Engineers Chris Manning and Brian Ginter gave a PowerPoint presentation on the Groundwater Treatment Plant (GWTP). The main purposes of the GWTP project were to respond to the State requirement to cover the basins and filters at the existing plant, update the plant to current standards, address seismic resilience, the aging facility, and operational issues.

Mr. Manning went over the layout of the GWTP facility with the design 30% complete. The design had developed into a more comprehensive facility for staffing purposes as well as to add more resiliency and redundancy to the treatment process. The number of filters had increased, and new treatment processes were added to replace existing processes which used undesirable chemicals.

Mr. Manning shared a comparison of the original concept for the GWTP and the current 30% designed GWTP facility and detailed what had changed which resulted in an increase in cost from $21.7 million to just under $43 million.

Mr. Ginter stated the original design concept for the GWTP had been coordinated with City Staff with the intention to replace the plant with a plant of similar capacity. Over time the design evolved with input from Staff to a more long-term facility with higher capacity, increased operational efficiency, and improved safety features. The cost estimate for the original design concept of the GWTP was given two and a half years ago and since that time inflation has increased significantly. The cost estimate for the 30% designed GWTP facility was given this year.

Mr. Manning stated the existing water treatment plant had been there for 70 years, and the designers had increased the size of the GWTP building design and the scope of the support space provided with the intention of creating a facility that could serve for 70 years into the future. The additional 10,000 sq ft provided an additional 2,000 sq ft of staff support space, 8,000 sq ft for expanded water treatment operations, and a control room which had not been included in the original design and had been requested by Staff.

The 30% designed GWTP facility included a large conference room and four bathrooms. CM Worthey had not been aware of the inclusion of those rooms in the design and stated that previous Staff members had not shared any information regarding the decisions to expand the facility design. CM Worthey committed to asking for more detailed information from Department Heads in the future rather than leaving matters up to trust.

Mr. Manning noted that the design process was not linear and significant changes were often made between 30% and 60% of design completion. Even without the conference room and other extra rooms the budget still would have gone far over the estimate. Other major factors impacting the cost were soil improvements, running a sanitary sewer line, adding a new storm sewer, and site prep for the future Bluff Road frontage. The soil conditions at the existing water treatment plant site were worse than soil at the GWTP site. The soil conditions at GWTP site were not known when the City planned the location of the GWTP. The next steps in the design process would include evaluating other potential sites.

Mr. Manning noted that the intention had been to save money and several cost saving opportunities had been identified including reuse of the existing backwash storage pond and

pump station, building the backwash recycle tank in a future phase, and reuse of the existing backup generator.

Mr. Manning shared a graph of the Mortensen construction cost index showing the inflationary impacts to construction in different cities over the past few years. Specialty construction and construction using specialized equipment had been impacted by inflation more than typical construction. Future increases in inflation were included in the construction cost estimates as inflation rates were anticipated to increase over the timeframe of the GWTP project. Consor had worked with the City and with a Construction Manager/General Contractor (CMGC) to decrease costs of the GWTP by creating a smaller, more efficient design. The existing water treatment plant was built in the 1950s and had been through at least eight substantial renovations. The new design was forward-thinking and left extra space available for future expansion.

Mr. Manning stated Consor was working with City Engineer Calvert to closeout the GWTP project and cancel all permitting work that had been done on the GWTP project. All organizations that had been involved, including financing and State regulation agencies, had been notified of the GWTP project closeout. Consor would work to tie up loose ends in the design to ensure the design had as much value to the City as possible with the inclusion of value engineering options and geotechnical reports so that if or when the City was ready to move forward with the GWTP the City could build off of the work that had already been done on the design.

CM Worthey stated that if the information were packaged up nicely, in eight years when the City was ready to begin the project it was likely that things would have changed significantly enough that the City would have to start from scratch again. Mr. Ginter confirmed that there would be some lost efficiency and it would not be like starting from 30% design completion, but there were certain elements and reports that would still be relevant and usable as a starting point. Mr. Manning stated there was significant work put into the design and the design could be built on at a future point.

The work already done on the GWTP design by Consor may cost the City around $800,000.

Councilor McBride was in favor of looking for a more convenient location for the GWTP and finding out who would be able to assess and make a recommendation for a new location.

CM Worthey stated that his direction to Staff was to contain any remaining residual costs. The City would need to have less debt on the books to get more financing to build a new GWTP.

Mr. Manning stated that there had been discussion about finding other sites, and that Consor or City Staff could work on finding a new site for the GWTP. The City would still need to comply with DEQ requirements to cover the water basins at the existing water treatment plant by 2027 so the plant would not be considered a surface water treatment plant. The work needed to make the existing water treatment plant seismically resilient had triggered the initial exploration into building the new GWTP. Due to sizable costs at the current proposed GWTP site, the next step in building the GWTP would be to evaluate alternative sites and alternative financing options.

CONSENT CALENDAR

Resolution 2023-3911 – A Resolution approving the contract with JH Kelly to perform the Public Safety Building and Server Room HVAC replacement and upgrade for $265,574.89
Resolution 2023-3911 HVAC Replacement and Upgrades.docx

Exhibit A Server and PSB HVAC.pdf

Resolution 2023-3909 – A Resolution repealing Resolution 2013-3102 to replace the 2013 Emergency Operations Plan (EOP) with the 2023 version
Exhibit A Newberg_eop_base plan 2023.docx
Resolution 2023-3909 A Resolution to Repeal and Replace the Current Emergency Operations Plan.docx

Action:	To approve the Consent Calendar: Resolution 2023-3911 and Resolution 2023-3909
Motion:	Councilor Yarnell Hollamon
Second:	Councilor Olson
Vote:	6 Yes 0 No 0 Abstain 1 Absent (Carmon)

CONTINUED BUSINESS

Resolution 2023-3910 – A Resolution authorizing the City Manager to execute a change order to closeout the Elliott Road Improvement Project in the amount of $638,434
Exhibit A ElliottRdPj ChgOrder_10.pdf
Res 2023-3910 ElliottRdPj-Project Update and Closeout 002.pdf

CM Worthey stated that the presentation would explain how the Elliott Rd improvement project had gone over budget due to some oversights.

City Engineer Calvert and Senior Engineer Chiu presented on the change order to closeout the Elliott Rd improvement project. CE Calvert stated he was optimistic that there were ways to overcome the challenges to building the GWTP, and acknowledged the Elliott Rd project was a large and difficult project for a community of this size to try to complete. Kittleson & Associates, the lead design engineering firm on the project, would give a more detailed presentation on the project to the Council on December 4th to help determine the next steps and share ways to recover some of the funding. Several change orders had been made to the project resulting in a total estimated cost of $6,961,000. Council action was required to make the final payment to The Saunders Company for work already completed on the Elliott Rd project.

CE Calvert noted the utilities in the project area were often unmarked, poorly marked, or mislocated, which complicated the process for the contractors and added costs to the project. The Elliot Rd project timeframe overlapped with the Newberg High School project which required Elliot Rd to remain open to through traffic during construction. The original plan had been to close Elliott Rd during construction and keeping it open had incurred the additional cost of providing traffic control for an extended period of time. Adjacent property owner coordination created extra costs for landscaping, detail work on matching elevations and adjusting grades, and retaining wall additions to meet property owner needs. CE Calvert stated in his experience projects did not typically go so far over budget.

Senior Engineer Chiu stated The Saunders Company had a very talented superintendent on the project who mentioned that in his experience this project had been the worst situation he had ever seen as far as underground utility markings and locations. SE Chiu detailed some of

the major difficulties that were experienced with regard to locating underground utilities for the Elliott Rd project.

CE Calvert stated that for unknown reasons the utility companies did not seem to have a solid knowledge of their infrastructure in the Elliott Rd area. Utility location would be a priority during the early stages of future projects to avoid running into problems later. Sonar equipment could be used to locate underground with more reliability.

Action:	To approve Resolution 2023-3910 authorizing the City Manager to execute a change order to closeout the Elliot Rd improvement project in the amount of $638,434
Motion:	Councilor Olson
Second:	Councilor McBride
Vote:	6 Yes 0 No 0 Abstain 1 Absent (Carmon)

The Council addressed Item 6 Public Comments at this time.

NEW BUSINESS

A potential Construction Excise Tax (CET) project
RCA INFORMATION A Potential CET Project.docx
HAYC Manufactured Home Grant Proposal info ITEM 12b.docx

This Item was addressed immediately following Item 6 Public Comments.

CM Worthey stated the City had a current CET balance of $1.57 million to be used for allowed purposes. CM Worthey gave the breakdown of the current distribution of CET funds and stated that 35% of the CET funds could be used to fund developer incentives and affordable housing programs for a current total of $549,500. Staff recommended exploring the idea of using the CET funds for the Manufactured Home Grant program and having it continue under the authority of the NAHC, although there may be some legal hurdles. The CET funds for developer incentives could not be used, but the CET funds allocated to affordable housing programs could be used to fund the Manufactured Home Grant program if the City determined the Mobile Home Grants made the cost of housing affordable versus simply making the housing units habitable, and if the City could identify a method of evaluating eligibility connected to affordable housing. If the City were to agree that the contracting agency would give the applicant a certain number of months of free rent, and in exchange the Applicants did the repairs to bring the property into usable condition, this could create a way to prove the program promoted affordability. The Council could direct Staff to explore these ideas.

Mayor Rosacker noted it would be easy to prove the manufactured homes fell within the appropriate income range.

City Attorney Walker stated the two authorities the City was navigating were the ordinance shared by Mr. Talt, and the State statute that sets up the CET. The main question was what constituted an affordable housing program. The language also specifically stated the requirement of having an 80% median family income paired with a 30% rental expense to be eligible for affordable housing programs, so a process to determine eligibility would be necessary. CA Walker reiterated it would be necessary to show that the program was creating affordable

housing and not just improving the properties. The existing programs provided rent buydowns, downpayment assistance, and foreclosure avoidance which directly impacted the cost of the housing itself. Home improvements such as a ramp installation or improving stairs or heating conditions may not have a direct impact on the cost of the housing, though arguably home improvements may be tied to housing costs indirectly. The City would need to feel comfortable with justifying the situation if a challenge was raised.

Mayor Rosacker stated that in many cases if home repairs were not done, homeowners were in jeopardy of being unable to continue living in the home with the alternative being to pay more rent somewhere else.

CA Walker agreed that was the argument the City would rely on along with Mr. Talt's point about the language, "but not limited to" but the challenge was there was nothing specified by statute or ordinance

Councilor Kilburg stated the Newberg Municipal Code Section 3.60.030 B. Residential Improvements referenced Oregon Statute 3.20.1953 which referenced Oregon Laws 2016 Chapter 59 Section 9 3C mentioned 35% of CET funding was available for programs related to affordable housing, and in paragraph 4 it stated the remaining 50% of received CET funds could be used to fund City or County housing programs and did not mention "affordable" housing.

CA Walker would need to review the references provided by Councilor Kilburg.

Councilor Olson noted that when Council tried to spend CET funds in June it was mentioned that the NAHC was supposed to provide a list of community improvement opportunities. Councilor Olson recommended contacting the NAHC and discussing all the options before deciding how to spend CET funds.

Mayor Rosacker stated Staff could be directed to research the item and bring it back through the NAHC.

Councilor Olson noted that because the NAHC had not been meeting there may be other funding that had not been allocated yet.

Mayor Rosacker confirmed the NAHC was actively meeting.

Councilor Yarnell Hollamon supported the proposal as presented by CM Worthey and hoped to hear an update on the activities of the NAHC.

Councilor Kilburg planned to collaborate with CA Walker to review the legal language to see what was possible and seek simplicity. CA Walker agreed to look for authority under those laws with Council approval.

Councilor Kilburg stated that the last time the NAHC came before the Council they had only received two applications and it was unlikely that they had any pending applications.

Mayor Rosacker stated the NAHC would meet in December to allocate their three sources of funding to various projects, and he hoped to see the CET funds used on a project that made a real difference to affordable housing.

CM Worthey noted Staff could work on this project idea and if the NAHC had other ideas they could be presented to the Council at the same time.

Jim Talt thanked Councilor Kilburg for reading the legal language found in Oregon Laws 2016 Chapter 59 Section 9 and stated she hit on the two main operative paragraphs noting the availability of CET funds for affordable housing projects which were left undefined. Newberg Code said that the CET payout split between 15%, 35%, and 50% only applied to taxes collected from residential programs, where funds collected from commercial, industrial, or mixed-use work was not subject to the payout schedule.

Mayor Rosacker asked if the collected CET money had been tracked as to whether it had come from residential or commercial developments. CM Worthey was unaware if the sources of the funds had been tracked.

COUNCIL BUSINESS
None

ADJOURNMENT
Meeting adjourned at 8:30 pm.

ATTEST

Rachel C. Thomas
City Recorder, Rachel Thomas

Bill Rosacker, Mayor

Ordinance amending the Newberg Municipal Code, Title 15 Development Code, 15.05.030, 15.305.030, 15.410.070, and 15.440.030 related to daycare facilities and play structures (File No. DCA 23-0002)

Exhibit D

March 2024 Day Care Barriers Memorandum

MEMORANDUM

TO: City Councilors, Interested Parties

FROM: Jeremiah Cromie, Associate Planner, Community Development Department

SUBJECT: Initial Findings Related to Reducing Barriers to Daycare Operations in Newberg

DATE: March 18, 2024

On November 20, 2023, Councilor Olson gave a presentation to the Newberg City Council on childcare issues in Newberg and barriers to the creation of new daycare operations in Newberg. The Council directed staff to work on issues related to daycares that are within the City's control as a local government.

Staff investigated several items mentioned as being ripe for breaking down the barriers. After initial review of the current development code and permit processes, it appears that limited changes within the City's control are available to reduce some of these existing barriers to daycare operations, and as discussed in this memo, some of these changes have already been adopted or are in progress.

The most tangible opportunities for development code changes that would reduce barriers to childcare are a **reduction in parking requirements**, and code amendments **allowing childcare in light industrial zones** consistent with state law.[1]

Key Issues and Recommendations

The following summarizes the key issues identified by Councilor Olson and others, and staff's initial findings and recommendations:

1. **System Development Charges (SDC) are too high.**
   On February 20, 2024, the Newberg City Council adopted a System Development Charge (SDC) reform package that exempts development of childcare facilities. This should reduce fees associated with daycare operations and have a significant impact on development costs.

   This barrier is eliminated.

2. **Process of getting from pre-app to permits is unfriendly and prolonged.**

[1] Specifically, ORS 329A.440.4(a) requires that, "A child care center is a permitted use in all areas zoned for commercial or industrial use, except areas specifically designated by the local government for heavy industrial use."

City Council approved the 2024 Planning Division Work Plan which includes the *Customer Service and Development Standards Update* as a Critical Project scheduled to occur in the near future. The City Council also recently adopted a Customer Service Policy (Resolution 2024-3918). Pursuant to this policy, the Community Development Department is developing customer service metrics and is reviewing the development code for opportunities to streamline application procedures and standards. The goal is to improve the permit application process for all applicants, including daycare operators.

This barrier is expected to be reduced as the Community Development Department proceeds with Customer Service and Development Standards Update.

3. **The process is paper and not electronic.**
   As of February 2024, the Community Development Department's application process can be done completely electronically. The Paper application submittals are no longer required by the Planning or Building Divisions.

   This barrier has been eliminated.

4. **City code limiting employees for home businesses contradicts State student to child-care provider ratio requirements.**

   City staff conducted a review of existing code and found that a prior interpretation that family home daycares are home occupations was **incorrect**. The development code has a specific definition for "Family Child Care Homes" and it is a permitted use in the zoning use table (see Appendix A for details) rather than a special use that requires a home occupation permit. This "Family Child Care Home" use meets current state requirements and does not require a home occupation permit that limits the number of employees. This use is permitted outright in all residential districts in existing single-family dwellings.

   This barrier has been eliminated.

5. **Zoning – conditional use for light industrial – remove limitations for all but heavy industrial to allow onsite childcare.**

   Staff believes this is a two-prong issue, with the first being the need to remove restrictions on new commercial daycares in industrial areas as required by state law, and the second being the recommendation to allow onsite daycares on the employer's site as an accessory use. The City's existing code includes five different industrial zoning districts, each with a different purpose and allowing differing uses and development standards. The table below provides each zoning district's purpose as well the current permitting process required for a commercial daycare operation in that district:

Zoning District	Purpose of Zoning District	Daycare Use Category Requirement by Zoning District
Limited Industrial (M-1)	The M-1 limited industrial district is intended to create, preserve and enhance areas containing manufacturing and related establishments with limited external impact, and with an open and attractive setting. The M-1 limited industrial district is typically	Conditional Use

Zoning District	Purpose of Zoning District	Daycare Use Category Requirement by Zoning District
	appropriate to locations near highways and arterials and nonmanufacturing areas.	
Light Industrial (M-2)	The M-2 light industrial district is intended to create, preserve and enhance areas containing a wide range of manufacturing and related establishments and is typically appropriate to areas providing a wide variety of sites with good rail or highway access.	Conditional Use
Heavy Industrial (M-3)	The M-3 heavy industrial district is intended to create, preserve and enhance areas containing manufacturing or related establishments which are potentially incompatible with most other establishments and are typically appropriate to areas which are most distant from residential areas, and which have extensive rail or shipping facilities.	Conditional Use
Large Lot Industrial (M-4)	The M-4 industrial employment district is divided into two subdistricts: the *industrial employment subdistrict* and the *industrial commercial subdistrict*. One of the main intents of these districts is to provide a variety of employment opportunities for the citizens of Newberg. Providing adequate jobs for our citizens leads to other related benefits, including a diversified and stable local economy, a stronger tax base, and environmental benefits from less out-commuting to jobs. In addition, providing adequate local jobs helps fulfill the stated desire of many citizens to "live here, work here, shop here."	Conditional Use in the Employment Subdistrict (M-4-I) Permitted Use in Commercial Subdistrict (M-4-C)
Mixed Employment (M-E)	The M-E mixed employment district is intended to create a mix of light industrial and limited commercial uses that provide employment opportunities for the City of Newberg while also creating a high-quality urban environment. This designation can provide a buffer between industrial uses with a high degree of external impact and other uses such as residential and recreational areas.	Permitted Use

The State Legislature passed HB3109 in 2021 (now codified as ORS 329A.440.4(a)), which requires that childcare centers must be permitted in all areas zoned for commercial or industrial use except that a local government may restrict childcare in areas designated for heavy industrial use. State law also requires that local governments may not impose land use regulations on childcare in an area zoned for industrial use that are more restrictive than those imposed for other uses in the same area.

Staff concludes based on HB3109 that M-1 (Limited Industrial District) and M-2 (Light Industrial District) should be amended to allow commercial daycare as an outright permitted use rather than a conditional use. The M-1 and M-2 zones make up most of the industrial land in Newberg.

Additionally, existing code already allows on-site daycares as an accessory use as long as it is primarily provided for the children of workers at the site. Such an accessory use does not require special permitting from the City's Planning Division. However, an accessory daycare operation would still be required to meet Building Code requirements for such an activity.

Portions of this barrier are eliminated through the ability of businesses to locate daycare operations on-site as accessory uses, but further code amendments are necessary to eliminate the barrier altogether.

6. **Parking requirements are excessive for a drop-off/pick-up childcare business**

Parking requirements for new daycare facilities currently require five (5) off-street parking spaces per 1,000 gross square feet (Newberg Municipal Code (NMC) 15.440.030). This requirement does not apply to family home daycares or accessory on-site daycares for employers. Staff are researching this topic further but believes the requirement may be high in comparison to nearby jurisdictions which appear to require off-street parking quantities based on the capacity for staff and children on-site. Another issue which may require evaluation is whether city requirements for drop-off and pick-up circulation are more restrictive than those required for licensing of childcare by the State of Oregon.

This barrier is currently being investigated and researched more thoroughly. Staff anticipates that a proposed code amendment for the parking requirements of daycare facilities will come before the Planning Commissions and City Council in the future.

7. **Traffic Study costs are expensive.**

Traffic Study costs are not particularly in the control of local government except in determining whether they are required or not. Traffic studies are currently required for any Type II or Type III development application (including commercial daycares) that generates in excess of 40 trips per p.m. peak hour. The Community Development Director may waive this where there is a previous traffic study for the site, such as for an existing commercial center, church or school, or if the proposed use would not cause any intersection to have a poor level of service.

This barrier is unlikely to go away for large commercial daycares but depending on the location of the project, it may be possible to waive the traffic study requirement in certain circumstances. Daycare facilities often have their traffic coming and going at peak hours (7-9am and 4-6pm) to drop off and pick up kids which may necessitate the need for a traffic study.

8. **Lighting and sidewalk upgrades are costly.**

Lighting and sidewalk upgrades, when needed, may be costly but are important safety measures that apply to most new development/redevelopment projects. They make sure all people are safe including when walking or picking up kids at night. The City currently requires:

- Sidewalk upgrades for any project valued at over $30,000 (NMC 12.05.090), and
- Lighting upgrades on site as part of any new commercial use including day cares in a Type I or Type II review (NMC 15.425.020).

Following initial review of this barrier, staff does not support waiving infrastructure improvements associated with increased safety where daycares may operate in the future.

9. **Inconsistent regulation between city, county and ODOT.**

Additional details regarding the specific inconsistencies experienced by prospective daycare operators would help staff better understand this issue. Regulation from the County or ODOT for a project in the city will likely only occur if the proposed facility is on or next to one of their roads. Staff would

typically coordinate with Yamhill County and ODOT during the pre-application process or in design review when a development affects one of their roadways. We support other coordination between entities as appropriate.

Additional information is required to understand the extent to which the barrier impacts prospective daycare operations.

10. **Families are not familiar with state programs that they are eligible for, programs have waiting lists.**

    Unless further information is provided, this appears to be a communication issue with state programs that the City may not have control over. However, City staff can potentially create a webpage or other resources to direct people to the state programs and related contacts. Local groups like the Newberg Downtown Coalition and Chehalem Valley Chamber of Commerce can help direct local businesses to this information as well.

    The City has limited influence over this barrier. This barrier may be overcome with better communication and direction to the state programs.

Appendix A: Relevant City Code Sections Related to Day Care

Contents

City Definitions (NMC 15.05.030): 6
Use Categories (NMC 15.303): 6
Zoning Use Table (NMC 15.305) 7
Off-Street Parking Required (NMC 15.440.030) 7
Permits and Certificates Regarding Sidewalks (NMC 12.05.090) 7
Exterior Lighting Requirements (NMC 15.425.020) 8

City Definitions (NMC 15.05.030):

"Day care category" means a use category under Chapter 15.303 NMC that includes the care, supervision and guidance on a regular basis of a child, unaccompanied by a parent, guardian or custodian, during a part of the 24 hours of the day, with or without compensation. It also may include care or supervision of an adult during part of the 24 hours of the day where lodging is not provided.

"Family child care home" means a registered or certified family child care home under the laws of the State of Oregon. A registered family child care home generally provides care for a maximum of 10 children in the family living quarters of the provider's home. A certified family care home is located in a building constructed as a single-family dwelling and has a certificate to care for a maximum of 16 children at any one time.

Use Categories (NMC 15.303):

15.303.312 Day care category.

A. Characteristics. This category includes the care, supervision and guidance on a regular basis of a child, unaccompanied by a parent, guardian or custodian, during a part of the 24 hours of the day, with or without compensation. It also may include care or supervision of an adult during part of the 24 hours of the day where lodging is not provided.

B. Accessory Uses. Play areas.

C. Examples. Preschools, adult day care centers.

D. Exclusions.

1. Family child care homes.

2. Child care which does not require state registration or certification, such as babysitting.

3. Accessory day care that is provided primarily for the children of workers at the site is considered an accessory use.

4. Schools, primary or secondary.

5. Residential care homes and residential care facilities. [Ord. 2763 § 1 (Exh. A § 5), 9-16-13.]

Zoning Use Table (NMC 15.305)

#	Use	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-E	M-1	M-2	M-3	M-4-I	M-4-C	CF	I	AR	AI	Notes and Special Use Standards
300	INSTITUTIONAL AND PUBLIC USES																				
310	INSTITUTIONAL CARE AND HOUSING																				
Def.	Family child care home	P	P	P(13)	P(13)	P	P(13)	P(13)	P(13)	P(13)	X							P	P(13)		ORS Chapter 657A
312	Day care	P	P	P	C	P	P	P	P		P	C	C	C	C	P		P		P(14)	ORS Chapter 657A

Off-Street Parking Required (NMC 15.440.030)

Institutional Types	
Churches, clubs, lodges	1 for every 4 fixed seats or every 8 feet of bench length or every 28 sq. ft. where no permanent seats or benches are maintained – in main auditorium (sanctuary or place of worship)
Continuing care retirement community not including nursing care	1 space per living unit
Day care facility	5 spaces per each 1,000 gross sq. ft.
Hospitals (including accessory retail wholly contained within a hospital building)	2 spaces for each 1,000 gross sq. ft.

Permits and Certificates Regarding Sidewalks (NMC 12.05.090)

A. Concurrent with the issuance of a building permit for the construction of a building for residential use or business structures or an addition to a dwelling or business structure, the value of which is $30,000 or more except as the city engineer may require on building permits of lesser value in accordance with NMC 12.05.040, the owner, builder or contractor to whom the building permit is issued shall meet the following requirements:

1. Construct a sidewalk within the dedicated right-of-way for the full frontage in which a sidewalk in good repair does not exist. The sidewalk construction shall be completed within the building construction period or prior to issuance of an occupancy permit, whichever is the lesser.

2. Dedicate right-of-way in accordance with the city transportation plan.

B. The city engineer may issue a permit and certificate allowing noncompliance with the provisions of subsection (A) of this section to the owner, builder or contractor when, in the city engineer's opinion, the construction of a sidewalk is impractical for one or more of the following reasons:

1. Sidewalk grades have not and cannot be established for the property in question within a reasonable period of time.

2. Future installation of public utilities or street paving would, of necessity, cause severe damage to existing sidewalks.

3. Topography or contours make the construction of a sidewalk impractical.

4. The noncompliance provided in subsection (B)(1) of this section shall be temporary and shall cease to exist when grades are established for sidewalks by the public works department or when public utilities or street paving have been constructed. The permit shall indicate the reason for its issuance.

C. If the owner, builder or contractor considers any of the requirements impractical for any reason, they may appeal the decision to the planning commission.

D. If a sidewalk is not constructed within the time required by this section, then the city may construct it for the full street frontage in front of the property and proceed with the construction, assessment and collection of costs as provided for in NMC 12.05.070. [Ord. 2048, 3-2-81; Ord. 1857, 5-2-77; Ord. 929, 7-2-40. Code 2001 § 96.09.]

Exterior Lighting Requirements (NMC 15.425.020)

A. Applicability. Outdoor lighting shall be required for safety and personal security in areas of assembly, parking, and traverse, as part of multifamily residential, commercial, industrial, public, recreational and institutional uses. The applicant for any Type I or Type II development permit shall submit, as part of the site plan, evidence that the proposed outdoor lighting plan will comply with this section. This information shall contain but not be limited to the following:

1. The location, height, make, model, lamp type, wattage, and proposed cutoff angle of each outdoor lighting fixture.

2. Additional information the director may determine is necessary, including but not limited to illuminance level profiles, hours of business operation, and percentage of site dedicated to parking and access.

3. If any portion of the site is used after dark for outdoor parking, assembly or traverse, an illumination plan for these areas is required. The plan must address safety and personal security.

B. Exemptions. The following uses shall be exempt from the provisions of this section:

1. Public street and airport lighting.

2. Circus, fair, carnival, or outdoor governmentally sponsored event or festival lighting.

Ordinance amending the Newberg Municipal Code, Title 15 Development Code, 15.05.030, 15.305.030, 15.410.070, and 15.440.030 related to daycare facilities and play structures (File No. DCA 23-0002)

Exhibit E

Other Cities Parking Day Care Survey

City	Parking Requirement (Commercial Daycares)
Newberg	5 per 1,000 sq. ft. gross floor area
McMinnville	One space per on-site employee, and a designated pick-up and drop-off zone for two vehicles which can be on-street parking if it is not immediately adjacent to another use.
Woodburn	2 per caregiver
Sherwood	None
Canby	1 per employee
Dundee	2 per classroom (Based on preschool nursery/kindergarten)
Tualatin	2 per employee
Keizer	1 per up to 12 children, 2 for more than 12
Mollala	1 per 400 sq. ft. of floor area
North Plains	1 per employee plus 1 per 5 students
Forest Grove	2 per classroom
West Linn	1 per employee plus 1 per 1,000 sq. ft.
Moses Lake, WA	1 per employee plus 1 per 10 children or adults
Ellensburg, WA	1 per employee plus 1 temporary loading parking per each 8 full-day equivalent children
Maple Valley, WA	1 per employee plus 1 space for every five children, plus on-site loading and unloading areas
Roseburg	2 for the first 16 children plus one additional space for every 12 children thereafter, along with off-street loading and unloading area
Oregon City	2 per 1,000 square feet of net leasable area (3 maximum). Based on preschool nursery/kindergarten
Redmond, OR	1 space per employee; desginated pick up area required
Lake Oswego	2.5 spaces per 1,000 sq. ft. gross floor area
Tigard	MAX: 2.7 per 1,000 sq. ft. of gross floor area
Albany, OR	MAX: 1 per employee + 1 per 10 persons being cared for
Medford, OR	None, MAX: 1.1 spaces per teacher/employee on the largest shift, plus 1 space per 5 students
Bend, OR	None, MAX: 1 per 200 square feet
Gresham	1 per classroom (MAX: 2 spaces per classroom)
Burns, OR	1 per employee plus 1 per 5 children
Battle Ground, WA	2 per employee

Ordinance amending the Newberg Municipal Code, Title 15 Development Code, 15.05.030, 15.305.030, 15.410.070, and 15.440.030 related to daycare facilities and play structures (File No. DCA 23-0002)

Exhibit F

Agency Comments

COMMUNITY DEVELOPMENT
LAND USE APPLICATION REFERRAL

The enclosed material has been referred to you for your information and comment. Any comments you wish to make should be returned to the Community Development Department prior to: June 28, 2024
Please refer questions and comments to: Jeremiah Cromie

NOTE: Full size plans are available at the Community Development Department Office.

APPLICANT:	N/A
REQUEST:	Development Code Update: Daycare Facility Standards
SITE ADDRESS:	N/A
LOCATION:	N/A
TAX LOT:	N/A
FILE NO:	DCA23-0002
ZONE:	N/A
HEARING DATE:	July 11,2024

Project Information is Attached:

☑ Reviewed, no conflict.

☐ Reviewed; recommend denial for the following reasons:

☐ Require additional information to review. (Please list information required)

☐ Meeting requested.

☐ Comments. (Attach additional pages as needed)

Scot Siegel

Digitally signed by Scot Siegel
DN: C=US, OU=Community Development, O=City of Newberg, CN=Scot Siegel, E=scot.siegel@newbergoregon.gov
Reason: I am the author of this document
Location: your signing location here
Date: 2024.06.28 16:59:08-07'00'
Foxit PhantomPDF Version: 10.1.12

Reviewed By: Date:

Organization:

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TAX LOT:	N/A
FILE NO:	DCA23-0002
ZONE:	N/A
HEARING DATE:	July 11,2024

Project Information is Attached:

- [x] Reviewed, no conflict.
- [ ] Reviewed; recommend denial for the following reasons:
- [ ] Require additional information to review. (Please list information required)
- [ ] Meeting requested.
- [ ] Comments. (Attach additional pages as needed)

W E Worthey

Digitally signed by W E Worthey
DN: O=City of Newberg, CN=W E Worthey, E=will.worthey@newbergoregon.gov
Reason: I have reviewed this document
Location: your signing location here
Date: 2024.06.16 17:47:23-07'00'
Foxit PhantomPDF Version: 10.1.12

Reviewed By: Will Worthey CM

Date: 6/16/24

Organization:

COMMUNITY DEVELOPMENT
LAND USE APPLICATION REFERRAL

The enclosed material has been referred to you for your information and comment. Any comments you wish to make should be returned to the Community Development Department prior to: June 28, 2024
Please refer questions and comments to: Jeremiah Cromie

NOTE: Full size plans are available at the Community Development Department Office.

APPLICANT:	N/A
REQUEST:	Development Code Update: Daycare Facility Standards
SITE ADDRESS:	N/A
LOCATION:	N/A
TAX LOT:	N/A
FILE NO:	DCA23-0002
ZONE:	N/A
HEARING DATE:	July 11,2024

Project Information is Attached:

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☐ Reviewed; recommend denial for the following reasons:

☐ Require additional information to review. (Please list information required)

☐ Meeting requested.

☐ Comments. (Attach additional pages as needed)

Brett Musick

Digitally signed by Brett Musick
DN: CN=Brett Musick, E=brett.musick@newbergoregon.gov
Reason: I have reviewed this document
Location: your signing location here
Date: 2024.06.25 13:23:37-07'00'
Foxit PhantomPDF Version: 10.1.10

Reviewed By:

6/25/24

Date:

CON PW Engineering

Organization:

COMMUNITY DEVELOPMENT
LAND USE APPLICATION REFERRAL

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REQUEST:	Development Code Update: Daycare Facility Standards
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- [ ] Meeting requested.
- [ ] Comments. (Attach additional pages as needed)

S.EGGIMAN — Reviewed By:

6/19/2024 — Date:

Organization:

COMMUNITY DEVELOPMENT
LAND USE APPLICATION REFERRAL

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Please refer questions and comments to: Jeremiah Cromie

NOTE: Full size plans are available at the Community Development Department Office.

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REQUEST:	Development Code Update: Daycare Facility Standards
SITE ADDRESS:	N/A
LOCATION:	N/A
TAX LOT:	N/A
FILE NO:	DCA23-0002
ZONE:	N/A
HEARING DATE:	July 11,2024

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- [ ] Comments. (Attach additional pages as needed)

J. Vinel — 6-19-24

Reviewed By: Date:

Newberg-Dundee Police

Organization:

COMMUNITY DEVELOPMENT
LAND USE APPLICATION REFERRAL

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Please refer questions and comments to: Jeremiah Cromie

NOTE: Full size plans are available at the Community Development Department Office.

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REQUEST:	Development Code Update: Daycare Facility Standards
SITE ADDRESS:	N/A
LOCATION:	N/A
TAX LOT:	N/A
FILE NO:	DCA23-0002
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- [ ] Comments. (Attach additional pages as needed)

Reviewed By: _____ Date: 6/17/24

Maintenance Superintendent
Organization:

COMMUNITY DEVELOPMENT
LAND USE APPLICATION REFERRAL

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Please refer questions and comments to: Jeremiah Cromie

NOTE: Full size plans are available at the Community Development Department Office.

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REQUEST:	Development Code Update: Daycare Facility Standards
SITE ADDRESS:	N/A
LOCATION:	N/A
TAX LOT:	N/A
FILE NO:	DCA23-0002
ZONE:	N/A
HEARING DATE:	July 11,2024

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- [ ] Meeting requested.
- [ ] Comments. (Attach additional pages as needed)

April Catan
Digitally signed by April Catan
DN: C=US, OU=Operations, O=City of Newberg, CN=April Catan, E=april.catan@newbergoregon.gov
Reason: I am the author of this document
Location: your signing location here
Date: 2024.06.17 16:20:14-07'00'
Foxit PhantomPDF Version: 10.1.10

Reviewed By:

6/17/24
Date:

City of Newberg - Ops
Organization:

COMMUNITY DEVELOPMENT
LAND USE APPLICATION REFERRAL

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Please refer questions and comments to: Jeremiah Cromie

NOTE: Full size plans are available at the Community Development Department Office.

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REQUEST:	Development Code Update: Daycare Facility Standards
SITE ADDRESS:	N/A
LOCATION:	N/A
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HEARING DATE:	July 11,2024

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☐ Meeting requested.

☐ Comments. (Attach additional pages as needed)

Reviewed By: _____ Date: 6/17/24

Organization: City of Newberg - Operations

Fe Bates

From: Brown, Jason <JBrown2@wm.com>
Sent: Wednesday, June 19, 2024 7:27 AM
To: Fe Bates
Cc: Jeremiah Cromie; Wille, Jason
Subject: RE: 3- City of Newberg Referral Requests: DR124-224-0004/ADJC24-0003 &DCA23-0002 & DCA24-0001

This email originated from outside the City of Newberg's organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Fe, WM does not have any issues with all three.

Thank you

From: Fe Bates <Fe.Bates@newbergoregon.gov>
Sent: Friday, June 14, 2024 3:58 PM
Cc: Fe Bates <Fe.Bates@newbergoregon.gov>; Jeremiah Cromie <Jeremiah.Cromie@newbergoregon.gov>
Subject: [EXTERNAL] 3- City of Newberg Referral Requests: DR124-224-0004/ADJC24-0003 &DCA23-0002 & DCA24-0001

Good Day,

There are 3 separate Referral for review linked in this email, to alleviate confusion additional information about each project has been added to the email in addition to the linked Referral. Referral Comments for all 3 must be emailed back no later than June 28, 2024 to Planning@newbergoregon.gov .

(DR224-0004/ADJC24-0003 HeadStart Expansion)
Referral- DR224-0004\u0026ADJC24-0003.pdf
This project is separate from the code amendments but is for a design review and code adjustment: An expansion for Head Start here in Newberg at 2813 E Crestview Drive. They are wanting to build a new 2,100 sq. ft. building and new playground area. They also submitted a code adjustment application to keep the existing parking (26 spaces) rather than having to add additional parking spaces (the current gravel spaces will be paved and marked).

Webpage: https://www.newbergoregon.gov/planning/page/dr224-0004adjc24-0003-head-start-newberg-expansion

DCA23-0002 Daycare Code Amendments
Referral-DCA23-0002.pdf
The proposed code amendments would do the following:

1. Make commercial daycare uses a permitted use in all light industrial zones (M-1 and M-2) to comply with current state law (they currently require a conditional use permit)
2. Reduce the parking requirements for new daycare facilities by transitioning from a current ratio of 5 per 1,000 square feet of gross floor area to having a ratio based on the number of employees and number of children/people cared for (currently proposed to be 1 per employee plus 1 per 10 children/people cared for)
3. Add a definition of play structures and where they can be located on property (proposed to be allowed within 3 feet from interior property lines and 10 feet from front lot lines) on most properties

(Draft Staff Report File has all documents (bookmarked) but also included code amendment language as well as memo – first 3 attachments).
Webpage: https://www.newbergoregon.gov/planning/page/dca23-0002-daycare-facilities-updates

DCA24-0001 Sign Code Maintenance Amendments
Referral -DCA24-0001.pdf
The proposed code amendments would do the following:

1. Update definitions of free standing and portable signs to make it clear which one is being used.
2. Update Resolute Highways language
3. Update sign standards in the Right-of-Way (ROW) downtown that include the following:
    a. How written permission is given with the sign
    b. Getting rid of specific hours signs are allowed in Right-of-Way (Still will not be allowed in Right-Of-Waw when business is closed).

(Draft Staff Report File has all documents (bookmarked) but also included code amendment language -last 2 attachments).
Webpage: https://www.newbergoregon.gov/planning/page/dca24-0001-sign-code-amendment

Please reach out if you have any questions.

Thank you,

Thank you,

Please let us know how you feel about our services by filling out this *City Services Customer Satisfaction Survey*.

Fé Bates
Community Development
Administrative Assistant
City of Newberg
City Hall: 503-537-1240
Direct: 503-554-7788

OUR OFFICE HAS TEMPORARILY MOVED TO THE WASTE WATER TREATMENT PLANT AT: 2301 NE WYNOOSKI RD.
We will be open to the Public for any Permitting or Planning needs from 8:30 to 3:30; Monday- Friday

COMMUNITY DEVELOPMENT
LAND USE APPLICATION REFERRAL

The enclosed material has been referred to you for your information and comment. Any comments you wish to make should be returned to the Community Development Department prior to: June 28, 2024
Please refer questions and comments to: Jeremiah Cromie

NOTE: Full size plans are available at the Community Development Department Office.

APPLICANT:	N/A
REQUEST:	Development Code Update: Daycare Facility Standards
SITE ADDRESS:	N/A
LOCATION:	N/A
TAX LOT:	N/A
FILE NO:	DCA23-0002
ZONE:	N/A
HEARING DATE:	July 11,2024

Project Information is Attached:

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- [ ] Meeting requested.
- [x] Comments. (Attach additional pages as needed)

TSROOKS BATEMAN — Reviewed By:

6-21-24 — Date:

BUILDING — Organization:

SEE ATTACHED BUILDING CODE REQUIREMENTS
ATTACHED IS ONLY THE STARTING POINT SQUARE FOOTAGE AND OCCUPANT LOAD CAN REQUIRE MANY MORE CODE REQUIREMENTS

Friday, June 21, 2024 8:11:26 AM - Window

310.4.1 Care facilities within a dwelling.

A care facility located within a detached one- or two-family *dwelling* or *townhouse* and having five or fewer persons receiving care shall be permitted to be constructed in accordance with the *Residential Code* provided that Section 420.12 is met and accessibility is provided in accordance with Section 1103.2.12 for newly constructed facilities and Section 3403.4 for existing facilities.

310.4.2 Licensed child care within a dwelling.

A registered or certified family child care facility, as defined in ORS 329A, located within a *dwelling* shall be classified as a Group R-3 occupancy. Where located within a one- or two-family *dwelling* or *townhouse* the care facility shall be permitted to be constructed in accordance with the *Residential Code*, provided that Section 420.12 is met and accessibility is provided in accordance with Section 1103.2.12 for newly constructed facilities and Section 3403.4 for existing facilities.

310.4.3 Licensed adult foster care within a dwelling.

Adult foster homes, as defined in ORS 443.705, located within a dwelling shall be classified as Group R-3 and shall be permitted to be constructed in accordance with the *Residential Code* provided that an *automatic sprinkler system* is installed in accordance with Section 903.3.1.3 and accessibility is provided in accordance with the applicable provisions of Chapter 11 for the function served.

Adult foster homes and residential training homes within detached one-family dwellings. Adult foster homes as defined in ORS 443.705 and residential training homes as defined in ORS 443.400 licensed for five or fewer individuals prior to July 1, 2024, shall not require the installation of an automatic fire sprinkler system under application of the state building code. See the enrolled Senate Bill 1548 [2022] at *Oregonlegislature.gov* for more details.

Friday, June 21, 2024 8:13:29 AM - Window

305.2 Group E, day care facilities.

This group includes buildings and structures or portions thereof occupied by more than five children older than $2\frac{1}{2}$ years of age who receive educational, supervision or *personal* care services for fewer than 24 hours per day.

305.2.1 Within places of religious worship.

Rooms and spaces within *places of religious worship* providing such day care during religious functions shall be classified as part of the primary occupancy.

305.2.2 Five or fewer children.

A facility having five or fewer children receiving such day care shall be classified as part of the primary occupancy.

305.2.3 Five or fewer children in a dwelling unit.

> A facility such as the above located within a *dwelling unit* and having five or fewer children receiving such day care shall be classified as a Group R-3 occupancy. Where located within a detached one- or two-family *dwelling* or *townhouse*, the facility shall be permitted to be constructed in accordance with the *Residential Code*, provided that Section 420.12 is met, and accessibility is provided in accordance with

> Section 1103.2.12 for newly constructed facilities and Section 3403.4 for existing facilities.

Ordinance amending the Newberg Municipal Code, Title 15 Development Code, 15.05.030, 15.305.030, 15.410.070, and 15.440.030 related to daycare facilities and play structures (File No. DCA 23-0002)

Exhibit G

Planning Commission Staff Report for DCA23-0002

PLANNING COMMISSION STAFF REPORT
AMENDING THE NEWBERG MUNICPAL CODE, TITLE 15 DEVELOPMENT CODE, SECTIONS 15.05.030, 15.305.020, 15.410.070, and 15.440.030

FILE NO:	DCA23-0002
REQUEST:	A Resolution recommending City Council amend the Newberg Municipal Code, Title 15 Development Code, 15.05.030, 15.305.030, 15.410.070, and 15.440.030 related to daycare facilities and play structures.
APPLICANT:	City of Newberg
HEARING DATE:	July 11, 2024

ATTACHMENTS:

Resolution No. 2024-394 with:
- Exhibit "A": Development Code Amendments
- Exhibit "B": Findings

1. Newberg City Council Minutes from November 20, 2023
2. Newberg City Council "Childcare in Newberg" Presentation from November 20, 2023
3. Memorandum Regarding Barriers to Daycare Operations
4. Other Cities Daycare Parking Survey
5. Agency Comments
6. Public Comments

A. **SUMMARY:** The proposed amendments to Newberg Municipal Code, Title 15 Development Code, would amend Sections 15.05.030, 15.305.020, 15.410.070, and 15.440.030 to remove unnecessary regulatory obstacles to the establishment and operation of daycare facilities and play structures.

B. **BACKGROUND:** On November 20, 2023, the Newberg City Council considered challenges faced by local employers and households in finding childcare, including barriers to establishing new daycare operations in Newberg. Attachments 1 and 2 provide meeting minutes related those deliberations as well as the "Childcare in Newberg" presentation provided by Councilor Olson. In March 2024, City staff completed initial review of those barriers and provided a memorandum (Attachment 3) recommending strategies to remedy identified barriers. The memorandum, which was shared with City Counselors and an interested parties list, cited excessive land use regulations as one of the many barriers to establishing daycare operations in Newberg. However, the memorandum also noted that only some of the identified barriers were within the city government's span of control. The community discussion and initial research led to prioritization of Development Code reforms to provide additional childcare by easing regulations for daycare operators in the 2024 Planning Division Work Plan. Based on the findings related to childcare barriers, the City is proposing to amend portions of the Development Code to comply with state law and make it easier for new daycare uses to operate within the City, as follows:

1. Allow daycare facilities to be a *permitted use* in Limited and Light Industrial Zones (M-1 and M-2 districts) instead of a *conditional use* which will also bring the City into compliance with state law pursuant to HB3109 (2021).

2. Decrease the amount of required parking for new daycare facilities by going to an employee and child ratio (1 per employee plus 1 per 5 children) rather than the current building size ratio of 5 spaces per 1,000 square feet of gross floor area.

3. Create a definition for play structures and allow them within 3 feet of a property line.

C. **PROCESS:** A Development Code Amendment is a legislative action which follows Type IV procedures pursuant to Newberg Municipal Code 15.100.060. The Planning Commission will hold a legislative public 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:

a.	11/20/23:	The Newberg City Council directed staff to evaluate barriers to childcare within the City's span of control.
b.	1/16/24:	The Newberg City Council approved the 2024 Planning Division Work Plan which identified childcare updates as a Critical Project.
c.	3/18/24	Planning staff distributed a memorandum to City Councilors and an interested parties list regarding initial findings related to childcare and daycare barriers in the

City of Newberg.

d.	6/06/24	Planning staff published a Post-Acknowledgement Plan Amendment (PAPA) notice with the Department of Land Conservation and Development.
e.	6/27/24:	Planning staff placed notice of public hearing on Newberg's website and posted notice in four public buildings.
f.	6/27/24:	The *Newberg Graphic* published notice of the hearing.
g.	7/11/24:	The Planning Commission held a public hearing, took public testimony, and deliberated on the proposed amendments.

D. STAFF/AGENCY COMMENTS: As of the writing of this report, the City has received the following comments on the proposal (Attachment 5).

1. City Manager – No Conflict
2. Portland General Electric – No conflict
3. Public Works Maintenance – No Conflict
4. Public Works Regulatory Compliance – No conflict
5. Public Works Operations – No conflict
6. Engineering Division – No conflict
7. Police Department – No conflict
8. Waster Management – No conflict
9. Community Development Director – No conflict
10. Building Official – Had comments related to daycare building standards

E. PUBLIC COMMENTS: As of the writing of this report, the City has not received any public comments.

F. DISCUSSION: The proposed Development Code Amendment will address barriers that hinder new commercial daycare uses from opening in Newberg and create a negative impact on the availability of childcare services. The City is proposing changes that will make it easier for new daycares to operate through compliance with state law, reducing parking requirements, and allowing play structures in portions of required yard setback areas. The City will keep the current regulations regarding lighting and safety because these are believed to be important for all residents and visitors, including the City's smallest ones.

Terms and Definitions

The Newberg Municipal Code (NMC) includes the following key definitions and categories related to this topic include:

- "Family child care home" means a registered or certified family child care home under the laws of the State of Oregon. A registered family child care home generally provides care for a maximum of 10 children in the family living quarters of the provider's home. A certified family care home is located in a building constructed as a single-family dwelling and has a certificate to

care for a maximum of 16 children at any one time. *NMC 15.05.030 Definitions*

- "Day care category" means a use category under Chapter 15.303 NMC that includes the care, supervision and guidance on a regular basis of a child, unaccompanied by a parent, guardian or custodian, during a part of the 24 hours of the day, with or without compensation. It also may include care or supervision of an adult during part of the 24 hours of the day where lodging is not provided. *NMC 15.05.030 Definitions*
- Day Care Use Category

  A. Characteristics. This category includes the care, supervision and guidance on a regular basis of a child, unaccompanied by a parent, guardian or custodian, during a part of the 24 hours of the day, with or without compensation. It also may include care or supervision of an adult during part of the 24 hours of the day where lodging is not provided.

  B. Accessory Uses. Play areas.

  C. Examples. Preschools, adult day care centers.

  D. Exclusions.

  1. Family child care homes.
  2. Child care which does not require state registration or certification, such as babysitting.
  3. Accessory day care that is provided primarily for the children of workers at the site is considered an accessory use.
  4. Schools, primary or secondary.
  5. Residential care homes and residential care facilities

  NMC 15.303.312 Day care category

Analysis of Proposed Amendment

Allowing daycare facilities as a permitted use in Newberg's limited and light industrial zones will bring the City into compliance with Oregon House Bill 3109 (2021), now codified as ORS329A.440.49(a), that requires all cities to have childcare facilities as an outright permitted use in light industrial districts.

The proposed parking reduction is based on data collected from surveying other nearby cities (as seen in Attachment 4). These cities typically require parking based on the number of daycare employees and children present, rather than square footage. Newberg also requires more parking than all the cities surveyed. Most spaces will only be temporarily used while parents or caretakers conduct drop off and pick up within a certain timeframe, typically staying on-site for approximately 15 minutes. By requiring more parking than is necessary, the current code discourages daycare establishments, which must also comply with numerous state regulations, including those requiring a minimum floor area, numbers of caregivers, and outdoor play areas.

There is currently nothing in the Development Code regarding play structures (i.e. swing sets, jungle gyms, sandboxes) and where they can be placed within the City

whether for daycare operations or residences. The proposed play structures amendment addresses that problem by adding a definition for “Play Structure” and modifying the minimum setbacks requirements for play structures.

F. PRELIMINARY STAFF RECOMMENDATION:

The preliminary staff recommendation is made in the absence of public hearing testimony and may be modified subsequent to the close of the public hearing. Staff recommends that the Planning Commission does the following:

1. *Consider the staff report, public testimony, and the findings.*
2. *Deliberate.*
3. *Make a motion to adopt Resolution No. 2024-394, which recommends that City Council adopt the Development Code Amendments.*

PLANNING COMMISSION RESOLUTION 2024-394

A RESOLUTION RECOMMENDING THE NEWBERG MUNICIPAL CODE, TITLE 15 DEVELOPMENT CODE, SECTIONS 15.05.030, 15.305.020, 15.410.070, AND 15.440.030 RELATED TO DAYCARE FACILITIES AND PLAY STRUCTURES

RECITALS

1. On November 20, 2023, the Newberg City Council directed the Community Development Department to evaluate barriers to the provision of childcare that are within control of the City.

2. On January 16, 2024, the Newberg City Council approved the 2024 Planning Division Work Plan including childcare updates as a Critical Project.

3. On March 18, 2024, staff shared a memorandum with City Councilors and interested parties which provided initial findings regarding childcare barriers and opportunities for further action by the City of Newberg that including code amendments.

4. On July 11, 2024, after proper notice, the Newberg Planning Commission opened a public hearing, considered public testimony, deliberated, found that the proposed amendments were in the best interests of the City of Newberg.

The Newberg Planning Commission resolves as follows:

1. The Planning Commission of the City of Newberg recommends the City Council adopt the proposed Newberg Municipal Code amendments for Title 15 Development Code.

2. This recommendation is based on the staff report, Exhibit "A" Development Code Amendment language and Findings in Exhibit "B".

3. Exhibits "A" and "B" are incorporated by reference.

Adopted by the Newberg Planning Commission this 11th day of July 2024.

ATTEST:

_____ _____

Planning Commission Chair Planning Commission Secretary

List of Exhibits:

Exhibit "A". Development Code Amendments

Exhibit "B": Findings

Exhibit "A" to Planning Commission Resolution No. 2024-394
Development Code Amendment – File DCA23-0002

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

The Newberg Development Code shall be amended as follows:

Section 1. Newberg Development Code, 15.05.030 shall be amended to read for the following definitions:

"**Play Structure**" means swing sets, slides, playhouses, jungle gyms, sandboxes or other similar structures intended specifically for outdoor recreational activity for persons but not including dwellings, garages, carports, accessory structures, or sheds.

Section 2. Section 15.305.020 is amended to read as follows:

Newberg Development Code – Zoning Use Table

#	Use	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-E	M-1	M-2	M-3	M-4-I	M-4-C	CF	I	AR	AI	Notes and Special Use Standards
100	**AGRICULTURAL USES**																				
Def.	Horticulture	P	P	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	
Def.	Livestock and poultry farming	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
Def.	Home gardening	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Def.	Home livestock and poultry raising	S	S								X								S		NMC Title 6
200	**RESIDENTIAL USES**																				

#	Use	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-E	M-1	M-2	M-3	M-4-I	M-4-C	CF	I	AR	AI	Notes and Special Use Standards
Def.	Dwelling, single-family detached	P(2)	P	P(3)		P		C(4)	C(5)		X							P	P(6)		Subject to lot or development site area requirements of NMC 15.405.010
Def.	Dwelling, townhouse	P(2)	P	P(3)		P		C(4)	C(5)		X							P	P(6)		NMC 15.415.050(B); subject to lot or development site area requirements of NMC 15.405.010
Def.	Manufactured home on individual lot	S(2)	S	S(3)	P(7)	S					X								P(6)		NMC 15.445.050 – 15.445.070; subject to lot or development site area requirements of NMC 15.405.010
Def.	Manufactured dwelling park		S	S	S						X										NMC 15.445.075 – 15.445.160
Def.	Mobile home park		S	S	S						X										NMC 15.445.075 – 15.445.160
Def.	Manufactured home subdivision		S		S						X										NMC 15.445.075 – 15.445.160
Def.	Dwelling, duplex	P(2)	P	P	C	P		C(4)	P(8)/C(5)		X							P	P(6)		Subject to lot or development site area requirements of NMC 15.405.010
Def.	Dwelling, triplex	P	P	P		P												P	P(6)		NMC 15.415.050(A); subject to lot or development site area requirements of NMC 15.405.010
Def.	Dwelling, quadplex	P	P	P		P												P	P(6)		NMC 15.415.050(A); subject to lot or development site area requirements of NMC 15.405.010
Def.	Cottage cluster project	P	P	P		P												P	P(6)		NMC 15.415.050(C); subject to lot or development site area requirements of NMC 15.405.010

#	Use	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-E	M-1	M-2	M-3	M-4-I	M-4-C	CF	I	AR	AI	Notes and Special Use Standards
Def.	Dwelling, multifamily	C	P	P	C	P		C(4)	P(8)/C(5)		X							P			Subject to lot or development site area requirements of NMC 15.405.010
Def.	Dwelling, accessory	S	S	S		S		C	C		X							S	S		Chapter 15.445 NMC, Article V
Def.	Dwelling, mixed use						P(9)	P(10)	P(8)/C(5)	P(11)	X	C	C								
Def.	Dwelling, caretaker										X	P	P	P	C					P(12)	Limited to one per lot, and allowed whenever the use requires the on-site residence of such person.
Def.	Dormitory		C	P		P					X							P			
Def.	Home occupation (no more than one outside paid employee)	S	S	S(13)	S	S	S(13)	S(13)	S(13)	S(13)	X	S(13)	S(13)	S(13)	S(13)	S(13)	S(13)	S	S	S(13)	NMC 15.415.060
Def.	Home occupation (more than one outside paid employee)	C	C	C(13)	C	C	C(13)	C(13)	C(13)	C(13)	X	C(13)	C(13)	C(13)	C(13)	C(13)	C(13)	C	C	C(13)	NMC 15.415.060
300	**INSTITUTIONAL AND PUBLIC USES**																				
310	**INSTITUTIONAL CARE AND HOUSING**																				
Def.	Family child care home	P	P	P(13)	P(13)	P	P(13)	P(13)	P(13)	P(13)	X							P	P(13)		ORS Chapter 657A
312	Day care	P	P	P	C	P	P	P	P		P	~~C~~ P	~~C~~ P	C	C	P		P		P(14)	ORS Chapter 657A
Def.	Residential care home (5 or fewer people)	P	P	P(13)	P(13)	P	P(13)	P(13)	P(13)	P(13)	X							P	P(13)		ORS 197.665
Def.	Residential care facility (6 – 15 people)	C	P	P	C	P		C	C		X							P			ORS 197.665
315	Group care facility (16+ people)	C	C	C		C		C			X							P			
316	Hospital	C	C	C		C		P	P		C							P			
Def.	Prison										X	C	C	C	C						
320	**ASSEMBLY**																				

#	Use	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-E	M-1	M-2	M-3	M-4-I	M-4-C	CF	I	AR	AI	Notes and Special Use Standards
321	Religious institution, place of worship	P	P	P	P	P	P	P	P	P	X		P(29)				C	P			
322	Private club, lodge, meeting hall			C	C			P	P	C	X							P			
330	**SCHOOLS**																				
330	School, primary or secondary	P	P	P		P					X						C				
331	College	P	P	P		P	P	P	P(15)		P(15)						C	P			
332	Commercial educational services	C	C	C		C	P	P	P		P							C			
340	**PARKS AND OPEN SPACES**																				
341	Open space	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
342	Park	P	P	P	P	P	P	P	P	P	X				P(16)		P(17)	P			
Def.	Golf course	P	P	P							X						P(17)				
350	**PUBLIC SERVICES**																				
351	Community services	C	C	C	C	P		P	P	P	P						C	P			
352	Emergency services	P	P	P	P	P	P	P	P	P	X	P	P	P	P	P	P	P	P	P	
Def.	Pound, dog or cat							C	C		C	C	P	P	C	C					
Def.	Cemetery	C	C	C	C	C	C	C	C	C	X	C	C	C	C	C	C	C	C	C	ORS Chapter 97.46
360	**TRANSPORTATION**																				
Def.	Transportation facilities and improvements	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Def.	Transit center							P	P	P	X	P	P	P							
Def.	Parking facility			P		C	C	P	P(18)	C	P	P	P	P		P		P			
Def.	Airport, landing field										X		C	C						P	
Def.	Heliport, helipad	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	P	

#	Use	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-E	M-1	M-2	M-3	M-4-I	M-4-C	CF	I	AR	AI	Notes and Special Use Standards
Def.	Marina									C	X						C				
	Pilings, piers, docks, and similar in-water structures									C	X						C				
370	**UTILITIES**																				
Def.	Basic utilities	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Def.	Utility distribution plant or yard										X		P	P	P						
Def.	Wastewater treatment plant										X		C	P	C						
Def.	Telecommunication facility incorporated into existing structure/utility pole and no taller than 18 feet above existing structure/utility pole	C	C	C	C	C	S	S	S	S	S	S	S	S	S	S		S			Chapter 15.445 NMC, Article IV
Def.	Telecommunication facility, including radio towers and transmitters, which are 100 feet or less in height, except those incorporated into an existing structure no taller than 18 feet above that structure						C	C	C		C	C	S(19)	S(19)	P	C		C			Chapter 15.445 NMC, Article IV
Def.	Telecommunication facility, including radio towers and transmitters, which are over 100 feet						C	C	C		C	C	C	C	C	C		C			Chapter 15.445 NMC, Article IV
400	**COMMERCIAL USES**																				
410	**COMMERCIAL OFFICES**																				
411	Medical office			C		P	P(20)	P	P(21)		P							P			
412	Local business office					P(22)	P(20)	P	P(21)		P										
420	**COMMERCIAL SALES AND RENTALS**																				

#	Use	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-E	M-1	M-2	M-3	M-4-I	M-4-C	CF	I	AR	AI	Notes and Special Use Standards
421	Retail sales – General						P(20)	P	P(15)/(21)	P	P		P(23)								
422	Retail sales – Bulk outdoor							P	C		P		P								
423	Retail sales – Convenience						P(20)	P	P(21)	P	X		P(24)			P(25)					
Def.	Temporary merchant							S	S(21)		S										NMC 5.15.050 et seq.
425	Retail food and beverage production							S	S		P										Chapter 15.445 NMC, Article VIII
430	**EATING AND DRINKING ESTABLISHMENTS**																				
430	Eating and drinking – Alcohol-related							P	P(21)	P	P										Requires liquor license
430	Eating and drinking – Non-alcohol-related						P(20)	P	P(21)	P	P	P	P							C(26)	
440	**COMMERCIAL SERVICES**																				
441	Personal services					P	P(20)	P	P(21)	P	P										
442	Commercial services						P(20)	P	P(21)		P										
443	Commercial vehicle service							P	C		X	P(27)	P			P(28)					
Def.	Kennel, commercial							C	C		X	C	P	P	C	C					
450	**COMMERCIAL RECREATION**																				
451	Commercial recreation – Indoors							P	P(15)		P	P(29)	P(29)								
452	Commercial recreation – Outdoors							P			X		C								
453	Commercial recreation – Motor-vehicle-related										X		C							C(33)	
460	**COMMERCIAL LODGING**																				
Def.	Vacation rental home	C	C	S	S	S	S(13)	S(13)	S(13)	S(13)	X										Chapter 15.445 NMC, Article VII

#	Use	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-E	M-1	M-2	M-3	M-4-I	M-4-C	CF	I	AR	AI	Notes and Special Use Standards
Def.	Bed and breakfast (2 or fewer rooms)	C	S	S		S	S	S	S	S	X										NMC 15.445.010
Def.	Bed and breakfast (3 or more rooms)	C	C	C		C	C	S	S	S	X										NMC 15.445.010
Def.	Hotel or motel							P	P(15)	P	P									C(26)	
Def.	Recreational vehicle park							C		C	X	C	C	C							NMC 15.445.170
500	**INDUSTRIAL USES**																				
501	Traded sector industry office					P(30)	P(30)	P	P		P	P	P		P					P(33)	
502	Industrial services							C			P		P	P	P					P(33)	
503	Wholesale and industry sales							C(31)			P	P(31)	P	P	P					P(33)	
504	Warehouse, storage, and distribution										P	P(32)	P	P	P					P(33)	
505	Self-service storage							P			X	P	P	P	P						
506	Light manufacturing										P	P	P	P	P					P(33)	
507	Heavy manufacturing										X		P(34)	P	C						
508	Waste-related										X			C	C						
600	**MISCELLANEOUS USES**																				
Def.	Accessory building and use incidental to other permitted uses in the zone	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
	Uses similar to permitted uses in the zone and not defined or categorized	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
	Uses similar to conditional uses in the zone and not defined or categorized	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	
	Medical marijuana dispensary	X	X	X	X	X	P(35)	P(35)	P(35)	P(35)	X	X	X	X	X	X	X	X	X	X	

#	Use	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-E	M-1	M-2	M-3	M-4-I	M-4-C	CF	I	AR	AI	Notes and Special Use Standards
	Medical marijuana processor	X	X	X	X	X	X	P(38)	X	X	P(37)	P(37)	P(37)	P(37)	P(37)	X	X	X	X	X	
	Medical marijuana grow site	P(36)	P(36)	P(36)	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	X	
	Medical marijuana wholesaler	X	X	X	X	X	X	C(31)/(38)	X	X	P(38)	P(38)	P(38)	P(38)	P(38)	X	X	X	P(38)	X	
	Recreational marijuana processor	X	X	X	X	X	X	C(38)	X	X	P(37)	P(37)	P(37)	P(37)	P(37)	X	X	X	X	X	
	Recreational marijuana producer (indoor)	X	X	X	X	X	X	X	X	X	P	P	P	P	P	X	X	X	X	X	
	Recreational marijuana producer (outdoor)	X	X	X	X	X	X	X	X	X	C	C	C	C	C	X	X	X	X	X	
	Recreational marijuana retailer	X	X	X	X	X	P(38) /(39) /(40)	P(38) /(39) /(40)	P(38) /(39) /(40)	P(38) /(39) /(40)	X	X	X	X	X	X	X	X	X	X	
	Recreational marijuana wholesaler	X	X	X	X	X	X	C(31)/(38)	X	X	P(38)	P(38)	P(38)	P(38)	P(38)	X	X	X	P(38)	X	
	Marijuana laboratories	X	X	X	X	X	P	P	P	P	P	P	P	P	P	P	X	P	X	X	
	Marijuana research certificate	X	X	X	X	X	P	P	P	P	P	P	P	P	P	P	X	P	X	X	

Key:

P: Permitted use

S: Special use – Use requires a special use permit

C: Conditional use – Requires a conditional use permit

X: Prohibited use

(#): See notes for limitations

Notes.

(1) Limited to sites with preexisting agricultural uses, including at time of annexation.

(2) Limited to one per lot as a permitted use. More than one per lot allowed only through a conditional use permit or planned unit development, subject to density limits of NMC 15.405.010(B).

(3) Permitted on individual lots created prior to November 17, 1992. Homes on individual lots created on or after November 17, 1992, will only be permitted through the planned unit development process.

(4) The permitted density shall be stated on the conditional use permit.

(5) The dwelling units must front onto Hancock Street. No more than 30 percent of a single street frontage of a block may be occupied by residential uses. Contiguous residential street frontage must be less than 60 lineal feet. Density and parking standards for allowable dwelling units must be met.

(6) One single-family, duplex, triplex or quadplex dwelling, or up to four townhouses or cottage dwellings per lot with the addition of a tie-down or hangar for an airplane. At a minimum, a paved tie-down or hangar shall be provided on the property, or the property shall include permanent rights to a private hangar within the subdivision. See Chapter 15.336 NMC.

(7) The homes are not subject to the development standards set forth in NMC 15.445.050 through 15.445.070.

(8) The units must be located on the same lots as another use permitted or conditionally permitted in the C-3 zone and may not occupy the first floor storefront area (the portion of the building closest to the primary street), except on E/W Second Street where dwelling units are permitted to occupy the first floor of a building. There shall be no density limitation. Private parking areas or garages are not required for dwelling units located within buildings in existence prior to and including June 30, 1999. Parking shall be provided for all new dwelling units within any building constructed after June 30, 1999, in private parking areas or garages on the basis of one parking space for each dwelling unit.

(9) Permitted on the ground floor, one per lot in conjunction with any other use permitted or conditional use in the C-1 zone. On upper floors, dwelling units are unlimited and one parking space per dwelling unit is required.

(10) Permitted above any permitted use in the C-2 zone. There shall be no density limitation. Parking shall be provided in private parking areas or garages on the basis of one parking space for each dwelling unit.

(11) The units must be located on the same lot as another use permitted or conditionally permitted in the C-4 district and may not occupy the first-floor storefront area (the portion of the building closest to the primary street). There shall be no density limitation. Parking shall be provided for all new dwelling units in private parking areas or garages on the basis of a maximum of one parking space for each dwelling unit.

(12) One residence of area not more than 40 percent of the area of the hangar floor, up to a maximum of 1,500 square feet, for an airport caretaker or security officer on each separate parcel.

(13) Permitted in existing dwelling units only. New dwelling units may not be created for this use unless the dwelling unit would otherwise be allowed.

(14) Allowed exclusively for employers or employees of businesses located within this district.

(15) Facility over 40,000 square feet gross floor area requires a conditional use permit.

(16) Allowed in areas designated in industrial area plans.

(17) Limited to facilities owned or operated by a public agency.

(18) Parking garages are a conditional use, and must have first floor street frontage of 40 feet or less for ingress or egress. First floor development must be commercial.

(19) A conditional use permit is required if the facility is less than 2,000 feet from the nearest telecommunication facility.

(20) Businesses in the C-1 zone that have hours of operation between 10:00 p.m. and 7:00 a.m. require a conditional use permit.

(21) Drive-up service windows accessory to an existing business on the site with walk-in customer service, such as a drive-up bank window, are allowed only with a conditional use permit. Otherwise, drive-up service windows, except those in service on April 1, 2002, are prohibited. Changes in use will not be allowed.

(22) Retail sales of goods on site not allowed.

(23) Limited to secondhand stores.

(24) Store size is limited to 2,000 square feet gross floor area.

(25) Store size is limited to 5,000 square feet gross floor area.

(26) Use must demonstrate that it is compatible with airport operations.

(27) Limited to service stations.

(28) Limited to card lock fueling only. Retail services are limited to self-vending services.

(29) Permitted provided the structure is designed for easy conversion to industrial use, including not having fixed seating.

(30) Limited to 10,000 square feet maximum floor area.

(31) Allowed indoors only.

(32) Allowed indoors only. Outdoor use requires a conditional use permit.

(33) Must be aviation-related. See Chapter 15.332 NMC.

(34) Limited to expansion or change of existing heavy manufacturing uses.

(35) Shall not be located at the same address as a state-registered marijuana grow site, or within 1,000 feet of the real property comprising a public park, a public elementary or secondary school for which attendance is compulsory under ORS 339.020 or a private or parochial elementary or secondary school, teaching children as described in ORS 339.030(1)(a). Distance is measured in a straight line in a radius extending for 1,000 feet or less in any direction from the closest point anywhere on the boundary line of the real property comprising an existing public park, public elementary or secondary school or a private or parochial elementary or secondary school to the closest point of the premises of a dispensary. The premises consist of the dispensary building, or the portion of the building used for a dispensary. Shall not be located within 1,000 feet of another medical marijuana dispensary. Operating hours are limited to the hours between 9:00 a.m. and 10:00 p.m.

(36) Allows up to 12 mature plants; indoor operations only.

(37) Indoor use only.

(38) The use is not allowed within 1,000 feet of the real property comprising a public park, a public elementary or secondary school for which attendance is compulsory under ORS 339.020 or a private or parochial elementary or

secondary school, teaching children as described in ORS 339.030(1)(a). Distance is measured in a straight line in a radius extending for 1,000 feet or less in any direction from the closest point anywhere on the boundary line of the real property comprising an existing public park, public elementary or secondary school or a private or parochial elementary or secondary school to the closest point of the premises of a recreational processor, wholesaler or retailer, or medical marijuana processor and wholesaler.

(39) One-thousand-foot separation between retailer to retailer premises and 1,000-foot separation between retailer to dispensary premises.

(40) Operating hours limited to the hours between 9:00 a.m. and 10:00 p.m. [Ord. 2889 § 2 (Exh. B § 14), 12-6-21; Ord. 2880 § 2 (Exh. B § 16), 6-7-21; Ord. 2868 § 1 (Exh. A), 11-16-20; Ord. 2857 § 1 (Exh. A §§ 1, 2), 3-16-20; Ord. 2851 § 1 (Exh. A § 1), 1-21-20; Ord. 2840 § 1 (Exh. A § 1, Att. 1), 10-15-18; Ord. 2832 § 1 (Exh. A, Att. 1), 7-2-18; Ord. 2820 § 1 (Exh. A § 1, Att. 1), 9-18-17; Ord. 2809 § 1 (Exh. A § 1), 9-19-16; Ord. 2801 § 1 (Exh. A § 2), 6-6-16; Ord. 2798 § 1 (Exh. A § 2), 4-4-16; Ord. 2793 § 2 (Exh. A § 1), 2-1-16; Ord. 2780 § 1 (Exh. A § 2), 4-6-15; Ord. 2763[1] § 1 (Exh. A § 6), 9-16-13.]

Section 3. Section 15.410.070 is amended to read as follows:

Yard exceptions and permitted intrusions into required yard setbacks.
The following intrusions may project into required yards to the extent and under the conditions and limitations indicated:

A. Depressed Areas. In any district, open work fences, hedges, guard railings or other landscaping or architectural devices for safety protection around depressed ramps, stairs or retaining walls may be located in required yards; provided, that such devices are not more than three and one-half feet in height.

B. Accessory Buildings. In front yards on through lots, where a through lot has a depth of not more than 140 feet, accessory buildings may be located in one of the required front yards; provided, that every portion of such accessory building is not less than 10 feet from the nearest street line.

C. Projecting Building Features. The following building features may project into the required front yard no more than five feet and into the required interior yards no more than two feet; provided, that such projections are no closer than three feet to any interior lot line:

1. Eaves, cornices, belt courses, sills, awnings, buttresses or other similar features.

2. Chimneys and fireplaces, provided they do not exceed eight feet in width.

3. Porches, platforms or landings which do not extend above the level of the first floor of the building.

4. Mechanical structures (heat pumps, air conditioners, emergency generators and pumps).

D. Fences and Walls.

1. In the residential district, a fence or wall shall be permitted to be placed at the property line or within a yard setback as follows:

a. Not to exceed six feet in height. Located or maintained within the required interior yards. For purposes of fencing only, lots that are corner lots or through lots may select one of the street frontages as a front yard and all other yards shall be considered as interior yards, allowing the placement of a six-foot fence on the property line. In no case may a fence extend into the clear vision zone as defined in NMC 15.410.060.

b. Not to exceed four feet in height. Located or maintained within all other front yards.

2. In any commercial, industrial, or mixed employment district, a fence or wall shall be permitted to be placed at the property line or within a yard setback as follows:

a. Not to exceed eight feet in height. Located or maintained in any interior yard except where the requirements of vision clearance apply. For purposes of fencing only, lots that are corner lots or through lots may select one of the street frontages as a front yard and all other yards shall be considered as interior yards, allowing the placement of an eight-foot fence on the property line.

b. Not to exceed four feet in height. Located or maintained within all other front yards.

3. If chain link (wire-woven) fences are used, they are manufactured of corrosion-proof materials of at least 11-1/2 gauge.

4. The requirements of vision clearance shall apply to the placement of fences.

E. Parking and Service Drives (Also Refer to NMC 15.440.010 through 15.440.080).

1. In any district, service drives or accessways providing ingress and egress shall be permitted, together with any appropriate traffic control devices in any required yard.

2. In any residential district, public or private parking areas and parking spaces shall not be permitted in any required yard except as provided herein:

a. Required parking spaces shall be permitted on service drives in the required front yard in conjunction with any single-family detached dwelling, duplex dwelling, triplex dwelling, quadplex dwelling, or townhouse dwelling on a single lot.

b. Recreational vehicles, boat trailers, camperettes and all other vehicles not in daily use are restricted to parking in the front yard setback for not more than 48 hours; and recreational vehicles, boat trailers, camperettes and all other vehicles not in daily use are permitted to be located in the required interior yards.

c. Public or private parking areas, parking spaces or any building or portion of any building intended for parking which have been identified as a use permitted in any residential district shall be permitted in any interior yard that abuts an alley, provided

said parking areas, structures or spaces shall comply with NMC 15.440.070, Parking tables and diagrams (Diagrams 1 through 3).

d. Public or private parking areas, service drives or parking spaces which have been identified as a use permitted in any residential district shall be permitted in interior yards; provided, that said parking areas, service drives or parking spaces shall comply with other requirements of this code.

3. In any commercial or industrial district, except C-1, C-4, M-1, and M-E, public or private parking areas or parking spaces shall be permitted in any required yard (see NMC 15.410.030). Parking requirements in the C-4 district and the M-E district within the riverfront overlay subdistrict are described in NMC 15.352.040(H).

4. In the I district, public or private parking areas or parking spaces may be no closer to a front property line than 20 feet, and no closer to an interior property line than five feet.

F. Public Telephone Booths and Public Transit Shelters. Public telephone booths and public transit shelters shall be permitted; provided, that vision clearance is maintained for vehicle requirements for vision clearance.

G. Hangars within the AR airport residential district may be constructed with no yard setbacks to property lines adjacent to other properties within the airport residential or airport industrial districts. [Ord. 2889 § 2 (Exh. B § 31), 12-6-21; Ord. 2880 § 2 (Exh. B § 40), 6-7-21; Ord. 2868 § 1 (Exh. A), 11-16-20; Ord. 2647, 6-5-06; Ord. 2619, 5-16-05; Ord. 2564, 4-15-02; Ord. 2561, 4-1-02; Ord. 2451, 12-2-96. Code 2001 § 151.556.]

H. Play structures may intrude into the required front yard by no more than five feet and into the required interior yard by no more than two feet; provided that such intrusions are no closer than three feet from any interior lot line and 10 feet from any front lot line.

Penalty: See NMC 15.05.120.

Section 4. Section 15.440.030 is amended to read as follows:

Parking spaces required.

Use	Minimum Parking Spaces Required
Residential Types	
Dwelling, multifamily and multiple single-family dwellings on a single lot	
Studio or one-bedroom unit	1 per dwelling unit
Two-bedroom unit	1.5 per dwelling unit
Three- and four-bedroom unit	2 per dwelling unit
Five- or more bedroom unit	0.75 spaces per bedroom

Use	Minimum Parking Spaces Required
• Unassigned spaces	If a development is required to have more than 10 spaces on a lot, then it must provide some unassigned spaces. At least 15 percent of the total required parking spaces must be unassigned and be located for convenient use by all occupants of the development. The location shall be approved by the director.
• Visitor spaces	If a development is required to have more than 10 spaces on a lot, then it must provide at least 0.2 visitor spaces per dwelling unit.
• On-street parking credit	On-street parking spaces may be counted toward the minimum number of required spaces for developments required to have more than 10 spaces on a lot. The on-street spaces must be directly adjoining and on the same side of the street as the subject property, must be legal spaces that meet all city standards, and cannot be counted if they could be removed by planned future street widening or a bike lane on the street.
• Available transit service	At the review body's discretion, affordable housing projects may reduce the required off-street parking by 10 percent if there is an adequate continuous pedestrian route no more than 1,500 feet in length from the development to transit service with an average of less than one hour regular service intervals during commuting periods or where the development provides its own transit. A developer may qualify for this parking reduction if improvements on a proposed pedestrian route are made by the developer, thereby rendering it an adequate continuous route.
Commercial neighborhood district (C-1)	1 for each dwelling
Dwelling, single-family	2 for each dwelling unit on a single lot
Dwelling, duplex	1 for each dwelling unit
Dwelling, triplex	1 for each dwelling unit

Use	Minimum Parking Spaces Required
	Except that conversion of a detached single-family dwelling to a triplex dwelling shall not be subject to this requirement
Dwelling, quadplex	1 for each dwelling unit Except that conversion of a detached single-family dwelling to a quadplex dwelling shall not be subject to this requirement
Dwelling, townhouse	1 for each dwelling unit
Dwelling, cottage	1 for each dwelling unit
Fraternities, sororities, cooperatives and dormitories	1 for each three occupants for which sleeping facilities are provided
Hotels, motels, motor hotels, etc.	1 for each guest room
Rooming or boarding houses	1 for each guest room
Special needs housing	1 space per 3 beds or actual parking needs as demonstrated through a parking analysis.
Institutional Types	
Churches, clubs, lodges	1 for every 4 fixed seats or every 8 feet of bench length or every 28 sq. ft. where no permanent seats or benches are maintained – in main auditorium (sanctuary or place of worship)
Continuing care retirement community not including nursing care	1 space per living unit
Day care facility	~~5 spaces per each 1,000 gross sq. ft.~~ 1 space per employee plus 1 space per 10 children/adults cared for.
Family child care homes	No off-street parking other than for the required dwelling.
Hospitals (including accessory retail wholly contained within a hospital building)	2 spaces for each 1,000 gross sq. ft.
Libraries, museums, art galleries	1 for each 250 sq. ft. of gross floor area
Medical/dental offices and laboratories	3.5 spaces for each 1,000 gross sq. ft.
Nursing homes, homes for the aged, group care homes, asylums, etc.	1 for each 3 beds

Use	Minimum Parking Spaces Required
Schools	Colleges – "commuter" type, 1 for every full-time equivalent student (plus 1/2 of the requirements for accessory buildings, i.e., 1.-E* and 3.-G(1)**)
Schools	Colleges – "resident" type, 1 for every 3 full-time equivalent students (plus 1/2 of the requirements for accessory buildings, i.e., 1.-E* and 3.-G(1)**)
Schools	Elementary or junior high, 1-1/2 for each teaching station plus 4 for every classroom, or 1 for every 42 sq. ft. of seating area where there are no fixed seats in an auditorium or assembly area
Schools	High schools, 1-1/2 for each teaching station, plus 8 for every classroom, or 1 for every 28 sq. ft. of seating area where there are no fixed seats in an auditorium or assembly area
Schools	Colleges – commercial or business, 1 for every 3 classroom seats (plus 1/2 of the requirements for accessory buildings, i.e., 1.-E* and 3.-G(1)**)
Welfare or correctional institutions	1 for each 5 beds
Commercial Types	
Barber and beauty shops	1 for each 75 sq. ft. of gross floor area
Bowling alleys	6 for each bowling lane
Establishments or enterprises of a recreational or an entertainment nature:	
Establishments for the sale and consumption on the premises of food and beverages with a drive-up window	1 for each 75 sq. ft. of gross floor area
Establishments for the sale and consumption on the premises of food and beverages without a drive-up window	1 for each 100 sq. ft. of gross floor area
Participating type, e.g., skating rinks, dance halls	1 for each 75 sq. ft. of gross floor area
Spectator type, e.g., auditoriums, assembly halls, theaters, stadiums, places of public assembly	1 parking space for each 4 seats

Use	Minimum Parking Spaces Required
Office buildings, business and professional offices	1 for every 400 sq. ft. of gross floor area
Pharmacies	1 for each 150 sq. ft. of gross floor area
Retail establishments, except as otherwise specified herein	1 for each 300 sq. ft. of gross floor area
Retail stores handling bulky merchandise, household furniture, or appliance repair	1 for each 600 sq. ft. of gross floor area
Industrial Types	
Except as specifically mentioned herein, industrial uses listed as permitted in the M districts: M-1, M-2, M-3, and M-4	1 for each 500 sq. ft. of gross floor area
Aircraft storage hangars up to 3,600 sq. ft. each enclosed hangar area	None (parking occurs in hangar)
Aircraft storage hangars over 3,600 sq. ft. each enclosed hangar area	1 for every 700 sq. ft. of hangar area over 3,600 sq. ft.
Aircraft hangars intended for repair and maintenance operations	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
Laboratories and research facilities	1 for each 300 sq. ft. of gross floor area
Machinery or equipment	1 for each 400 sq. ft. of gross sales floor area
Wholesale and storage operations	1 for each 700 sq. ft. of gross floor area

Notes:

* "1-E" refers to fraternities, sororities, cooperatives and dormitories that require one parking space for each three occupants for whom sleeping facilities are provided.

** "3.-G(1)" refers to establishments or enterprises of a recreational or an entertainment nature (spectator type, e.g., auditoriums, assembly halls, theaters, stadiums, places of public assembly) that require one parking space for each four seats.

[Ord. 2889 § 2 (Exh. B § 37), 12-6-21; Ord. 2880 § 2 (Exh. B § 45), 6-7-21; Ord. 2862 § 1 (Exh. A § 2), 6-15-20; Ord. 2763 § 1 (Exh. A § 16), 9-16-13; Ord. 2730[1] § 1 (Exh. A (13)), 10-18-10; Ord. 2720 § 1(19), 11-2-09; Ord. 2710 § 1, 3-2-09; Ord. 2647, 6-5-06; Ord. 2550, 5-21-01; Ord. 2451, 12-2-96. Code 2001 § 151.612.]

Penalty: See NMC 15.05.120.

APPLICABLE CRITERIA

A. FINDINGS FOR STATEWIDE PLANNING GOALS (THE "GOALS")

GOAL 1: CITIZEN INVOLVEMENT

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

Finding: Councilor Olson engaged with daycare stakeholders and listened to the problems they had which she later shared with City Council. On November 20, 2023, during a public meeting, City Council discussed the issue and directed staff to investigate opportunities for reducing barriers to daycare operations which were negatively impacting the availability of childcare. A memorandum (Attachment 3) regarding the issues was sent to City Councilors and relevant stakeholders in March 2024. There will be at least one public hearing with the Planning Commission and one public hearing with City Council where the anyone in the public can submit comments.

The Goal is met.

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 amendments to allow the daycare use in the light industrial zones in Newberg will bring the City's regulations into compliance with HB3209 (2021) now codified as ORS 329A.440.4(a), which provides an actual factual basis. Further, daycares have a fair amount of turnover relating to drop off and pickup activities, and are not long term parking stays as illustrated by other jurisdictions' required off-street parking requirements for daycares. The alternatives considered are

- To leave the code as is which would not be in compliance with state law and not opening up opportunities for new daycares to serve the childcare needs locally, or

- To amend the City regulations in a way that brings local code into compliance with state law while regulatory reducing barriers to daycare operations

The proposed code amendment is an implementation measure which is consistent with the City's acknowledged Comprehensive Plan as addressed in the findings for the Comprehensive Plan.

The Goal is met.

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. The proposal is for lands inside 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 resource lands. The proposal is for lands inside 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 amendment will not negatively impact inventoried Goal 5 resources because the amendments do not change protections that already exist in the Newberg Municipal Code, Specific Plans and Master Plans to protect these resources. Newberg has an acknowledged Stream Corridor designation, inventoried historic resources, and identified open spaces in compliance with Goal 5.

For designated historic resources, all locally designated historic resources that require review per Chapter 15.344 HISTORIC LANDMARKS (H) SUBDISTRICT for exterior modifications and construction on historic sites.

This Goal is met.

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 does not modify the existing goals and policies.

This Goal is met.

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 or landslide areas. This proposal does not modify the existing goals and policies.

This Goal is met.

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. This proposal does not modify the City's recreational goals and policies.

This Goal 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 proposed changes would allow daycares as an outright permitted use in the light industrial districts of Newberg (M-1 and M-2) while reducing the parking requirements. The proposed amendment will act as an incentive for new daycare facilities to locate within Newberg and may lead to the provision of additional childcare services which supports creation and retention of family wage jobs within the community.

The Goal is met.

GOAL 10: HOUSING

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

Finding: The proposed amendments do not change anything related to housing.

The Goal is met.

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: Existing public facilities and services will be used for daycares within industrial zones (M-1 and M-2) that were already allowed in those zones (M-1 and M-2) as a conditional use. The amendment will modify parking requirements by reducing the off-street parking requirements. The reduced off-street parking requirements are anticipated to result in the creation of less impervious surface during future development of daycare facilities which reduce the demand for additional stormwater facilities that the City would otherwise be required to manage.

The Goal is met.

GOAL 12: TRANSPORTATION

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

Finding: The City of Newberg's adopted Transportation System Plan has been acknowledged by DLCD. The transportation system is planned to accommodate the population growth of the community for a 20-year planning period. There are no proposed modifications to the transportation system with the adoption of the daycare updates regarding industrial zoning or reduced off-street parking requirements. The proposed amendments do not significantly affect any transportation facility or change the functional classification of any street.

The Goal is met.

GOAL 13: ENERGY CONSERVATION

To conserve energy.

Finding: The proposed amendment does not change the way in which energy will be utilized.

This Goal is met.

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 existing Urban Growth Boundary for the projected population and employment opportunities within the City and meets the goal. The proposal will maintain Newberg's identity and enhance the quality living and employment environment by balancing growth with the demands for childcare through a reduction in the regulatory barriers of daycare operations.

This Goal is met.

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: The City of Newberg is located along the Willamette River on its southern border. The proposed amendment does not alter any area or regulations within the boundaries of the Willamette River Greenway.

This Goal is not applicable.

B. FINDINGS FOR THE NEWBERG COMPREHENSIVE PLAN – 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: Councilor Olson engaged with daycare stakeholders and listened to the problems they had which she later shared with City Council. On November 20, 2023, during a public meeting, City Council discussed the issue and directed staff to investigate opportunities for reducing barriers to daycare operations which were negatively impacting the availability of childcare. A memorandum (Attachment 3) regarding the issues was sent to City Councilors and relevant

stakeholders in March 2024. There will be at least one public hearing with the Planning Commission and one public hearing with City Council where the anyone in the public can submit comments.

The amendments are considered a legislative action subject to the City's Type IV procedures pursuant to NMC 15.100, which requires public notification and public hearings before the Planning Commission makes a recommendation to the City Council, and the City Council makes a final decision on the proposed amendment. This process has been established by the City and determined to be consistent with Goal 1 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 recognized as opportunities for citizen participation.

The Goal is met.

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.

Finding: The City meets this goal by having an acknowledged comprehensive plan that follows state goals and by following implementation procedures pursuant to NMC 15.100.

The Goal is met.

C. AGRICULTURAL LANDS

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

Finding: The proposed amendment does not change any land use designation and does not create any new uses in any zoning district.

This Goal is not applicable.

D. WOODED AREAS

GOAL: To retain and protect wooded areas.

Finding: The proposed amendment does not change any land use designation and does not create any new uses in any zoning district.

This Goal is not applicable.

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.
2. Water quality in the Willamette River and tributary streams shall be protected.
3. As public sanitary sewer systems become available, all development shall connect to the public system. To encourage economic development, the City may permit subsurface sewerage disposal where the system meets State and County requirements and where unique circumstances exist.
4. The Newberg airshed shall be protected from excessive pollution levels resulting from urbanization.
5. New industry should be located in area which minimize the impacts upon the air, water, and land resources base, as well as upon surrounding land uses.
6. The City will cooperate with State and Federal agencies which regulate environmental quality and shall adhere to the standards established by these agencies in the issuance of any permits or approvals given by the City. This policy is intended to cover discharges and emissions which may impair air, water or land quality or exceed the established standards for noise or other emissions.
7. The threat of excessive noise will be considered when reviewing land use requests. In addition, and new commercial and industrial developments shall conform to DEQ noise pollution standards.
8. The City will continue to support soil conservation measures designed to prevent unnecessary losses through excavation, stripping, erosion, and sedimentation.
9. The City will seek abatement of the aesthetic degradation of the environment resulting from blighted neighborhoods, indiscriminate waste disposal, offensive outdoor storage.
10. The City shall promote community cleanup programs.
11. The City will continue to encourage and support the three R's of recycling (re-use, reduction, and recycling)

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 does not modify the existing goals and policies. Any permit submittal will be required to meet state requirements regarding emissions and noise as well as local ordinances, as applicable.

The Goal and Policies are met.

F. AREAS SUBJECT TO NATURAL HAZARDS

GOAL: To protect life and property from flooding and other 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 or landslide areas. This proposal does not modify the existing goals and policies.

This Goal is met.

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.

POLICY 3. Historic Resources Policies

a. The continued preservation of Newberg's designated historic sites and structures shall be encouraged.

d. The City will encourage the re-use of historic structures such as the establishment of bed and breakfast operations, specialty shops, restaurants and professional offices.

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

The Goals and Policy are met.

H. THE ECONOMY

GOAL: To develop a diverse and stable economic base.

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.

b. The City shall encourage economic expansions consistent with local needs
c. The City will encourage creation the creation of a diversified employment base, the strengthening of trade centers and the attraction of both capital and labor intensive enterprises.
d. Newberg will encourage the development of industries which represent the most efficient use of existing resources including land, air, water, energy and labor
e. Economic expansion shall not exceed the carrying capacity of the air, water or land resource quality of the planning area.
f. The City shall participate with local and regional groups to coordinate economic planning.
g. The City shall encourage business and industry to locate within the Newberg City limits.
h. Yamhill County history, products and activities should be promoted.
i. The City shall encourage tourist-related activities and services such as motor inns, restaurants, parks and recreation facilities, a visitor center, conference and seminar activities.
j. A mixed-use river-oriented commercial area should be encourage to be developed near the Willamette River.
k. The City shall promote Newberg as a tourist destination location.
l. The City shall promote the expansion of local viticulture and wine productions as a method for increasing tourism.

Finding: The proposed amendments for daycare uses will give incentives for new daycares to locate in Newberg and increase the availability of childcare in the community. Additional childcare availability will support a more diverse and stable economic base that can in turn attract other businesses that provide family wage jobs.

The Goal and Policies are met.

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).

Finding: The proposed amendments do not change anything related to housing.

The Goal is not applicable.

J. URBAN DESIGN

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

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

Finding: The proposed amendment would reduce the required parking spaces for daycare operations. Reduced parking requirements may result in retention of the natural environment and a reduction in impermeable surfaces during future development which would enhance visual character and support the livability of Newberg.

The Goals are met.

K. TRANSPORTATION

GOAL 1: Establish cooperative agreements to address transportation based planning, development, operation and maintenance.

GOAL 2: Establish consistent policies which require concurrent consideration of transportation/land use system impacts.

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

GOAL 4: Minimize the impact of regional traffic on the local transportation system.

GOAL 5: Maximize pedestrian, bicycle and other non-motorized travel throughout the City.

GOAL 6: Provide effective levels of non-auto oriented support facilities (e.g. bus shelters, bicycle racks, etc.).

GOAL 8: Maintain and enhance the City's image, character and quality of life.

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

GOAL 10: Maintain the viability of existing rail, water and air transportation systems.

GOAL 11: Establish fair and equitable distribution of transportation improvement costs.

GOAL 12: Minimize the negative impact of a Highway 99 bypass on the Newberg community.

GOAL 13: Utilize the Yamhill County Transit Authority (YCTA) Transit Development Plan (TDP) as a Guidance Document.

GOAL 14: Coordinate with Yamhill County Transit Area.

GOAL 15: Implement Transit-Supportive Improvements.

Finding: The City of Newberg's adopted Transportation System Plan has been acknowledged by DLCD. The transportation system is planned to accommodate the population growth of the community for a 20-year planning period. There are no proposed modifications to the transportation system with the adoption of the daycare updates regarding industrial zoning or reduced off-street parking requirements. The proposed amendments do not significantly affect any transportation facility or change the functional classification of any street.

The proposed amendments reduce parking requirements which may reduce less reliance on the automobile and encourage use of multi-modal transportation.

The Goals are met.

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.

Finding: Existing public facilities and services will be used for daycares within industrial zones (M-1 and M-2) which are already allowed as a conditional use. The amendment will modify parking requirements by reducing off-street parking requirements. The reduced off-street parking requirement are anticipated to result in the creation of less impervious surfaces during future development of daycare facilities which reduces the demand for additional stormwater facilities that the City would otherwise be required to manage.

The Goal is met.

M. ENERGY

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

Finding: The proposed amendment does not change the way in which energy will be utilized.

The Goal is not applicable.

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 proposed amendment is within City Limits and will not create any new growth or transition from rural to urban land uses.

The Goals are met.

ATTACHMENT 1. NEWBERG CITY COUNCIL MINUTES FROM NOVEMBER 20, 2023

Newberg Planning Commission, File No. DCA23-0002

City of Newberg
City Council Minutes
November 20, 2023
Hybrid meeting format

BUSINESS SESSION –
Meeting called to order at 6:00 p.m.

Councilors Present:	Mayor Bill Rosacker, Councilors Elise Yarnell Hollamon, Molly Olson, Mike McBride, Robyn Wheatley, and Peggy Kilburg
Councilors Absent:	Derek Carmon
Staff Present:	City Engineer Lance Calvert, City Emergency Coordinator Karen Tarmichael, City Attorney James Walker, City Manager Will Worthey, Sergeant Eric Roning, Sergeant Nathan Jones, Finance Director Kady Strode, IT Manager Ian Rodriguez, Planning Manager Clay Downing, Library Director Korie Burkle, City Recorder Rachel Thomas, Gabriella McMahan, Project Specialist Alison Seiler, Assistant Planner James Dingwall, Senior Engineer Paul Chiu, Regulatory Compliance Officer April Catan

PROCLAMATIONS
Small Business Saturday Proclamation
RCA Small Business Saturday Proclamation.docx
Mayor Rosacker read the proclamation and declared Saturday, November 25, 2023 Small Business Saturday. Residents were encouraged to support small businesses.

CITY MANAGER'S REPORT
Month CM statistics - SEP.pdf
CM Worthey reported on the statistics for the month of September 2023.

PUBLIC COMMENTS
Newberg Affordable Housing Commission Public Comment Jim Talt.docx
Public Comment 11-20-23 Rogers.pdf

Public Comments were addressed immediately following Item 9.A Elliott Road Improvement Project Change Order.

Jim Talt said he had previously sent the above attached public comment to the Newberg Affordable Housing Commission (NAHC) to CM Worthey. Mr. Talt stated that the Housing Authority of Yamhill County (HAYC) had been managing Newberg's Manufactured Home Grant program for the last 18 months and the program was winding down after helping more than 40 homeowners but leaving over 50 homeowners on the application list and others who did not apply due to a clause that prevented helping anyone in a home built before 1978. Jim Talt proposed that the Council give CM Worthey the authority to explore extending the Manufactured Home Grant program using Construction Excise Tax (CET) funds and removing the clause excluding homes built before 1978. There was an opinion that CET funds could not be used to

expand the grant program, but the Newberg Municipal Code Section 3.60.90 Use of Funds Paragraph D said, "The City may fund affordable housing programs in accordance with Section 9 Chapter 59 Oregon Laws 2016 including but not limited to rent buydowns and subsidies, downpayment assistance, and foreclosure prevention assistance." The language "but not limited to" gave the Council discretion to make additional choices for the use of CET funds. Newberg's manufactured home parks were arguably the largest single source of affordable housing in Newberg. The NAHC housing program matrix had a goal to preserve manufactured homes which was in line with Mr. Talt's proposal to use CET funds to repair and preserve manufactured homes. Mr. Talt believed that Newberg and the HAYC could collaborate to make a new contract with cost savings for both parties, thereby helping Newberg's manufactured home owners. The current program was winding down but was still operational and could be funded through CET funds.

The Council addressed Item 10.A A Potential CET Project at this time.

REPORTS AND PRESENTATIONS

Scoping the Childcare Issue
Childcare in Newberg Dec 2023.pptx

Councilor Olson presented a PowerPoint slide on work that had been done by Staff on the issue of providing childcare in Newberg. Interviews were held with employers and organizations that provided childcare to identify issues around childcare in Newberg. The State, County, and City all had laws regarding childcare. Public Schools, churches, and homes were also in the business of childcare. The availability of affordable childcare, especially for infants, was a challenge. Code and zoning changes could make it easier to open childcare businesses in Newberg. There was no adequate, affordable daycare available in Newberg. Families were driving to other nearby communities to get childcare. Employers saw childcare availability as the number one issue in employee retention and productivity. The Council was requested to focus Staff time on removing barriers to those opening daycare facilities in Newberg.

CM Worthey encouraged Councilors to consider taking a methodical approach and working on one issue at a time rather than creating a package to try to deal with everything at once.

The Council and Staff discussed:

- The issues and possible solutions available to the City had not been sorted by priority. Possible solutions included creating a more customer-service-oriented planning process, going from paper to electronic, aligning City Code with State Code, adjusting zoning to not require a conditional use permit in areas where other cities were not requiring them, and reducing the excessive parking requirements. System Development Charges (SDC) which had been cost prohibitive were already in the process of being reduced. Staff could be directed come back to Council to present more solutions.
- As an employer, how could the City better support Staff with childcare options?
- Removing barriers to childcare availability in Newberg would support City Staff and residents.
- CM Worthey stated that Staff could potentially receive a group rate discount going through certain childcare service providers.
- Planning Manager Downing stated he had enough information to prioritize a list of solutions if Staff was directed to do so. The Planning Department would come back within a month or two with a prioritized list of projects to share with the Council, which could include work on solutions for childcare in Newberg.

The Council directed Staff to prepare possible solutions for affordable childcare availability in Newberg.

2023 Emergency Operations Plan Presentation
Newberg_EOP_Base.docx
Emergency Operations Plan update2023 - final.pdf

City Emergency Coordinator Tarmichael gave a PowerPoint slideshow sharing updates to the Emergency Operations Plan (EOP) which provided guidelines on how to mitigate, prepare for, respond to, and recover from emergencies or disasters. The EOP was updated in response to Council Goal 4 to enhance community safety as well as having been identified by City Department Heads as a priority in 2022. The current EOP was a "one size fits all" design that was adopted in 2013 and included language regarding the Newberg Fire Department which no longer existed. When the Fire Department was discontinued, the City lost the Staff member who had been over emergency planning and training. The current EOP did not address urban wildfires, health pandemics, cyber security risks, droughts and other weather conditions. Work on the new EOP began in April 2022 using a hybrid mix of the plan provided by the consultant and customized information regarding Newberg capabilities and resources. The framework was scalable, compatible with partner agencies, and followed the Incident Command System (ICS) structure which would provide flexibility for future revisions.

CM Worthey stated the old EOP was based on linear responses to specific disasters and the new EOP would operate more like a toolkit to build an appropriate response to any situation.

The new EOP would fit the required Federal Emergency Management Agency (FEMA) standards, comply with State and Federal regulations, provide clarity around roles, responsibilities, and limitations, include clear appendixes and procedures, and use simplified language. The EOP would be a living document which would require regular attention. As Emergency Coordinator, CEC Tarmichael would update the EOP and appendixes regularly to keep the information current. The EOP was not a continuity plan and did not address how the City would continue paying bills and doing business during an emergency.

The EOP would need to be exercised and tested to ensure it was sufficient. CM Worthey warned that some of the planned emergency training exercises may be orchestrated and rolled out with little notice and may feel very real and unexpected.

CEC Tarmichael encouraged Councilors to read the EOP, view the online videos and guidebook, attend training exercises, encourage constituents to be prepared to survive for 72 hours in an emergency, and to sign up for Everbridge and National Weather Service alerts to stay informed and facilitate being able to warn others in the case of an emergency.

CM Worthey stated that a key feature of the new EOP was the flexibility to use the resources found in the appendices to construct a custom plan for any given situation within the framework of the base plan.

The Natural Hazard Plan had assessed the City's ability to respond to varying levels of emergencies and coded the levels of risk in the framework of the EOP. Yamhill County Emergency Management (YCEM) and Tualatin Valley Fire and Rescue (TVF&R) collaborated on

the EOP to make sure the assessed levels of risk and language used would be compatible with their policies for emergency response.

CM Worthey stated that a high-level incident that would trigger a FEMA response would be considered a higher risk level because it would initiate a statewide response.

Vacation Rental Home and Short-Term Rental Update
RCA 11-06-23 CC GEN23-0007.pdf
Attachment 1. Vacation Rental Home and STR White Paper.pdf

PM Downing and Assistant Planner Dingwall presented the update on vacation rentals and short-term rentals. The Staff recommendation was to receive and file the updated research, receive and file the vacation rental home and short-term rental white paper, and provide direction to Staff on future actions related to vacation and short-term rentals. The white paper contained background information, trends, existing conditions in Newberg, public comments received, and sample policy approaches based on policies used by other jurisdictions. Recent activities included a meeting of the Short-Term Rental Ad Hoc Committee and a review of the white paper by the Planning Commission.

PM Downing shared the background on the activities of the City Council, Planning Commission, and Short-Term Rental Ad Hoc Committee regarding short-term rentals, discussed the existing requirements and criteria to get a conditional use permit for a short-term rental in Newberg, and noted the current restrictions and limitations. Numbers of vacation rental applications have continually increased over the last few years.

PM Downing shared data regarding vacation rentals taken from information provided in permit applications, business license applications, and Transient Lodging Tax (TLT) payments which indicated a total of 74 operating vacation rentals in Newberg as of August 2023, with only 57 paying TLT, 42 with City permits, and 18 with a business license. Only 12 vacation rentals were operating under full compliance. It was hard to tell which operators were not in full compliance because some vacation rentals were grandfathered in when regulations were instated in 2013.

PM Downing shared a map showing the locations of vacation rentals in Newberg which were clustered toward the downtown area, maps of the zoning districts and associated review process types and discussed charts categorizing the concerns expressed in public comments regarding vacation rentals with major concerns being parking, safety, traffic increases, noise, livability, social cohesion, and housing availability. The Police were requested to report back regarding the numbers of different types of complaints they received about vacation rentals. Sergeant Roning had written a letter stating vacation rentals were not significantly associated with higher rates of crime or complaints and there had only been fourteen complaints called in regarding eight of the vacation rental properties in a twelve-month period with some complaints about dogs, or behavioral health issues. Currently, there were no connections between the vacation rental permitting process, paying TLT, and enforcement regarding complaints, but connecting those processes could increase compliance.

PM Downing discussed the current types of review procedures and what activities would fall under which type of review procedure according to the Code.

PM Downing discussed possible regulatory approaches including policies determining how to bring non-conforming vacation rentals into compliance through grandfathering or amortization, and regulating vacation rentals by concentration, operations, compliance, or enforcement in the case of complaints or violations. AP Dingwall noted that no single regulation would address all of the issues, and that nearby jurisdictions layered multiple regulatory elements to manage vacation rentals.

PM Downing read the Planning Commission's list of recommendations for the City Council:

1. The City Council and Planning Commission engage in a joint work session to investigate and consider regulatory approaches for vacation rentals.
2. Consider enhanced enforcement of permitting and TLT activities for improved compliance.
3. Consider enhanced monitoring of violations and complaints associated with vacation rentals.
4. Discuss the need for a regulation based on a density cap.
5. Discuss the amortization of non-compliant operators similar to the policy used in Lincoln City.

Mayor Rosacker noted he had attended several Short-Term Rental Ad Hoc Committee meetings and the committee was running smoothly. He looked forward to further collaboration with the committee and the Planning Commission. Mayor Rosacker called for a five-minute break.

Pretreatment Code Changes
Pretreatment Code Changes.pptx

Regulatory Compliance Officer Catan gave a PowerPoint presentation on the pretreatment-related Code changes. RCO Catan worked at the Wastewater Treatment Plant in Regulatory Compliance. The City was required by the Department of Environmental Quality (DEQ) to have and report on a pre-treatment program which was occasionally audited. The most recent DEQ findings required the City to revise and add some Code changes.

RCO Catan explained that pretreatment was a process undertaken by businesses to remove hazards before draining used water into the sewer lines to address issues such as oil, grease, chemicals, or a high pH in the water. Pretreatment protected sanitary sewer lines from caustic chemicals that could corrode the pipes, and also protected the Willamette River, City employees, the public, and the quality of biosolid compost and recycled water.

RCO Catan discussed proposed changes to the Code including revised or added definitions related to pretreatment to match federal language, and an addition to the Newberg Municipal Code regarding pH range limitations for wastewater.

RCO Catan stated that businesses in town were regularly checked for pretreatment compliance and that all restaurants were required to have a device to pretreat the water. Councilor McBride requested a report be brought back to the Council in the future regarding levels of compliance with wastewater standards in Newberg without disclosing names of businesses.

RCO Catan stated that the numbers in the pH range limitations were determined by Environmental Protection Agency (EPA) studies.

Water Treatment Plant Closeout Presentation
Newberg GWTP Project Closeout Presentation.pdf

Consor Engineers Chris Manning and Brian Ginter gave a PowerPoint presentation on the Groundwater Treatment Plant (GWTP). The main purposes of the GWTP project were to respond to the State requirement to cover the basins and filters at the existing plant, update the plant to current standards, address seismic resilience, the aging facility, and operational issues.

Mr. Manning went over the layout of the GWTP facility with the design 30% complete. The design had developed into a more comprehensive facility for staffing purposes as well as to add more resiliency and redundancy to the treatment process. The number of filters had increased, and new treatment processes were added to replace existing processes which used undesirable chemicals.

Mr. Manning shared a comparison of the original concept for the GWTP and the current 30% designed GWTP facility and detailed what had changed which resulted in an increase in cost from $21.7 million to just under $43 million.

Mr. Ginter stated the original design concept for the GWTP had been coordinated with City Staff with the intention to replace the plant with a plant of similar capacity. Over time the design evolved with input from Staff to a more long-term facility with higher capacity, increased operational efficiency, and improved safety features. The cost estimate for the original design concept of the GWTP was given two and a half years ago and since that time inflation has increased significantly. The cost estimate for the 30% designed GWTP facility was given this year.

Mr. Manning stated the existing water treatment plant had been there for 70 years, and the designers had increased the size of the GWTP building design and the scope of the support space provided with the intention of creating a facility that could serve for 70 years into the future. The additional 10,000 sq ft provided an additional 2,000 sq ft of staff support space, 8,000 sq ft for expanded water treatment operations, and a control room which had not been included in the original design and had been requested by Staff.

The 30% designed GWTP facility included a large conference room and four bathrooms. CM Worthey had not been aware of the inclusion of those rooms in the design and stated that previous Staff members had not shared any information regarding the decisions to expand the facility design. CM Worthey committed to asking for more detailed information from Department Heads in the future rather than leaving matters up to trust.

Mr. Manning noted that the design process was not linear and significant changes were often made between 30% and 60% of design completion. Even without the conference room and other extra rooms the budget still would have gone far over the estimate. Other major factors impacting the cost were soil improvements, running a sanitary sewer line, adding a new storm sewer, and site prep for the future Bluff Road frontage. The soil conditions at the existing water treatment plant site were worse than soil at the GWTP site. The soil conditions at GWTP site were not known when the City planned the location of the GWTP. The next steps in the design process would include evaluating other potential sites.

Mr. Manning noted that the intention had been to save money and several cost saving opportunities had been identified including reuse of the existing backwash storage pond and

pump station, building the backwash recycle tank in a future phase, and reuse of the existing backup generator.

Mr. Manning shared a graph of the Mortensen construction cost index showing the inflationary impacts to construction in different cities over the past few years. Specialty construction and construction using specialized equipment had been impacted by inflation more than typical construction. Future increases in inflation were included in the construction cost estimates as inflation rates were anticipated to increase over the timeframe of the GWTP project. Consor had worked with the City and with a Construction Manager/General Contractor (CMGC) to decrease costs of the GWTP by creating a smaller, more efficient design. The existing water treatment plant was built in the 1950s and had been through at least eight substantial renovations. The new design was forward-thinking and left extra space available for future expansion.

Mr. Manning stated Consor was working with City Engineer Calvert to closeout the GWTP project and cancel all permitting work that had been done on the GWTP project. All organizations that had been involved, including financing and State regulation agencies, had been notified of the GWTP project closeout. Consor would work to tie up loose ends in the design to ensure the design had as much value to the City as possible with the inclusion of value engineering options and geotechnical reports so that if or when the City was ready to move forward with the GWTP the City could build off of the work that had already been done on the design.

CM Worthey stated that if the information were packaged up nicely, in eight years when the City was ready to begin the project it was likely that things would have changed significantly enough that the City would have to start from scratch again. Mr. Ginter confirmed that there would be some lost efficiency and it would not be like starting from 30% design completion, but there were certain elements and reports that would still be relevant and usable as a starting point. Mr. Manning stated there was significant work put into the design and the design could be built on at a future point.

The work already done on the GWTP design by Consor may cost the City around $800,000.

Councilor McBride was in favor of looking for a more convenient location for the GWTP and finding out who would be able to assess and make a recommendation for a new location.

CM Worthey stated that his direction to Staff was to contain any remaining residual costs. The City would need to have less debt on the books to get more financing to build a new GWTP.

Mr. Manning stated that there had been discussion about finding other sites, and that Consor or City Staff could work on finding a new site for the GWTP. The City would still need to comply with DEQ requirements to cover the water basins at the existing water treatment plant by 2027 so the plant would not be considered a surface water treatment plant. The work needed to make the existing water treatment plant seismically resilient had triggered the initial exploration into building the new GWTP. Due to sizable costs at the current proposed GWTP site, the next step in building the GWTP would be to evaluate alternative sites and alternative financing options.

CONSENT CALENDAR

Resolution 2023-3911 – A Resolution approving the contract with JH Kelly to perform the Public Safety Building and Server Room HVAC replacement and upgrade for $265,574.89
Resolution 2023-3911 HVAC Replacement and Upgrades.docx

Exhibit A Server and PSB HVAC.pdf

Resolution 2023-3909 – A Resolution repealing Resolution 2013-3102 to replace the 2013 Emergency Operations Plan (EOP) with the 2023 version
Exhibit A Newberg_eop_base plan 2023.docx
Resolution 2023-3909 A Resolution to Repeal and Replace the Current Emergency Operations Plan.docx

Action:	To approve the Consent Calendar: Resolution 2023-3911 and Resolution 2023-3909
Motion:	Councilor Yarnell Hollamon
Second:	Councilor Olson
Vote:	6 Yes 0 No 0 Abstain 1 Absent (Carmon)

CONTINUED BUSINESS

Resolution 2023-3910 – A Resolution authorizing the City Manager to execute a change order to closeout the Elliott Road Improvement Project in the amount of $638,434
Exhibit A ElliottRdPj ChgOrder_10.pdf
Res 2023-3910 ElliottRdPj-Project Update and Closeout 002.pdf

CM Worthey stated that the presentation would explain how the Elliott Rd improvement project had gone over budget due to some oversights.

City Engineer Calvert and Senior Engineer Chiu presented on the change order to closeout the Elliott Rd improvement project. CE Calvert stated he was optimistic that there were ways to overcome the challenges to building the GWTP, and acknowledged the Elliott Rd project was a large and difficult project for a community of this size to try to complete. Kittleson & Associates, the lead design engineering firm on the project, would give a more detailed presentation on the project to the Council on December 4th to help determine the next steps and share ways to recover some of the funding. Several change orders had been made to the project resulting in a total estimated cost of $6,961,000. Council action was required to make the final payment to The Saunders Company for work already completed on the Elliott Rd project.

CE Calvert noted the utilities in the project area were often unmarked, poorly marked, or mislocated, which complicated the process for the contractors and added costs to the project. The Elliot Rd project timeframe overlapped with the Newberg High School project which required Elliot Rd to remain open to through traffic during construction. The original plan had been to close Elliott Rd during construction and keeping it open had incurred the additional cost of providing traffic control for an extended period of time. Adjacent property owner coordination created extra costs for landscaping, detail work on matching elevations and adjusting grades, and retaining wall additions to meet property owner needs. CE Calvert stated in his experience projects did not typically go so far over budget.

Senior Engineer Chiu stated The Saunders Company had a very talented superintendent on the project who mentioned that in his experience this project had been the worst situation he had ever seen as far as underground utility markings and locations. SE Chiu detailed some of

the major difficulties that were experienced with regard to locating underground utilities for the Elliott Rd project.

CE Calvert stated that for unknown reasons the utility companies did not seem to have a solid knowledge of their infrastructure in the Elliott Rd area. Utility location would be a priority during the early stages of future projects to avoid running into problems later. Sonar equipment could be used to locate underground with more reliability.

Action:	To approve Resolution 2023-3910 authorizing the City Manager to execute a change order to closeout the Elliot Rd improvement project in the amount of $638,434
Motion:	Councilor Olson
Second:	Councilor McBride
Vote:	6 Yes 0 No 0 Abstain 1 Absent (Carmon)

The Council addressed Item 6 Public Comments at this time.

NEW BUSINESS

A potential Construction Excise Tax (CET) project
RCA INFORMATION A Potential CET Project.docx
HAYC Manufactured Home Grant Proposal info ITEM 12b.docx

This Item was addressed immediately following Item 6 Public Comments.

CM Worthey stated the City had a current CET balance of $1.57 million to be used for allowed purposes. CM Worthey gave the breakdown of the current distribution of CET funds and stated that 35% of the CET funds could be used to fund developer incentives and affordable housing programs for a current total of $549,500. Staff recommended exploring the idea of using the CET funds for the Manufactured Home Grant program and having it continue under the authority of the NAHC, although there may be some legal hurdles. The CET funds for developer incentives could not be used, but the CET funds allocated to affordable housing programs could be used to fund the Manufactured Home Grant program if the City determined the Mobile Home Grants made the cost of housing affordable versus simply making the housing units habitable, and if the City could identify a method of evaluating eligibility connected to affordable housing. If the City were to agree that the contracting agency would give the applicant a certain number of months of free rent, and in exchange the Applicants did the repairs to bring the property into usable condition, this could create a way to prove the program promoted affordability. The Council could direct Staff to explore these ideas.

Mayor Rosacker noted it would be easy to prove the manufactured homes fell within the appropriate income range.

City Attorney Walker stated the two authorities the City was navigating were the ordinance shared by Mr. Talt, and the State statute that sets up the CET. The main question was what constituted an affordable housing program. The language also specifically stated the requirement of having an 80% median family income paired with a 30% rental expense to be eligible for affordable housing programs, so a process to determine eligibility would be necessary. CA Walker reiterated it would be necessary to show that the program was creating affordable

housing and not just improving the properties. The existing programs provided rent buydowns, downpayment assistance, and foreclosure avoidance which directly impacted the cost of the housing itself. Home improvements such as a ramp installation or improving stairs or heating conditions may not have a direct impact on the cost of the housing, though arguably home improvements may be tied to housing costs indirectly. The City would need to feel comfortable with justifying the situation if a challenge was raised.

Mayor Rosacker stated that in many cases if home repairs were not done, homeowners were in jeopardy of being unable to continue living in the home with the alternative being to pay more rent somewhere else.

CA Walker agreed that was the argument the City would rely on along with Mr. Talt's point about the language, "but not limited to" but the challenge was there was nothing specified by statute or ordinance

Councilor Kilburg stated the Newberg Municipal Code Section 3.60.030 B. Residential Improvements referenced Oregon Statute 3.20.1953 which referenced Oregon Laws 2016 Chapter 59 Section 9 3C mentioned 35% of CET funding was available for programs related to affordable housing, and in paragraph 4 it stated the remaining 50% of received CET funds could be used to fund City or County housing programs and did not mention "affordable" housing.

CA Walker would need to review the references provided by Councilor Kilburg.

Councilor Olson noted that when Council tried to spend CET funds in June it was mentioned that the NAHC was supposed to provide a list of community improvement opportunities. Councilor Olson recommended contacting the NAHC and discussing all the options before deciding how to spend CET funds.

Mayor Rosacker stated Staff could be directed to research the item and bring it back through the NAHC.

Councilor Olson noted that because the NAHC had not been meeting there may be other funding that had not been allocated yet.

Mayor Rosacker confirmed the NAHC was actively meeting.

Councilor Yarnell Hollamon supported the proposal as presented by CM Worthey and hoped to hear an update on the activities of the NAHC.

Councilor Kilburg planned to collaborate with CA Walker to review the legal language to see what was possible and seek simplicity. CA Walker agreed to look for authority under those laws with Council approval.

Councilor Kilburg stated that the last time the NAHC came before the Council they had only received two applications and it was unlikely that they had any pending applications.

Mayor Rosacker stated the NAHC would meet in December to allocate their three sources of funding to various projects, and he hoped to see the CET funds used on a project that made a real difference to affordable housing.

CM Worthey noted Staff could work on this project idea and if the NAHC had other ideas they could be presented to the Council at the same time.

Jim Talt thanked Councilor Kilburg for reading the legal language found in Oregon Laws 2016 Chapter 59 Section 9 and stated she hit on the two main operative paragraphs noting the availability of CET funds for affordable housing projects which were left undefined. Newberg Code said that the CET payout split between 15%, 35%, and 50% only applied to taxes collected from residential programs, where funds collected from commercial, industrial, or mixed-use work was not subject to the payout schedule.

Mayor Rosacker asked if the collected CET money had been tracked as to whether it had come from residential or commercial developments. CM Worthey was unaware if the sources of the funds had been tracked.

COUNCIL BUSINESS
None

ADJOURNMENT
Meeting adjourned at 8:30 pm.

ATTEST

Rachel C. Thomas
City Recorder, Rachel Thomas

Bill Rosacker, Mayor

ATTACHMENT 2. NEWBERG CITY COUNCIL "CHILDCARE IN NEWBERG" PRESENTATION FROM NOVEMBER 20, 2023

Newberg Planning Commission, File No. DCA23-0002

Childcare in Newberg

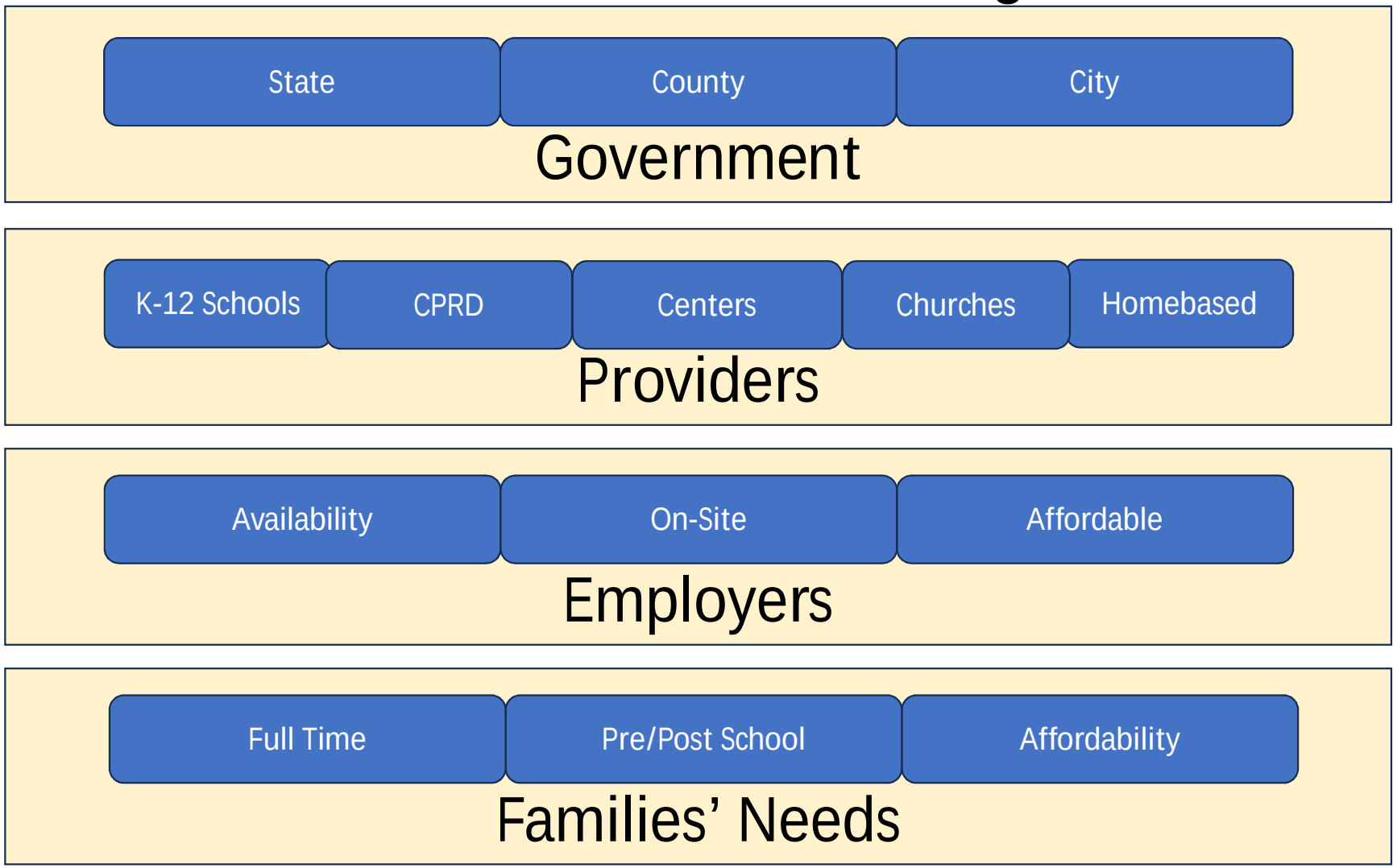
November 2023

Investigating childcare in Newberg

- Childcare Background Material Available
  - Yamhill County Child Care Task Force Findings & Recommendations March 2, 2023
  - Regional Solutions and Early Learning Division Childcare Workgroup Exec Summary Jan 2020

- Interviews were held with the following individuals
  - CPRD: Jim McMaster Board member, Erin Harrington CARE
  - DCI/Project Oasis: Tim Murphy, VP of Business Operations, Jessica Scott, :Little Bird Day Care Centers owner
  - Newberg Dundee School District: Dr Stephen Phillips Superintendent, Jillian Felizarta, Director of Teaching and Learning
  - adec: Mariah Robbins- VP of People & Operations, Jordan Beanblossom Corporate Communication & Outreach Manager
  - GFU: Vicki Piersall, CFO, Shawn Daley VP Chief Strategy Officer
  - NW Christian Church: Brianna Watt
  - Mia Escuelita: Sarah Crozier
  - SEDCOR: Abisha Stone – concerning available childcare providers
- The questions asked were:
  - What issues do you see around childcare in Newberg? What barriers do you see from the city? Would you be willing to participate in an ad hoc committee to work to resolve the issues?

Interested Parties in solving the issues



Interview learnings – why

- Government
  - SDCs are too high in Newberg to remodel or build new
  - The process of getting from pre-app to permits is unfriendly and prolonged. No help here attitude. Need a guide.
  - The process is paper not electronic.
  - City code for home business employee limit contradicts State student parent ratio requirements.
  - Zoning – conditional use for light industrial – remove limitations for all but heavy industrial to allow onsite daycares.
  - Parking requirements are excessive for a drop-off/pick-up business
  - Traffic study costs are very expensive
  - Lighting and sidewalk upgrades are costly
  - Inconsistent regulation between city and county and ODOT
  - Families are not familiar with state programs that they are eligible for, programs have waiting lists
- Costs
  - Cost to open a center (100+ children capacity) would require a 15 year ROI…impossible
  - Outdoor space and playground equipment are expensive – space requirements set by state.
  - It takes 2-6 months to get a new daycare full and running covering costs.
  - Infant care is a loss leader for preschool – impossible to cover costs with mandated staffing and facilities – modifying existing buildings is often not possible due to plumbing required.
  - Transporting kids from school to after school – can we eliminate with full after school programs at schools
  - Multiple employers would build on site care and leave half for non-employee use, would subsidize care costs for employees who wanted that benefit.
  - Perception that free care is substandard/not regulated/does not cover before school or last until 6pm – still very needed.
- Staffing
  - Finding and keeping qualified people is a constant issue. (pay is $16-25/hour)
  - Burnout is an issue – causing home care to close and turnover in centers/schools
  - GFU and High School are potential sources of care givers who are learning

Problem Statement & Request

- There is not adequate, affordable daycare available in Newberg.
  - Families are driving to other cities to get care.
  - Employers see this as a retention and productivity issue.
  - Daycare providers have chosen not to open in Newberg due to high costs and difficulty in getting a site open compared to neighboring cities.
- Request to council
  - Request staff time to focus on Government issues that are within our control in order to remove barriers to those opening day care in Newberg.

Interest in ad hoc committee participation

State | County | City

Government: County Commissioner, City Councilor

K-12 Schools
Dr Phillips | CPRD
Erin Harrington | Centers
Jessica Scott | Churches
Brianna Watt | Homebased
Sarah Crozier

Providers

Availability | On-Site | Affordable

Employers: Adec – Jordan Beanblossom. DCI – Tim Murphy, GFU- Sean Daley

Full Time | Pre/Post School | Affordability

Families' Needs: Grade school parent organizations, call for city volunteers

ATTACHMENT 3. MEMORANDUM REGARDING BARRIERS TO DAYCARE OPERATIONS

Newberg Planning Commission, File No. DCA23-0002

MEMORANDUM

TO: City Councilors, Interested Parties

FROM: Jeremiah Cromie, Associate Planner, Community Development Department

SUBJECT: Initial Findings Related to Reducing Barriers to Daycare Operations in Newberg

DATE: March 18, 2024

On November 20, 2023, Councilor Olson gave a presentation to the Newberg City Council on childcare issues in Newberg and barriers to the creation of new daycare operations in Newberg. The Council directed staff to work on issues related to daycares that are within the City's control as a local government.

Staff investigated several items mentioned as being ripe for breaking down the barriers. After initial review of the current development code and permit processes, it appears that limited changes within the City's control are available to reduce some of these existing barriers to daycare operations, and as discussed in this memo, some of these changes have already been adopted or are in progress.

The most tangible opportunities for development code changes that would reduce barriers to childcare are a **reduction in parking requirements**, and code amendments **allowing childcare in light industrial zones** consistent with state law.[1]

Key Issues and Recommendations

The following summarizes the key issues identified by Councilor Olson and others, and staff's initial findings and recommendations:

1. **System Development Charges (SDC) are too high.**
   On February 20, 2024, the Newberg City Council adopted a System Development Charge (SDC) reform package that exempts development of childcare facilities. This should reduce fees associated with daycare operations and have a significant impact on development costs.

   This barrier is eliminated.

2. **Process of getting from pre-app to permits is unfriendly and prolonged.**

[1] Specifically, ORS 329A.440.4(a) requires that, "A child care center is a permitted use in all areas zoned for commercial or industrial use, except areas specifically designated by the local government for heavy industrial use."

City Council approved the 2024 Planning Division Work Plan which includes the *Customer Service and Development Standards Update* as a Critical Project scheduled to occur in the near future. The City Council also recently adopted a Customer Service Policy (Resolution 2024-3918). Pursuant to this policy, the Community Development Department is developing customer service metrics and is reviewing the development code for opportunities to streamline application procedures and standards. The goal is to improve the permit application process for all applicants, including daycare operators.

This barrier is expected to be reduced as the Community Development Department proceeds with Customer Service and Development Standards Update.

3. **The process is paper and not electronic.**
As of February 2024, the Community Development Department's application process can be done completely electronically. The Paper application submittals are no longer required by the Planning or Building Divisions.

This barrier has been eliminated.

4. **City code limiting employees for home businesses contradicts State student to child-care provider ratio requirements.**

City staff conducted a review of existing code and found that a prior interpretation that family home daycares are home occupations was **incorrect**. The development code has a specific definition for "Family Child Care Homes" and it is a permitted use in the zoning use table (see Appendix A for details) rather than a special use that requires a home occupation permit. This "Family Child Care Home" use meets current state requirements and does not require a home occupation permit that limits the number of employees. This use is permitted outright in all residential districts in existing single-family dwellings.

This barrier has been eliminated.

5. **Zoning – conditional use for light industrial – remove limitations for all but heavy industrial to allow onsite childcare.**

Staff believes this is a two-prong issue, with the first being the need to remove restrictions on new commercial daycares in industrial areas as required by state law, and the second being the recommendation to allow onsite daycares on the employer's site as an accessory use. The City's existing code includes five different industrial zoning districts, each with a different purpose and allowing differing uses and development standards. The table below provides each zoning district's purpose as well the current permitting process required for a commercial daycare operation in that district:

Zoning District	Purpose of Zoning District	Daycare Use Category Requirement by Zoning District
Limited Industrial (M-1)	The M-1 limited industrial district is intended to create, preserve and enhance areas containing manufacturing and related establishments with limited external impact, and with an open and attractive setting. The M-1 limited industrial district is typically	Conditional Use

Zoning District	Purpose of Zoning District	Daycare Use Category Requirement by Zoning District
	appropriate to locations near highways and arterials and nonmanufacturing areas.	
Light Industrial (M-2)	The M-2 light industrial district is intended to create, preserve and enhance areas containing a wide range of manufacturing and related establishments and is typically appropriate to areas providing a wide variety of sites with good rail or highway access.	Conditional Use
Heavy Industrial (M-3)	The M-3 heavy industrial district is intended to create, preserve and enhance areas containing manufacturing or related establishments which are potentially incompatible with most other establishments and are typically appropriate to areas which are most distant from residential areas, and which have extensive rail or shipping facilities.	Conditional Use
Large Lot Industrial (M-4)	The M-4 industrial employment district is divided into two subdistricts: the *industrial employment subdistrict* and the *industrial commercial subdistrict*. One of the main intents of these districts is to provide a variety of employment opportunities for the citizens of Newberg. Providing adequate jobs for our citizens leads to other related benefits, including a diversified and stable local economy, a stronger tax base, and environmental benefits from less out-commuting to jobs. In addition, providing adequate local jobs helps fulfill the stated desire of many citizens to "live here, work here, shop here."	Conditional Use in the Employment Subdistrict (M-4-I) Permitted Use in Commercial Subdistrict (M-4-C)
Mixed Employment (M-E)	The M-E mixed employment district is intended to create a mix of light industrial and limited commercial uses that provide employment opportunities for the City of Newberg while also creating a high-quality urban environment. This designation can provide a buffer between industrial uses with a high degree of external impact and other uses such as residential and recreational areas.	Permitted Use

The State Legislature passed HB3109 in 2021 (now codified as ORS 329A.440.4(a)), which requires that childcare centers must be permitted in all areas zoned for commercial or industrial use except that a local government may restrict childcare in areas designated for heavy industrial use. State law also requires that local governments may not impose land use regulations on childcare in an area zoned for industrial use that are more restrictive than those imposed for other uses in the same area.

Staff concludes based on HB3109 that M-1 (Limited Industrial District) and M-2 (Light Industrial District) should be amended to allow commercial daycare as an outright permitted use rather than a conditional use. The M-1 and M-2 zones make up most of the industrial land in Newberg.

Additionally, existing code already allows on-site daycares as an accessory use as long as it is primarily provided for the children of workers at the site. Such an accessory use does not require special permitting from the City's Planning Division. However, an accessory daycare operation would still be required to meet Building Code requirements for such an activity.

Portions of this barrier are eliminated through the ability of businesses to locate daycare operations on-site as accessory uses, but further code amendments are necessary to eliminate the barrier altogether.

6. **Parking requirements are excessive for a drop-off/pick-up childcare business**

Parking requirements for new daycare facilities currently require five (5) off-street parking spaces per 1,000 gross square feet (Newberg Municipal Code (NMC) 15.440.030). This requirement does not apply to family home daycares or accessory on-site daycares for employers. Staff are researching this topic further but believes the requirement may be high in comparison to nearby jurisdictions which appear to require off-street parking quantities based on the capacity for staff and children on-site. Another issue which may require evaluation is whether city requirements for drop-off and pick-up circulation are more restrictive than those required for licensing of childcare by the State of Oregon.

This barrier is currently being investigated and researched more thoroughly. Staff anticipates that a proposed code amendment for the parking requirements of daycare facilities will come before the Planning Commissions and City Council in the future.

7. **Traffic Study costs are expensive.**

Traffic Study costs are not particularly in the control of local government except in determining whether they are required or not. Traffic studies are currently required for any Type II or Type III development application (including commercial daycares) that generates in excess of 40 trips per p.m. peak hour. The Community Development Director may waive this where there is a previous traffic study for the site, such as for an existing commercial center, church or school, or if the proposed use would not cause any intersection to have a poor level of service.

This barrier is unlikely to go away for large commercial daycares but depending on the location of the project, it may be possible to waive the traffic study requirement in certain circumstances. Daycare facilities often have their traffic coming and going at peak hours (7-9am and 4-6pm) to drop off and pick up kids which may necessitate the need for a traffic study.

8. **Lighting and sidewalk upgrades are costly.**

Lighting and sidewalk upgrades, when needed, may be costly but are important safety measures that apply to most new development/redevelopment projects. They make sure all people are safe including when walking or picking up kids at night. The City currently requires:

- Sidewalk upgrades for any project valued at over $30,000 (NMC 12.05.090), and
- Lighting upgrades on site as part of any new commercial use including day cares in a Type I or Type II review (NMC 15.425.020).

Following initial review of this barrier, staff does not support waiving infrastructure improvements associated with increased safety where daycares may operate in the future.

9. **Inconsistent regulation between city, county and ODOT.**

Additional details regarding the specific inconsistencies experienced by prospective daycare operators would help staff better understand this issue. Regulation from the County or ODOT for a project in the city will likely only occur if the proposed facility is on or next to one of their roads. Staff would

typically coordinate with Yamhill County and ODOT during the pre-application process or in design review when a development affects one of their roadways. We support other coordination between entities as appropriate.

Additional information is required to understand the extent to which the barrier impacts prospective daycare operations.

10. **Families are not familiar with state programs that they are eligible for, programs have waiting lists.**

Unless further information is provided, this appears to be a communication issue with state programs that the City may not have control over. However, City staff can potentially create a webpage or other resources to direct people to the state programs and related contacts. Local groups like the Newberg Downtown Coalition and Chehalem Valley Chamber of Commerce can help direct local businesses to this information as well.

The City has limited influence over this barrier. This barrier may be overcome with better communication and direction to the state programs.

Appendix A: Relevant City Code Sections Related to Day Care

Contents

City Definitions (NMC 15.05.030): 6
Use Categories (NMC 15.303): 6
Zoning Use Table (NMC 15.305) 7
Off-Street Parking Required (NMC 15.440.030) 7
Permits and Certificates Regarding Sidewalks (NMC 12.05.090) 7
Exterior Lighting Requirements (NMC 15.425.020) 8

City Definitions (NMC 15.05.030):

"Day care category" means a use category under Chapter 15.303 NMC that includes the care, supervision and guidance on a regular basis of a child, unaccompanied by a parent, guardian or custodian, during a part of the 24 hours of the day, with or without compensation. It also may include care or supervision of an adult during part of the 24 hours of the day where lodging is not provided.

"Family child care home" means a registered or certified family child care home under the laws of the State of Oregon. A registered family child care home generally provides care for a maximum of 10 children in the family living quarters of the provider's home. A certified family care home is located in a building constructed as a single-family dwelling and has a certificate to care for a maximum of 16 children at any one time.

Use Categories (NMC 15.303):

15.303.312 Day care category.

A. Characteristics. This category includes the care, supervision and guidance on a regular basis of a child, unaccompanied by a parent, guardian or custodian, during a part of the 24 hours of the day, with or without compensation. It also may include care or supervision of an adult during part of the 24 hours of the day where lodging is not provided.

B. Accessory Uses. Play areas.

C. Examples. Preschools, adult day care centers.

D. Exclusions.

1. Family child care homes.

2. Child care which does not require state registration or certification, such as babysitting.

3. Accessory day care that is provided primarily for the children of workers at the site is considered an accessory use.

4. Schools, primary or secondary.

5. Residential care homes and residential care facilities. [Ord. 2763 § 1 (Exh. A § 5), 9-16-13.]

Zoning Use Table (NMC 15.305)

#	Use	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-E	M-1	M-2	M-3	M-4-I	M-4-C	CF	I	AR	AI	Notes and Special Use Standards
300	**INSTITUTIONAL AND PUBLIC USES**																				
310	**INSTITUTIONAL CARE AND HOUSING**																				
Def.	Family child care home	P	P	P(13)	P(13)	P	P(13)	P(13)	P(13)	P(13)	X							P	P(13)		ORS Chapter 657A
312	Day care	P	P	P	C	P	P	P	P		P	C	C	C	C	P		P		P(14)	ORS Chapter 657A

Off-Street Parking Required (NMC 15.440.030)

Institutional Types	
Churches, clubs, lodges	1 for every 4 fixed seats or every 8 feet of bench length or every 28 sq. ft. where no permanent seats or benches are maintained – in main auditorium (sanctuary or place of worship)
Continuing care retirement community not including nursing care	1 space per living unit
Day care facility	5 spaces per each 1,000 gross sq. ft.
Hospitals (including accessory retail wholly contained within a hospital building)	2 spaces for each 1,000 gross sq. ft.

Permits and Certificates Regarding Sidewalks (NMC 12.05.090)

A. Concurrent with the issuance of a building permit for the construction of a building for residential use or business structures or an addition to a dwelling or business structure, the value of which is $30,000 or more except as the city engineer may require on building permits of lesser value in accordance with NMC 12.05.040, the owner, builder or contractor to whom the building permit is issued shall meet the following requirements:

1. Construct a sidewalk within the dedicated right-of-way for the full frontage in which a sidewalk in good repair does not exist. The sidewalk construction shall be completed within the building construction period or prior to issuance of an occupancy permit, whichever is the lesser.

2. Dedicate right-of-way in accordance with the city transportation plan.

B. The city engineer may issue a permit and certificate allowing noncompliance with the provisions of subsection (A) of this section to the owner, builder or contractor when, in the city engineer's opinion, the construction of a sidewalk is impractical for one or more of the following reasons:

1. Sidewalk grades have not and cannot be established for the property in question within a reasonable period of time.

2. Future installation of public utilities or street paving would, of necessity, cause severe damage to existing sidewalks.

3. Topography or contours make the construction of a sidewalk impractical.

4. The noncompliance provided in subsection (B)(1) of this section shall be temporary and shall cease to exist when grades are established for sidewalks by the public works department or when public utilities or street paving have been constructed. The permit shall indicate the reason for its issuance.

C. If the owner, builder or contractor considers any of the requirements impractical for any reason, they may appeal the decision to the planning commission.

D. If a sidewalk is not constructed within the time required by this section, then the city may construct it for the full street frontage in front of the property and proceed with the construction, assessment and collection of costs as provided for in NMC 12.05.070. [Ord. 2048, 3-2-81; Ord. 1857, 5-2-77; Ord. 929, 7-2-40. Code 2001 § 96.09.]

Exterior Lighting Requirements (NMC 15.425.020)

A. Applicability. Outdoor lighting shall be required for safety and personal security in areas of assembly, parking, and traverse, as part of multifamily residential, commercial, industrial, public, recreational and institutional uses. The applicant for any Type I or Type II development permit shall submit, as part of the site plan, evidence that the proposed outdoor lighting plan will comply with this section. This information shall contain but not be limited to the following:

1. The location, height, make, model, lamp type, wattage, and proposed cutoff angle of each outdoor lighting fixture.

2. Additional information the director may determine is necessary, including but not limited to illuminance level profiles, hours of business operation, and percentage of site dedicated to parking and access.

3. If any portion of the site is used after dark for outdoor parking, assembly or traverse, an illumination plan for these areas is required. The plan must address safety and personal security.

B. Exemptions. The following uses shall be exempt from the provisions of this section:

1. Public street and airport lighting.

2. Circus, fair, carnival, or outdoor governmentally sponsored event or festival lighting.

ATTACHMENT 4. PARKING SURVEY

Newberg Planning Commission, File No. DCA23-0002

City	Parking Requirement (Commercial Daycares)
Newberg	5 per 1,000 sq. ft. gross floor area
McMinnville	One space per on-site employee, and a designated pick-up and drop-off zone for two vehicles which can be on-street parking if it is not immediately adjacent to another use.
Woodburn	2 per caregiver
Sherwood	None
Canby	1 per employee
Dundee	2 per classroom (Based on preschool nursery/kindergarten)
Tualatin	2 per employee
Keizer	1 per up to 12 children, 2 for more than 12
Mollala	1 per 400 sq. ft. of floor area
North Plains	1 per employee plus 1 per 5 students
Forest Grove	2 per classroom
West Linn	1 per employee plus 1 per 1,000 sq. ft.
Moses Lake, WA	1 per employee plus 1 per 10 children or adults
Ellensburg, WA	1 per employee plus 1 temporary loading parking per each 8 full-day equivalent children
Maple Valley, WA	1 per employee plus 1 space for every five children, plus on-site loading and unloading areas
Roseburg	2 for the first 16 children plus one additional space for every 12 children thereafter, along with off-street loading and unloading area
Oregon City	2 per 1,000 square feet of net leasable area (3 maximum). Based on preschool nursery/kindergarten
Redmond, OR	1 space per employee; desginated pick up area required
Lake Oswego	2.5 spaces per 1,000 sq. ft. gross floor area
Tigard	MAX: 2.7 per 1,000 sq. ft. of gross floor area
Albany, OR	MAX: 1 per employee + 1 per 10 persons being cared for
Medford, OR	None, MAX: 1.1 spaces per teacher/employee on the largest shift, plus 1 space per 5 students
Bend, OR	None, MAX: 1 per 200 square feet
Gresham	1 per classroom (MAX: 2 spaces per classroom)
Burns, OR	1 per employee plus 1 per 5 children
Battle Ground, WA	2 per employee

ATTACHMENT 5. AGENCY COMMENTS
Newberg Planning Commission, File No. DCA23-0002

COMMUNITY DEVELOPMENT
LAND USE APPLICATION REFERRAL

The enclosed material has been referred to you for your information and comment. Any comments you wish to make should be returned to the Community Development Department prior to: June 28, 2024
Please refer questions and comments to: Jeremiah Cromie

NOTE: Full size plans are available at the Community Development Department Office.

APPLICANT:	N/A
REQUEST:	Development Code Update: Daycare Facility Standards
SITE ADDRESS:	N/A
LOCATION:	N/A
TAX LOT:	N/A
FILE NO:	DCA23-0002
ZONE:	N/A
HEARING DATE:	July 11,2024

Project Information is Attached:

☑ Reviewed, no conflict.

☐ Reviewed; recommend denial for the following reasons:

☐ Require additional information to review. (Please list information required)

☐ Meeting requested.

☐ Comments. (Attach additional pages as needed)

Scot Siegel

Digitally signed by Scot Siegel
DN: C=US, OU=Community Development, O=City of Newberg, CN=Scot Siegel, E=scot.siegel@newbergoregon.gov
Reason: I am the author of this document
Location: your signing location here
Date: 2024.06.28 16:59:08-07'00'
Foxit PhantomPDF Version: 10.1.12

Reviewed By: Date:

Organization:

COMMUNITY DEVELOPMENT
LAND USE APPLICATION REFERRAL

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- [ ] Reviewed; recommend denial for the following reasons:
- [ ] Require additional information to review. (Please list information required)
- [ ] Meeting requested.
- [ ] Comments. (Attach additional pages as needed)

W E Worthey

Digitally signed by W E Worthey
DN: O=City of Newberg, CN=W E Worthey, E=will.worthey@newbergoregon.gov
Reason: I have reviewed this document
Location: your signing location here
Date: 2024.06.16 17:47:23-07'00'
Foxit PhantomPDF Version: 10.1.12

Reviewed By: Will Worthey CM

Date: 6/16/24

Organization:

COMMUNITY DEVELOPMENT
LAND USE APPLICATION REFERRAL

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☐ Meeting requested.

☐ Comments. (Attach additional pages as needed)

Brett Musick

Digitally signed by Brett Musick
DN: CN=Brett Musick, E=brett.musick@newbergoregon.gov
Reason: I have reviewed this document
Location: your signing location here
Date: 2024.06.25 13:23:37-07'00'
Foxit PhantomPDF Version: 10.1.10

Reviewed By:

6/25/24

Date:

CON PW Engineering

Organization:

COMMUNITY DEVELOPMENT
LAND USE APPLICATION REFERRAL

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Please refer questions and comments to: Jeremiah Cromie

NOTE: Full size plans are available at the Community Development Department Office.

APPLICANT:	N/A
REQUEST:	Development Code Update: Daycare Facility Standards
SITE ADDRESS:	N/A
LOCATION:	N/A
TAX LOT:	N/A
FILE NO:	DCA23-0002
ZONE:	N/A
HEARING DATE:	July 11,2024

Project Information is Attached:

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- [ ] Require additional information to review. (Please list information required)
- [ ] Meeting requested.
- [ ] Comments. (Attach additional pages as needed)

S.EGGIMAN — Reviewed By:

6/19/2024 — Date:

Organization:

COMMUNITY DEVELOPMENT
LAND USE APPLICATION REFERRAL

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Please refer questions and comments to: Jeremiah Cromie

NOTE: Full size plans are available at the Community Development Department Office.

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- [ ] Meeting requested.
- [ ] Comments. (Attach additional pages as needed)

J. Vinel — 6-19-24

Reviewed By: Date:

Newberg-Dundee Police

Organization:

COMMUNITY DEVELOPMENT
LAND USE APPLICATION REFERRAL

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Please refer questions and comments to: Jeremiah Cromie

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REQUEST:	Development Code Update: Daycare Facility Standards
SITE ADDRESS:	N/A
LOCATION:	N/A
TAX LOT:	N/A
FILE NO:	DCA23-0002
ZONE:	N/A
HEARING DATE:	July 11,2024

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- [ ] Reviewed; recommend denial for the following reasons:
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- [ ] Comments. (Attach additional pages as needed)

Reviewed By: _____ Date: 6/17/24

Maintenance Superintendent
Organization:

COMMUNITY DEVELOPMENT
LAND USE APPLICATION REFERRAL

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Please refer questions and comments to: Jeremiah Cromie

NOTE: Full size plans are available at the Community Development Department Office.

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- [ ] Meeting requested.
- [ ] Comments. (Attach additional pages as needed)

April Catan
Digitally signed by April Catan
DN: C=US, OU=Operations, O=City of Newberg, CN=April Catan, E=april.catan@newbergoregon.gov
Reason: I am the author of this document
Location: your signing location here
Date: 2024.06.17 16:20:14-07'00'
Foxit PhantomPDF Version: 10.1.10

Reviewed By:

6/17/24
Date:

City of Newberg - Ops
Organization:

COMMUNITY DEVELOPMENT
LAND USE APPLICATION REFERRAL

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Please refer questions and comments to: Jeremiah Cromie

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REQUEST:	Development Code Update: Daycare Facility Standards
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TAX LOT:	N/A
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HEARING DATE:	July 11,2024

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☐ Reviewed; recommend denial for the following reasons:

☐ Require additional information to review. (Please list information required)

☐ Meeting requested.

☐ Comments. (Attach additional pages as needed)

Reviewed By: _____ Date: 6/17/24

Organization: City of Newberg - Operations

Fe Bates

From: Brown, Jason <JBrown2@wm.com>
Sent: Wednesday, June 19, 2024 7:27 AM
To: Fe Bates
Cc: Jeremiah Cromie; Wille, Jason
Subject: RE: 3- City of Newberg Referral Requests: DR124-224-0004/ADJC24-0003 &DCA23-0002 & DCA24-0001

This email originated from outside the City of Newberg's organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Fe, WM does not have any issues with all three.

Thank you

From: Fe Bates <Fe.Bates@newbergoregon.gov>
Sent: Friday, June 14, 2024 3:58 PM
Cc: Fe Bates <Fe.Bates@newbergoregon.gov>; Jeremiah Cromie <Jeremiah.Cromie@newbergoregon.gov>
Subject: [EXTERNAL] 3- City of Newberg Referral Requests: DR124-224-0004/ADJC24-0003 &DCA23-0002 & DCA24-0001

Good Day,

There are 3 separate Referral for review linked in this email, to alleviate confusion additional information about each project has been added to the email in addition to the linked Referral. Referral Comments for all 3 must be emailed back no later than June 28, 2024 to Planning@newbergoregon.gov .

(DR224-0004/ADJC24-0003 HeadStart Expansion)
Referral- DR224-0004\u0026ADJC24-0003.pdf
This project is separate from the code amendments but is for a design review and code adjustment: An expansion for Head Start here in Newberg at 2813 E Crestview Drive. They are wanting to build a new 2,100 sq. ft. building and new playground area. They also submitted a code adjustment application to keep the existing parking (26 spaces) rather than having to add additional parking spaces (the current gravel spaces will be paved and marked).

Webpage: https://www.newbergoregon.gov/planning/page/dr224-0004adjc24-0003-head-start-newberg-expansion

DCA23-0002 Daycare Code Amendments
Referral-DCA23-0002.pdf
The proposed code amendments would do the following:

1. Make commercial daycare uses a permitted use in all light industrial zones (M-1 and M-2) to comply with current state law (they currently require a conditional use permit)
2. Reduce the parking requirements for new daycare facilities by transitioning from a current ratio of 5 per 1,000 square feet of gross floor area to having a ratio based on the number of employees and number of children/people cared for (currently proposed to be 1 per employee plus 1 per 10 children/people cared for)
3. Add a definition of play structures and where they can be located on property (proposed to be allowed within 3 feet from interior property lines and 10 feet from front lot lines) on most properties

(Draft Staff Report File has all documents (bookmarked) but also included code amendment language as well as memo – first 3 attachments).
Webpage: https://www.newbergoregon.gov/planning/page/dca23-0002-daycare-facilities-updates

DCA24-0001 Sign Code Maintenance Amendments
Referral -DCA24-0001.pdf
The proposed code amendments would do the following:

1. Update definitions of free standing and portable signs to make it clear which one is being used.
2. Update Resolute Highways language
3. Update sign standards in the Right-of-Way (ROW) downtown that include the following:
    a. How written permission is given with the sign
    b. Getting rid of specific hours signs are allowed in Right-of-Way (Still will not be allowed in Right-Of-Waw when business is closed).

(Draft Staff Report File has all documents (bookmarked) but also included code amendment language -last 2 attachments).
Webpage: https://www.newbergoregon.gov/planning/page/dca24-0001-sign-code-amendment

Please reach out if you have any questions.

Thank you,

Thank you,

Please let us know how you feel about our services by filling out this *City Services Customer Satisfaction Survey*.

Fé Bates
Community Development
Administrative Assistant
City of Newberg
City Hall: 503-537-1240
Direct: 503-554-7788

OUR OFFICE HAS TEMPORARILY MOVED TO THE WASTE WATER TREATMENT PLANT AT: 2301 NE WYNOOSKI RD.
We will be open to the Public for any Permitting or Planning needs from 8:30 to 3:30; Monday- Friday

COMMUNITY DEVELOPMENT
LAND USE APPLICATION REFERRAL

The enclosed material has been referred to you for your information and comment. Any comments you wish to make should be returned to the Community Development Department prior to: June 28, 2024
Please refer questions and comments to: Jeremiah Cromie

NOTE: Full size plans are available at the Community Development Department Office.

APPLICANT:	N/A
REQUEST:	Development Code Update: Daycare Facility Standards
SITE ADDRESS:	N/A
LOCATION:	N/A
TAX LOT:	N/A
FILE NO:	DCA23-0002
ZONE:	N/A
HEARING DATE:	July 11,2024

Project Information is Attached:

- [ ] Reviewed, no conflict.
- [ ] Reviewed; recommend denial for the following reasons:
- [ ] Require additional information to review. (Please list information required)
- [ ] Meeting requested.
- [x] Comments. (Attach additional pages as needed)

TSROOKS BATEMAN — Reviewed By:

6-21-24 — Date:

BUILDING — Organization:

SEE ATTACHED BUILDING CODE REQUIREMENTS
ATTACHED IS ONLY THE STARTING POINT SQUARE FOOTAGE AND OCCUPANT LOAD CAN REQUIRE MANY MORE CODE REQUIREMENTS

310.4.1 Care facilities within a dwelling.

A care facility located within a detached one- or two-family *dwelling* or *townhouse* and having five or fewer persons receiving care shall be permitted to be constructed in accordance with the *Residential Code* provided that Section 420.12 is met and accessibility is provided in accordance with Section 1103.2.12 for newly constructed facilities and Section 3403.4 for existing facilities.

310.4.2 Licensed child care within a dwelling.

A registered or certified family child care facility, as defined in ORS 329A, located within a *dwelling* shall be classified as a Group R-3 occupancy. Where located within a one- or two-family *dwelling* or *townhouse* the care facility shall be permitted to be constructed in accordance with the *Residential Code*, provided that Section 420.12 is met and accessibility is provided in accordance with Section 1103.2.12 for newly constructed facilities and Section 3403.4 for existing facilities.

310.4.3 Licensed adult foster care within a dwelling.

Adult foster homes, as defined in ORS 443.705, located within a dwelling shall be classified as Group R-3 and shall be permitted to be constructed in accordance with the *Residential Code* provided that an automatic sprinkler system is installed in accordance with Section 903.3.1.3 and accessibility is provided in accordance with the applicable provisions of Chapter 11 for the function served.

Adult foster homes and residential training homes within detached one-family dwellings. Adult foster homes as defined in ORS 443.705 and residential training homes as defined in ORS 443.400 licensed for five or fewer individuals prior to July 1, 2024, shall not require the installation of an automatic fire sprinkler system under application of this state building code. See the enrolled Senate Bill 1548 [2022] at Oregonlegislature.gov for more details.

305.2 Group E, day care facilities.

This group includes buildings and structures or portions thereof occupied by more than five children older than 2½ years of age who receive educational, supervision or *personal care* services for fewer than 24 hours per day

305.2.1 Within places of religious worship.

Rooms and spaces within *places of religious worship* providing such day care during religious functions shall be classified as part of the primary occupancy

305.2.2 Five or fewer children.

A facility having five or fewer children receiving such day care shall be classified as part of the primary occupancy

305.2.3 Five or fewer children in a dwelling unit.

> A facility such as the above located within a *dwelling unit* and having five or fewer children receiving such day care shall be classified as a Group R-3 occupancy. Where located within a detached one- or two-family *dwelling* or *townhouse*, the facility shall be permitted to be constructed in accordance with the *Residential Code*, provided that Section 420.12 is met, and accessibility is provided in accordance with Section 1103.2.12 for newly constructed facilities and Section 3403.4 for existing facilities.

ATTACHMENT 6. PUBLIC COMMENTS

Newberg Planning Commission, File No. DCA23-0002

REQUEST FOR COUNCIL ACTION

Date Action Requested: September 3, 2024

Order ☐ Ordinance ☒ Resolution ☐ Motion ☐ Information ☐ Proclamation ☐ No. 2024-2929	
Subject: An ordinance amending Title 15 Development Code related to signs	Staff: Jeremiah Cromie, Associate Planner Department: Community Development File: DCA24-0001
Business Session	Order On Agenda: Public Hearing
Hearing Type: Legislative ☒ Quasi-Judicial ☐ Administrative ☐ Not Applicable ☐	

Is this item state mandated? Yes ☐ No ☒
If yes, please cite the state house bill or order that necessitated this action:

Recommendation: Adopt Ordinance No. 2024-2929 as proposed and waive 2nd reading of Ordinance.

Executive Summary:

Over the last few years, Newberg residents and city staff have experienced difficulties with city code relating to "portable" and "free standing" signs, due to the seemingly unnecessary intricacies and redundant language of the Development Code's sign regulations.

The proposed Development Code amendments would:

1. Delineate clearly between a "portable" and "free standing" signs in our definitions.

2. Remove time restrictions on portable signs as they appear unnecessary and involve significant workload by the Police Department for code compliance.

The proposed amendments are part of the Community Development Department's 2024 Planning Division Work Plan (Exhibit B). Specifically, the amendments are associated with the "Director's Interpretations and Code Maintenance" project which was identified as one of the Planning Division's *Significant Projects* within the Work Plan.

Additional details can be found in the Planning Commission staff report in Exhibit F.

Fiscal Impact: There is no anticipated fiscal impact for these amendments.

Council Goals: G5. Create and maintain a high level of transparency with our residents in order to build trust.

Contents:

Exhibit A: Ordinance 2024-2929
Exhibit A-1: Ordinance 2024-2929 Development Code Amendments
Exhibit A-2: Ordinance 2024-2929 Findings
Exhibit B: Planning Commission Resolution 2024-395
Exhibit C: 2024 Planning Division Work Plan
Exhibit D: Code Enforcement E-mail
Exhibit E: Agency Comments
Exhibit F: Planning Commission Staff Report (DCA24-0001)
Exhibit G: July 11, 2024 Draft Planning Commission Meeting Minutes

ORDINANCE NO. 2024-2929

An Ordinance amending Title 15 Development Code related to signs

Recitals:

1. The Newberg City Council approved the Planning Division's Work Plan at their January 16, 2024 meeting that included an item for code maintenance projects.

2. On June 6, 2024, staff published a Post-Acknowledgement Plan Amendment (PAPA) notice with the Department of Land Conservation and Development (DLCD).

3. On July 11, 2024, after proper notice, the Newberg Planning Commission opened a public hearing, considered public testimony, deliberated, found that the proposed amendments were in the best interests of the City of Newberg.

4. On July 11, 2024, the Newberg Planning Commission adopted resolution 2024-394, recommends approval of the code amendments based on staff findings.

5. The Newberg City Council opened the hearing on September 3, 2024, considered testimony and deliberated.

The City of Newberg Ordains as Follows:

1. The code amendments shown in Exhibit "1-A" are hereby approved and adopted.

1. The findings shown in Exhibit "1-B" are hereby adopted. Exhibit "1-B" are hereby incorporated by reference.

Effective Date of this ordinance is the day after the adoption date, which is: _____, 2024.
Adopted by the City Council of Newberg, Oregon, this _____ day of _____, 2024, by the following votes: **AYE:** **NAY:** **ABSTAIN:**

_____
Rachel Thomas, City Recorder

Attest by the Mayor this _____ day of _____, 2024.

_____
Bill Rosacker, Mayor

Sign Code Maintenance Amendments Proposed Ordinance 2024-2928

City Council Legislative Public Hearing

File DCA24-0001

September 3, 2024

Background

- Code Enforcement Staff asked staff to bring code amendments to fix an issue in the field regarding the difference between portable and minor free standing signs as well as clean up some language regarding time restrictions around portable signs.

Proposal

- Update the definitions of both portable and minor free standing signs
- Get rid of unnecessary language regarding time restrictions with portable signs. Portable signs still would not be allowed to be put out while the business is closed.
- Update how permission is given and how code enforcement verifies for portable signs
- Other clerical fixes

Code Language Changes

15.05.030.

- "**Sign, freestanding**" means any sign supported by structures or supports that are anchored or inserted in the ground and that are independent from any other building or structure. Freestanding signs are of two types:

  1. Minor Freestanding. A freestanding sign that is less than or equal to six square feet in area (three square feet in residential zones) and three feet in height.

  2. Major Freestanding. All other freestanding signs.

- "**Sign, portable**" means any sign not ~~permanently~~ inserted in or attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to: signs designed to be transported by means of wheels; signs connected to A- or T-frames; menu and sandwich board signs; umbrellas, balloons, flags, or banners containing signs; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said sign is permanently affixed to the vehicle and said vehicle is licensed for movement on public streets.

Code Language Changes

15.435.110

- A. Public signs are allowed in the public right-of-way as allowed by the governmental agency responsible for the right-of-way.

- B. Temporary and/or portable signs for other than traffic control and motorist advisories are not allowed within state highway right-of-way administered by the Oregon Department of Transportation except on ~~resoluted~~ resolute highways. In 2015, the ~~resoluted~~ resolute highways in Newberg were: on First Street from Harrison Street to River Street, on Main Street from First Street to Illinois Street, and on College Street from First Street to Vermilion Street. On a ~~resoluted~~ resolute highway, the city manages the portion of the right-of-way behind the curb and can permit portable signs on the sidewalk. Portable and/or temporary signs are not allowed by ODOT on Hancock Street except within the College Street or Main Street rights-of-way.

Code Language Changes

15.435.110

C. For lots in the C-3 and C-4 zones, the two allowed portable signs per street frontage may be located, without permit, in the public right-of-way fronting that lot except as stated in subsection (B) of this section, provided they meet the following standards:

- 6. The sign owner must have the signs removed during hours when the business being advertised is closed. ~~In addition, signs must not be present between the hours of 2:00 a.m. and 5:00 a.m.~~
- 7. The person placing the signs in the right-of-way must obtain written permission from the owner, or their designee, of the property abutting the right-of-way for any sign, other than a public sign, that is placed within that right-of-way fronting the property owner's lot. The written permission must be presentable to code enforcement or their designee promptly upon request. ~~attached to the sign, and may be attached to the inside surface of an A-frame sign.~~

Code Language Changes

15.435.110
D. For lots in other zones, two portable signs per street frontage may be allowed in the public right-of-way except as stated in subsection (B) of this section, provided:

1. The standards of subsection (C) of this section shall be met with the exception of subsection (C)(6) of this section.

~~2. Signs may be displayed only during the following hours:~~

~~**Monday:**~~	~~6:00 a.m. to 10:00 p.m.~~
~~**Tuesday:**~~	~~6:00 a.m. to 10:00 p.m.~~
~~**Wednesday:**~~	~~6:00 a.m. to 10:00 p.m.~~
~~**Thursday:**~~	~~6:00 a.m. to midnight~~
~~**Friday:**~~	~~24 hours~~
~~**Saturday:**~~	~~24 hours~~
~~**Sunday:**~~	~~Midnight to 10:00 p.m.~~

~~In addition,~~ ~~n~~No sign may be displayed for more than four consecutive days.

Findings

A. Statewide Planning Goals (the “Goals”)

B. Newberg Comprehensive Plan

C. Newberg Municipal Code

15.100.060 Type IV procedure – Legislative

Recommendation

Planning Commission unanimously passed Resolution 2024-395 on July 11, 2024, recommending City Council adopt the proposed code amendments and findings in proposed Ordinance 2024-2929.

Suggested Motion:

Adopt Ordinance No. 2024-2929 as proposed and waive 2nd reading of Ordinance

Ordinance amending the Newberg Municipal Code, Title 15 Development Code, including Sections 15.05.030 and 15.435.110 relating to signs (File No. DCA24-0001)

Exhibit A

Ordinance 2024-2929

ORDINANCE NO. 2024-2929

An Ordinance amending Title 15 Development Code related to signs

Recitals:

1. The Newberg City Council approved the Planning Division's Work Plan at their January 16, 2024 meeting that included an item for code maintenance projects.

2. On June 6, 2024, staff published a Post-Acknowledgement Plan Amendment (PAPA) notice with the Department of Land Conservation and Development (DLCD).

3. On July 11, 2024, after proper notice, the Newberg Planning Commission opened a public hearing, considered public testimony, deliberated, found that the proposed amendments were in the best interests of the City of Newberg.

4. On July 11, 2024, the Newberg Planning Commission adopted resolution 2024-394, recommends approval of the code amendments based on staff findings.

5. The Newberg City Council opened the hearing on September 3, 2024, considered testimony and deliberated.

The City of Newberg Ordains as Follows:

1. The code amendments shown in Exhibit "1-A" are hereby approved and adopted.

1. The findings shown in Exhibit "1-B" are hereby adopted. Exhibit "1-B" are hereby incorporated by reference.

Effective Date of this ordinance is the day after the adoption date, which is: _____, 2024.
Adopted by the City Council of Newberg, Oregon, this _____ day of _____, 2024, by the following votes: **AYE:** **NAY:** **ABSTAIN:**

_____
Rachel Thomas, City Recorder

Attest by the Mayor this _____ day of _____, 2024.

_____

Bill Rosacker, Mayor

Ordinance amending the Newberg Municipal Code, Title 15 Development Code, including Sections 15.05.030 and 15.435.110 relating to signs (File No. DCA24-0001)

Exhibit A-1

Ordinance 2024-2929 Development Code Amendments

Development Code Amendment – File DCA24-0001

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

The Newberg Municipal Code shall be amended as follows:

Section 1. Newberg Municipal Code, 15.05.030 shall be amended to read for the following definitions:

"**Sign, freestanding**" means any sign supported by structures or supports that are anchored or inserted in the ground and that are independent from any other building or structure. Freestanding signs are of two types:

1. Minor Freestanding. A freestanding sign that is less than or equal to six square feet in area (three square feet in residential zones) and three feet in height.

2. Major Freestanding. All other freestanding signs.

"**Sign, portable**" means any sign not ~~permanently~~ inserted in or attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to: signs designed to be transported by means of wheels; signs connected to A- or T-frames; menu and sandwich board signs; umbrellas, balloons, flags, or banners containing signs; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said sign is permanently affixed to the vehicle and said vehicle is licensed for movement on public streets.

Section 2. Section 15.435.110 is amended to read as follows:

15.435.110 Signs within the public right-of-way.
A. Public signs are allowed in the public right-of-way as allowed by the governmental agency responsible for the right-of-way.

B. Temporary and/or portable signs for other than traffic control and motorist advisories are not allowed within state highway right-of-way administered by the Oregon Department of Transportation except on ~~resoluted~~ resolute highways. In 2015, the ~~resoluted~~ resolute highways in Newberg were: on First Street from Harrison Street to River Street, on Main Street from First Street to Illinois Street, and on College Street from First Street to Vermilion Street. On a ~~resoluted~~ resolute highway, the city manages the portion of the right-of-way behind the curb and can permit portable signs on the sidewalk. Portable and/or temporary signs are not allowed by ODOT on Hancock Street except within the College Street or Main Street rights-of-way.

Portable and/or temporary signs are not allowed within county road right-of-way administered by Yamhill County.

C. For lots in the C-3 and C-4 zones, the two allowed portable signs per street frontage may be located, without permit, in the public right-of-way fronting that lot except as stated in subsection (B) of this section, provided they meet the following standards:

1. The signs may not be less than two feet nor more than four feet high. The signs must also conform to NMC 15.410.060 if they are within the clear vision zone.

2. The signs may not be located within the vehicular path.

3. If located on a sidewalk, the signs must leave a clear access path at least five feet wide measured horizontally across the main part of the sidewalk and may not be located on an ADA ramp.

4. If the signs are located adjacent to a striped on-street parking area, the signs must be located adjacent to the stripe.

5. The signs may not be located within three feet of a fire hydrant.

6. The sign owner must have the signs removed during hours when the business being advertised is closed. ~~In addition, signs must not be present between the hours of 2:00 a.m. and 5:00 a.m.~~

7. The person placing the signs in the right-of-way must obtain written permission from the owner, or their designee, of the property abutting the right-of-way for any sign, other than a public sign, that is placed within that right-of-way fronting the property owner's lot. The written permission must be presentable to code enforcement or their designee promptly upon request. ~~attached to the sign, and may be attached to the inside surface of an A-frame sign.~~

8. If more signs than are allowed by this code are located in the right-of-way fronting one lot, all signs may be forfeited as per subsection (F) of this section.

9. Portable and/or temporary signs are not allowed by ODOT on sidewalks along Hancock Street except within the College Street and Main Street rights-of-way.

D. For lots in other zones, two portable signs per street frontage may be allowed in the public right-of-way except as stated in subsection (B) of this section, provided:

1. The standards of subsection (C) of this section shall be met with the exception of subsection (C)(6) of this section.

~~2. Signs may be displayed only during the following hours:~~

~~Monday:~~	~~6:00 a.m. to 10:00 p.m.~~

~~Tuesday:~~	~~6:00 a.m. to 10:00 p.m.~~
~~Wednesday:~~	~~6:00 a.m. to 10:00 p.m.~~
~~Thursday:~~	~~6:00 a.m. to midnight~~
~~Friday:~~	~~24 hours~~
~~Saturday:~~	~~24 hours~~
~~Sunday:~~	~~Midnight to 10:00 p.m.~~

~~In addition,~~ ~~n~~No sign may be displayed for more than four consecutive days.

~~3.~~ 2. Any sign installed or placed in the public right-of-way within these zones not in conformance with subsection (C)(7) of this section shall be forfeited to the owner of the property abutting the right-of-way and is subject to confiscation by said owner.

~~4.~~ 3. Portable and/or temporary signs are not allowed in the right-of-way along Highway 99W, Highway 240 or Highway 219 except as noted in subsection (B) of this section.

E. No other signs shall be placed within the public right-of-way except as specifically permitted by this code.

F. Any sign installed or placed in the public right-of-way, except in conformance with the requirements of this code, shall be forfeited to the city and subject to confiscation by city employees. In addition to other remedies hereunder, the city shall have the right to recover from the owner or person placing such a sign the full costs of removal and disposal of such sign. Identifying information on the sign shall be prima facie evidence that the individual or entity so identified is the violator. [Ord. 2897 § 1 (Exh. A § 4), 6-21-22; Ord. 2782 § 1 (Exh. A), 9-8-15; Ord. 2706 § 1 (Exh. A(2)), 10-6-08; Ord. 2564, 4-15-02; Ord. 2499, 11-2-98. Code 2001 § 151.600.]

Penalty: See NMC 15.05.120.

Ordinance amending the Newberg Municipal Code, Title 15 Development Code, including Sections 15.05.030 and 15.435.110 relating to signs (File No. DCA24-0001)

Exhibit A-2

Ordinance 2024-2929 Findings

FINDINGS FOR SIGN CODE UPDATE RELATED COMPREHENSIVE PLAN AND STATEWIDE PLANNING GOALS

A. FINDINGS FOR Statewide Planning Goals (the "Goals")

GOAL 1: CITIZEN INVOLVEMENT
To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process.

Finding: The City of Newberg has an acknowledged Comprehensive Plan and typically relies on procedures within the Newberg Municipal Code (NMC) for processing of land use applications. The proposed modifications comply NMC procedures for legislative actions, including requirements for both public noticing and meetings. There will be at least one public hearing with the Planning Commission and one with City Council where the anyone in the public can submit comments.
The amendments are subject to the Type IV legislative process pursuant to NMC Chapter 15.100, 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 1 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 Goal is met.

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 legislative changes will address an existing inconsistency in the Newberg Municipal Code regarding the definitions and provisions of "Minor Free Standing" signs and "Portable" signs that have caused complaints and problems resulting in frequent action by the City's Code Compliance personnel to deal with the inconsistency. The alternative to the proposed legislative change is to not change the code (No Change Alternative) which would maintain inconsistent language and lack of clarify resulting in regulations that are not fully enforceable. The proposed legislative changes are preferable (Preferred Alternative) because the NMC amendment is consistent with Newberg's Comprehensive Plan, improves clarity of

language for administrators and the public, and results in a clearer interpretation of allowable sign usage.
The Goal is met.

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. The proposal is for lands inside the Newberg Urban Growth Boundary.
The Goal is not applicable.

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 resource lands. The proposal is for lands inside the Newberg Urban Growth Boundary.

The Goal is not applicable.

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 amendment will not negatively impact inventoried Goal 5 resources because the amendments do not change protections that already exist in the Newberg Municipal Code, Specific Plans and Master Plans to protect these resources. Newberg has an acknowledged Stream Corridor designation, inventoried historic resources, and identified open spaces in compliance with Goal 5.
For the preservation of designated historic resources identified in Newberg's Historic Resources Inventory, procedures and applicable criteria for historic resources are reviewed pursuant to Chapter 15.344 Historic Landmarks (H) Subdistrict for landmark designation, exterior modifications, destruction and relocation, delisting, and general administration.
This Goal is met.

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 does not modify the existing goals and policies.

This Goal is met.

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 or landslide areas. This proposal does not modify the existing goals and policies.
This Goal is met.

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. This proposal does not modify the City's recreational goals and policies.
This Goal 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 proposed changes will make clearer rules regarding sign code and what can be done that will be vital to the welfare of the citizens of Newberg. Because the proposed changes will not affect the variety of economic activities to people or businesses in Newberg, the proposed amendment will not have a negative impact on economic development.
The Goal is met.

GOAL 10: HOUSING
To provide for the housing needs of citizens of the state.

Finding: The proposed amendments do not change anything related to housing.
This Goal is not applicable.

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: No public facilities are changing with the proposed amendments to the sign code.

This Goal is not applicable.

GOAL 12: TRANSPORTATION
To provide and encourage a safe, convenient and economic transportation system.

Finding: The updated sign plan does not create or reduce or amend anything related to the transportation system.
This Goal is not applicable.

GOAL 13: ENERGY CONSERVATION
To conserve energy.

Finding: The proposed amendment does not change the way in which energy will be utilized.
This Goal is not applicable

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
This Goal is not applicable

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: The City of Newberg is located along the Willamette River on its southern border. The proposed amendment does not alter any area or regulations within the boundaries of the Willamette River Greenway.
This Goal is not applicable.

B. FINDINGS FOR Newberg Comprehensive Plan 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: The City of Newberg has an acknowledged Comprehensive Plan and typically relies on procedures within the NMC for processing of land use applications. The proposed modifications comply NMC procedures for legislative actions, including requirements for both public noticing

and meetings. There will be at least one public hearing with the Planning Commission and one with City Council where the anyone in the public can submit comments.
The amendments are subject to the Type IV legislative process pursuant to NMC Chapter 15.100, 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 1 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 Goal is met.

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.

Finding: The City meets this goal by having a comprehensive plan that follows state goals. The proposed legislative changes will address an existing inconsistency in the Newberg Municipal Code regarding the definitions and provisions of "Minor Free Standing" signs and "Portable" signs that have caused complaints and problems resulting in frequent action by the City's Code Compliance personnel to deal with the inconsistency. The alternative to the proposed legislative change is to not change the code (No Change Alternative) which would maintain inconsistent language and lack of clarify resulting in regulations that are not fully enforceable. The proposed legislative changes are preferable (Preferred Alternative) because the NMC amendment is consistent with Newberg's Comprehensive Plan, improves clarity of language for administrators and the public, and results in a clearer interpretation of allowable sign usage.
The Goal is met.

C. AGRICULTURAL LANDS

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

Finding: The proposed amendment does not change any land use designation and does not create any new uses in any zoning district.
This Goal is not applicable.

D. WOODED AREAS

GOAL: To retain and protect wooded areas.

Finding: The proposed amendment does not change any land use designation and does not create any new uses in any zoning district.
This Goal is not applicable.

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.
2. Water quality in the Willamette River and tributary streams shall be protected.
3. As public sanitary sewer systems become available, all development shall connect to the public system. To encourage economic development, the City may permit subsurface sewerage disposal where the system meets State and County requirements and where unique circumstances exist.
4. The Newberg airshed shall be protected from excessive pollution levels resulting from urbanization.
5. New industry should be located in area which minimize the impacts upon the air, water, and land resources base, as well as upon surrounding land uses.
6. The City will cooperate with State and Federal agencies which regulate environmental quality and shall adhere to the standards established by these agencies in the issuance of any permits or approvals given by the City. This policy is intended to cover discharges and emissions which may impair air, water or land quality or exceed the established standards for noise or other emissions.
7. The threat of excessive noise will be considered when reviewing land use requests. In addition, and new commercial and industrial developments shall conform to DEQ noise pollution standards.
8. The City will continue to support soil conservation measures designed to prevent unnecessary losses through excavation, stripping, erosion, and sedimentation.
9. The City will seek abatement of the aesthetic degradation of the environment resulting from blighted neighborhoods, indiscriminate waste disposal, offensive outdoor storage.
10. The City shall promote community cleanup programs.
11. The City will continue to encourage and support the three R's of recycling (re-use, reduction, and recycling)

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 does not modify the existing goals and policies. Any permit submittal will be required to meet state requirements regarding noise and help to make the rules clearer to have sign code that could help prevent blighted neighborhoods.
This Goal and Policies are.

F. AREAS SUBJECT TO NATURAL HAZARDS

GOAL: To protect life and property from flooding and other 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 or landslide areas. This proposal does not modify the existing goals or policies.
This Goal is met.

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.

[…]

POLICY: 3. Historic Resources Policies

a. The continued preservation of Newberg's designated historic sites and structures shall be encouraged.

[…]

d. The City will encourage the re-use of historic structures such as the establishment of bed and breakfast operations, specialty shops, restaurants and professional offices.

[…]

Finding: The proposed amendment will not negatively impact open space or historic resources because the amendments do not change protections that already exist in the NMC, Specific Plans, and Master Plans to protect these resources.
Newberg has an acknowledged Stream Corridor designation, inventoried historic resources, and identified open spaces in compliance with State Goal 5. For preservation of designated historic resources identified in Newberg's Historic Resources Inventory, procedures and applicable criteria for historic resources are reviewed pursuant to Chapter 15.344 Historic Landmarks (H) Subdistrict for landmark designation, exterior modifications, destruction and relocation, delisting, and general administration.
The Goals and Policies are met.

H. THE ECONOMY

GOAL: To develop a diverse and stable economic base.

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.
    b. The City shall encourage economic expansions consistent with local needs

c. The City will encourage creation the creation of a diversified employment base, the strengthening of trade centers and the attraction of both capital and labor intensive enterprises.
d. Newberg will encourage the development of industries which represent the most efficient use of existing resources including land, air, water, energy and labor
e. Economic expansion shall not exceed the carrying capacity of the air, water or land resource quality of the planning area.
f. The City shall participate with local and regional groups to coordinate economic planning.
g. The City shall encourage business and industry to locate within the Newberg City limits.
h. Yamhill County history, products and activities should be promoted.
i. The City shall encourage tourist-related activities and services such as motor inns, restaurants, parks and recreation facilities, a visitor center, conference and seminar activities.
j. A mixed-use river-oriented commercial area should be encourage to be developed near the Willamette River.
k. The City shall promote Newberg as a tourist destination location.
l. The City shall promote the expansion of local viticulture and wine productions as a method for increasing tourism.

Finding: The proposed changes will make clearer rules regarding sign code and what can be done that will be vital to the welfare of the citizens of Newberg. It is speculated that the proposed amendments could help promote tourism and reduce confusion around allowable signs so that multiple signs do not congest pedestrian walkways in the City. Because the proposed changes will not affect the variety of economic activities to people or businesses in Newberg, the proposed amendment will not have a negative impact on economic development.
The Goal and Policies are met.

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).

Finding: The proposed amendments do not change anything related to housing.
This Goal is met.

J. URBAN DESIGN

GOAL 1: To maintain and improve the natural beauty and visual character of the City.
GOAL 2: To develop and maintain the physical context needed to support the livability and unique character of Newberg.

Finding: The proposed amendment will clean up language in a way expected to maintain and improve the visual character of the City by clarifying allowable signs and where multiple signs are not allowed to clutter sidewalks and create visual obstructions without owner permission. The Goals are met.

K. TRANSPORTATION

GOAL 1: Establish cooperative agreements to address transportation based planning, development, operation and maintenance.
GOAL 2: Establish consistent policies which require concurrent consideration of transportation/land use system impacts.
GOAL 3: Promote reliance on multiple modes of transportation and reduce reliance on the automobile.
GOAL 4: Minimize the impact of regional traffic on the local transportation system.
GOAL 5: Maximize pedestrian, bicycle and other non-motorized travel throughout the City.
GOAL 6: Provide effective levels of non-auto oriented support facilities (e.g. bus shelters, bicycle racks, etc.).
GOAL 8: Maintain and enhance the City's image, character and quality of life.
GOAL 9: Create effective circulation and access for the local transportation system.
GOAL 10: Maintain the viability of existing rail, water and air transportation systems.
GOAL 11: Establish fair and equitable distribution of transportation improvement costs.
GOAL 12: Minimize the negative impact of a Highway 99 bypass on the Newberg community.
GOAL 13: Utilize the Yamhill County Transit Authority (YCTA) Transit Development Plan (TDP) as a Guidance Document.
GOAL 14: Coordinate with Yamhill County Transit Area.
GOAL 15: Implement Transit-Supportive Improvements.

Finding: The proposed amendment will not affect any of the transportation systems in Newberg. However, it is anticipate that the proposed code amendment will clarify language regarding what is currently allowed and result in a reduction in redundant and prohibited use of signs in the the public right-of-way.
This Goals are met.

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.

Finding: Public facilities are not required or related to this amendment.
This Goal is not applicable.

M. ENERGY

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

Finding: The proposed amendment does not change the way in which energy will be utilized. This Goal is met.

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 proposed amendment is within City Limits and will not create any new growth or transition from rural to urban land uses.
This Goal are met.

Ordinance amending the Newberg Municipal Code, Title 15 Development Code, including Sections 15.05.030 and 15.435.110 relating to signs (File No. DCA24-0001)

Exhibit B

Planning Commission Resolution 2024-395

PLANNING COMMISSION RESOLUTION 2024-395

A RESOLUTION RECOMMENDING CITY COUNCIL AMEND THE NEWBERG COMPREHENSIVE PLAN, NEWBERG MUNICIPAL CODE, TITLE 15, 15.05.030, 15.435.030, RELATED TO SIGNS

RECITALS

1. The Newberg City Council approved the Planning Division's Work Plan at their January 16, 2024 meeting that included an item for code maintenance projects.

2. The Department of Land Conservation and Development (DLCD) was notified of the proposed amendments on June 6, 2024.

3. After proper notice, the Newberg Planning Commission opened the hearing on July 11, 2024, considered public testimony and deliberated. They found that the proposed amendments were in the best interests of the City.

The Newberg Planning Commission resolves as follows:

1. The Planning Commission of the City of Newberg recommends the City Council adopt the proposed Newberg Municipal Code amendments for Title 15 Development Code, Sections 15.05.030 and 15.435.030 relating to signs.

2. This recommendation is based on the staff report, Exhibit "A" Newberg Municipal Code Amendment language and Findings in Exhibit "B".

Adopted by the Newberg Planning Commission this 11th day of July 2024.

ATTEST:

Planning Commission Chair

Planning Commission Secretary

List of Exhibits:

Exhibit "A". Proposed Newberg Municipal Code Amendments
Exhibit "B": Findings

Exhibit "A" to Planning Commission Resolution No. 2024-395
Development Code Amendment – File DCA24-0001

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

The Newberg Municipal Code shall be amended as follows:

Section 1. Newberg Municipal Code, 15.05.030 shall be amended to read for the following definitions:

"**Sign, freestanding**" means any sign supported by structures or supports that are anchored or inserted in the ground and that are independent from any other building or structure. Freestanding signs are of two types:

1. Minor Freestanding. A freestanding sign that is less than or equal to six square feet in area (three square feet in residential zones) and three feet in height.

2. Major Freestanding. All other freestanding signs.

"**Sign, portable**" means any sign not ~~permanently~~ inserted in or attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to: signs designed to be transported by means of wheels; signs connected to A- or T-frames; menu and sandwich board signs; umbrellas, balloons, flags, or banners containing signs; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said sign is permanently affixed to the vehicle and said vehicle is licensed for movement on public streets.

Section 2. Section 15.435.110 is amended to read as follows:

15.435.110 Signs within the public right-of-way.
A. Public signs are allowed in the public right-of-way as allowed by the governmental agency responsible for the right-of-way.

B. Temporary and/or portable signs for other than traffic control and motorist advisories are not allowed within state highway right-of-way administered by the Oregon Department of Transportation except on ~~resoluted~~ resolute highways. In 2015, the ~~resoluted~~ resolute highways in Newberg were: on First Street from Harrison Street to River Street, on Main Street from First Street to Illinois Street, and on College Street from First Street to Vermilion Street. On a ~~resoluted~~ resolute highway, the city manages the portion of the right-of-way behind the curb and can permit portable signs on the sidewalk. Portable and/or temporary signs are not allowed by ODOT on Hancock Street except within the College Street or Main Street rights-of-way.

Portable and/or temporary signs are not allowed within county road right-of-way administered by Yamhill County.

C. For lots in the C-3 and C-4 zones, the two allowed portable signs per street frontage may be located, without permit, in the public right-of-way fronting that lot except as stated in subsection (B) of this section, provided they meet the following standards:

1. The signs may not be less than two feet nor more than four feet high. The signs must also conform to NMC 15.410.060 if they are within the clear vision zone.

2. The signs may not be located within the vehicular path.

3. If located on a sidewalk, the signs must leave a clear access path at least five feet wide measured horizontally across the main part of the sidewalk and may not be located on an ADA ramp.

4. If the signs are located adjacent to a striped on-street parking area, the signs must be located adjacent to the stripe.

5. The signs may not be located within three feet of a fire hydrant.

6. The sign owner must have the signs removed during hours when the business being advertised is closed. ~~In addition, signs must not be present between the hours of 2:00 a.m. and 5:00 a.m.~~

7. The person placing the signs in the right-of-way must obtain written permission from the owner, or their designee, of the property abutting the right-of-way for any sign, other than a public sign, that is placed within that right-of-way fronting the property owner's lot. The written permission must be presentable to code enforcement or their designee promptly upon request. ~~attached to the sign, and may be attached to the inside surface of an A-frame sign.~~

8. If more signs than are allowed by this code are located in the right-of-way fronting one lot, all signs may be forfeited as per subsection (F) of this section.

9. Portable and/or temporary signs are not allowed by ODOT on sidewalks along Hancock Street except within the College Street and Main Street rights-of-way.

D. For lots in other zones, two portable signs per street frontage may be allowed in the public right-of-way except as stated in subsection (B) of this section, provided:

1. The standards of subsection (C) of this section shall be met with the exception of subsection (C)(6) of this section.

~~2. Signs may be displayed only during the following hours:~~

~~Monday:~~	~~6:00 a.m. to 10:00 p.m.~~

~~Tuesday:~~	~~6:00 a.m. to 10:00 p.m.~~
~~Wednesday:~~	~~6:00 a.m. to 10:00 p.m.~~
~~Thursday:~~	~~6:00 a.m. to midnight~~
~~Friday:~~	~~24 hours~~
~~Saturday:~~	~~24 hours~~
~~Sunday:~~	~~Midnight to 10:00 p.m.~~

~~In addition,~~ ~~n~~No sign may be displayed for more than four consecutive days.

~~3.~~ 2. Any sign installed or placed in the public right-of-way within these zones not in conformance with subsection (C)(7) of this section shall be forfeited to the owner of the property abutting the right-of-way and is subject to confiscation by said owner.

~~4.~~ 3. Portable and/or temporary signs are not allowed in the right-of-way along Highway 99W, Highway 240 or Highway 219 except as noted in subsection (B) of this section.

E. No other signs shall be placed within the public right-of-way except as specifically permitted by this code.

F. Any sign installed or placed in the public right-of-way, except in conformance with the requirements of this code, shall be forfeited to the city and subject to confiscation by city employees. In addition to other remedies hereunder, the city shall have the right to recover from the owner or person placing such a sign the full costs of removal and disposal of such sign. Identifying information on the sign shall be prima facie evidence that the individual or entity so identified is the violator. [Ord. 2897 § 1 (Exh. A § 4), 6-21-22; Ord. 2782 § 1 (Exh. A), 9-8-15; Ord. 2706 § 1 (Exh. A(2)), 10-6-08; Ord. 2564, 4-15-02; Ord. 2499, 11-2-98. Code 2001 § 151.600.]

Penalty: See NMC 15.05.120.

Exhibit "B" FINDINGS FOR SIGN CODE UPDATE RELATED COMPREHENSIVE PLAN AND STATEWIDE PLANNING GOALS

A. FINDINGS FOR Statewide Planning Goals (the "Goals")

GOAL 1: CITIZEN INVOLVEMENT
To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process.

Finding: The City of Newberg has an acknowledged Comprehensive Plan and typically relies on procedures within the Newberg Municipal Code (NMC) for processing of land use applications. The proposed modifications comply NMC procedures for legislative actions, including requirements for both public noticing and meetings. There will be at least one public hearing with the Planning Commission and one with City Council where the anyone in the public can submit comments.
The amendments are subject to the Type IV legislative process pursuant to NMC Chapter 15.100, 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 1 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 Goal is met.

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 legislative changes will address an existing inconsistency in the Newberg Municipal Code regarding the definitions and provisions of "Minor Free Standing" signs and "Portable" signs that have caused complaints and problems resulting in frequent action by the City's Code Compliance personnel to deal with the inconsistency. The alternative to the proposed legislative change is to not change the code (No Change Alternative) which would maintain inconsistent language and lack of clarify resulting in regulations that are not fully enforceable. The proposed legislative changes are preferable (Preferred Alternative) because the NMC amendment is consistent with Newberg's Comprehensive Plan, improves clarity of

language for administrators and the public, and results in a clearer interpretation of allowable sign usage.
The Goal is met.

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. The proposal is for lands inside the Newberg Urban Growth Boundary.
The Goal is not applicable.

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 resource lands. The proposal is for lands inside the Newberg Urban Growth Boundary.

The Goal is not applicable.

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 amendment will not negatively impact inventoried Goal 5 resources because the amendments do not change protections that already exist in the Newberg Municipal Code, Specific Plans and Master Plans to protect these resources. Newberg has an acknowledged Stream Corridor designation, inventoried historic resources, and identified open spaces in compliance with Goal 5.
For the preservation of designated historic resources identified in Newberg's Historic Resources Inventory, procedures and applicable criteria for historic resources are reviewed pursuant to Chapter 15.344 Historic Landmarks (H) Subdistrict for landmark designation, exterior modifications, destruction and relocation, delisting, and general administration.
This Goal is met.

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 does not modify the existing goals and policies.

This Goal is met.

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 or landslide areas. This proposal does not modify the existing goals and policies.
This Goal is met.

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. This proposal does not modify the City's recreational goals and policies.
This Goal 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 proposed changes will make clearer rules regarding sign code and what can be done that will be vital to the welfare of the citizens of Newberg. Because the proposed changes will not affect the variety of economic activities to people or businesses in Newberg, the proposed amendment will not have a negative impact on economic development.
The Goal is met.

GOAL 10: HOUSING
To provide for the housing needs of citizens of the state.

Finding: The proposed amendments do not change anything related to housing.
This Goal is not applicable.

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: No public facilities are changing with the proposed amendments to the sign code.

This Goal is not applicable.

GOAL 12: TRANSPORTATION
To provide and encourage a safe, convenient and economic transportation system.

Finding: The updated sign plan does not create or reduce or amend anything related to the transportation system.
This Goal is not applicable.

GOAL 13: ENERGY CONSERVATION
To conserve energy.

Finding: The proposed amendment does not change the way in which energy will be utilized.
This Goal is not applicable

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
This Goal is not applicable

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: The City of Newberg is located along the Willamette River on its southern border. The proposed amendment does not alter any area or regulations within the boundaries of the Willamette River Greenway.
This Goal is not applicable.

B. FINDINGS FOR Newberg Comprehensive Plan 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: The City of Newberg has an acknowledged Comprehensive Plan and typically relies on procedures within the NMC for processing of land use applications. The proposed modifications comply NMC procedures for legislative actions, including requirements for both public noticing

and meetings. There will be at least one public hearing with the Planning Commission and one with City Council where the anyone in the public can submit comments.
The amendments are subject to the Type IV legislative process pursuant to NMC Chapter 15.100, 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 1 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 Goal is met.

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.

Finding: The City meets this goal by having a comprehensive plan that follows state goals. The proposed legislative changes will address an existing inconsistency in the Newberg Municipal Code regarding the definitions and provisions of "Minor Free Standing" signs and "Portable" signs that have caused complaints and problems resulting in frequent action by the City's Code Compliance personnel to deal with the inconsistency. The alternative to the proposed legislative change is to not change the code (No Change Alternative) which would maintain inconsistent language and lack of clarify resulting in regulations that are not fully enforceable. The proposed legislative changes are preferable (Preferred Alternative) because the NMC amendment is consistent with Newberg's Comprehensive Plan, improves clarity of language for administrators and the public, and results in a clearer interpretation of allowable sign usage.
The Goal is met.

C. AGRICULTURAL LANDS

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

Finding: The proposed amendment does not change any land use designation and does not create any new uses in any zoning district.
This Goal is not applicable.

D. WOODED AREAS

GOAL: To retain and protect wooded areas.

Finding: The proposed amendment does not change any land use designation and does not create any new uses in any zoning district.
This Goal is not applicable.

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.
2. Water quality in the Willamette River and tributary streams shall be protected.
3. As public sanitary sewer systems become available, all development shall connect to the public system. To encourage economic development, the City may permit subsurface sewerage disposal where the system meets State and County requirements and where unique circumstances exist.
4. The Newberg airshed shall be protected from excessive pollution levels resulting from urbanization.
5. New industry should be located in area which minimize the impacts upon the air, water, and land resources base, as well as upon surrounding land uses.
6. The City will cooperate with State and Federal agencies which regulate environmental quality and shall adhere to the standards established by these agencies in the issuance of any permits or approvals given by the City. This policy is intended to cover discharges and emissions which may impair air, water or land quality or exceed the established standards for noise or other emissions.
7. The threat of excessive noise will be considered when reviewing land use requests. In addition, and new commercial and industrial developments shall conform to DEQ noise pollution standards.
8. The City will continue to support soil conservation measures designed to prevent unnecessary losses through excavation, stripping, erosion, and sedimentation.
9. The City will seek abatement of the aesthetic degradation of the environment resulting from blighted neighborhoods, indiscriminate waste disposal, offensive outdoor storage.
10. The City shall promote community cleanup programs.
11. The City will continue to encourage and support the three R's of recycling (re-use, reduction, and recycling)

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 does not modify the existing goals and policies. Any permit submittal will be required to meet state requirements regarding noise and help to make the rules clearer to have sign code that could help prevent blighted neighborhoods.
This Goal and Policies are.

F. AREAS SUBJECT TO NATURAL HAZARDS

GOAL: To protect life and property from flooding and other 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 or landslide areas. This proposal does not modify the existing goals or policies.
This Goal is met.

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.

[...]

POLICY: 3. Historic Resources Policies

a. The continued preservation of Newberg's designated historic sites and structures shall be encouraged.

[...]

d. The City will encourage the re-use of historic structures such as the establishment of bed and breakfast operations, specialty shops, restaurants and professional offices.

[...]

Finding: The proposed amendment will not negatively impact open space or historic resources because the amendments do not change protections that already exist in the NMC, Specific Plans, and Master Plans to protect these resources.
Newberg has an acknowledged Stream Corridor designation, inventoried historic resources, and identified open spaces in compliance with State Goal 5. For preservation of designated historic resources identified in Newberg's Historic Resources Inventory, procedures and applicable criteria for historic resources are reviewed pursuant to Chapter 15.344 Historic Landmarks (H) Subdistrict for landmark designation, exterior modifications, destruction and relocation, delisting, and general administration.
The Goals and Policies are met.

H. THE ECONOMY

GOAL: To develop a diverse and stable economic base.

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.
   b. The City shall encourage economic expansions consistent with local needs

c. The City will encourage creation the creation of a diversified employment base, the strengthening of trade centers and the attraction of both capital and labor intensive enterprises.
d. Newberg will encourage the development of industries which represent the most efficient use of existing resources including land, air, water, energy and labor
e. Economic expansion shall not exceed the carrying capacity of the air, water or land resource quality of the planning area.
f. The City shall participate with local and regional groups to coordinate economic planning.
g. The City shall encourage business and industry to locate within the Newberg City limits.
h. Yamhill County history, products and activities should be promoted.
i. The City shall encourage tourist-related activities and services such as motor inns, restaurants, parks and recreation facilities, a visitor center, conference and seminar activities.
j. A mixed-use river-oriented commercial area should be encourage to be developed near the Willamette River.
k. The City shall promote Newberg as a tourist destination location.
l. The City shall promote the expansion of local viticulture and wine productions as a method for increasing tourism.

Finding: The proposed changes will make clearer rules regarding sign code and what can be done that will be vital to the welfare of the citizens of Newberg. It is speculated that the proposed amendments could help promote tourism and reduce confusion around allowable signs so that multiple signs do not congest pedestrian walkways in the City. Because the proposed changes will not affect the variety of economic activities to people or businesses in Newberg, the proposed amendment will not have a negative impact on economic development.
The Goal and Policies are met.

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).

Finding: The proposed amendments do not change anything related to housing.
This Goal is met.

J. URBAN DESIGN

GOAL 1: To maintain and improve the natural beauty and visual character of the City.
GOAL 2: To develop and maintain the physical context needed to support the livability and unique character of Newberg.

Finding: The proposed amendment will clean up language in a way expected to maintain and improve the visual character of the City by clarifying allowable signs and where multiple signs are not allowed to clutter sidewalks and create visual obstructions without owner permission. The Goals are met.

K. TRANSPORTATION

GOAL 1: Establish cooperative agreements to address transportation based planning, development, operation and maintenance.
GOAL 2: Establish consistent policies which require concurrent consideration of transportation/land use system impacts.
GOAL 3: Promote reliance on multiple modes of transportation and reduce reliance on the automobile.
GOAL 4: Minimize the impact of regional traffic on the local transportation system.
GOAL 5: Maximize pedestrian, bicycle and other non-motorized travel throughout the City.
GOAL 6: Provide effective levels of non-auto oriented support facilities (e.g. bus shelters, bicycle racks, etc.).
GOAL 8: Maintain and enhance the City's image, character and quality of life.
GOAL 9: Create effective circulation and access for the local transportation system.
GOAL 10: Maintain the viability of existing rail, water and air transportation systems.
GOAL 11: Establish fair and equitable distribution of transportation improvement costs.
GOAL 12: Minimize the negative impact of a Highway 99 bypass on the Newberg community.
GOAL 13: Utilize the Yamhill County Transit Authority (YCTA) Transit Development Plan (TDP) as a Guidance Document.
GOAL 14: Coordinate with Yamhill County Transit Area.
GOAL 15: Implement Transit-Supportive Improvements.

Finding: The proposed amendment will not affect any of the transportation systems in Newberg. However, it is anticipate that the proposed code amendment will clarify language regarding what is currently allowed and result in a reduction in redundant and prohibited use of signs in the the public right-of-way.
This Goals are met.

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.

Finding: Public facilities are not required or related to this amendment.
This Goal is not applicable.

M. ENERGY

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

Finding: The proposed amendment does not change the way in which energy will be utilized. This Goal is met.

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 proposed amendment is within City Limits and will not create any new growth or transition from rural to urban land uses.
This Goal are met.

Ordinance amending the Newberg Municipal Code, Title 15 Development Code, including Sections 15.05.030 and 15.435.110 relating to signs (File No. DCA24-0001)

Exhibit C

2024 Planning Division Work Plan

2024 Planning Division Work Plan

Part 1. Work Plan Table

2023 Council Goals	G1. Create and maintain a high level of customer service	G2. Identify industrial land and attract employers to encourage family wage jobs	G3. Ensure Newberg infrastructure (roads, water, city employees) is in good repair and supply	G4. Enhance Community Safety	G5. Create and maintain a high level of transparency with our residents in order to build trust	G6. Implement a careful and prudent fiscal policy	G7. Increase land availability for housing
Critical Projects							
Customer Service and Development Standards Update	X				X		
Amending Urban Growth Boundary		X					X
Vacation Rentals Update				X	X		
Childcare Updates		X					
CET Funding Process - Affordable Housing							X
Significant Projects							
Update requirements related to HOA's and stormwater facilities management			X	X		X	
Update and Compliance with HB3395 (2023) – Housing Items	X				X		X

January 2024

2023 Council Goals	G1. Create and maintain a high level of customer service	G2. Identify industrial land and attract employers to encourage family wage jobs	G3. Ensure Newberg infrastructure (roads, water, city employees) is in good repair and supply	G4. Enhance Community Safety	G5. Create and maintain a high level of transparency with our residents in order to build trust	G6. Implement a careful and prudent fiscal policy	G7. Increase land availability for housing
Director's interpretations and code maintenance	X				X		
Review $30,000 threshold for public improvements (i.e. sidewalks)	X				X		
West End Mill District Comp Plan/Zone Change		X					
Small Cell Sites						X	
Commercial Conversions to Residential (HB2984)							X
Enterprise Zone Renewal		X					
Other Projects							
Comprehensive Plan Update	X	X			X		X
Street Tree and Planter Strips Update			X	X			

2023 Council Goals	G1. Create and maintain a high level of customer service	G2. Identify industrial land and attract employers to encourage family wage jobs	G3. Ensure Newberg infrastructure (roads, water, city employees) is in good repair and supply	G4. Enhance Community Safety	G5. Create and maintain a high level of transparency with our residents in order to build trust	G6. Implement a careful and prudent fiscal policy	G7. Increase land availability for housing
Airport Overlay Updates to Comply with US Code (CFR Part 77)				X			
Historic Preservation Commission Projects 5-year work program							

Part 2. Work Plan Project Description and Current Status

Critical Projects

- **Customer Service and Development Standards Update –** Create customer service metrics and complete review of code for application procedures and standards including when full site design review is required rather than just doing a simultaneous review during a building permit.
  Status: 0% Not Started
  Source: City Staff
  Required Staff Time: Medium

- **Urban Growth Boundary (UGB) Expansion –** Work on sequential UGB expansion to help bring lands into the City of Newberg's UGB for future industrial and residential uses in a timely fashion.
  Status: 20% Council Initiated UGB Sequential Process on December 4, 2023
  Source: City Council
  Required Staff Time: High

- **Vacation Rentals Update –** Review short-term rentals and code in Newberg and potentially update vacation rental review criteria and standards.
  Status: 10% Issue paper was presented to Council and Ad-Hoc Committee was formed. No formal amendments have been initiated by Council.
  Source: City Council
  Required Staff Time: High

- **Childcare Updates –** Look into allowing on-site daycares for employers, evaluate parking requirements for new daycares, possible allowance of daycares in light industrial districts without a conditional use permit, and making sure development code lines up with state standards for daycares and in-home childcare.
  Status: 10% Update was initiated by City Council on November 20, 2023
  Source: City Council
  Required Staff Time: Medium

- **CET Funding Process -Affordable Housing –** Facilitate the Notice of Funding Availability (NOFA) and award process for affordable housing projects.
  Status: 20% Notice of Funding Availability scheduled Winter/Spring 2024
  Source: City Council
  Required Staff Time: Medium

Significant Projects

- **Requirements related to HOA's and Stormwater Facilities –** Update code so that Home Owner Associations (HOA's) can't disband and that HOA's are responsible for stormwater facilities management leaving less ownership and responsibility for future stormwater tracts for the city.
  Status: 0% Not Started
  Source: City Maintenance Staff
  Required Staff Time: Medium

- **Update Code for Compliance with HB3395 (2023) –** Review and update code so that it matches up and is compliant with state code coming from HB3395 including residential use of commercial lands, residential approval procedures, emergency shelter siting, subdivisions for affordable housing and single-room occupancies.
  Status: 0% Not Started
  Source: State Mandate/City Staff
  Required Staff Time: Medium

- **Director's Interpretations Updates and Code Maintenance –** Update the development code to codify the Director's interpretations through the years and correct minor errors.
  Status: 0% Not Started
  Source: City Staff
  Required Staff Time: Medium

- **Review of $30,000 threshold for Public Improvements –** Review $30,000 threshold for requiring public improvements (i.e. sidewalks) as part of remodels and building construction considering inflation in the past 5 years. Potentially tie threshold dollar number to CPI data.
  Status: 0% Not Started
  Source: City Staff
  Required Staff Time: Medium

- **Downtown West End Mill (Craft Industrial) M-5 Zoning District –** Create a new "craft industrial" district on the west end of downtown adding additional industrial uses while still allowing all downtown commercial uses to still be permitted. *Status:*
  Status: 80% Project has gone through review and transportation impact report has been done. Just hearings at Planning Commission and City Council would still be required.
  Source: Downtown Improvement Plan
  Required Staff Time: Medium

- **Small Cell Sites –** Look into allowing small cell sites in the City Right-of-Way (ROW) and how to regulate them. This could potentially produce an opportunity for the city to gain revenue if allowed to lease locations on poles/etc. in the ROW.
  Status: 60% Project has been initiated and proposed amendments have been made and submitted to DLCD. It is currently still being reviewed by the legal team that staff is aware of.
  Source: City Council
  Required Staff Time: Medium

- **HB2984 (2023) Commercial Conversions to Residential for Affordable Housing –** Update code to be compliant with state law regarding commercial buildings being allowed to convert to residential uses for affordable housing.
  Status: 0% Not Started
  Source: State Mandate/City Staff
  Required Staff Time: Medium

- **Enterprise Zone Renewal –** Update and keep current Newberg's enterprise zone to help attract living wage jobs.
  Status: 10% Update started

Source: City Staff
Required Staff Time: Low

Other Projects

- **Comprehensive Plan Update –** Update Newberg's Comprehensive Plan which has only had minor amendments since the 1990's and guides the overall planning direction of the city.
  Status: 0% Not Started
  Source: City Staff
  Required Staff Time: High

- **Street Tree and Planter Strip Update –** Research and update best practices for planter strips and allowed required street trees to help prevent utility conflicts and sidewalk uplift in the future.
  Status: 0% Not Started
  Source: City Staff
  Required Staff Time: High

- **Airport Code Update –** Update code to comply with current FAA standards.
  Status: 0% Not Started
  Source: City Staff
  Required Staff Time: Medium

- **Historic Preservation Projects –** Help the Historic Preservation Commission with their 5-year work program including historic building façade restoration research.
  Status: 15% Some items have been accomplished such as mapping project with George Fox
  Source: City Staff
  Required Staff Time: Medium

Ordinance amending the Newberg Municipal Code, Title 15 Development Code, including Sections 15.05.030 and 15.435.110 relating to signs (File No. DCA24-0001)

Exhibit D

Code Enforcement E-mail

From: Eric Ronning
Sent: Thursday, April 18, 2024 11:50 AM
To: Scot Siegel; Clay Downing
Cc: Will Worthey; Neal Winter
Subject: Proposed sign code language changes
Attachments: Proposed Sign Code Changes.docx

Good morning gentlemen,

Over the last few years we have experienced troubles with some definitions, seemingly unnecessary intricacies and redundant language in the sign code. These issues revolve primarily around the definitions of “Portable” and “Free Standing” signs. The language and time restrictions surrounding portable signs is also cumbersome and appears unnecessary.

Currently the language used to define both Minor Free Standing and Portable signs in code section 15.435.030 and elsewhere is very similar and is not wholly sufficient to differentiate the terms clearly from one another. In light of this it is arguable, and has been argued by several, that the terms can considered interchangeable. This has generated many tedious and tiresome complaints. In light of the similar definitions, language used in 15.435.060 addressing the use of minor freestanding signs in residential zones and limiting their size to 3 square feet may appear to be contradicted by the language in 15.435.490 that allows portable signs in residential zones to be 6 square feet.

In an effort simplify the code and make definitions more clear, I have attached a word document showing the changes Code Enforcement would like to have made to avoid issues in the future. I hope you will look at these and get back to me with your thoughts at your earliest convenience. While considering these changes you may also want to review all of section
15.435 to see if you see any additional changes that should be made elsewhere.

I look forward to hearing back from you soon.

Many thanks.

Eric Ronning
Administrative Sergeant
Code Compliance Supervisor
Newberg-Dundee Police Department
City of Newberg
Direct: 503-537-1226

Ordinance amending the Newberg Municipal Code, Title 15 Development Code, including Sections 15.05.030 and 15.435.110 relating to signs (File No. DCA24-0001)

Exhibit E

Agency Comments

COMMUNITY DEVELOPMENT
LAND USE APPLICATION REFERRAL

The enclosed material has been referred to you for your information and comment. Any comments you wish to make should be returned to the Community Development Department prior to: June 28, 2024
Please refer questions and comments to: Jeremiah Cromie

NOTE: Full size plans are available at the Community Development Department Office.

APPLICANT:	N/A
REQUEST:	Development Code Update: Sign Code Amendment
SITE ADDRESS:	N/A
LOCATION:	N/A
TAX LOT:	N/A
FILE NO:	DCA24-0001
ZONE:	N/A
HEARING DATE:	July 11,2024

Project Information is Attached:

☑ Reviewed, no conflict.

☐ Reviewed; recommend denial for the following reasons:

☐ Require additional information to review. (Please list information required)

☐ Meeting requested.

☐ Comments. (Attach additional pages as needed)

Scot Siegel

Digitally signed by Scot Siegel
DN: C=US, OU=Community Development, O=City of Newberg, CN=Scot Siegel, E=scot.siegel@newbergoregon.gov
Reason: I am the author of this document
Location: your signing location here
Date: 2024.06.28 16:59:30-07'00'
Foxit PhantomPDF Version: 10.1.12

Reviewed By: _____ Date: _____

Organization: _____

COMMUNITY DEVELOPMENT
LAND USE APPLICATION REFERRAL

The enclosed material has been referred to you for your information and comment. Any comments you wish to make should be returned to the Community Development Department prior to: June 28, 2024
Please refer questions and comments to: Jeremiah Cromie

NOTE: Full size plans are available at the Community Development Department Office.

APPLICANT:	N/A
REQUEST:	Development Code Update: Sign Code Amendment
SITE ADDRESS:	N/A
LOCATION:	N/A
TAX LOT:	N/A
FILE NO:	DCA24-0001
ZONE:	N/A
HEARING DATE:	July 11,2024

Project Information is Attached:

- [x] Reviewed, no conflict.
- [ ] Reviewed; recommend denial for the following reasons:
- [ ] Require additional information to review. (Please list information required)
- [ ] Meeting requested.
- [ ] Comments. (Attach additional pages as needed)

W E Worthey

Digitally signed by W E Worthey
DN: O=City of Newberg, CN=W E Worthey, E=will.worthey@newbergoregon.gov
Reason: I have reviewed this document
Location: your signing location here
Date: 2024.06.16 17:49:49-07'00'
Foxit PhantomPDF Version: 10.1.12

Reviewed By:

6/16/24
Date:

Will Worthey CM
Organization:

COMMUNITY DEVELOPMENT
LAND USE APPLICATION REFERRAL

The enclosed material has been referred to you for your information and comment. Any comments you wish to make should be returned to the Community Development Department prior to: June 28, 2024
Please refer questions and comments to: Jeremiah Cromie

NOTE: Full size plans are available at the Community Development Department Office.

APPLICANT:	N/A
REQUEST:	Development Code Update: Sign Code Amendment
SITE ADDRESS:	N/A
LOCATION:	N/A
TAX LOT:	N/A
FILE NO:	DCA24-0001
ZONE:	N/A
HEARING DATE:	July 11,2024

Project Information is Attached:

- [x] Reviewed, no conflict.
- [ ] Reviewed; recommend denial for the following reasons:
- [ ] Require additional information to review. (Please list information required)
- [ ] Meeting requested.
- [ ] Comments. (Attach additional pages as needed)

Brett Musick
Digitally signed by Brett Musick
DN: CN=Brett Musick, E=brett.musick@newbergoregon.gov
Reason: I have reviewed this document
Location: your signing location here
Date: 2024.06.25 13:25:35-07'00'
Foxit PhantomPDF Version: 10.1.10

Reviewed By:

6/25/24
Date:

CON PW Engineering
Organization:

COMMUNITY DEVELOPMENT
LAND USE APPLICATION REFERRAL

The enclosed material has been referred to you for your information and comment. Any comments you wish to make should be returned to the Community Development Department prior to: June 28, 2024
Please refer questions and comments to: Jeremiah Cromie

NOTE: Full size plans are available at the Community Development Department Office.

APPLICANT:	N/A
REQUEST:	Development Code Update: Sign Code Amendment
SITE ADDRESS:	N/A
LOCATION:	N/A
TAX LOT:	N/A
FILE NO:	DCA24-0001
ZONE:	N/A
HEARING DATE:	July 11,2024

Project Information is Attached:

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- [ ] Reviewed; recommend denial for the following reasons:
- [ ] Require additional information to review. (Please list information required)
- [ ] Meeting requested.
- [ ] Comments. (Attach additional pages as needed)

S.EGGIMAN — Reviewed By:

6/19/2024 — Date:

PGE — Organization:

COMMUNITY DEVELOPMENT
LAND USE APPLICATION REFERRAL

The enclosed material has been referred to you for your information and comment. Any comments you wish to make should be returned to the Community Development Department prior to: June 28, 2024
Please refer questions and comments to: Jeremiah Cromie

NOTE: Full size plans are available at the Community Development Department Office.

APPLICANT:	N/A
REQUEST:	Development Code Update: Sign Code Amendment
SITE ADDRESS:	N/A
LOCATION:	N/A
TAX LOT:	N/A
FILE NO:	DCA24-0001
ZONE:	N/A
HEARING DATE:	July 11,2024

Project Information is Attached:

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- [ ] Reviewed; recommend denial for the following reasons:
- [ ] Require additional information to review. (Please list information required)
- [ ] Meeting requested.
- [ ] Comments. (Attach additional pages as needed)

J. Vial — 6-19-24

Reviewed By: Date:

Newberg-Dundee Police

Organization:

COMMUNITY DEVELOPMENT
LAND USE APPLICATION REFERRAL

The enclosed material has been referred to you for your information and comment. Any comments you wish to make should be returned to the Community Development Department prior to: June 28, 2024
Please refer questions and comments to: Jeremiah Cromie

NOTE: Full size plans are available at the Community Development Department Office.

APPLICANT:	N/A
REQUEST:	Development Code Update: Sign Code Amendment
SITE ADDRESS:	N/A
LOCATION:	N/A
TAX LOT:	N/A
FILE NO:	DCA24-0001
ZONE:	N/A
HEARING DATE:	July 11,2024

Project Information is Attached:

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- [ ] Reviewed; recommend denial for the following reasons:
- [ ] Require additional information to review. (Please list information required)
- [ ] Meeting requested.
- [ ] Comments. (Attach additional pages as needed)

Reviewed By: Date: 6/17/24

Maintenance Superintendent
Organization:

COMMUNITY DEVELOPMENT
LAND USE APPLICATION REFERRAL

The enclosed material has been referred to you for your information and comment. Any comments you wish to make should be returned to the Community Development Department prior to: June 28, 2024
Please refer questions and comments to: Jeremiah Cromie

NOTE: Full size plans are available at the Community Development Department Office.

APPLICANT:	N/A
REQUEST:	Development Code Update: Sign Code Amendment
SITE ADDRESS:	N/A
LOCATION:	N/A
TAX LOT:	N/A
FILE NO:	DCA24-0001
ZONE:	N/A
HEARING DATE:	July 11,2024

Project Information is Attached:

- [x] Reviewed, no conflict.
- [ ] Reviewed; recommend denial for the following reasons:
- [ ] Require additional information to review. (Please list information required)
- [ ] Meeting requested.
- [ ] Comments. (Attach additional pages as needed)

April Catan
Digitally signed by April Catan
DN: C=US, OU=Operations, O=City of Newberg, CN=April Catan, E=april.catan@newbergoregon.gov
Reason: I am the author of this document
Location: your signing location here
Date: 2024.06.18 07:41:55-07'00'
Foxit PhantomPDF Version: 10.1.10

Reviewed By:

6/18/24
Date:

City of Newberg - Ops
Organization:

COMMUNITY DEVELOPMENT
LAND USE APPLICATION REFERRAL

The enclosed material has been referred to you for your information and comment. Any comments you wish to make should be returned to the Community Development Department prior to: June 28, 2024
Please refer questions and comments to: Jeremiah Cromie

NOTE: Full size plans are available at the Community Development Department Office.

APPLICANT:	N/A
REQUEST:	Development Code Update: Sign Code Amendment
SITE ADDRESS:	N/A
LOCATION:	N/A
TAX LOT:	N/A
FILE NO:	DCA24-0001
ZONE:	N/A
HEARING DATE:	July 11,2024

Project Information is Attached:

- [x] Reviewed, no conflict.
- [ ] Reviewed; recommend denial for the following reasons:
- [ ] Require additional information to review. (Please list information required)
- [ ] Meeting requested.
- [ ] Comments. (Attach additional pages as needed)

Reviewed By: _____ Date: 6/17/24

City of Newberg - Operations
Organization:

Fe Bates

From: Brown, Jason <JBrown2@wm.com>
Sent: Wednesday, June 19, 2024 7:27 AM
To: Fe Bates
Cc: Jeremiah Cromie; Wille, Jason
Subject: RE: 3- City of Newberg Referral Requests: DR124-224-0004/ADJC24-0003 &DCA23-0002 & DCA24-0001

This email originated from outside the City of Newberg's organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Fe, WM does not have any issues with all three.

Thank you

From: Fe Bates <Fe.Bates@newbergoregon.gov>
Sent: Friday, June 14, 2024 3:58 PM
Cc: Fe Bates <Fe.Bates@newbergoregon.gov>; Jeremiah Cromie <Jeremiah.Cromie@newbergoregon.gov>
Subject: [EXTERNAL] 3- City of Newberg Referral Requests: DR124-224-0004/ADJC24-0003 &DCA23-0002 & DCA24-0001

Good Day,

There are 3 separate Referral for review linked in this email, to alleviate confusion additional information about each project has been added to the email in addition to the linked Referral. Referral Comments for all 3 must be emailed back no later than June 28, 2024 to Planning@newbergoregon.gov .

(DR224-0004/ADJC24-0003 HeadStart Expansion)

Referral- DR224-0004\u0026ADJC24-0003.pdf
This project is separate from the code amendments but is for a design review and code adjustment: An expansion for Head Start here in Newberg at 2813 E Crestview Drive. They are wanting to build a new 2,100 sq. ft. building and new playground area. They also submitted a code adjustment application to keep the existing parking (26 spaces) rather than having to add additional parking spaces (the current gravel spaces will be paved and marked).

Webpage: https://www.newbergoregon.gov/planning/page/dr224-0004adjc24-0003-head-start-newberg-expansion

DCA23-0002 Daycare Code Amendments

Referral-DCA23-0002.pdf
The proposed code amendments would do the following:

1. Make commercial daycare uses a permitted use in all light industrial zones (M-1 and M-2) to comply with current state law (they currently require a conditional use permit)
2. Reduce the parking requirements for new daycare facilities by transitioning from a current ratio of 5 per 1,000 square feet of gross floor area to having a ratio based on the number of employees and number of children/people cared for (currently proposed to be 1 per employee plus 1 per 10 children/people cared for)
3. Add a definition of play structures and where they can be located on property (proposed to be allowed within 3 feet from interior property lines and 10 feet from front lot lines) on most properties

(Draft Staff Report File has all documents (bookmarked) but also included code amendment language as well as memo – first 3 attachments).
Webpage: https://www.newbergoregon.gov/planning/page/dca23-0002-daycare-facilities-updates

DCA24-0001 Sign Code Maintenance Amendments
Referral -DCA24-0001.pdf
The proposed code amendments would do the following:

1. Update definitions of free standing and portable signs to make it clear which one is being used.
2. Update Resolute Highways language
3. Update sign standards in the Right-of-Way (ROW) downtown that include the following:
    a. How written permission is given with the sign
    b. Getting rid of specific hours signs are allowed in Right-of-Way (Still will not be allowed in Right-Of-Waw when business is closed).

(Draft Staff Report File has all documents (bookmarked) but also included code amendment language -last 2 attachments).
Webpage: https://www.newbergoregon.gov/planning/page/dca24-0001-sign-code-amendment

Please reach out if you have any questions.

Thank you,

Thank you,

Please let us know how you feel about our services by filling out this *City Services Customer Satisfaction Survey*.

Fé Bates
Community Development
Administrative Assistant
City of Newberg
City Hall: 503-537-1240
Direct: 503-554-7788

OUR OFFICE HAS TEMPORARILY MOVED TO THE WASTE WATER TREATMENT PLANT AT: 2301 NE WYNOOSKI RD.
We will be open to the Public for any Permitting or Planning needs from 8:30 to 3:30; Monday- Friday

COMMUNITY DEVELOPMENT
LAND USE APPLICATION REFERRAL

The enclosed material has been referred to you for your information and comment. Any comments you wish to make should be returned to the Community Development Department prior to: June 28, 2024
Please refer questions and comments to: Jeremiah Crosset

NOTE: Full size plans are available at the Community Development Department Office.

APPLICANT:	N/A
REQUEST:	Development Code Update: Sign Code Amendment
SITE ADDRESS:	N/A
LOCATION:	N/A
TAX LOT:	N/A
FILE NO:	DCA24-0001
ZONE:	N/A
HEARING DATE:	July 11,2024

Project Information is Attached:

☒ Reviewed, no conflict.

☐ Reviewed; recommend denial for the following reasons:

☐ Require additional information to review. (Please list information required)

☐ Meeting requested.

☐ Comments. (Attach additional pages as needed)

Ryan Ballman
Reviewed By:

7-21-24
Date:

Building
Organization:

Ordinance amending the Newberg Municipal Code, Title 15 Development Code, including Sections 15.05.030 and 15.435.110 relating to signs (File No. DCA24-0001)

Exhibit F

Planning Commission Staff Report (DCA24-0001)

PLANNING COMMISSION STAFF REPORT
AMENDING THE NEWBERG MUNICPAL CODE, TITLE 15 DEVELOPMENT CODE, 15.05.030, and 15.435.110

FILE NO:	DCA24-0001
REQUEST:	Approve a resolution recommending the Newberg City Council amend the Newberg Municipal Code, Title 15 Development Code, including Sections 15.05.030 and 15.435.110 relating to signs
APPLICANT:	City of Newberg
HEARING DATE:	July 11, 2024

ATTACHMENTS:

Resolution No. 2024-395 with:

Exhibit "A": Proposed Newberg Municipal Code Amendments
Exhibit "B": Findings

1. 2024 Planning Division Work Plan
2. Request for Code Amendment from Code Enforcement
3. Staff/Agency Comments

A. SUMMARY

The proposed amendment would amend the Newberg Municipal Code, Title 15 Development Code. Specifically, the proposed legislative changes in NMC Sections 15.05.030 and 15.435.110 relating to the sign code would address an existing inconsistency in local regulations pertaining to definitions and use of "Minor Free Standing" signs and "Portable" signs which have caused citizen complaints and enforcement problems resulting in frequent action by the City's Code Compliance personnel to deal with the regulatory inconsistency.

B. BACKGROUND

Over the last few years, Newberg residents and city staff have experienced difficulties with city code relating to "portable" and "free standing" signs, due to the seemingly unnecessary intricacies and redundant language of the Development Code's sign regulations.

The proposed Development Code amendments would:

1. Delineate clearly between a "portable" and "free standing" signs.

2. Remove time restrictions on portable signs as they appear unnecessary and involve significant workload by the Police Department for code compliance.

The proposed amendments are part of the Community Development Department's 2024 Planning Division Work Plan (Attachment 1). Specifically, the amendments are associated with the "Director's Interpretations and Code Maintenance" project which was identified as one of the Planning Division's *Significant Projects* within the Work Plan.

C. 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 public 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:

1/16/24:	The Newberg City Council approved the 2024 Planning Division Work Plan which identified code maintenance as a significant project.
4/18/24	The Newberg-Dundee Police Department submitted a code maintenance request to the Community Development Department

6/6/2024	Planning staff published a Post-Acknowledgement Plan Amendment (PAPA) notice with the Department of Land Conservation and Development.
6/14/2024	The proposed code amendments were referred to internal and external agencies.
627/27/24:	Planning staff placed notice on Newberg's website and posted notice in four public buildings. *The Newberg Graphic* published notice of the hearing.
7/11/2024:	The Planning Commission held a public hearing, took public testimony, and deliberated on the proposal.

D. STAFF/AGENCY COMMENTS

As of the writing of this report, the City has received the following comments on the proposal (Attachment 2).

1. Public Works Maintenance – No conflict
2. Public Works Regulatory Compliance – No conflict
3. City Manager – No conflict
4. Waste Management – No conflict
5. Public Works Water Operations – No conflict
6. Portland General Electric – No conflict
7. Building Official – No conflict
8. Engineering Division – No conflict
9. Police Department – No conflict

E. PUBLIC COMMENTS

As of the writing of this report, the City has not received any public comments.

F. DISCUSSION

The proposed Development Code Amendment addresses inconsistencies in the sign code definitions related to "minor free standing" and "Portable" signs in 15.435.030 as staff is sometimes unable to differentiate between the two, which leads to residents' dissatisfaction and creates administrative burden. The proposed amendments regulate the placement and size of these signs, not their content or messaging, consistent with state and federal constitutional protections on speech.

G. PRELIMINARY STAFF RECOMMENDATION:

The preliminary staff recommendation is made in the absence of public hearing testimony and may be modified subsequent to the close of the public hearing. Staff recommends that the Planning Commission does the following:

1. *Consider the staff report, public testimony, and the findings.*
2. *Deliberate.*
3. *Make a motion to adopt Resolution No. 2024-395, which recommends that City Council adopt the Development Code Amendments as proposed.*

PLANNING COMMISSION RESOLUTION 2024-395

A RESOLUTION RECOMMENDING CITY COUNCIL AMEND THE NEWBERG COMPREHENSIVE PLAN, NEWBERG MUNICIPAL CODE, TITLE 15, 15.05.030, 15.435.030, RELATED TO SIGNS

RECITALS

1. The Newberg City Council approved the Planning Division's Work Plan at their January 16, 2024 meeting that included an item for code maintenance projects.

2. The Department of Land Conservation and Development (DLCD) was notified of the proposed amendments on June 6, 2024.

3. After proper notice, the Newberg Planning Commission opened the hearing on July 11, 2024, considered public testimony and deliberated. They found that the proposed amendments were in the best interests of the City.

The Newberg Planning Commission resolves as follows:

1. The Planning Commission of the City of Newberg recommends the City Council adopt the proposed Newberg Municipal Code amendments for Title 15 Development Code, Sections 15.05.030 and 15.435.030 relating to signs.

2. This recommendation is based on the staff report, Exhibit "A" Newberg Municipal Code Amendment language and Findings in Exhibit "B".

Adopted by the Newberg Planning Commission this 11th day of July 2024.

ATTEST:

Planning Commission Chair

Planning Commission Secretary

List of Exhibits:

Exhibit "A". Proposed Newberg Municipal Code Amendments
Exhibit "B": Findings

Exhibit "A" to Planning Commission Resolution No. 2024-395
Development Code Amendment – File DCA24-0001

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

The Newberg Municipal Code shall be amended as follows:

Section 1. Newberg Municipal Code, 15.05.030 shall be amended to read for the following definitions:

"**Sign, freestanding**" means any sign supported by structures or supports that are anchored or inserted in the ground and that are independent from any other building or structure. Freestanding signs are of two types:

1. Minor Freestanding. A freestanding sign that is less than or equal to six square feet in area (three square feet in residential zones) and three feet in height.

2. Major Freestanding. All other freestanding signs.

"**Sign, portable**" means any sign not ~~permanently~~ inserted in or attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to: signs designed to be transported by means of wheels; signs connected to A- or T-frames; menu and sandwich board signs; umbrellas, balloons, flags, or banners containing signs; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said sign is permanently affixed to the vehicle and said vehicle is licensed for movement on public streets.

Section 2. Section 15.435.110 is amended to read as follows:

15.435.110 Signs within the public right-of-way.
A. Public signs are allowed in the public right-of-way as allowed by the governmental agency responsible for the right-of-way.

B. Temporary and/or portable signs for other than traffic control and motorist advisories are not allowed within state highway right-of-way administered by the Oregon Department of Transportation except on ~~resoluted~~ resolute highways. In 2015, the ~~resoluted~~ resolute highways in Newberg were: on First Street from Harrison Street to River Street, on Main Street from First Street to Illinois Street, and on College Street from First Street to Vermilion Street. On a ~~resoluted~~ resolute highway, the city manages the portion of the right-of-way behind the curb and can permit portable signs on the sidewalk. Portable and/or temporary signs are not allowed by ODOT on Hancock Street except within the College Street or Main Street rights-of-way.

Portable and/or temporary signs are not allowed within county road right-of-way administered by Yamhill County.

C. For lots in the C-3 and C-4 zones, the two allowed portable signs per street frontage may be located, without permit, in the public right-of-way fronting that lot except as stated in subsection (B) of this section, provided they meet the following standards:

1. The signs may not be less than two feet nor more than four feet high. The signs must also conform to NMC 15.410.060 if they are within the clear vision zone.

2. The signs may not be located within the vehicular path.

3. If located on a sidewalk, the signs must leave a clear access path at least five feet wide measured horizontally across the main part of the sidewalk and may not be located on an ADA ramp.

4. If the signs are located adjacent to a striped on-street parking area, the signs must be located adjacent to the stripe.

5. The signs may not be located within three feet of a fire hydrant.

6. The sign owner must have the signs removed during hours when the business being advertised is closed. ~~In addition, signs must not be present between the hours of 2:00 a.m. and 5:00 a.m.~~

7. The person placing the signs in the right-of-way must obtain written permission from the owner, or their designee, of the property abutting the right-of-way for any sign, other than a public sign, that is placed within that right-of-way fronting the property owner's lot. The written permission must be presentable to code enforcement or their designee promptly upon request. ~~attached to the sign, and may be attached to the inside surface of an A-frame sign.~~

8. If more signs than are allowed by this code are located in the right-of-way fronting one lot, all signs may be forfeited as per subsection (F) of this section.

9. Portable and/or temporary signs are not allowed by ODOT on sidewalks along Hancock Street except within the College Street and Main Street rights-of-way.

D. For lots in other zones, two portable signs per street frontage may be allowed in the public right-of-way except as stated in subsection (B) of this section, provided:

1. The standards of subsection (C) of this section shall be met with the exception of subsection (C)(6) of this section.

~~2. Signs may be displayed only during the following hours:~~

~~Monday:~~	~~6:00 a.m. to 10:00 p.m.~~

~~Tuesday:~~	~~6:00 a.m. to 10:00 p.m.~~
~~Wednesday:~~	~~6:00 a.m. to 10:00 p.m.~~
~~Thursday:~~	~~6:00 a.m. to midnight~~
~~Friday:~~	~~24 hours~~
~~Saturday:~~	~~24 hours~~
~~Sunday:~~	~~Midnight to 10:00 p.m.~~

~~In addition,~~ ~~n~~No sign may be displayed for more than four consecutive days.

~~3.~~ 2. Any sign installed or placed in the public right-of-way within these zones not in conformance with subsection (C)(7) of this section shall be forfeited to the owner of the property abutting the right-of-way and is subject to confiscation by said owner.

~~4.~~ 3. Portable and/or temporary signs are not allowed in the right-of-way along Highway 99W, Highway 240 or Highway 219 except as noted in subsection (B) of this section.

E. No other signs shall be placed within the public right-of-way except as specifically permitted by this code.

F. Any sign installed or placed in the public right-of-way, except in conformance with the requirements of this code, shall be forfeited to the city and subject to confiscation by city employees. In addition to other remedies hereunder, the city shall have the right to recover from the owner or person placing such a sign the full costs of removal and disposal of such sign. Identifying information on the sign shall be prima facie evidence that the individual or entity so identified is the violator. [Ord. 2897 § 1 (Exh. A § 4), 6-21-22; Ord. 2782 § 1 (Exh. A), 9-8-15; Ord. 2706 § 1 (Exh. A(2)), 10-6-08; Ord. 2564, 4-15-02; Ord. 2499, 11-2-98. Code 2001 § 151.600.]

Penalty: See NMC 15.05.120.

Exhibit "B" FINDINGS FOR SIGN CODE UPDATE RELATED COMPREHENSIVE PLAN AND STATEWIDE PLANNING GOALS

A. FINDINGS FOR Statewide Planning Goals (the "Goals")

GOAL 1: CITIZEN INVOLVEMENT
To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process.

Finding: The City of Newberg has an acknowledged Comprehensive Plan and typically relies on procedures within the Newberg Municipal Code (NMC) for processing of land use applications. The proposed modifications comply NMC procedures for legislative actions, including requirements for both public noticing and meetings. There will be at least one public hearing with the Planning Commission and one with City Council where the anyone in the public can submit comments.
The amendments are subject to the Type IV legislative process pursuant to NMC Chapter 15.100, 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 1 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 Goal is met.

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 legislative changes will address an existing inconsistency in the Newberg Municipal Code regarding the definitions and provisions of "Minor Free Standing" signs and "Portable" signs that have caused complaints and problems resulting in frequent action by the City's Code Compliance personnel to deal with the inconsistency. The alternative to the proposed legislative change is to not change the code (No Change Alternative) which would maintain inconsistent language and lack of clarify resulting in regulations that are not fully enforceable. The proposed legislative changes are preferable (Preferred Alternative) because the NMC amendment is consistent with Newberg's Comprehensive Plan, improves clarity of

language for administrators and the public, and results in a clearer interpretation of allowable sign usage.
The Goal is met.

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. The proposal is for lands inside the Newberg Urban Growth Boundary.
The Goal is not applicable.

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 resource lands. The proposal is for lands inside the Newberg Urban Growth Boundary.

The Goal is not applicable.

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 amendment will not negatively impact inventoried Goal 5 resources because the amendments do not change protections that already exist in the Newberg Municipal Code, Specific Plans and Master Plans to protect these resources. Newberg has an acknowledged Stream Corridor designation, inventoried historic resources, and identified open spaces in compliance with Goal 5.
For the preservation of designated historic resources identified in Newberg's Historic Resources Inventory, procedures and applicable criteria for historic resources are reviewed pursuant to Chapter 15.344 Historic Landmarks (H) Subdistrict for landmark designation, exterior modifications, destruction and relocation, delisting, and general administration.
This Goal is met.

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 does not modify the existing goals and policies.

This Goal is met.

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 or landslide areas. This proposal does not modify the existing goals and policies.
This Goal is met.

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. This proposal does not modify the City's recreational goals and policies.
This Goal 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 proposed changes will make clearer rules regarding sign code and what can be done that will be vital to the welfare of the citizens of Newberg. Because the proposed changes will not affect the variety of economic activities to people or businesses in Newberg, the proposed amendment will not have a negative impact on economic development.
The Goal is met.

GOAL 10: HOUSING
To provide for the housing needs of citizens of the state.

Finding: The proposed amendments do not change anything related to housing.
This Goal is not applicable.

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: No public facilities are changing with the proposed amendments to the sign code.

This Goal is not applicable.

GOAL 12: TRANSPORTATION
To provide and encourage a safe, convenient and economic transportation system.

Finding: The updated sign plan does not create or reduce or amend anything related to the transportation system.
This Goal is not applicable.

GOAL 13: ENERGY CONSERVATION
To conserve energy.

Finding: The proposed amendment does not change the way in which energy will be utilized.
This Goal is not applicable

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
This Goal is not applicable

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: The City of Newberg is located along the Willamette River on its southern border. The proposed amendment does not alter any area or regulations within the boundaries of the Willamette River Greenway.
This Goal is not applicable.

B. FINDINGS FOR Newberg Comprehensive Plan 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: The City of Newberg has an acknowledged Comprehensive Plan and typically relies on procedures within the NMC for processing of land use applications. The proposed modifications comply NMC procedures for legislative actions, including requirements for both public noticing

and meetings. There will be at least one public hearing with the Planning Commission and one with City Council where the anyone in the public can submit comments.
The amendments are subject to the Type IV legislative process pursuant to NMC Chapter 15.100, 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 1 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 Goal is met.

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.

Finding: The City meets this goal by having a comprehensive plan that follows state goals. The proposed legislative changes will address an existing inconsistency in the Newberg Municipal Code regarding the definitions and provisions of "Minor Free Standing" signs and "Portable" signs that have caused complaints and problems resulting in frequent action by the City's Code Compliance personnel to deal with the inconsistency. The alternative to the proposed legislative change is to not change the code (No Change Alternative) which would maintain inconsistent language and lack of clarify resulting in regulations that are not fully enforceable. The proposed legislative changes are preferable (Preferred Alternative) because the NMC amendment is consistent with Newberg's Comprehensive Plan, improves clarity of language for administrators and the public, and results in a clearer interpretation of allowable sign usage.
The Goal is met.

C. AGRICULTURAL LANDS

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

Finding: The proposed amendment does not change any land use designation and does not create any new uses in any zoning district.
This Goal is not applicable.

D. WOODED AREAS

GOAL: To retain and protect wooded areas.

Finding: The proposed amendment does not change any land use designation and does not create any new uses in any zoning district.
This Goal is not applicable.

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.
2. Water quality in the Willamette River and tributary streams shall be protected.
3. As public sanitary sewer systems become available, all development shall connect to the public system. To encourage economic development, the City may permit subsurface sewerage disposal where the system meets State and County requirements and where unique circumstances exist.
4. The Newberg airshed shall be protected from excessive pollution levels resulting from urbanization.
5. New industry should be located in area which minimize the impacts upon the air, water, and land resources base, as well as upon surrounding land uses.
6. The City will cooperate with State and Federal agencies which regulate environmental quality and shall adhere to the standards established by these agencies in the issuance of any permits or approvals given by the City. This policy is intended to cover discharges and emissions which may impair air, water or land quality or exceed the established standards for noise or other emissions.
7. The threat of excessive noise will be considered when reviewing land use requests. In addition, and new commercial and industrial developments shall conform to DEQ noise pollution standards.
8. The City will continue to support soil conservation measures designed to prevent unnecessary losses through excavation, stripping, erosion, and sedimentation.
9. The City will seek abatement of the aesthetic degradation of the environment resulting from blighted neighborhoods, indiscriminate waste disposal, offensive outdoor storage.
10. The City shall promote community cleanup programs.
11. The City will continue to encourage and support the three R's of recycling (re-use, reduction, and recycling)

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 does not modify the existing goals and policies. Any permit submittal will be required to meet state requirements regarding noise and help to make the rules clearer to have sign code that could help prevent blighted neighborhoods.
This Goal and Policies are.

F. AREAS SUBJECT TO NATURAL HAZARDS

GOAL: To protect life and property from flooding and other 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 or landslide areas. This proposal does not modify the existing goals or policies.
This Goal is met.

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.

[…]

POLICY: 3. Historic Resources Policies

a. The continued preservation of Newberg's designated historic sites and structures shall be encouraged.

[…]

d. The City will encourage the re-use of historic structures such as the establishment of bed and breakfast operations, specialty shops, restaurants and professional offices.

[…]

Finding: The proposed amendment will not negatively impact open space or historic resources because the amendments do not change protections that already exist in the NMC, Specific Plans, and Master Plans to protect these resources.
Newberg has an acknowledged Stream Corridor designation, inventoried historic resources, and identified open spaces in compliance with State Goal 5. For preservation of designated historic resources identified in Newberg's Historic Resources Inventory, procedures and applicable criteria for historic resources are reviewed pursuant to Chapter 15.344 Historic Landmarks (H) Subdistrict for landmark designation, exterior modifications, destruction and relocation, delisting, and general administration.
The Goals and Policies are met.

H. THE ECONOMY

GOAL: To develop a diverse and stable economic base.

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.
    b. The City shall encourage economic expansions consistent with local needs

c. The City will encourage creation the creation of a diversified employment base, the strengthening of trade centers and the attraction of both capital and labor intensive enterprises.
d. Newberg will encourage the development of industries which represent the most efficient use of existing resources including land, air, water, energy and labor
e. Economic expansion shall not exceed the carrying capacity of the air, water or land resource quality of the planning area.
f. The City shall participate with local and regional groups to coordinate economic planning.
g. The City shall encourage business and industry to locate within the Newberg City limits.
h. Yamhill County history, products and activities should be promoted.
i. The City shall encourage tourist-related activities and services such as motor inns, restaurants, parks and recreation facilities, a visitor center, conference and seminar activities.
j. A mixed-use river-oriented commercial area should be encourage to be developed near the Willamette River.
k. The City shall promote Newberg as a tourist destination location.
l. The City shall promote the expansion of local viticulture and wine productions as a method for increasing tourism.

Finding: The proposed changes will make clearer rules regarding sign code and what can be done that will be vital to the welfare of the citizens of Newberg. It is speculated that the proposed amendments could help promote tourism and reduce confusion around allowable signs so that multiple signs do not congest pedestrian walkways in the City. Because the proposed changes will not affect the variety of economic activities to people or businesses in Newberg, the proposed amendment will not have a negative impact on economic development.
The Goal and Policies are met.

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).

Finding: The proposed amendments do not change anything related to housing.
This Goal is met.

J. URBAN DESIGN

GOAL 1: To maintain and improve the natural beauty and visual character of the City.
GOAL 2: To develop and maintain the physical context needed to support the livability and unique character of Newberg.

Finding: The proposed amendment will clean up language in a way expected to maintain and improve the visual character of the City by clarifying allowable signs and where multiple signs are not allowed to clutter sidewalks and create visual obstructions without owner permission. The Goals are met.

K. TRANSPORTATION

GOAL 1: Establish cooperative agreements to address transportation based planning, development, operation and maintenance.
GOAL 2: Establish consistent policies which require concurrent consideration of transportation/land use system impacts.
GOAL 3: Promote reliance on multiple modes of transportation and reduce reliance on the automobile.
GOAL 4: Minimize the impact of regional traffic on the local transportation system.
GOAL 5: Maximize pedestrian, bicycle and other non-motorized travel throughout the City.
GOAL 6: Provide effective levels of non-auto oriented support facilities (e.g. bus shelters, bicycle racks, etc.).
GOAL 8: Maintain and enhance the City's image, character and quality of life.
GOAL 9: Create effective circulation and access for the local transportation system.
GOAL 10: Maintain the viability of existing rail, water and air transportation systems.
GOAL 11: Establish fair and equitable distribution of transportation improvement costs.
GOAL 12: Minimize the negative impact of a Highway 99 bypass on the Newberg community.
GOAL 13: Utilize the Yamhill County Transit Authority (YCTA) Transit Development Plan (TDP) as a Guidance Document.
GOAL 14: Coordinate with Yamhill County Transit Area.
GOAL 15: Implement Transit-Supportive Improvements.

Finding: The proposed amendment will not affect any of the transportation systems in Newberg. However, it is anticipate that the proposed code amendment will clarify language regarding what is currently allowed and result in a reduction in redundant and prohibited use of signs in the the public right-of-way.
This Goals are met.

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.

Finding: Public facilities are not required or related to this amendment.
This Goal is not applicable.

M. ENERGY

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

Finding: The proposed amendment does not change the way in which energy will be utilized. This Goal is met.

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 proposed amendment is within City Limits and will not create any new growth or transition from rural to urban land uses.
This Goal are met.

Attachment 1: 2024 Planning Division Work Plan

2024 Planning Division Work Plan

Part 1. Work Plan Table

2023 Council Goals	G1. Create and maintain a high level of customer service	G2. Identify industrial land and attract employers to encourage family wage jobs	G3. Ensure Newberg infrastructure (roads, water, city employees) is in good repair and supply	G4. Enhance Community Safety	G5. Create and maintain a high level of transparency with our residents in order to build trust	G6. Implement a careful and prudent fiscal policy	G7. Increase land availability for housing
Critical Projects							
Customer Service and Development Standards Update	X				X		
Amending Urban Growth Boundary		X					X
Vacation Rentals Update				X	X		
Childcare Updates		X					
CET Funding Process - Affordable Housing							X
Significant Projects							
Update requirements related to HOA's and stormwater facilities management			X	X		X	
Update and Compliance with HB3395 (2023) – Housing Items	X				X		X

January 2024

2023 Council Goals	G1. Create and maintain a high level of customer service	G2. Identify industrial land and attract employers to encourage family wage jobs	G3. Ensure Newberg infrastructure (roads, water, city employees) is in good repair and supply	G4. Enhance Community Safety	G5. Create and maintain a high level of transparency with our residents in order to build trust	G6. Implement a careful and prudent fiscal policy	G7. Increase land availability for housing
Director's interpretations and code maintenance	X				X		
Review $30,000 threshold for public improvements (i.e. sidewalks)	X				X		
West End Mill District Comp Plan/Zone Change		X					
Small Cell Sites						X	
Commercial Conversions to Residential (HB2984)							X
Enterprise Zone Renewal		X					
Other Projects							
Comprehensive Plan Update	X	X			X		X
Street Tree and Planter Strips Update			X	X			

2023 Council Goals	G1. Create and maintain a high level of customer service	G2. Identify industrial land and attract employers to encourage family wage jobs	G3. Ensure Newberg infrastructure (roads, water, city employees) is in good repair and supply	G4. Enhance Community Safety	G5. Create and maintain a high level of transparency with our residents in order to build trust	G6. Implement a careful and prudent fiscal policy	G7. Increase land availability for housing
Airport Overlay Updates to Comply with US Code (CFR Part 77)				X			
Historic Preservation Commission Projects 5-year work program							

Critical Projects

- **Customer Service and Development Standards Update –** Create customer service metrics and complete review of code for application procedures and standards including when full site design review is required rather than just doing a simultaneous review during a building permit.
  Status: 0% Not Started
  Source: City Staff
  Required Staff Time: Medium

- **Urban Growth Boundary (UGB) Expansion –** Work on sequential UGB expansion to help bring lands into the City of Newberg's UGB for future industrial and residential uses in a timely fashion.
  Status: 20% Council Initiated UGB Sequential Process on December 4, 2023
  Source: City Council
  Required Staff Time: High

- **Vacation Rentals Update –** Review short-term rentals and code in Newberg and potentially update vacation rental review criteria and standards.
  Status: 10% Issue paper was presented to Council and Ad-Hoc Committee was formed. No formal amendments have been initiated by Council.
  Source: City Council
  Required Staff Time: High

- **Childcare Updates –** Look into allowing on-site daycares for employers, evaluate parking requirements for new daycares, possible allowance of daycares in light industrial districts without a conditional use permit, and making sure development code lines up with state standards for daycares and in-home childcare.
  Status: 10% Update was initiated by City Council on November 20, 2023
  Source: City Council
  Required Staff Time: Medium

- **CET Funding Process -Affordable Housing –** Facilitate the Notice of Funding Availability (NOFA) and award process for affordable housing projects.
  Status: 20% Notice of Funding Availability scheduled Winter/Spring 2024
  Source: City Council
  Required Staff Time: Medium

Significant Projects

- **Requirements related to HOA's and Stormwater Facilities –** Update code so that Home Owner Associations (HOA's) can't disband and that HOA's are responsible for stormwater facilities management leaving less ownership and responsibility for future stormwater tracts for the city.
  Status: 0% Not Started
  Source: City Maintenance Staff
  Required Staff Time: Medium

- **Update Code for Compliance with HB3395 (2023) –** Review and update code so that it matches up and is compliant with state code coming from HB3395 including residential use of commercial lands, residential approval procedures, emergency shelter siting, subdivisions for affordable housing and single-room occupancies.
  Status: 0% Not Started
  Source: State Mandate/City Staff
  Required Staff Time: Medium

- **Director's Interpretations Updates and Code Maintenance –** Update the development code to codify the Director's interpretations through the years and correct minor errors.
  Status: 0% Not Started
  Source: City Staff
  Required Staff Time: Medium

- **Review of $30,000 threshold for Public Improvements –** Review $30,000 threshold for requiring public improvements (i.e. sidewalks) as part of remodels and building construction considering inflation in the past 5 years. Potentially tie threshold dollar number to CPI data.
  Status: 0% Not Started
  Source: City Staff
  Required Staff Time: Medium

- **Downtown West End Mill (Craft Industrial) M-5 Zoning District –** Create a new "craft industrial" district on the west end of downtown adding additional industrial uses while still allowing all downtown commercial uses to still be permitted. *Status:*
  Status: 80% Project has gone through review and transportation impact report has been done. Just hearings at Planning Commission and City Council would still be required.
  Source: Downtown Improvement Plan
  Required Staff Time: Medium

- **Small Cell Sites –** Look into allowing small cell sites in the City Right-of-Way (ROW) and how to regulate them. This could potentially produce an opportunity for the city to gain revenue if allowed to lease locations on poles/etc. in the ROW.
  Status: 60% Project has been initiated and proposed amendments have been made and submitted to DLCD. It is currently still being reviewed by the legal team that staff is aware of.
  Source: City Council
  Required Staff Time: Medium

- **HB2984 (2023) Commercial Conversions to Residential for Affordable Housing –** Update code to be compliant with state law regarding commercial buildings being allowed to convert to residential uses for affordable housing.
  Status: 0% Not Started
  Source: State Mandate/City Staff
  Required Staff Time: Medium

- **Enterprise Zone Renewal –** Update and keep current Newberg's enterprise zone to help attract living wage jobs.
  Status: 10% Update started

Source: City Staff
Required Staff Time: Low

Other Projects

- **Comprehensive Plan Update –** Update Newberg's Comprehensive Plan which has only had minor amendments since the 1990's and guides the overall planning direction of the city.
  Status: 0% Not Started
  Source: City Staff
  Required Staff Time: High

- **Street Tree and Planter Strip Update –** Research and update best practices for planter strips and allowed required street trees to help prevent utility conflicts and sidewalk uplift in the future.
  Status: 0% Not Started
  Source: City Staff
  Required Staff Time: High

- **Airport Code Update –** Update code to comply with current FAA standards.
  Status: 0% Not Started
  Source: City Staff
  Required Staff Time: Medium

- **Historic Preservation Projects –** Help the Historic Preservation Commission with their 5-year work program including historic building façade restoration research.
  Status: 15% Some items have been accomplished such as mapping project with George Fox
  Source: City Staff
  Required Staff Time: Medium

Attachment 2: Request for Code Amendment from Code Enforcement

From: Eric Ronning
Sent: Thursday, April 18, 2024 11:50 AM
To: Scot Siegel; Clay Downing
Cc: Will Worthey; Neal Winter
Subject: Proposed sign code language changes
Attachments: Proposed Sign Code Changes.docx

Good morning gentlemen,

Over the last few years we have experienced troubles with some definitions, seemingly unnecessary intricacies and redundant language in the sign code. These issues revolve primarily around the definitions of “Portable” and “Free Standing” signs. The language and time restrictions surrounding portable signs is also cumbersome and appears unnecessary.

Currently the language used to define both Minor Free Standing and Portable signs in code section 15.435.030 and elsewhere is very similar and is not wholly sufficient to differentiate the terms clearly from one another. In light of this it is arguable, and has been argued by several, that the terms can considered interchangeable. This has generated many tedious and tiresome complaints. In light of the similar definitions, language used in 15.435.060 addressing the use of minor freestanding signs in residential zones and limiting their size to 3 square feet may appear to be contradicted by the language in 15.435.490 that allows portable signs in residential zones to be 6 square feet.

In an effort simplify the code and make definitions more clear, I have attached a word document showing the changes Code Enforcement would like to have made to avoid issues in the future. I hope you will look at these and get back to me with your thoughts at your earliest convenience. While considering these changes you may also want to review all of section
15.435 to see if you see any additional changes that should be made elsewhere.

I look forward to hearing back from you soon.

Many thanks.

Eric Ronning
Administrative Sergeant
Code Compliance Supervisor
Newberg-Dundee Police Department
City of Newberg
Direct: 503-537-1226

Attachment 3: Staff/Agency Comments

COMMUNITY DEVELOPMENT
LAND USE APPLICATION REFERRAL

The enclosed material has been referred to you for your information and comment. Any comments you wish to make should be returned to the Community Development Department prior to: June 28, 2024
Please refer questions and comments to: Jeremiah Cromie

NOTE: Full size plans are available at the Community Development Department Office.

APPLICANT:	N/A
REQUEST:	Development Code Update: Sign Code Amendment
SITE ADDRESS:	N/A
LOCATION:	N/A
TAX LOT:	N/A
FILE NO:	DCA24-0001
ZONE:	N/A
HEARING DATE:	July 11,2024

Project Information is Attached:

☑ Reviewed, no conflict.

☐ Reviewed; recommend denial for the following reasons:

☐ Require additional information to review. (Please list information required)

☐ Meeting requested.

☐ Comments. (Attach additional pages as needed)

Scot Siegel

Digitally signed by Scot Siegel
DN: C=US, OU=Community Development, O=City of Newberg, CN=Scot Siegel, E=scot.siegel@newbergoregon.gov
Reason: I am the author of this document
Location: your signing location here
Date: 2024.06.28 16:59:30-07'00'
Foxit PhantomPDF Version: 10.1.12

Reviewed By: Date:

Organization:

COMMUNITY DEVELOPMENT
LAND USE APPLICATION REFERRAL

The enclosed material has been referred to you for your information and comment. Any comments you wish to make should be returned to the Community Development Department prior to: June 28, 2024
Please refer questions and comments to: Jeremiah Cromie

NOTE: Full size plans are available at the Community Development Department Office.

APPLICANT:	N/A
REQUEST:	Development Code Update: Sign Code Amendment
SITE ADDRESS:	N/A
LOCATION:	N/A
TAX LOT:	N/A
FILE NO:	DCA24-0001
ZONE:	N/A
HEARING DATE:	July 11,2024

Project Information is Attached:

☑ Reviewed, no conflict.

☐ Reviewed; recommend denial for the following reasons:

☐ Require additional information to review. (Please list information required)

☐ Meeting requested.

☐ Comments. (Attach additional pages as needed)

W E Worthey

Digitally signed by W E Worthey
DN: O=City of Newberg, CN=W E Worthey, E=will.worthey@newbergoregon.gov
Reason: I have reviewed this document
Location: your signing location here
Date: 2024.06.16 17:49:49-07'00'
Foxit PhantomPDF Version: 10.1.12

Reviewed By:

6/16/24
Date:

Will Worthey CM
Organization:

COMMUNITY DEVELOPMENT
LAND USE APPLICATION REFERRAL

The enclosed material has been referred to you for your information and comment. Any comments you wish to make should be returned to the Community Development Department prior to: June 28, 2024
Please refer questions and comments to: Jeremiah Cromie

NOTE: Full size plans are available at the Community Development Department Office.

APPLICANT:	N/A
REQUEST:	Development Code Update: Sign Code Amendment
SITE ADDRESS:	N/A
LOCATION:	N/A
TAX LOT:	N/A
FILE NO:	DCA24-0001
ZONE:	N/A
HEARING DATE:	July 11,2024

Project Information is Attached:

- [x] Reviewed, no conflict.
- [ ] Reviewed; recommend denial for the following reasons:
- [ ] Require additional information to review. (Please list information required)
- [ ] Meeting requested.
- [ ] Comments. (Attach additional pages as needed)

Brett Musick
Digitally signed by Brett Musick
DN: CN=Brett Musick, E=brett.musick@newbergoregon.gov
Reason: I have reviewed this document
Location: your signing location here
Date: 2024.06.25 13:25:35-07'00'
Foxit PhantomPDF Version: 10.1.10

Reviewed By:

6/25/24
Date:

CON PW Engineering
Organization:

COMMUNITY DEVELOPMENT
LAND USE APPLICATION REFERRAL

The enclosed material has been referred to you for your information and comment. Any comments you wish to make should be returned to the Community Development Department prior to: June 28, 2024
Please refer questions and comments to: Jeremiah Cromie

NOTE: Full size plans are available at the Community Development Department Office.

APPLICANT:	N/A
REQUEST:	Development Code Update: Sign Code Amendment
SITE ADDRESS:	N/A
LOCATION:	N/A
TAX LOT:	N/A
FILE NO:	DCA24-0001
ZONE:	N/A
HEARING DATE:	July 11,2024

Project Information is Attached:

- [✔] Reviewed, no conflict.
- [ ] Reviewed; recommend denial for the following reasons:
- [ ] Require additional information to review. (Please list information required)
- [ ] Meeting requested.
- [ ] Comments. (Attach additional pages as needed)

S.EGGIMAN — Reviewed By:

6/19/2024 — Date:

PGE — Organization:

COMMUNITY DEVELOPMENT
LAND USE APPLICATION REFERRAL

The enclosed material has been referred to you for your information and comment. Any comments you wish to make should be returned to the Community Development Department prior to: June 28, 2024
Please refer questions and comments to: Jeremiah Cromie

NOTE: Full size plans are available at the Community Development Department Office.

APPLICANT:	N/A
REQUEST:	Development Code Update: Sign Code Amendment
SITE ADDRESS:	N/A
LOCATION:	N/A
TAX LOT:	N/A
FILE NO:	DCA24-0001
ZONE:	N/A
HEARING DATE:	July 11,2024

Project Information is Attached:

- [x] Reviewed, no conflict.
- [ ] Reviewed; recommend denial for the following reasons:
- [ ] Require additional information to review. (Please list information required)
- [ ] Meeting requested.
- [ ] Comments. (Attach additional pages as needed)

J. Mich. — Reviewed By:

6-19-24 — Date:

Newberg-Dundee Police — Organization:

COMMUNITY DEVELOPMENT
LAND USE APPLICATION REFERRAL

The enclosed material has been referred to you for your information and comment. Any comments you wish to make should be returned to the Community Development Department prior to: June 28, 2024
Please refer questions and comments to: Jeremiah Cromie

NOTE: Full size plans are available at the Community Development Department Office.

APPLICANT:	N/A
REQUEST:	Development Code Update: Sign Code Amendment
SITE ADDRESS:	N/A
LOCATION:	N/A
TAX LOT:	N/A
FILE NO:	DCA24-0001
ZONE:	N/A
HEARING DATE:	July 11,2024

Project Information is Attached:

- [x] Reviewed, no conflict.
- [ ] Reviewed; recommend denial for the following reasons:
- [ ] Require additional information to review. (Please list information required)
- [ ] Meeting requested.
- [ ] Comments. (Attach additional pages as needed)

Reviewed By: _____ Date: 6/17/24

Maintenance Superintendent
Organization:

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April Catan Digitally signed by April Catan
DN: C=US, OU=Operations, O=City of Newberg, CN=April Catan, E=april.catan@newbergoregon.gov
Reason: I am the author of this document
Location: your signing location here
Date: 2024.06.18 07:41:55-07'00'
Foxit PhantomPDF Version: 10.1.10

Reviewed By:

6/18/24

Date:

City of Newberg - Ops

Organization:

COMMUNITY DEVELOPMENT
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Reviewed By: _____ Date: 6/17/24

City of Newberg - Operations
Organization:

Fe Bates

From: Brown, Jason <JBrown2@wm.com>
Sent: Wednesday, June 19, 2024 7:27 AM
To: Fe Bates
Cc: Jeremiah Cromie; Wille, Jason
Subject: RE: 3- City of Newberg Referral Requests: DR124-224-0004/ADJC24-0003 &DCA23-0002 & DCA24-0001

This email originated from outside the City of Newberg's organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Fe, WM does not have any issues with all three.

Thank you

From: Fe Bates <Fe.Bates@newbergoregon.gov>
Sent: Friday, June 14, 2024 3:58 PM
Cc: Fe Bates <Fe.Bates@newbergoregon.gov>; Jeremiah Cromie <Jeremiah.Cromie@newbergoregon.gov>
Subject: [EXTERNAL] 3- City of Newberg Referral Requests: DR124-224-0004/ADJC24-0003 &DCA23-0002 & DCA24-0001

Good Day,

There are 3 separate Referral for review linked in this email, to alleviate confusion additional information about each project has been added to the email in addition to the linked Referral. Referral Comments for all 3 must be emailed back no later than June 28, 2024 to Planning@newbergoregon.gov .

(DR224-0004/ADJC24-0003 HeadStart Expansion)
Referral- DR224-0004\u0026ADJC24-0003.pdf
This project is separate from the code amendments but is for a design review and code adjustment: An expansion for Head Start here in Newberg at 2813 E Crestview Drive. They are wanting to build a new 2,100 sq. ft. building and new playground area. They also submitted a code adjustment application to keep the existing parking (26 spaces) rather than having to add additional parking spaces (the current gravel spaces will be paved and marked).

Webpage: https://www.newbergoregon.gov/planning/page/dr224-0004adjc24-0003-head-start-newberg-expansion

DCA23-0002 Daycare Code Amendments
Referral-DCA23-0002.pdf
The proposed code amendments would do the following:

1. Make commercial daycare uses a permitted use in all light industrial zones (M-1 and M-2) to comply with current state law (they currently require a conditional use permit)
2. Reduce the parking requirements for new daycare facilities by transitioning from a current ratio of 5 per 1,000 square feet of gross floor area to having a ratio based on the number of employees and number of children/people cared for (currently proposed to be 1 per employee plus 1 per 10 children/people cared for)
3. Add a definition of play structures and where they can be located on property (proposed to be allowed within 3 feet from interior property lines and 10 feet from front lot lines) on most properties

(Draft Staff Report File has all documents (bookmarked) but also included code amendment language as well as memo – first 3 attachments).
Webpage: https://www.newbergoregon.gov/planning/page/dca23-0002-daycare-facilities-updates

DCA24-0001 Sign Code Maintenance Amendments
Referral -DCA24-0001.pdf
The proposed code amendments would do the following:

1. Update definitions of free standing and portable signs to make it clear which one is being used.
2. Update Resolute Highways language
3. Update sign standards in the Right-of-Way (ROW) downtown that include the following:
    a. How written permission is given with the sign
    b. Getting rid of specific hours signs are allowed in Right-of-Way (Still will not be allowed in Right-Of-Waw when business is closed).

(Draft Staff Report File has all documents (bookmarked) but also included code amendment language -last 2 attachments).
Webpage: https://www.newbergoregon.gov/planning/page/dca24-0001-sign-code-amendment

Please reach out if you have any questions.

Thank you,

Thank you,

Please let us know how you feel about our services by filling out this *City Services Customer Satisfaction Survey*.

Fé Bates
Community Development
Administrative Assistant
City of Newberg
City Hall: 503-537-1240
Direct: 503-554-7788

OUR OFFICE HAS TEMPORARILY MOVED TO THE WASTE WATER TREATMENT PLANT AT: 2301 NE WYNOOSKI RD.
We will be open to the Public for any Permitting or Planning needs from 8:30 to 3:30; Monday- Friday

COMMUNITY DEVELOPMENT
LAND USE APPLICATION REFERRAL

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BROOKS BATEMAN
Reviewed By:

6-21-24
Date:

BUILDING
Organization:

Planning Commission Meeting
July 11, 2024

CALL MEETING TO ORDER
Meeting called to order at 7:00 p.m.

ROLL CALL
Commissioners Present:

Jason Dale (Chair)
Layne Quinn (Vice Chair)
Kriss Wright
Abby Seits (Student)
Michael Griffiths
Linda Newton-Curtis
Randy Rickert
Jose Villalpando

City Council Representative:

Glenn Cloyd

Staff Present:

Planning Manager: Clay Downing
Assistant Planner: James Dingwall
Associate Planner: Jeremiah Cromie
Administrative Assistant: Fé Bates
Police Officer: Eric Ronning

PUBLIC COMMENTS
None

CONSENT CALENDAR

Approve May 1, 2024 Minutes & May 9, 2024 Minutes

Action:	Approve the minutes from 5/1/24 & 5/9/24
Motion:	Commissioner Wright
Second:	Commissioner Newton-Curtis
Vote:	Unanimous Yes

QUASI-JUDICIAL PUBLIC HEARINGS

DRAFT

CUP23-0019: Conditional use permit to use a single-family dwelling as a vacation rental home at 215 N School Street.
Assistant Planner presented the Staff report to the Planning Commission and answered Commissioners questions about it.

Chair opened the floor Public Testimony:
PROPONENT: Applicant Teresa Drevdahl testified to the Commissioners in regard to her application and answered questions from Planning Commissioners.

OPPONENT: Robert Soppe asked that the application be denied due to the provisions in NMC 15.225.060A not being met. He discussed how the proposed use does not meet the minimal impact on the livability for abutting properties and the surrounding neighborhood due to the current number of Vacation Rental homes in that neighborhood and how this has negatively impacted the parking availability in the neighborhood.

Chair Closed the Public Testimony and asked for final comments from Staff:
Staff recommended approval of CUP23-0019 a Conditional use permit to use a single-family dwelling as a vacation rental home at 215 N School Street.

Chair Opened the floor for Planning Commissioners deliberation:
The Planning Commission considered the testimonies and staff report from Staff and found that the proposed full-time operation of an additional vacation rental in that vicinity would create a negative impact on the livability of the surrounding neighbors due to the density of Vacation Rentals in that area. They determined that the use as a Part-time vacation rental would have minimal impact on livability of abutting properties and the surrounding neighborhood and conditioned that the applicant can use the home as a Vacation Rental for two (2) months per year.

Action:	Approve CUP23-0019 as a vacation rental home at 215 N School St, Subject to the condition from Planning Commission that the home shall only be used as a Vacation Rental Home for two (2) months per year.
Motion:	Commissioner Wright
Second:	Commissioner Quinn
Vote:	Unanimous Yes

LEGISLATIVE PUBLIC HEARINGS

DCA23-0002: Daycare Code Amendments (Legislative): *Consider code amendments related to allowing daycares as permitted uses in light industrial zones, reducing parking requirements and defining play structures and where they can be placed.*
Associate Planner presented the Staff report to the Planning Commission and answered Commissioners questions about it.

DRAFT

Chair opened the floor Public Testimony: NONE

Chair Closed the Public Testimony and asked for final comments from Staff:
Staff Recommends approving RES2024-394 which recommends City Council adopt the Daycare Code Amendments

Chair Opened the floor for Panning Commissioners deliberation:
Commissioners agreed that the proposed code changed is beneficial for the City.

Action: Recommend adopting RES2024-394 as written by Staff.
Motion: Commissioner Griffiths
Second: Commissioner Wright
Vote: Unanimous Yes

DCA24-0001: Sign Code Amendments (Legislative): ***Consider code amendments related to the sign code by updating definitions of free standing and portable signs as well as updating regulations regarding signs in the Right-of-Way***
Associate Planner presented the Staff report to the Planning Commission and answered Commissioners questions about it.

Chair opened the floor Public Testimony:
PROPONENT: Seargent Eric Ronning addressed the planning commission with why the police department requested this change be made by the Planning Department and answered the Planning Commissioner's questions.

OPPONENT: Robert Soppe informed the commissioners that he was part of the work done on the Sign code amendment done nine years ago and gave some history as to why some of the Sign code is written the way it is. He expressed that he is happy that the definition between portable and free standing is getting cleared up but feels that the rest of the code is not being reviewed as carefully as it could be. He brought up a few examples of possible discrepancies in the code that could create issues.

Chair Closed the Public Testimony and asked for final comments from Staff:
Staff Recommends approving RES2024-395 which recommends City Council adopt the Sign Code Amendments

Chair Opened the floor for Panning Commissioners deliberation:
Commissioners asked clarification questions from staff.
Action: Approve DCA24-0001 for recommendation to City Council for Sign Code Amendments updating definitions of free standing and portable signs as well as updating regulations regarding signs in the Right-of-Way
Motion: Commissioner Wright

Second: Commissioner Quinn
Vote: Unanimous Yes

ITEMS FROM STAFF

City Planning Manager Clay Downing reviewed with the Commission the anticipated schedule of land use projects for the upcoming months.

City Planning Manager Clay Downing informed the Commission that the staff is working on a series of initiatives aimed at improving customer service outcomes which are tentatively scheduled to be presented to the City Council on July 15th. For one of the initiatives, the Planning Division will be reviewing its staff reports to make the materials reviewed by the Planning Commission and the public more informative, effective, and user friendly. He requested recommendations from the planning commission and involvement in upcoming public outreach.
He continued to update the Planning Commission of the other items staff have been working on updating and that the Planning Division work plan and Progress reports can be found online.

ITEMS FROM COMMISSIONERS

Planning Commissioners introduced themselves to the new members and the City Council Representatives.

ADJOURNMENT

Meeting adjourned at 9:02 p.m.

Attest:

Jason Dale, Planning Commission Chair

Fé Bates, Office Assistant

DRAFT

Written testimony for Newberg City Council September 3, 2024 meeting

Item 7.2 regarding the Newberg Sign Code

Robert Soppe

8/30/2024

To the Council:

There are a number of changes or additions I recommend with regard to what is before you tonight. I'll list them directly here and then discuss them in brief detail. I will be testifying at the meeting in person and available for any questions on my recommendations.

1) 15.435.110(C): change "portable signs" to "portable or minor free-standing signs".
2) 15.435.110(C)(6): restore the deleted text
3) 15.435.110(D): change "portable signs" to "portable or minor free-standing signs".
4) 15.435.110(D)(2): restore the deleted text
5) 15.435.110(C)(6): rewrite the first sentence to resolve the issue of events such as the Old Fashioned Festival, pancake breakfast, etc.
6) 15.435.085(F): change "burned out" to "failed", "replaced" to "repaired", and "as soon as possible" to "as soon as practical"
7) 15.05.030 Definitions, Electronic Message Center Display Methods (5): change "includes a pattern" to "appears to include a pattern"; change "alternate" to "appear to alternate".

Explanations:

1) There are a number of locations in the C-3 zones, typically the dirt areas surrounding trees, where minor free-standing signs (such as the pancake breakfast at the OFF) are frequently placed. Because the cited Code explicitly restrict signs in those areas to portable signs only, such free-standing signs are prohibited in the proposed revision. If the Council agrees with what the PC passed and wishes to prohibit such signs in those places, then my suggestion should be disregarded.
2) With the recommended change from the PC, signs are allowed 24/7 in the C-3 and C-4 zones if the business being advertised is open 24/7. If the Council agrees with

what the PC passed and wishes to allow permanent signs in the downtown ROW then my suggestion should be disregarded.

3) Without this change, signs that are very commonly displayed in the ROW (political signs, garage sale signs, Cultural District "Event Parking" signs, etc.) with metal wires that are inserted into the ground are prohibited entirely there. Because the cited Code explicitly restrict signs in those areas to portable signs only, such free-standing signs are prohibited in the proposed revision. If the Council agrees with what the PC passed and does not wish to allow such signs then my suggestion should be disregarded. I've provided photos below of what the PC chose to prohibit.
4) With the proposed change from the PC, the only time restriction on signs in the public ROW outside of downtown is that they cannot be displayed more than four consecutive days. For Code Enforcement to observe that requires them to observe the sign each day over five days. One of the intents of the additional restrictions by hours when it was initially passed in 2015 was to provide an easier job of enforcement by having a single event (the sign being placed outside those hours) to be enough to take action against the sign. Another reason for the restrictions by time were to be similar to the restrictions in the C-3 and C-4 zones. If Code Enforcement is committed to observe signs for 5 consecutive days for which complaints have been submitted, then my suggestion should be disregarded.
5) When this Code was changed (to be clearer) in 2015, it struck me immediately as it was being passed that a major oversight had occurred. Consideration had not been given to displaying signs for events such as the Old Fashioned Festival. If the Code were enforced as written, then the OFF could not have signs displayed downtown in the days prior to the event nor in the days of the event outside the hours that the event was open. I don't think that it was the original intent to prohibit such displays. I raised this issue the day after the adoption of the revision as well as many times since to many different bodies and there was no apparent will to change it. I would hope that this Council would rectify that. If the Council wishes to prohibit such signs downtown then my suggestion should be disregarded.
6) This suggestion was raised when the Code was adopted and the Council chose to leave the text as you see it. As written, the Code requires that a sign owner be prepared with monitoring and replacement capabilities 24/7 as that is certainly "possible". I don't think I need to describe the enormous financial burden this would impose. In reality, the Code sets a standard that is not practical and would not be enforced. Rather than have such a discrepancy in the Code, it seems appropriate to change one word so that the Code reflects the true intent. If the Council prefers a Code that is written to require that sign owners incur the expense

to monitor and to repair a sign to the extent humanly possible, then my suggestion should be disregarded.

7) Similar suggestions were made when the EMC Code was enacted but the Council chose not to address them. My comments are intended to have the Code be consistent with the technology that it is regulating. LED signs are typically designed in such a way that individual LEDs that are on are actually turned on and off very rapidly, 60 and 120 times a second are common. There are very solid technical reasons for that. The key is that the human eye doesn't see rapid flashing when it is about 50 times a second or more rapid. Because of this, the existing Code prohibits virtually all LED signs. If that is the intent of the Council to continue having the Code prohibit LED signs, then my suggestions should be disregarded.

I also have significant concerns about the manner in which Code Enforcement has chosen to ignore the Code and to not enforce it. I will have more on that at the meeting, possibly before.

I have provided some examples below of what would be prohibited in the ROW everywhere in Newberg if you accept the Code revisions provided to you. All of them would be prohibited if you pass what the PC approved. While the signs shown are all outside the C-3 zone, the Wednesday Market, Pancake Breakfast, and Event Parkings signs have commonly been located in the C-3 zone where they would be prohibited under what is before you.

Do you want those prohibited by the Code? I do not. If you agree with me, please change what is before you to not prohibit them but also ask yourself why you are being asked to prohibit them.

Thank you for your consideration.

VINTAGE REALTY NW
Wedding

NEWBERG
WEDNESDAY
MARKET
May - September
on the corner of
2ND & COLLEGE ST.
NEWBERG

Wedding

RAQUEL
PEREGRINO
de BRITO
For School Board
THE PARENT'S CHOICE
DAVE
BROWN

Common Sense
Honesty
Accountability
SUE
OSBORNE
FOR SCHOOL BOARD

ROTARY
Pancake Breakfast
Memorial Park
Newberg
Serving
COFFEE, JUICE, EGGS,
SAUSAGE & ALL YOU CAN
EAT PANCAKES!
Since 1960
LAST FULL WEEKEND IN July
Saturday 6 am - noon
Sunday 7 am - noon
NEWBERG OLD FASHIONED Festival

EVENT
PARKING

REQUEST FOR COUNCIL ACTION

Date Action Requested: September 16, 2024

Order ☐ Ordinance ☒ Resolution ☐ Motion ☐ Information ☐ No. 2024-2927	
Subject: AN ORDINANCE TO MODIFY TO ADOPT CODE AMENDMENTS TO NEWBERG'S MUNICIPAL CODE RELATED TO DISCARDED VEHICLES AND VEHICLES STORED ON PUBLIC PROPERTY.	Staff: Department: Traffic Safety Commission and Police Department
Business Session	Order On Agenda: Legislative Hearing
Hearing Type: Legislative ☒ Quasi-Judicial ☐ Administrative ☐ Not Applicable ☐	

Is this item state mandated? Yes ☐ No ☒
If yes, please cite the state house bill or order that necessitated this action:

Recommendation:
Staff recommends that the City Council of Newberg Adopt ordinance 2024-2927, amending Newberg's Municipal Code related to discarded and stored vehicles on public property.

Executive Summary:
The Newberg Traffic Safety Commission and Newberg's Police leadership provided suggestions to update and amend Newberg's Municipal Code related to the removal of discarded and stored vehicles. The proposed amendments came about due to concerns about wasted city resources related to repeated calls for vehicles stored on public property that do not pose a safety issue and do not meet the definition of discarded.

Fiscal Impact:
The proposed changes to the municipal code are expected to reduce the waste of city officer resources in responding to calls related to vehicles stored on public property.

Council Goals:
These amendments match the intent of Council goal six to "Implement a careful and prudent fiscal policy," and goal four to "Enhance community safety" by safeguarding police resources.

ORDINANCE NO. 2024-2927

AN ORDINANCE AMENDING TITLE 10, CHAPTER 10.15, ARTICLE I (NMC 10.15.030) AND TITLE 8, CHAPTER 8.05 (NMC 8.05.020, 8.05.060, 8.05.070, 8.05.080).

Recitals:

1. WHEREAS, the Newberg Municipal Code prohibits the storage of vehicles on the street and outlines a process for dealing with discarded vehicles.

2. WHEREAS, the proposed changes will clarify the policy regarding discarded and stored vehicles and allow better use of police resources.

3. WHEREAS, the Traffic Safety Commission has recommended approval of the proposed code revisions to the City Council.

The City of Newberg Ordains as Follows:

1. Section 10.15.030 Storage of motor vehicles on street. is amended to read as follows:

No person shall store or permit to be stored on a street or other public property, without the permission of the chief of police, a motor vehicle or personal property. It shall constitute prima facie evidence of storage of a motor vehicle if the same is not moved, by exercise of the vehicle's own power, at least 300 linear feet (approximately one (1) city block) for a period in excess of seven (7) days.

Vehicles stored in violation of this Section 10.15.030 that do not meet the definition of discarded under NMC 8.05.020 may, at the discretion of city officers, be treated as discarded in accordance with parts (A) and (B) of NMC 8.05.070 and subjected to the procedures under NMC 8.05.080 if not removed from public property.

Penalty: See NMC 10.15.410.

2. Section 8.05.020 Definitions. is amended to read as follows:

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

"**48-hour notice**" means a notice affixed to a vehicle pursuant to NMC 08.05.080.

"**Costs**" means the expense of removing, storing or selling, including administrative costs, of a discarded vehicle.

"**Discarded**" means any vehicle that (A) does not have lawfully affixed thereto a license plate, has affixed to it an expired license plate, has an obstructed vehicle identification number, or is not registered to the local area; and (B) exhibits one or more of the following conditions:

1. Abandonment, which may be evidenced by various conditions including vegetation growing under the car, filth on the windshield or accumulated under the car;

2. Inoperability, which may be evidenced by various conditions including missing critical elements to operate safely or an inability of the vehicle to move on its own power;

3. Wrecked; or

4. Complete or partial dismantling.

"**Officer**" means any authorized law enforcement officer of the city and the code compliance officer.

"**Person in charge of vehicle**" means any agent, occupant, lessee, contract purchaser, owner, or person having possession, control or title of property where a vehicle is located.

3. Section 8.05.060 City Officer's Duty. is amended to read as follows:

A. A city officer is authorized at all reasonable times to examine any vehicle for the purposes of determining whether the vehicle is discarded.

B. A city officer is granted discretion to determine whether a vehicle is discarded.

C. If the owner or person in possession of private property objects to the city officer entering the private property to examine any vehicle, the city officer shall not enter such property until a warrant is issued by the municipal court allowing such entry. The warrant shall be based upon an affidavit showing probable cause for such inspection by stating the purpose and extent of the proposed inspection, citing this chapter as the basis for such inspection, and whether or not it is an inspection instituted by a complaint or other specific or general information concerning the vehicle in question and the property in which it is situated.

D. The municipal judge shall have the authority after reviewing such affidavit and other evidence presented to issue the warrant specifying the right to enter the property and the extent of inspection of the vehicle in question.

E. It is unlawful and a violation of this chapter for any person to interfere or attempt to prevent the city officer from entering upon private premises and inspecting any vehicle when an emergency exists or the city officer has a warrant authorizing entry.

4. Section 8.05.070 Vehicles treated as discarded. is amended to read as follows:

A vehicle that meets part (B) of the definition of discarded under NMC 8.05.020, but does not meet part (A) of the definition, may be treated as discarded, at the discretion of city officers, if the following conditions occur:

A. The vehicle is located upon any public right-of-way, city street, alley, road, or highway within the city, or on public property for a period exceeding seven (7) days; and

B. The City sends to the vehicle owner, or person in charge of the vehicle, written notice—by first class mail—to the address provided in the vehicle's registration stating that the vehicle may be held in violation of this chapter if the condition of the vehicle is not corrected within 30 days of the date of the written notice. The notice shall be affixed to the discarded vehicle.

5. Section 8.05.080 Procedures to be used in taking custody, removing, and disposing of discarded vehicles. is amended to read as follows:

A. A discarded vehicle, or a vehicle that may be treated as discarded in accordance with NMC 10.15.030 or 8.05.070, may be taken into custody, removed, and disposed of after a forty-eight (48) hour notice is affixed to such vehicle. The owner, or person in charge of a vehicle to which a 48-hour notice has been affixed, must remove such vehicle from public property within forty-eight (48) hours of when the notice is affixed. Vehicles not removed from public property by the vehicle's owner or person in charge of the vehicle as required by the 48-hour notice are subject to removal by the city, at the discretion of city officers, as set forth in ORS 819.110.

B. The uniform nuisance abatement procedure (UNAP) may be used for taking custody, removal, and disposal of discarded motor vehicles on private property.

C. Disposal of vehicles taken into custody from private property pursuant to the UNAP may be disposed of in accordance with ORS 819.210 through 819.260.

D. The hearing officer of the city that conducts the hearing in accordance with ORS 819.190 is the chief of police or designee.

Effective Date of this ordinance is the day of the adoption date, which is: September 16, 2024.

Adopted by the City Council of Newberg, Oregon, this 16 day of September 2024, by the following votes: **AYE:** **NAY:** **ABSTAIN:**

_____

Rachel Thomas, City Recorder

Attest by the Mayor this 16 day of September 2024.

_____

Bill Rosacker, Mayor

Ordinance No. 2024-2927

Exhibit A

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

NEWBERG ABANDONED VEHICLE PROCESS

Complaint Received

Assigned officer responds

Is the vehicle on **PUBLIC PROPERTY**?

NO

CALL CLEARED

YES

DISCARDED

Signs of abandonment, car inoperative, wrecked, dismantled junked
AND one of the following:

(1) No license plate, expired license plate, obstructed VIN, not registered locally; **OR**
(2) Prior 30 day notice mailed

Is the vehicle **DISCARDED**?

YES

NO

CONSIDERED DISCARDED

- Signs of abandonment, inoperative, wrecked, dismantled junked;
- Valid unexpired license plate, visible VIN, registered locally; and
- No prior 30 day notice

Can the vehicle be **CONSIDERED DISCARDED**?

YES

NO

STORED

- Not discarded
- Not considered discarded
- Not moved in the last 7 days at least 300 linear feet

Is the vehicle **STORED**?

YES

Citation

OR

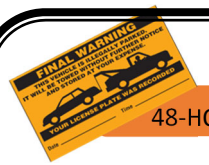
Treat as "**CONSIDERED DISCARDED**" at the discretion of city officers.

Send notice by first class mail giving owner 30 days to correct condition

30 day notice already sent?

YES

TOW PROCESS



48-HOUR TOW NOTICE

Call revisited after 48 hours*

Is the vehicle on **PUBLIC PROPERTY**?

YES

- Vehicle owner cited
- Vehicle set to be towed
- Officer notifies owner via registered mail

CALL CLEARED

*If you find a vehicle after the 48 hour window, consult with your superior on next steps.

Section 10.15.030 Storage of motor vehicles on street.

No person shall store or permit to be stored on a street or other public property, without the permission of the chief of police, a motor vehicle or personal property ~~for a period in excess of 72 hours~~. It shall constitute prima facie evidence of storage ~~and abandonment~~ of a motor vehicle if the same is not moved ~~for a period of 72 hours. In addition to the citation for an ordinance violation, the city may use the provisions of ORS 819.100 in following the procedure to remove a vehicle after due notice as provided in statute when a vehicle is in violation of this section.~~, by exercise of the vehicle's own power, at least 300 linear feet (approximately one (1) city block) for a period in excess of seven (7) days.

Vehicles stored in violation of this Section 10.15.030 that do not meet the definition of discarded under NMC 8.05.020 may, at the discretion of city officers, be treated as discarded in accordance with parts (A) and (B) of NMC 8.05.070 and subjected to the procedures under NMC 8.05.080 if not removed from public property.

Penalty: See NMC 10.15.410.

Section 8.05.020 Definitions.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

"**48-hour notice**" means a notice affixed to a vehicle pursuant to NMC 08.05.080.

"**Costs**" means the expense of removing, storing or selling, including administrative costs, of a discarded vehicle.

"**Discarded**" means any vehicle ~~which~~that (A) does not have lawfully affixed thereto a license plate ~~or~~, has affixed to it an expired license plate, ~~and is in~~has an obstructed vehicle identification number, or is not registered to the local area; and (B) exhibits one or more of the following conditions:

~~1. Inoperative;~~

1. Abandonment, which may be evidenced by various conditions including vegetation growing under the car, filth on the windshield or accumulated under the car;

2. Inoperability, which may be evidenced by various conditions including missing critical elements to operate safely or an inability of the vehicle to move on its own power;

~~2~~3. Wrecked; or

~~3. Dismantled;~~

~~4. Partially dismantled;~~

~~5. Abandoned;~~

~~6~~4. ~~Junked~~Complete or partial dismantling.

"**Officer**" means any authorized law enforcement officer of the city and the code compliance officer.

"**Person in charge of vehicle**" means any agent, occupant, lessee, contract purchaser, owner, or person having possession, control or title of property where a vehicle is located.

Section 8.05.060 City ~~officers' duty~~Officer's Duty.

A. A city officer is authorized at all reasonable times to examine any vehicle for the purposes of determining whether ~~or not it is in a~~the vehicle is discarded ~~condition~~.

B. A city officer is granted discretion to determine whether a vehicle is discarded.

~~B~~C. If the owner or person in possession of private property objects to the city officer entering the private property to examine any vehicle, the city officer shall not enter such property until a warrant is issued by the municipal court allowing such entry. The warrant shall be based upon an affidavit showing probable cause for such inspection by stating the purpose and extent of the proposed inspection, citing this chapter as the basis for such inspection, and whether or not it is an inspection instituted by a complaint or other specific or general information concerning the vehicle in question and the property in which it is situated.

~~C~~D. The municipal judge shall have the authority after reviewing such affidavit and other evidence presented to issue the warrant specifying the right to enter the property and the extent of inspection of the vehicle in question.

~~D~~E. It is unlawful and a violation of this chapter for any person to interfere or attempt to prevent the city officer from entering upon private premises and inspecting any vehicle when an emergency exists or the city officer has a warrant authorizing entry.

Section 8.05.070 ~~Discarded vehicles with current registration~~Vehicles treated as discarded.

A vehicle ~~which~~that meets part (B) of the definition of discarded ~~vehicles by being inoperative, wrecked, dismantled, partially dismantled, abandoned, or junked, but does have affixed to it a current license plate, may be classified as a discarded vehicle if one of~~under NMC 8.05.020, but

does not meet part (A) of the definition, may be treated as discarded, at the discretion of city officers, if the following conditions ~~occurs~~occur:

A. The vehicle is located upon any public right-of-way, city street, alley, road, or highway within the city, ~~and~~or on public property~~.~~ for a period exceeding seven (7) days; and

B. The City sends to the vehicle owner, or person in charge of the vehicle ~~is given,~~ written notice—by first class mail—to the address provided in the vehicle's registration stating that the vehicle may be held in violation of this chapter if the condition of the vehicle is not corrected within 30 days of the date of ~~this~~the written notice. The notice shall be affixed to the discarded vehicle.

Section 8.05.080 Procedures to be used in taking custody, removing, and disposing of discarded vehicles.

A. A discarded vehicle, or a vehicle that may be treated as discarded in accordance with NMC 10.15.030 or 8.05.070, may be taken into custody, removed, and disposed of after a forty-eight (48) hour notice is affixed to such vehicle. The owner, or person in charge of a vehicle to which a 48-hour notice has been affixed, must remove such vehicle from public property within forty-eight (48) hours of when the notice is affixed. Vehicles not removed from public property by the vehicle's owner or person in charge of the vehicle as required by the 48-hour notice are subject to removal by the city, at the discretion of city officers, as set forth in ORS 819.110.
~~A. The procedure set forth in ORS 819.100 through 819.270 may be used for the taking custody, removing, and disposing of discarded vehicles upon any public right-of-way, city street, alley, road, or highway within the city, and public property.~~

B. The uniform nuisance abatement procedure (UNAP) may be used for taking custody, removal, and disposal of discarded motor vehicles on private property.

C. Disposal of vehicles taken into custody from private property pursuant to the UNAP may be disposed of in accordance with ORS 819.210 through 819.260.

D. The hearing officer of the city that conducts the hearing in accordance with ORS 819.190 is the chief of police or designee.

Summary report: Litera Compare for Word 11.9.0.82 Document comparison done on 8/13/2024 2:16:17 PM	
Style name: Default Style	
Intelligent Table Comparison: Active	
Original filename: Parking Ordiance Original.docx	
Modified filename: Parking Ordinance Updated.docx	
Changes:	
Add	35
~~Delete~~	28
~~Move From~~	0
Move To	0
Table Insert	0
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Table moves to	0
~~Table moves from~~	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
Total Changes:	63

REQUEST FOR COUNCIL ACTION

Date Action Requested: September 3, 2024

Order ☒ Ordinance ☐ Resolution ☐ Motion ☐ Information ☐ Proclamation ☐ Order No. 2024-0046	
Subject: Request for an Appeal of Planning Commission Order 2024-05 Authorizing the Operation of a Vacation Rental Home at 215 N School Street (File No. APL24-0001/CUP23-0019)	Staff: James Dingwall Department: Community Development
Business Session	Order On Agenda: New Business
Hearing Type: Legislative ☐ Quasi-Judicial ☒ Not Applicable ☐	

Is this item state mandated? Yes ☐ No ☒

This item is not state-mandated but the City is required to comply with the statutory deadline for rendering a final land use decision under ORS 227.178, which is 120 days from the date the City deemed the application complete, unless waived by the applicant. The 120-day deadline for CUP23-0019 has been extended 300 days by the applicant and is September 30, 2024. Newberg Municipal Code 15.100.190(B) also provides a deadline for rendering a decision on an appeal, no later than 45 days after the filing of the request for review. The 45-day deadline for APL24-0001 is September 14, 2024.

Recommendation: Consider the request to appeal Planning Commission Order 2024-05 and:

1. Make a motion to approve the appeal which adopts City Council Order 2024-0046 and approve the conditional use permit as previously recommended by staff (Exhibit "A"), or
2. Make a motion to deny the appeal to uphold Planning Commission Order 2024-05 and maintain existing conditions of approval (Exhibit "B").

Executive Summary: On July 11, 2024, the Planning Commission approved Planning Commission Order No. 2024-05 (Exhibit "C") which approved CUP23-0019 subject to conditions of approval. The basis of the Applicant's appeal is that the decision by the Planning Commission is overly restrictive in its interpretation of NMC 15.225.060(A) and imposing a condition, in addition to the conditions of approval recommended by staff, limiting the operation of a vacation rental home to two months per year.

Teresa Drevdahl (Applicant) is requesting Conditional Use Permit (CUP) approval to use an existing three-bedroom single family dwelling as a vacation rental at 215 N School Street. Application and supplemental materials are included as Exhibit "D". In addition to the conditional use permit application materials, the Applicant submitted a Change of Use building permit (Permit No. NSTR24-0079) to increase the number of permitted bedrooms to five (5) upon inspection by the Building Official. According to the application materials, the home is the Applicant's primary residence and is proposed to be used as a vacation rental home for 6-8 weeks during the summer. Based on the statements made within the application materials, it is anticipated that the dwelling may be owner-occupied for at least 10 months

per year. The Applicant has stated that there will be two off-street parking spaces in the driveway for use by short-term rental tenants. The subject property is located in the Medium Density Residential (R-2) zoning district.

Site Map:

Site Information:

1. Location: 215 N School Street
2. Total Lot Size: 6,187 square feet
3. Topography: Flat
4. Current Land Uses: Single-family residential
5. Natural Features: Residential landscaping
6. Adjacent Land Uses:
    a. North: Institutional
    b. South: Single-family residential
    c. East: Single-family residential
    d. West: Institutional
7. Adjacent Zoning:
    a. North: Institutional (I)
    b. South: Medium Density Residential (R-2)
    c. East: Medium Density Residential (R-2)
    d. West: Central Business District (C-3)
8. Access and Transportation: Access to the vacation rental will occur via E Sheridan Street. This section is classified as a Local Residential Street in the City's Transportation System Plan.
9. Utilities:

    Water: The City's GIS identifies an eight-inch water main located east of the subject property in N School Street which provides service to the property through a .75-inch service lateral.

    Wastewater: The City's GIS identifies an eight-inch wastewater main located east of the subject property in E Chandler Drive and connected to an eight-inch wastewater main in N Chase Street which provides service to the property through an existing service lateral.

    Stormwater: The City's GIS identifies one storm inlets and a storm pipe north of the property in E Sheridan Street.

Overhead Lines: The property is served by overhead power lines. Any new overhead utility connections to the property must be undergrounded. See Newberg Municipal Code (NMC) 15.430.010 for exception provisions.

Process: This appeal request is a Type III application and follows the procedures in NMC Section Code 15.100.050 and NMC Section Code 15.100.160. Additionally, the Applicant's request for a conditional use permit was required to use a Type III procedure and was evaluated under the criteria in NMC 15.225.060 and NMC 15.445.330. The City Council will hold a quasi-judicial public hearing on the application. The City Council will make a decision on the application based on the criteria listed in the attached findings. The City Council's decision is final unless appealed.

Important dates related to this application are as follows:

12/5/2023:	The Community Development Director deemed the application complete.
1/5/2024:	The Applicant extended the 120-day decision limit pursuant to ORS 222.178 by 60 days to June 2, 2024, to allow time to provide additional information.
5/8/2024:	The Applicant extended the 120-day decision limit pursuant to ORS 222.178 by 60 days to August 1, 2024, to allow time to provide additional information.
6/11/2024:	The Applicant mailed notice for CUP23-0019 to the property owners within 500 feet of the site.
6/11/2024:	The Applicant posted notice for CUP23-0019 on the site.
6/27/2024:	The *Newberg Graphic* published notice of the Planning Commission hearing and notice was posted in four public places.
7/11/2024:	The Planning Commission held a quasi-judicial public hearing to consider the application.
7/18/2024:	The Notice of Decision for the Planning Commission's decision was provided to the applicant and those who provided public comment.
7/31/2024:	Notice of appeal was submitted by the Applicant per NMC 15.100.170.
8/1/2024:	The Applicant extended the 120-day decision limit pursuant to ORS 222.178 by 60 days to September 30, 2024.
8/14/2024:	The Applicant mailed notice for APL24-0001 to the property owners within 500 feet of the site.
8/15/2024:	The Applicant posted notice for APL24-0001 on the site.

8/22/2024: The *Newberg Graphic* published notice of the City Council hearing and notice was posted in four public places.

9/3/2024: The City Council held a quasi-judicial public hearing to consider the appeal of CUP23-0019.

Agency Comments: On June 7, 2024, the application was routed to several public agencies and City departments for review and comment. Comments and recommendations from City departments have been incorporated into the findings and conditions of approval. As of the writing of this report, the City received the following responses from the following referral agencies which are also provided in Exhibit "D":

1. Building Official: Reviewed, no conflict.
2. City Manager: Reviewed, no conflict.
3. Community Development Director: Reviewed, no conflict.
4. Engineering: Reviewed, no conflict.
5. Newberg Dundee Police Department: Reviewed, no conflict.
6. Portland General Electric: Reviewed, no conflict.
7. Public Works Director: Reviewed, no conflict.
8. Public Works Maintenance: Reviewed, no conflict.
9. Public Works: Wastewater Treatment Plan: Reviewed, no conflict.
10. Public Works: Water Superintendent: Reviewed, no conflict.

Minutes: Draft minutes of the July 11, 2024 Planning Commission meeting are included as Exhibit "E".

Public Comments: As of the writing of this report, the City has received no public comments related to APL24-0001. The City received no written comments for CUP23-0019, and one public comment was made at the July 11, 2024 Planning Commission hearing regarding impact of the proposed vacation rental home and evaluation of the conditional use criteria NMC 15.225.060(A).

Appeal: The appellant, Teresa Drevdahl, filed an appeal of CUP23-0019 on July 31, 2024 (Exhibit "F"). The appeal was in conformance with NMC 15.100.160 Appeal Procedures and 15.100.170 Notice of Appeal – Type I, II, and III.

Analysis: The proposed vacation rental will be compatible with the surrounding residential uses and neighborhood based on the proposed use, size, operating characteristics, and scope. The characteristics of a vacation rental are not dissimilar from other rented and owned dwellings. The maximum occupancy is regulated by the number of bedrooms – two guests per bedroom. The Applicant originally submitted a

request for a 5-bedroom vacation rental home with a maximum occupancy of 10 guests. However, the Yamhill County Assessor's data indicates that the structure has three bedrooms. The Applicant has submitted a Change of Use building permit (Permit No. NSTR24-0079) to increase the number of permitted bedrooms from three (3) to five (5), which will be verified by inspection of the Building Official prior to permit approval. The application materials indicate that two (2) off-street parking spaces will be available in the driveway for use by vacation rental guests. Refuse collection will be collected on Wednesdays.

The Planning Commission approved Order 2024-05 on July 11, 2024, subject to conditions of approval. In its deliberation, the Planning Commission considered whether the proposed use would have a minimal impact on the livability of abutting properties and the surrounding neighborhood. After hearing public testimony from the applicant and a member of the public, the Commission considered factors including the prevalence of vacation rentals approved in the vicinity and the location of the proposed vacation rental home. The application materials submitted indicated that the single-family dwelling is the Applicant's primary residence, and the Applicant planned "to offer it as a vacation rental on AirBnB and VRBO 6-8 weeks during the summer" and that "this will not be a year-round fulltime Vacation Rental as it will be owner occupied at least 10 months per year."

Per NMC 15.225.080, the hearing body has the authority to designate conditions in connection with the conditional use permit deemed necessary to secure the purpose of this chapter and the general conditional use permit criteria and require the guarantees and evidence that such conditions will be complied with, which include: 15.225.080(M) duration of use. The Commission found that the proposed full-time operation of this additional vacation home would create a negative impact on the livability of the surrounding neighborhood due to the density of existing vacation rentals and determined that use as a part time vacation rental constituted a minimal impact on the livability of abutting properties and the surrounding neighborhood. The Planning Commission conditioned approval on the use of 215 N School Street as a vacation rental home limited to two months per year.

Following the Planning Commission approval of Order 2024-05 subject to conditions of approval, staff communicated to the applicant that Condition 1 would be implemented by the Applicant indicating in writing to the Community Development Department which two calendar months of the year the subject property would be used as a vacation rental home. The staff report for CUP23-0019 is included in Attachment "D".

Fiscal Impact: There is minimal fiscal impact by the appeal. The applicant paid the required fee of $1,279.00 which was deposited to 01-0000-341003 Planning/Subdivision Fees as well as the required $63.95 Technology Fee which was deposited to 01-0000-341006.

Council Goals: This action is not directly applicable to City Council goals.

Attachments:

Exhibit A. City Council Order No. 2024-2924 An Order approving the appeal of Planning Commission Order 2024-05 (Conditional Use Permit CUP23-0019), for property located at 215 N School Street (R3219AA 03300)

Exhibit “A-1”: Findings
Exhibit "A-2”: Conditions of Approval

Exhibit B. City Council Order No. 2024-2924 An Order affirming Planning Commission Order 2024-05 on the appeal of Conditional Use Permit CUP23-0019, for property located at 215 N School Street (R3219AA 03300)

Exhibit “B-1”: Findings
Exhibit "B-2”: Conditions of Approval

Exhibit C. Planning Commission Order 2024-05
Exhibit D: CUP23-0019 Application and Supplemental Materials, Agency Comments, and Staff Report
Exhibit E: Draft minutes of the July 11, 2024 Newberg Planning Commission meeting
Exhibit F: APL24-0001 Application and Supplemental Materials

Appeal of Planning Commission Order 2024-05

APL24-0001

City Council Public Hearing September 3, 2024

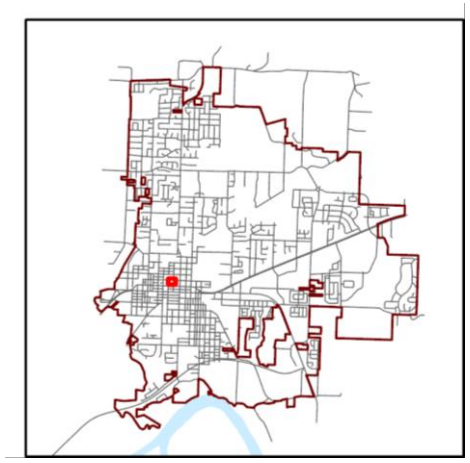
Background

- **Applicant:** Teresa Drevdahl
- **Owner:** Teresa and Dale Drevdahl
- **Request:** Appeal of Planning Commission Order No 2024-05 conditioning approval of vacation rental home application CUP23-0019 to two months per year.
- **Location:** 215 N School Street
- **Tax Lot:** R3219AA 03300
- **Zoning:** R-2 (Medium Density Residential)
- **Applicable Criteria:**
  - 15.225.060 Conditional Use Permit Criteria – Type III
  - 15.445.300–15.445.350 Vacation Rental Homes

Location & Zoning

215 N School Street

R-2 (Medium Density Residential)



215 N School Street

Subject Property

Taxlots

N
W
E
S

0 50 100 Feet

Scope of Review | 15.100.190 | Appeal

The review body may by order:

- Affirm
- Reverse, or
- Modify in whole or in part a determination or requirement of the decision that is under review.

When the review body modifies or renders a decision that reverses a decision of a hearing body, the review body, in its order, shall set forth its findings and state its reasons for taking the action encompassed in the order.

Applicable Criteria | 15.225.060 | CUP

15.225.060 (A)

Location, size, design, and operating characteristics are reasonably compatible with the surrounding neighborhood and will have minimal impacts on livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration to be given to harmony in scale, bulk, coverage and density; to the availability of public facilities and utilities; to the generation of traffic and the capacity of surrounding streets, and to any other relevant impact of the development.

Applicable Criteria | 15.225.060 | CUP

15.225.060 (A)

- Located in an existing single-family home with three bedrooms.
  - *Applicant submitted Change of Use permit to 5 bedrooms, pending Building Official inspection.*
- Two off-street parking spaces located in the driveway.
- This use is compatible with other residential uses, as it is similar in size and scope to regular rented or owned dwellings.

Applicable Criteria | 15.225.060 | CUP

15.225.060 (A)

- *Planning Commission finding:*
  - *The full-time operation of this additional vacation rental would create a negative impact on the livability of the surrounding neighborhood due to the density of existing vacation rentals and determined that use as a part time vacation rental constituted a minimal impact on the livability of abutting properties and the surrounding neighborhood.*

  - *Condition: The use of 215 N School Street as a vacation rental home shall be limited to two (2) months per year.*

Applicable Criteria | 15.225.060 | CUP

15.225.060 (B)
The location, design, and site planning of the proposed development will provide a convenient and functional living, working, shopping or civic environment, and will be as attractive as the nature of the use and its location and setting warrants.

- The subject property is located in downtown Newberg in close proximity to the Chehalem Cultural Center, George Fox University, and downtown business district.

- The proposed use is similar in size and scope to a long-term rental (longer than 30-days) or owner-occupied dwelling.

Applicable Criteria | 15.225.060 | CUP

15.225.060 (C)
The proposed development will be consistent with this code.

- This use is compatible with other residential uses, as it is similar in size and scope to regular rented or owned dwellings.
- The proposed use is consistent with applicable criteria including those in NMC Section 15.225.060 and NMC Chapter 15.445 (Article VII. Vacation Rental Homes)

Applicable Criteria |15.445.300 | Vacation Rentals

15.445.310. Vacation rental must be single-family dwelling
215 N School Street is an existing single-family dwelling in the R-2 (Medium Density Residential) zoning district.

15.445.320. Be registered with City/Transient Lodging Tax
The owner will register with the City and pay required transient lodging tax.

15.445.330. Standards
A minimum of 2 off-street parking spaces will be provided in the driveway. The proposed project would have a maximum occupancy of 6 guests (2 per bedroom) – *pending Building Official inspection*. Weekly waste collection will occur. The premises will not include RVs, tents, or other temporary shelters during rental occupancy.

15.445.340. Posting
Contact info for owner and rental management company, Police, VR standards, max occupancy, weekly garbage pick-up day will be posted next to the front door.

Staff Recommendation

Consider the request to appeal Planning Commission Order 2024-05 and:

1. Make a motion to deny the appeal to uphold Planning Commission Order 2024-05 and maintain existing conditions of approval (Exhibit “A”), or
2. Make a motion to approve the appeal which adopts City Council Order 2024-0046 and approve the conditional use permit as previously recommended by staff (Exhibit “B”).

Request for an Appeal of Planning Commission Order 2024-05 Authorizing the Operation of a Vacation Rental Home at 215 N School Street (File No. APL24-0001/CUP23-0019)

Exhibit "A"

City Council Order No. 2024-2924
An Order approving the appeal of Planning Commission Order 2024-05 (Conditional Use Permit CUP23-0019), for property located at 215 N School Street (R3219AA 03300)

Exhibit "A-1"
Findings

Exhibit "A-2"
Conditions of Approval

ORDER NO. 2024-0046

AN ORDER APPROVING THE APPEAL OF PLANNING COMMISSION ORDER 2024-05 (CONDITIONAL USE PERMIT CUP23-0019), FOR PROPERTY LOCATED AT 215 N SCHOOL STREET (R3219AA 03300)

Recitals:

1. The Planning Commission held a noticed public hearing on July 11, 2024, took public testimony on CUP23-0019, and deliberated.

2. The Planning Commission adopted Order 2024-05 with conditions on July 11, 2024, and the written Notice of Decision was provided on July 18, 2024.

3. An appeal of Planning Commission Order 2024-05 was filed on July 31, 2024 by Teresa Drevdahl who established standing and was an affected party during the July 11, 2024 public hearing.

4. The City Council held a noticed public hearing on September 3, 2024, pursuant to NMC 15.100.180 Scope of Review for the appeal of Planning Commission Order 2024-05.

5. *[City Council finding on appeal addressing the condition per NMC 15.100.190(A).]*

The City of Newberg Orders as Follows:

1. The appeal application APL24-0001 is hereby approved.

2. Planning Commission Order 2024-05 is hereby rescinded.

3. The Conditional Use Permit, CUP23-0019 is hereby approved, subject to the conditions contained in Exhibit “A-2”. Exhibit “A-2” is hereby adopted and by this reference incorporated.

4. The findings shown in Exhibit "A-1” as amended are hereby adopted. Exhibit "A-1” is hereby adopted and by this reference incorporated.

5. This order shall be effective September 4, 2024

6. This order shall expire one year after the effective date above if the applicant does not commence the vacation rental operations unless an extension is granted per Newberg Development Code 15.225.100.

Effective Date of this order is the day after the adoption date, which is: September 4, 2024.
Adopted by the City Council of Newberg, Oregon, this 3rd day of September 2024.

_____
Rachel Thomas, City Recorder

Attest by the Mayor this _____ day of _____, 2024.

_____
Bill Rosacker, Mayor

Exhibit "A-1" to Order No. 2024-0046
Findings – File CUP23-0019/APL24-0001
Vacation Rental at 215 N School Street

Formatting notes: The Newberg Municipal Code (NMC) criteria are written in ***italic bold*** font and the findings are written in regular font. The NMC criteria will be presented first, followed by the findings of fact. Finding of fact with underlined font indicate subsequent inclusion in Exhibit "A-2" Conditions of Approval.

Applicable Criteria for Conditional Use Permits (NMC Section 15.225.060)

15.225.060 General Conditional Use Permit Criteria – Type III

A conditional use permit may be granted through a Type III procedure only if the proposal conforms to all the following criteria:

A. The location, size, design and operating characteristics of the proposed development are such that it can be made reasonably compatible with and have minimal impact on the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration to be given to harmony in scale, bulk, coverage and density; to the availability of public facilities and utilities; to the generation of traffic and the capacity of surrounding streets, and to any other relevant impact of the development.

Finding: The vacation rental would occur in an existing three-bedroom, single-family dwelling located in downtown Newberg. The Applicant originally submitted a request for a 5-bedroom vacation rental home with a maximum occupancy of 10 guests. However, the Yamhill County Assessor's data indicated that the structure had three bedrooms. The Applicant submitted a Change of Use building permit to establish a higher number of bedrooms (Permit No. NSTR24-0068). Upon inspection by the Building Official and approval of a Change of Use Permit, the conditional use approval may be increased to a higher number of bedrooms meeting applicable code requirements. Weekly refuse collection is in place for the property and the applicant materials (Attachment 1) indicate that collection occurs on Monday. The subject property will provide two off-street parking spaces in the driveway.

The proposed vacation rental use is similar to other residential uses in design and operating characteristics. The home has three bedrooms and is therefore eligible to host a maximum of six (6) occupants. Upon inspection approval by the Building Official and approval of a Change of Use Permit, the maximum number of occupants may be higher, no greater than two (2) per the approved number of bedrooms. The subject property is located in the Medium Density Residential (R-2) zoning district is and abutted on the east and south by properties in the R-2 zoning district, on the north by property in the Institutional (I) zoning district, and to the west by properties in the Central Business District (C-3) zoning district.

Because the size, design and operating characteristics of a vacation rental home are similar to residential use of the existing single-family residence, the use is compatible with the surrounding residential neighborhood and would effectively function no differently than the existing residential uses in the surrounding area.

This criterion is met.

B. The location, design, and site planning of the proposed development will provide a convenient and functional living, working, shopping or civic environment, and will be as attractive as the nature of the use and its location and setting warrants.

Finding: The subject property is located in downtown Newberg, in close proximity to the Chehalem Cultural Center, George Fox University, and the downtown business district, which provides convenient and functional access to living, working, shopping, and civic amenities.

Because the operating characteristics of a vacation rental home are similar in size and scope to a long-term rental (longer than 30-days) or owner-occupied dwelling, a vacation rental home is a compatible use with other residential uses and a functional living environment.

This criterion is met.

C. The proposed development will be consistent with this code.

Finding: The vacation rental standards are addressed in findings below. If the proposed project complies with the standards of Article VII. Vacation Rentals (NMC Chapter 15.445.300-350) the application will be consistent with code requirements.

Applicable Criteria for Vacation Rental Homes (NMC 15.445.300 Special Use Standards, Article VII. Vacation Rental Homes)

15.445.310 Where allowed.

Vacation rental homes are permitted in areas shown on Chapter 15.305 NMC. The vacation rental home must be a structure approved for occupancy as a single-family dwelling unit.

Finding: The subject property is zoned R-2. The table below is an excerpt from NMC Chapter 15.305, which states that vacation rental homes are permitted as a conditional use in the R-2 zoning district. The owner has applied for a conditional use permit for the proposed vacation rental home. The structure was previously approved for occupancy as a single-family dwelling unit.

Use	**R-1**	**R-2**	**R-3**	**R-4**	**RP**	**C-1**	**C-2**	**C-3**
Vacation rental home	C	C	S	S	S	S(13)	S(13)	S(13)

Because vacation rental homes are permitted in the R-2 zoning district as a conditional use and the subject property possesses a single-family dwelling located in the R-2 zoning district, the use is permitted pursuant to approval of a conditional use permit.

This criterion is met.

15.445.320 Registration required.

> ***Prior to use or advertising for use of a dwelling as a vacation rental home, the owner or operator shall register the vacation rental home with the city on forms provided by the director. The registration shall include such information required by the director, including the name and contact information for the owner, operator and a local contact.***

Finding: According to NMC Chapter 3.10, agents and operators must register for and pay a Transient Lodging Tax for occupancy activities within the City of Newberg which are less than 30 successive calendar days. According to NMC Chapter 5.05, businesses that operate within the City are required to obtain and hold a business license. Because vacation rental homes are characterized as commercial uses involved in occupancy activities which are less than 30 successive calendar days, operators are required to comply with requirements identified in NMC Chapters 3.10 and 5.05 relating to Transient Lodging Tax and business licenses.

As required by NMC 15.445.320 and other code provisions, prior to the use of the home as a vacation rental the Owner or Applicant will be required to register the vacation rental home with the City, will be required to pay the transient lodging tax, and will be required to obtain a Business License. This criterion will be met with the adherence to the aforementioned condition of approval.

15.445.330 Standards.

> ***A. The vacation rental home shall provide a minimum of two parking spaces on the site that are available for use of the rental occupants.***
>
> ***B. The applicant shall provide for regular refuse collection.***
>
> ***C. The vacation rental home may not be occupied by more than two rental occupants per bedroom, up to a maximum of 15 people.***
>
> ***D. The premises of the vacation rental home may not include any occupied recreational vehicle, trailer, tent or temporary shelter during the rental occupancy.***

Finding: The Applicant has requested to operate a vacation rental property.

The application materials (Attachment 1) originally submitted a request for a 5-bedroom vacation rental home with a maximum occupancy of 10 guests. However, the Yamhill County Assessor's data indicated that the structure had three bedrooms. The Applicant submitted a Change of Use building permit to establish a higher number of bedrooms (NSTR24-0068). Upon inspection and approval by the Building Official for an increase in the number of bedrooms, the maximum occupancy allowed by the conditional use approval may be increased to a higher

number no greater than two (2) occupants per bedrooms. If such an increase in the number of bedrooms is approved by the Building Official and will be utilized for the vacation rental home, the Applicant shall notify the Planning Division of the change in bedroom count. The application materials also indicate that two off-street parking spaces are provided on the north side of the property. The parking spaces are located on the driveway providing access off of E Sheridan Street. Refuse collection is provided on Monday mornings, and the Applicant has indicated that they do not own an RV and have no plans of offering RV accommodation as part of the vacation rental offering. Because the standards relate to continued operation of the vacation rental, the Applicant shall ensure that the vacation rental will:

A. Provide two off-street parking spaces in the driveway at the subject property.

B. Maintain weekly refuse collection.

C. Offer a vacation rental in an existing single-family home with a maximum occupancy of two vacation rental guests per bedroom, a maximum of six (6) occupants.

D. Guest contracts shall not allow recreational vehicles, trailers, tents, or temporary shelters during rental occupancy.

These criteria are met with the adherence to the aforementioned conditions of approval.

15.445.340 Registration posting.

The applicant shall post the vacation rental home registration within the dwelling adjacent to the front door. At a minimum, the posting will contain the following information:

A. The name of the operator and a telephone number where the operator may be reached.

B. The telephone number for the police department.

C. The maximum number of occupants permitted to stay in the dwelling.

D. The standards for the rental occupancy.

E. The solid waste collection day.

Finding: The Applicant has acknowledged the requirements listed in NMC Section 15.445.340 and has stated that they will comply with these requirements. Because the Applicant has stated that they will comply with the requirements, prior to the use of the home as a vacation rental and during the use of the home as a vacation rental, the Applicant is required to post the required information for NMC 15.445.040(A-E) by the front door of the vacation rental.

Operator Name: Teresa Drevdahl

Operator Phone Number: 503-490-1175

Rental Management Company and Contact: TBD

Rental Management Company Phone Number: TBD

In the event of an emergency, call: 911 | Non-Emergency Police #: (503) 538-8321

Max Number of Guests: Six (6)

Trash Pick-Up Day: Monday

City of Newberg Vacation Rental Standards:

- Each vacation rental home shall provide a minimum of two parking spaces on the site that are available for use of the rental occupants.
- The Applicant shall provide for regular refuse collection.
- The vacation rental home may not be occupied by more than two rental occupants per bedroom, up to a maximum of six (6) people.
- The premises of the vacation rental home may not include any occupied recreational vehicle, trailer, tent, or temporary shelter during the rental occupancy.

Because the Applicant has indicated an interest in an increased bedroom count and is actively submitted an application to the Building Division to obtain approval of an increased bedroom count, Following inspection and approval by the Building Official, the posting shall be updated to reflect the maximum number of occupants, which shall be up to two (2) occupants per bedroom.

The requirements of NMC Section 15.445.040 will be met with adherence to the aforementioned conditions of approval.

15.445.350 Complaints and revocation of registration.

If the city receives two or more written complaints within a one-year period regarding a vacation rental home occupancy, and the issues have not been resolved through the code enforcement officer, the city manager may schedule a hearing to consider revoking the vacation rental home registration. The hearing may be conducted by the city manager, or other such hearings officer as the city manager may appoint for this purpose. The city manager shall notify the owner and operator of the hearing, those submitting written complaints, and may invite others to submit testimony at the hearing. After hearing the facts, the city manager may do any of the following:

A. Revoke the registration for noncompliance with the standards in this section. If this permit is revoked, the premises may not be used as a vacation rental home for a period of two years, or a period of lesser time as determined by the hearings officer.

B. Impose additional conditions necessary to fulfill the purpose of this section.

C. Establish a probationary period to monitor compliance.

D. Dismiss the complaint.

E. Refer the matter to the code enforcement officer for citation in

municipal court or other appropriate jurisdiction.

The hearings officer's decision may be appealed to the planning commission by the applicant, owner, or person filing the written complaint within 14 calendar days of the date of the decision in the manner provided in NMC 15.100.170.

Finding: The City will follow the procedures listed above in the event complaints are received about the vacation rental home. The Applicant's narrative acknowledges Section 15.445.050 complaints and revocation of registration. The Applicant has indicated they understand the potential for an approval to be revoked if the requirements for operating a vacation rental are not adhered to.

CONCLUSION:

Based on the above-mentioned findings, the application meets the required criteria within the Newberg Municipal Code, subject to completion of and adherence to the attached conditions of approval in Exhibit "A-2".

Exhibit "A-2" to Order No. 2024-0046
Conditions of Approval – File CUP23-0019/APL24-0001
Vacation Rental Home at 215 N School Street

THE FOLLOWING MUST BE ACCOMPLISHED PRIOR TO USE AS A VACATION RENTAL AND ADHERED TO IN ORDER TO CONTINUE THE USE OF A VACATION RENTAL:

1. **Transient Lodging Tax and Business License:** Prior to the use of the home as a vacation rental the Owner or Applicant will be required to register the vacation rental home with the City, will be required to pay the transient lodging tax, and will be required to obtain a Business License.

2. **Parking**: Provide two off-street parking spaces in the driveway at the subject property.

3. **Refuse Collection:** Maintain weekly refuse collection.

4. **Maximum Occupancy**: Offer a vacation rental in an existing single-family home with a maximum occupancy of two vacation rental guests per bedroom, a maximum of six (6) occupants.

    a. Upon inspection and approval by the Building Official for an increase in the number of bedrooms, the maximum occupancy allowed by the conditional use approval may be increased to a higher number no greater than two (2) occupants per bedrooms. If such an increase in the number of bedrooms is approved by the Building Official and will be utilized for the vacation rental home, the Applicant shall notify the Planning Division of the change in bedroom count.

5. **Temporary Occupancy Limits**: Guest contracts shall not allow recreational vehicles, trailers, tents, or temporary shelters during rental occupancy.

6. **Posting:** Prior to the use of the home as a vacation rental and during the use of the home as a vacation rental, the Applicant is required to post the required information for NMC 15.445.040(A-E) by the front door of the vacation rental.

    a. Operator Name: Teresa Drevdahl

    Operator Phone Number: 503-490-1175

    Rental Management Company and Contact: TBD

    Rental Management Company Phone Number: TBD

    In the event of an emergency, call: 911 | Non-Emergency Police #: (503) 538-8321

Max Number of Guests: Six (6)

Trash Pick-Up Day: Monday

City of Newberg Vacation Rental Standards:

- Each vacation rental home shall provide a minimum of two parking spaces on the site that are available for use of the rental occupants.
- The Applicant shall provide for regular refuse collection.
- The vacation rental home may not be occupied by more than two rental occupants per bedroom, up to a maximum of fourteen (14) people.
- The premises of the vacation rental home may not include any occupied recreational vehicle, trailer, tent, or temporary shelter during the rental occupancy.

b. Following inspection and approval by the Building Official, the posting shall be updated to reflect the maximum number of occupants, which shall be up to two (2) occupants per bedroom.

Request for an Appeal of Planning Commission Order 2024-05 Authorizing the Operation of a Vacation Rental Home at 215 N School Street (File No. APL24-0001/CUP23-0019)

Exhibit "B"

City Council Order No. 2024-2924
An Order affirming Planning Commission Order 2024-05 on the appeal of Conditional Use Permit CUP23-0019, for property located at 215 N School Street (R3219AA 03300)

Exhibit "B-1"
Findings

Exhibit "B-2"
Conditions of Approval

ORDER NO. 2024-0046

AN ORDER AFFIRMING PLANNING COMMISSION ORDER 2024-05 ON THE APPEAL OF CONDITIONAL USE PERMIT CUP23-0019, FOR PROPERTY LOCATED AT 215 N SCHOOL STREET (R3219AA 03300)

Recitals:

1. The Planning Commission held a noticed public hearing on July 11, 2024, took public testimony on CUP23-0019, and deliberated.

2. The Planning Commission adopted Order 2024-05 with conditions on July 11, 2024 and written Notice of Decision was provided on July 18, 2024.

3. An appeal of Planning Commission Order 2024-05 was filed on July 31, 2024 by Teresa Drevdahl who established standing and was an affected party during the July 11, 2024 public hearing.

4. The City Council held a noticed public hearing on September 3, 2024, pursuant to NMC 15.100.180 Scope of Review based on the appeal.

The City of Newberg Orders as Follows:

1. The appeal application APL24-0001 is hereby denied.

2. Planning Commission Order 2024-05 is hereby upheld.

2. The Conditional Use Permit, CUP23-0019 is hereby approved, subject to the conditions contained in Exhibit “B-2” and Planning Commission Order 2024-05. Exhibit “B-2” hereby adopted and by this reference incorporated.

3. The findings shown in Exhibit "B-1” and Planning Commission Order 2024-05 are hereby adopted. Exhibit "B-1” is hereby adopted and by this reference incorporated.

4. This order shall be effective September 4, 2024

5. This order shall expire one year after the effective date above if the applicant does not commence the vacation rental operations unless an extension is granted per Newberg Development Code 15.225.100.

Effective Date of this order is the day after the adoption date, which is: September 4, 2024.
Adopted by the City Council of Newberg, Oregon, this 3rd day of September 2024.

_____
Rachel Thomas, City Recorder

Attest by the Mayor this _____ day of _____, 2024.

_____
Bill Rosacker, Mayor

Exhibit "B-1" to Order No. 2024-0046
Findings – File CUP23-0019/APL24-0001
Vacation Rental at 215 N School Street

Formatting notes: The Newberg Municipal Code (NMC) criteria are written in ***italic bold*** font and the findings are written in regular font. The NMC criteria will be presented first, followed by the findings of fact. Finding of fact with underlined font indicate subsequent inclusion in Exhibit "B" Conditions of Approval.

Applicable Criteria for Conditional Use Permits (NMC Section 15.225.060)

15.225.060 General Conditional Use Permit Criteria – Type III

A conditional use permit may be granted through a Type III procedure only if the proposal conforms to all the following criteria:

A. The location, size, design and operating characteristics of the proposed development are such that it can be made reasonably compatible with and have minimal impact on the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration to be given to harmony in scale, bulk, coverage and density; to the availability of public facilities and utilities; to the generation of traffic and the capacity of surrounding streets, and to any other relevant impact of the development.

Finding: The vacation rental would occur in an existing three-bedroom, single-family dwelling located in downtown Newberg. The Applicant originally submitted a request for a 5-bedroom vacation rental home with a maximum occupancy of 10 guests. However, the Yamhill County Assessor's data indicated that the structure had three bedrooms. The Applicant submitted a Change of Use building permit to establish a higher number of bedrooms (Permit No. NSTR24-0068). Upon inspection by the Building Official and approval of a Change of Use Permit, the conditional use approval may be increased to a higher number of bedrooms meeting applicable code requirements. Weekly refuse collection is in place for the property and the applicant materials (Attachment 1) indicate that collection occurs on Monday. The subject property will provide two off-street parking spaces in the driveway.

The proposed vacation rental use is similar to other residential uses in design and operating characteristics. The home has three bedrooms and is therefore eligible to host a maximum of six (6) occupants. Upon inspection approval by the Building Official and approval of a Change of Use Permit, the maximum number of occupants may be higher, no greater than two (2) per the approved number of bedrooms. The subject property is located in the Medium Density Residential (R-2) zoning district is and abutted on the east and south by properties in the R-2 zoning district, on the north by property in the Institutional (I) zoning district, and to the west by properties in the Central Business District (C-3) zoning district.

While deliberating on the conditional use permit application at its July 11, 2024 meeting, the Planning Commission considered whether the proposed use would have a minimal impact on the livability of abutting properties and the surrounding neighborhood. After hearing public testimony from the applicant and a member of the public, the Commission considered factors including the prevalence of vacation rentals approved in the vicinity and the location of the proposed vacation rental home. The application materials submitted indicated that the single-family dwelling is the Applicants primary residence, and the Applicant planned "to offer it as a vacation rental on AirBnB and VRBO 6-8 weeks during the summer" and that "this will not be a year round fulltime Vacation Rental as it will be owner occupied at least 10 months per year."

Per NMC 15.225.080, the hearing body has the authority to designate conditions in connection with the conditional use permit deemed necessary to secure the purpose of this chapter and the general conditional use permit criteria and require the guarantees and evidence that such conditions will be complied with, which include: 15.225.080(M) duration of use. The Commission found that the proposed full-time operation of this additional vacation home would create a negative impact on the livability of the surrounding neighborhood due to the density of existing vacation rentals in the vicinity and determined that the use as a part-time vacation rental constituted a minimal impact on livability of abutting properties and the surrounding neighborhood. The Planning Commission conditioned approval on the use of 215 N School Street as a vacation rental home shall be limited to two (2) months per year.

Because the size, design and operating characteristics of a vacation rental home are similar to residential use of the existing single-family residence, upon adherence to the aforementioned condition of approval, this criterion will be met.

B. The location, design, and site planning of the proposed development will provide a convenient and functional living, working, shopping or civic environment, and will be as attractive as the nature of the use and its location and setting warrants.

Finding: The subject property is located in downtown Newberg, in close proximity to the Chehalem Cultural Center, George Fox University, and the downtown business district, which provides convenient and functional access to living, working, shopping, and civic amenities.

Because the operating characteristics of a vacation rental home are similar in size and scope to a long-term rental (longer than 30-days) or owner-occupied dwelling, a vacation rental home is a compatible use with other residential uses and a functional living environment.

This criterion is met.

C. The proposed development will be consistent with this code.

Finding: The vacation rental standards are addressed in findings below. If the proposed project complies with the standards of Article VII. Vacation Rentals (NMC Chapter 15.445.300-350) the application will be consistent with code requirements.

Applicable Criteria for Vacation Rental Homes (NMC 15.445.300 Special Use Standards, Article VII. Vacation Rental Homes)

15.445.310 Where allowed.

Vacation rental homes are permitted in areas shown on Chapter 15.305 NMC. The vacation rental home must be a structure approved for occupancy as a single-family dwelling unit.

Finding: The subject property is zoned R-2. The table below is an excerpt from NMC Chapter 15.305, which states that vacation rental homes are permitted as a conditional use in the R-2 zoning district. The owner has applied for a conditional use permit for the proposed vacation rental home. The structure was previously approved for occupancy as a single-family dwelling unit.

Use	**R-1**	**R-2**	**R-3**	**R-4**	**RP**	**C-1**	**C-2**	**C-3**
Vacation rental home	C	C	S	S	S	S(13)	S(13)	S(13)

Because vacation rental homes are permitted in the R-2 zoning district as a conditional use and the subject property possesses a single-family dwelling located in the R-2 zoning district, the use is permitted pursuant to approval of a conditional use permit.

This criterion is met.

15.445.320 Registration required.

Prior to use or advertising for use of a dwelling as a vacation rental home, the owner or operator shall register the vacation rental home with the city on forms provided by the director. The registration shall include such information required by the director, including the name and contact information for the owner, operator and a local contact.

Finding: According to NMC Chapter 3.10, agents and operators must register for and pay a Transient Lodging Tax for occupancy activities within the City of Newberg which are less than 30 successive calendar days. According to NMC Chapter 5.05, businesses that operate within the City are required to obtain and hold a business license. Because vacation rental homes are characterized as commercial uses involved in occupancy activities which are less than 30 successive calendar days, operators are required to comply with requirements identified in NMC Chapters 3.10 and 5.05 relating to Transient Lodging Tax and business licenses.

As required by NMC 15.445.320 and other code provisions, prior to the use of the home as a vacation rental the Owner or Applicant will be required to register the vacation rental home with

the City, will be required to pay the transient lodging tax, and will be required to obtain a Business License. This criterion will be met with the adherence to the aforementioned condition of approval.

15.445.330 Standards.

A. The vacation rental home shall provide a minimum of two parking spaces on the site that are available for use of the rental occupants.

B. The applicant shall provide for regular refuse collection.

C. The vacation rental home may not be occupied by more than two rental occupants per bedroom, up to a maximum of 15 people.

D. The premises of the vacation rental home may not include any occupied recreational vehicle, trailer, tent or temporary shelter during the rental occupancy.

Finding: The Applicant has requested to operate a vacation rental property.

The application materials (Attachment 1) originally submitted a request for a 5-bedroom vacation rental home with a maximum occupancy of 10 guests. However, the Yamhill County Assessor's data indicated that the structure had three bedrooms. The Applicant submitted a Change of Use building permit to establish a higher number of bedrooms (NSTR24-0068). Upon inspection and approval by the Building Official for an increase in the number of bedrooms, the maximum occupancy allowed by the conditional use approval may be increased to a higher number no greater than two (2) occupants per bedrooms. If such an increase in the number of bedrooms is approved by the Building Official and will be utilized for the vacation rental home, the Applicant shall notify the Planning Division of the change in bedroom count. The application materials also indicate that two off-street parking spaces are provided on the north side of the property. The parking spaces are located on the driveway providing access off of E Sheridan Street. Refuse collection is provided on Monday mornings, and the Applicant has indicated that they do not own an RV and have no plans of offering RV accommodation as part of the vacation rental offering. Because the standards relate to continued operation of the vacation rental, the Applicant shall ensure that the vacation rental will:

A. Provide two off-street parking spaces in the driveway at the subject property.

B. Maintain weekly refuse collection.

C. Offer a vacation rental in an existing single-family home with a maximum occupancy of two vacation rental guests per bedroom, a maximum of six (6) occupants.

D. Guest contracts shall not allow recreational vehicles, trailers, tents, or temporary shelters during rental occupancy.

These criteria are met with the adherence to the aforementioned conditions of approval.

15.445.340 Registration posting.

The applicant shall post the vacation rental home registration within the dwelling adjacent to the front door. At a minimum, the posting will contain the following information:

A. The name of the operator and a telephone number where the operator may be reached.

B. The telephone number for the police department.

C. The maximum number of occupants permitted to stay in the dwelling.

D. The standards for the rental occupancy.

E. The solid waste collection day.

Finding: The Applicant has acknowledged the requirements listed in NMC Section 15.445.340 and has stated that they will comply with these requirements. Because the Applicant has stated that they will comply with the requirements, prior to the use of the home as a vacation rental and during the use of the home as a vacation rental, the Applicant is required to post the required information for NMC 15.445.040(A-E) by the front door of the vacation rental.

Operator Name: Teresa Drevdahl

Operator Phone Number: 503-490-1175

Rental Management Company and Contact: TBD

Rental Management Company Phone Number: TBD

In the event of an emergency, call: 911 | Non-Emergency Police #: (503) 538-8321

Max Number of Guests: Six (6)

Trash Pick-Up Day: Monday

City of Newberg Vacation Rental Standards:

- Each vacation rental home shall provide a minimum of two parking spaces on the site that are available for use of the rental occupants.
- The Applicant shall provide for regular refuse collection.
- The vacation rental home may not be occupied by more than two rental occupants per bedroom, up to a maximum of six (6) people.
- The premises of the vacation rental home may not include any occupied recreational vehicle, trailer, tent, or temporary shelter during the rental occupancy.

Because the Applicant has indicated an interest in an increased bedroom count and is actively submitted an application to the Building Division to obtain approval of an increased bedroom count, Following inspection and approval by the Building Official, the posting shall be updated to reflect the maximum number of occupants, which shall be up to two (2) occupants per bedroom.

The requirements of NMC Section 15.445.040 will be met with adherence to the aforementioned conditions of approval.

15.445.350 Complaints and revocation of registration.

If the city receives two or more written complaints within a one-year period regarding a vacation rental home occupancy, and the issues have not been resolved through the code enforcement officer, the city manager may schedule a hearing to consider revoking the vacation rental home registration. The hearing may be conducted by the city manager, or other such hearings officer as the city manager may appoint for this purpose. The city manager shall notify the owner and operator of the hearing, those submitting written complaints, and may invite others to submit testimony at the hearing. After hearing the facts, the city manager may do any of the following:

A. Revoke the registration for noncompliance with the standards in this section. If this permit is revoked, the premises may not be used as a vacation rental home for a period of two years, or a period of lesser time as determined by the hearings officer.

B. Impose additional conditions necessary to fulfill the purpose of this section.

C. Establish a probationary period to monitor compliance.

D. Dismiss the complaint.

E. Refer the matter to the code enforcement officer for citation in municipal court or other appropriate jurisdiction.

The hearings officer's decision may be appealed to the planning commission by the applicant, owner, or person filing the written complaint within 14 calendar days of the date of the decision in the manner provided in NMC 15.100.170.

Finding: The City will follow the procedures listed above in the event complaints are received about the vacation rental home. The Applicant's narrative acknowledges Section 15.445.050 complaints and revocation of registration. The Applicant has indicated they understand the potential for an approval to be revoked if the requirements for operating a vacation rental are not adhered to.

CONCLUSION:

Based on the above-mentioned findings, the application meets the required criteria within the Newberg Municipal Code, subject to completion of and adherence to the attached conditions of approval in Exhibit "B-2".

Exhibit "B-2" to Order 2024-0046
Conditions of Approval – File CUP23-0019/APL24-0001
Vacation Rental Home at 215 N School Street

THE FOLLOWING MUST BE ACCOMPLISHED PRIOR TO USE AS A VACATION RENTAL AND ADHERED TO IN ORDER TO CONTINUE THE USE OF A VACATION RENTAL:

1. **Conditional Use:** The use of 215 N School Street as a vacation rental home shall be limited to two (2) months per year.

2. **Transient Lodging Tax and Business License:** Prior to the use of the home as a vacation rental the Owner or Applicant will be required to register the vacation rental home with the City, will be required to pay the transient lodging tax, and will be required to obtain a Business License.

3. **Parking**: Provide two off-street parking spaces in the driveway at the subject property.

4. **Refuse Collection:** Maintain weekly refuse collection.

5. **Maximum Occupancy**: Offer a vacation rental in an existing single-family home with a maximum occupancy of two vacation rental guests per bedroom, a maximum of six (6) occupants.

    a. Upon inspection and approval by the Building Official for an increase in the number of bedrooms, the maximum occupancy allowed by the conditional use approval may be increased to a higher number no greater than two (2) occupants per bedrooms. If such an increase in the number of bedrooms is approved by the Building Official and will be utilized for the vacation rental home, the Applicant shall notify the Planning Division of the change in bedroom count.

6. **Temporary Occupancy Limits**: Guest contracts shall not allow recreational vehicles, trailers, tents, or temporary shelters during rental occupancy.

7. **Posting:** Prior to the use of the home as a vacation rental and during the use of the home as a vacation rental, the Applicant is required to post the required information for NMC 15.445.040(A-E) by the front door of the vacation rental.

    a. Operator Name: Teresa Drevdahl

    Operator Phone Number: 503-490-1175

    Rental Management Company and Contact: TBD

    Rental Management Company Phone Number: TBD

In the event of an emergency, call: 911 | Non-Emergency Police #: (503) 538-8321

Max Number of Guests: Six (6)

Trash Pick-Up Day: Monday

City of Newberg Vacation Rental Standards:

- Each vacation rental home shall provide a minimum of two parking spaces on the site that are available for use of the rental occupants.
- The Applicant shall provide for regular refuse collection.
- The vacation rental home may not be occupied by more than two rental occupants per bedroom, up to a maximum of fourteen (14) people.
- The premises of the vacation rental home may not include any occupied recreational vehicle, trailer, tent, or temporary shelter during the rental occupancy.

b. Following inspection and approval by the Building Official, the posting shall be updated to reflect the maximum number of occupants, which shall be up to two (2) occupants per bedroom.

Request for an Appeal of Planning Commission Order 2024-05 Authorizing the Operation of a Vacation Rental Home at 215 N School Street (File No. APL24-0001/CUP23-0019)

Exhibit "C"

Planning Commission Order 2024-05

PLANNING COMMISSION ORDER 2024-05

AN ORDER APPROVING CONDITIONAL USE PERMIT CUP23-0019 FOR A VACATION RENTAL HOME AT 215 N SCHOOL STREET, YAMHILL COUNTY TAX LOT R3219AA 03300.

RECITALS

1. Teresa Drevdahl applied for a conditional use permit for a vacation rental home at 215 N School Street, Yamhill County Tax Lot R3219AA 03300.

2. After proper notice, the Newberg Planning Commission held a public hearing on July 11, 2024, to consider the application. The Commission considered testimony and deliberated.

3. The Newberg Planning Commission finds that the application meets the applicable Newberg Municipal Code criteria as shown in the findings in Exhibit "A".

The Newberg Planning Commission orders as follows:

1. Conditional Use Permit Application CUP23-0019 is hereby approved. Exhibit "B" is hereby adopted and by this reference incorporated.

2. The findings shown in Exhibit "A" are hereby adopted. Exhibit "A" is hereby adopted and by this reference incorporated.

3. This Order shall be effective on July 31, 2024, unless appealed prior to this date.

4. This Order shall expire one year after the effective date above if the applicant does not commence use of the home as a vacation rental unless an extension is granted per Newberg Development Code 15.225.100.

Adopted by the Newberg Planning Commission this 11th day of July 2024.

ATTEST:

Planning Commission Chair

Planning Commission Secretary

List of Exhibits:

Exhibit "A": Findings
Exhibit "B": Conditions of Approval

Exhibit "A" to Planning Commission Order 2024-05
Findings – File CUP23-0019
Vacation Rental at 215 N School Street

Formatting notes: The Newberg Municipal Code (NMC) criteria are written in ***italic bold*** font and the findings are written in regular font. The NMC criteria will be presented first, followed by the findings of fact. Finding of fact with underlined font indicate subsequent inclusion in Exhibit "B" Conditions of Approval.

Applicable Criteria for Conditional Use Permits (NMC Section 15.225.060)

15.225.060 General Conditional Use Permit Criteria – Type III

A conditional use permit may be granted through a Type III procedure only if the proposal conforms to all the following criteria:

A. ***The location, size, design and operating characteristics of the proposed development are such that it can be made reasonably compatible with and have minimal impact on the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration to be given to harmony in scale, bulk, coverage and density; to the availability of public facilities and utilities; to the generation of traffic and the capacity of surrounding streets, and to any other relevant impact of the development.***

Finding: The vacation rental would occur in an existing three-bedroom, single-family dwelling located in downtown Newberg. The Applicant originally submitted a request for a 5-bedroom vacation rental home with a maximum occupancy of 10 guests. However, the Yamhill County Assessor's data indicated that the structure had three bedrooms. The Applicant submitted a Change of Use building permit to establish a higher number of bedrooms (Permit No. NSTR24-0068). Upon inspection by the Building Official and approval of a Change of Use Permit, the conditional use approval may be increased to a higher number of bedrooms meeting applicable code requirements. Weekly refuse collection is in place for the property and the applicant materials (Attachment 1) indicate that collection occurs on Monday. The subject property will provide two off-street parking spaces in the driveway.

The proposed vacation rental use is similar to other residential uses in design and operating characteristics. The home has three bedrooms and is therefore eligible to host a maximum of six (6) occupants. Upon inspection approval by the Building Official and approval of a Change of Use Permit, the maximum number of occupants may be higher, no greater than two (2) per the approved number of bedrooms. The subject property is located in the Medium Density Residential (R-2) zoning district is and abutted on the east and south by properties in the R-2 zoning district, on the north by property in the Institutional (I) zoning district, and to the west by properties in the Central Business District (C-3) zoning district.

While deliberating on the conditional use permit application at its July 11, 2024 meeting, the Planning Commission considered whether the proposed use would have a minimal impact on the livability of abutting properties and the surrounding neighborhood. After hearing public testimony from the applicant and a member of the public, the Commission considered factors including the prevalence of vacation rentals approved in the vicinity and the location of the proposed vacation rental home. The application materials submitted indicated that the single-family dwelling is the Applicants primary residence, and the Applicant planned "to offer it as a vacation rental on AirBnB and VRBO 6-8 weeks during the summer" and that "this will not be a year round fulltime Vacation Rental as it will be owner occupied at least 10 months per year."

Per NMC 15.225.080, the hearing body has the authority to designate conditions in connection with the conditional use permit deemed necessary to secure the purpose of this chapter and the general conditional use permit criteria and require the guarantees and evidence that such conditions will be complied with, which include: 15.225.080(M) duration of use. The Commission found that the proposed full-time operation of this additional vacation home would create a negative impact on the livability of the surrounding neighborhood due to the density of existing vacation rentals in the vicinity and determined that the use as a part-time vacation rental constituted a minimal impact on livability of abutting properties and the surrounding neighborhood. The Planning Commission conditioned approval on the use of 215 N School Street as a vacation rental home shall be limited to two (2) months per year.

Because the size, design and operating characteristics of a vacation rental home are similar to residential use of the existing single-family residence, upon adherence to the aforementioned condition of approval, this criterion will be met.

B. The location, design, and site planning of the proposed development will provide a convenient and functional living, working, shopping or civic environment, and will be as attractive as the nature of the use and its location and setting warrants.

Finding: The subject property is located in downtown Newberg, in close proximity to the Chehalem Cultural Center, George Fox University, and the downtown business district, which provides convenient and functional access to living, working, shopping, and civic amenities.

Because the operating characteristics of a vacation rental home are similar in size and scope to a long-term rental (longer than 30-days) or owner-occupied dwelling, a vacation rental home is a compatible use with other residential uses and a functional living environment.

This criterion is met.

C. The proposed development will be consistent with this code.

Finding: The vacation rental standards are addressed in findings below. If the proposed project complies with the standards of Article VII. Vacation Rentals (NMC Chapter 15.445.300-350) the application will be consistent with code requirements.

Applicable Criteria for Vacation Rental Homes (NMC 15.445.300 Special Use Standards, Article VII. Vacation Rental Homes)

15.445.310 Where allowed.

Vacation rental homes are permitted in areas shown on Chapter 15.305 NMC. The vacation rental home must be a structure approved for occupancy as a single-family dwelling unit.

Finding: The subject property is zoned R-2. The table below is an excerpt from NMC Chapter 15.305, which states that vacation rental homes are permitted as a conditional use in the R-2 zoning district. The owner has applied for a conditional use permit for the proposed vacation rental home. The structure was previously approved for occupancy as a single-family dwelling unit.

Use	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3
Vacation rental home	C	C	S	S	S	S(13)	S(13)	S(13)

Because vacation rental homes are permitted in the R-2 zoning district as a conditional use and the subject property possesses a single-family dwelling located in the R-2 zoning district, the use is permitted pursuant to approval of a conditional use permit.

This criterion is met.

15.445.320 Registration required.

Prior to use or advertising for use of a dwelling as a vacation rental home, the owner or operator shall register the vacation rental home with the city on forms provided by the director. The registration shall include such information required by the director, including the name and contact information for the owner, operator and a local contact.

Finding: According to NMC Chapter 3.10, agents and operators must register for and pay a Transient Lodging Tax for occupancy activities within the City of Newberg which are less than 30 successive calendar days. According to NMC Chapter 5.05, businesses that operate within the City are required to obtain and hold a business license. Because vacation rental homes are characterized as commercial uses involved in occupancy activities which are less than 30 successive calendar days, operators are required to comply with requirements identified in NMC Chapters 3.10 and 5.05 relating to Transient Lodging Tax and business licenses.

As required by NMC 15.445.320 and other code provisions, prior to the use of the home as a vacation rental the Owner or Applicant will be required to register the vacation rental home with

the City, will be required to pay the transient lodging tax, and will be required to obtain a Business License. This criterion will be met with the adherence to the aforementioned condition of approval.

15.445.330 Standards.

A. The vacation rental home shall provide a minimum of two parking spaces on the site that are available for use of the rental occupants.

B. The applicant shall provide for regular refuse collection.

C. The vacation rental home may not be occupied by more than two rental occupants per bedroom, up to a maximum of 15 people.

D. The premises of the vacation rental home may not include any occupied recreational vehicle, trailer, tent or temporary shelter during the rental occupancy.

Finding: The Applicant has requested to operate a vacation rental property.

The application materials (Attachment 1) originally submitted a request for a 5-bedroom vacation rental home with a maximum occupancy of 10 guests. However, the Yamhill County Assessor's data indicated that the structure had three bedrooms. The Applicant submitted a Change of Use building permit to establish a higher number of bedrooms (NSTR24-0068). Upon inspection and approval by the Building Official for an increase in the number of bedrooms, the maximum occupancy allowed by the conditional use approval may be increased to a higher number no greater than two (2) occupants per bedrooms. If such an increase in the number of bedrooms is approved by the Building Official and will be utilized for the vacation rental home, the Applicant shall notify the Planning Division of the change in bedroom count. The application materials also indicate that two off-street parking spaces are provided on the north side of the property. The parking spaces are located on the driveway providing access off of E Sheridan Street. Refuse collection is provided on Monday mornings, and the Applicant has indicated that they do not own an RV and have no plans of offering RV accommodation as part of the vacation rental offering. Because the standards relate to continued operation of the vacation rental, the Applicant shall ensure that the vacation rental will:

A. Provide two off-street parking spaces in the driveway at the subject property.

B. Maintain weekly refuse collection.

C. Offer a vacation rental in an existing single-family home with a maximum occupancy of two vacation rental guests per bedroom, a maximum of six (6) occupants.

D. Guest contracts shall not allow recreational vehicles, trailers, tents, or temporary shelters during rental occupancy.

These criteria are met with the adherence to the aforementioned conditions of approval.

15.445.340 Registration posting.

The applicant shall post the vacation rental home registration within the dwelling adjacent to the front door. At a minimum, the posting will contain the following information:

A. The name of the operator and a telephone number where the operator may be reached.

B. The telephone number for the police department.

C. The maximum number of occupants permitted to stay in the dwelling.

D. The standards for the rental occupancy.

E. The solid waste collection day.

Finding: The Applicant has acknowledged the requirements listed in NMC Section 15.445.340 and has stated that they will comply with these requirements. Because the Applicant has stated that they will comply with the requirements, prior to the use of the home as a vacation rental and during the use of the home as a vacation rental, the Applicant is required to post the required information for NMC 15.445.040(A-E) by the front door of the vacation rental.

Operator Name: Teresa Drevdahl

Operator Phone Number: 503-490-1175

Rental Management Company and Contact: TBD

Rental Management Company Phone Number: TBD

In the event of an emergency, call: 911 | Non-Emergency Police #: (503) 538-8321

Max Number of Guests: Six (6)

Trash Pick-Up Day: Monday

City of Newberg Vacation Rental Standards:

- Each vacation rental home shall provide a minimum of two parking spaces on the site that are available for use of the rental occupants.
- The Applicant shall provide for regular refuse collection.
- The vacation rental home may not be occupied by more than two rental occupants per bedroom, up to a maximum of six (6) people.
- The premises of the vacation rental home may not include any occupied recreational vehicle, trailer, tent, or temporary shelter during the rental occupancy.

Because the Applicant has indicated an interest in an increased bedroom count and is actively submitted an application to the Building Division to obtain approval of an increased bedroom count, Following inspection and approval by the Building Official, the posting shall be updated to reflect the maximum number of occupants, which shall be up to two (2) occupants per bedroom.

The requirements of NMC Section 15.445.040 will be met with adherence to the aforementioned conditions of approval.

15.445.350 Complaints and revocation of registration.

If the city receives two or more written complaints within a one-year period regarding a vacation rental home occupancy, and the issues have not been resolved through the code enforcement officer, the city manager may schedule a hearing to consider revoking the vacation rental home registration. The hearing may be conducted by the city manager, or other such hearings officer as the city manager may appoint for this purpose. The city manager shall notify the owner and operator of the hearing, those submitting written complaints, and may invite others to submit testimony at the hearing. After hearing the facts, the city manager may do any of the following:

A. Revoke the registration for noncompliance with the standards in this section. If this permit is revoked, the premises may not be used as a vacation rental home for a period of two years, or a period of lesser time as determined by the hearings officer.

B. Impose additional conditions necessary to fulfill the purpose of this section.

C. Establish a probationary period to monitor compliance.

D. Dismiss the complaint.

E. Refer the matter to the code enforcement officer for citation in municipal court or other appropriate jurisdiction.

The hearings officer's decision may be appealed to the planning commission by the applicant, owner, or person filing the written complaint within 14 calendar days of the date of the decision in the manner provided in NMC 15.100.170.

Finding: The City will follow the procedures listed above in the event complaints are received about the vacation rental home. The Applicant's narrative acknowledges Section 15.445.050 complaints and revocation of registration. The Applicant has indicated they understand the potential for an approval to be revoked if the requirements for operating a vacation rental are not adhered to.

CONCLUSION:

Based on the above-mentioned findings, the application meets the required criteria within the Newberg Municipal Code, subject to completion of and adherence to the attached conditions of approval in Exhibit "B".

Exhibit "B" to Planning Commission Order 2024-05
Conditions of Approval – File CUP23-0019
Vacation Rental Home at 215 N School Street

THE FOLLOWING MUST BE ACCOMPLISHED PRIOR TO USE AS A VACATION RENTAL AND ADHERED TO IN ORDER TO CONTINUE THE USE OF A VACATION RENTAL:

1. **Conditional Use:** The use of 215 N School Street as a vacation rental home shall be limited to two (2) months per year.

2. **Transient Lodging Tax and Business License:** Prior to the use of the home as a vacation rental the Owner or Applicant will be required to register the vacation rental home with the City, will be required to pay the transient lodging tax, and will be required to obtain a Business License.

3. **Parking**: Provide two off-street parking spaces in the driveway at the subject property.

4. **Refuse Collection:** Maintain weekly refuse collection.

5. **Maximum Occupancy**: Offer a vacation rental in an existing single-family home with a maximum occupancy of two vacation rental guests per bedroom, a maximum of six (6) occupants.

    a. Upon inspection and approval by the Building Official for an increase in the number of bedrooms, the maximum occupancy allowed by the conditional use approval may be increased to a higher number no greater than two (2) occupants per bedrooms. If such an increase in the number of bedrooms is approved by the Building Official and will be utilized for the vacation rental home, the Applicant shall notify the Planning Division of the change in bedroom count.

6. **Temporary Occupancy Limits**: Guest contracts shall not allow recreational vehicles, trailers, tents, or temporary shelters during rental occupancy.

7. **Posting:** Prior to the use of the home as a vacation rental and during the use of the home as a vacation rental, the Applicant is required to post the required information for NMC 15.445.040(A-E) by the front door of the vacation rental.

    a. Operator Name: Teresa Drevdahl

    Operator Phone Number: 503-490-1175

    Rental Management Company and Contact: TBD

    Rental Management Company Phone Number: TBD

In the event of an emergency, call: 911 | Non-Emergency Police #: (503) 538-8321

Max Number of Guests: Six (6)

Trash Pick-Up Day: Monday

City of Newberg Vacation Rental Standards:

- Each vacation rental home shall provide a minimum of two parking spaces on the site that are available for use of the rental occupants.
- The Applicant shall provide for regular refuse collection.
- The vacation rental home may not be occupied by more than two rental occupants per bedroom, up to a maximum of fourteen (14) people.
- The premises of the vacation rental home may not include any occupied recreational vehicle, trailer, tent, or temporary shelter during the rental occupancy.

b. Following inspection and approval by the Building Official, the posting shall be updated to reflect the maximum number of occupants, which shall be up to two (2) occupants per bedroom.

Request for an Appeal of Planning Commission Order 2024-05 Authorizing the Operation of a Vacation Rental Home at 215 N School Street (File No. APL24-0001/CUP23-0019)

Exhibit "D"

CUP23-0019 Application and Supplemental Materials, Agency Comments, and Staff Report

CUP23-0019

Attachment 1: Application Materials

TYPE III APPLICATION (QUASI-JUDICIAL REVIEW)

File #: CUP23-0019

TYPES – PLEASE CHECK ONE:

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

APPLICANT INFORMATION:

APPLICANT: Teresa Drevdahl

ADDRESS: 215 N. School St. CITY: Newberg STATE: OR ZIP: 97132

EMAIL ADDRESS: daleandteresa@earthlink.net PHONE: 503-490-1175 MOBILE: 503-490-1175

OWNER *(if different from above)*: Dale & Teresa Drevdahl PHONE: 503-490-1175

ADDRESS: 215 N School CITY: Newberg STATE: OR ZIP: 97132

ENGINEER/SURVEYOR: N/A CONTACT: _____

EMAIL ADDRESS: _____ PHONE: _____ MOBILE: _____

GENERAL INFORMATION:

PROJECT LOCATION: 215 N. School St. PROJECT VALUATION: $ _____

PROJECT DESCRIPTION/USE: Vacation Rental

MAP/TAX LOT NO. (i.e.3200AB-400): R3219AA-03300 SITE SIZE: _____ SQ. FT. ☐ ACRE ☐

COMP PLAN DESIGNATION: R-2 CURRENT ZONING: _____

CURRENT USE: Detached single family Home TOPOGRAPHY: _____

SURROUNDING USES:

NORTH: Cultural Center SOUTH: library employee parking

EAST: detached single family/vacation rentals WEST: library public parking

ATTACHED PROJECT CRITERIA AND REQUIREMENTS *(check all that is included)*

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

☑ 2 -Hard copies of full Application Packet ☐ 1 -Digital Copy of Full Application Packet

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

Annexation	p. 11
Comprehensive Plan / Zoning Map Amendment (site specific)	p. 18
Conditional Use Permit	p. 22
Short Term Rental	p. 26
Historic Landmark Modification/Alteration	p. 37
Planned Unit Development	p. 41

The Application Packet can be submitted to *Planning@newbergoregon.gov* or at 414 E First St., Newberg OR. 97132

2 physical copies must be mailed or brought into the Community Development Department

Tentative plans must substantially conform to all standards, regulations, and procedures officially adopted by the City of Newberg. All owners must sign the application or submit letters of consent. Incomplete or missing information may delay the approval process.

The above statements and information herein contained are in all respects true, complete, and correct to the best of my knowledge and belief.

Applicant Signature _____ Date 11-9-23

Owner Signature _____ Date _____

Teresa Drevdahl

Print Name

Dale J Drevdahl

Print Name

NEWBERG PERMIT CENTER FEE SCHEDULE

Effective Date: April 1,2023

5% TECHNOLOGY FEE WILL BE ADDED TO TOTAL FEES *(Resolution No. 2016-3268)*

PRE-APPLICATION REVIEW	**$100**
TYPE I (ADMINISTRATIVE REVIEW)	
OTHER:ANY TYPE I ACTION NOT SPECIFICALLY LISTED IN THIS SECTION	**$202**
HOME OCCUPATION BUSINESS LICENSE REVIEW	**$202**
ADU DESIGN REVIEW	**$202**
COTTAGE CLUSTER DESIGN REVIEW	**$404**
PROPERTY CONSOLIDATION	**$202**
CODE ADJUSTMENT	**$505**
* DESIGN REVIEW (DUPLEX OR COM. /IND. MINOR ADDITION REVIEW	**0.3% OF PROJECT VALUE, $505 MINIMUM**
MINOR MODIFICATION OR EXTENSION OF TYPE I DECISION	**$202**
MAJOR MODIFICATION OF TYPE I DECISION	**50% OF ORIGINAL FEE**
* PARTITION FINAL PLAT	**$1,015 + $88 PER PARCEL**
PROPERTY LINE ADJUSTMENT	**$1,015**
SIGN REVIEW	**$89 + $1.00 PER SQ. FT. OF SIGN FACE**
* SUBDIVISION, PUD, OR CONDOMINIUM FINAL PLAT	**$2,034 + $88 PER LOT OR UNIT**
HISTORIC LANDMARK MINOR ALTERATION/DEMOLITION	**$0**
TYPE II (LAND USE DECISION)	
OTHER-ANY TYPE II ACTION NOT SPECIFICALLY LISTED IN THIS SECTION	**$1,015**
MINOR MODIFICATION OR EXTENSION OF TYPE II DECISION	**$202**
MAJOR MODIFICATION OF TYPE II DECISION	**50% OF ORIGINAL FEE**
* DESIGN REVIEW (INCLUDING MOBILE/MANUFACTURED HOME PARKS)	**0.6% OF TOTAL PROJECT COST, $1,015 MINIMUM**
* PARTITION PRELIMINARY PLAT	**$1,015 + $88 PER PARCEL**
* SUBDIVISION PRELIMINARY PLAT	**$2,034 + $88 PER LOT**
VARIANCE	**$1,015**
TYPE III (QUASI-JUDICIAL REVIEW)	
OTHER-ANY TYPE III ACTION NOT SPECIFICALLY LISTED IN THIS SECTION	**$2,155**
ANNEXATION	**$2,833 + $270 PER ACRE**
COMPREHENSIVE PLAN AMENDMENT (SITE SPECIFIC)	**$2,655**
CONDITIONAL USE PERMIT	**$2,155**
MINOR MODIFICATION OR EXTENSION OF TYPE III DECISION	**$202**
MAJOR MODIFICATION OF TYPE III DECISION	**50% OF ORIGINAL FEE**
HISTORIC LANDMARK ESTABLISHMENT OR MODIFICATION	**$0**
HISTORIC LANDMARK ELIMINATION	**$2,471**
* SUBDIVISION PRELIMINARY PLAT	**$2,034 + $88 PER LOT**
* PLANNED UNIT DEVELOPMENT	**$4,304 + $88 PER LOT**
ZONING AMENDMENT (SITE SPECIFIC)	**$2,684**
TYPE IV (LEGISLATIVE AMENDMENTS)	
COMPREHENSIVE PLAN TEXT AMENDMENT OR LARGE SCALE MAP REVISION	**$3,053**
DEVELOPMENT CODE TEXT AMENDMENT OR LARGE SCALE MAP REVISION	**$3,053**
APPEALS	
TYPE I OR II APPEAL TO PLANNING COMMISSION	**$582**
TYPE I OR II APPEAL TO CITY COUNCIL	**$1,055**
TYPE III APPEAL TO CITY COUNCIL	**$1,239**
TYPE I ADJUSTMENTS OR TYPE II VARIANCES *(That are not designed to reculate the phyusical characteristics ofa use permitted outright)*	**$326**
EXHIBITOR LICENSE FEE APPPEAL TO THE CITY COUNCIL	**50% OF EXIBITOR LICENSE FEE**
OTHER FEES	
TECHNOLOGY FEE *(This fee will be added to all Planning, Engineering and Building Fees, does not apply to SDC fees)*	**5% OF TOTAL**
TREES IN PUBLIC RIGHT-OF-WAY REMOVAL PERMIT	**$10.50**
EXPEDITED LAND DIVISION	**$7,563 + $88 PER LOT OR UNIT**
URBAN GROWTH BOUNDARY AMENDMENT	**$4,833**
VACATION OF PUBLIC RIGHT-OF-WAY	**$2,005**
FEE-IN-LIEU OF PARKING PROGRAM	**$16,231 PER VEHICLE SPACE**
VERTICAL HOUSING DEVELOPMENT ZONE FEES	**$600 CERTIFICATION & APPLICATION FEE** **$400 ANNUAL MONITORING FEE**
BIKE RACK COST SHARING PROGRAM	**$100 PER RACK**
LICENSE FEES	
GENERAL BUSINESS	**$50**
HOME OCCUPATION	**$25**
PEDDLER/SOLICITOR/STREET VENDOR	**NO FEE (*GENERAL BUSINESS LICENSE FEE ONLY*)**
EXHIBITOR	**$148**
TEMPORARY MERCHANT	**$120/45 DAYS OR $401/PERPETUAL**

***ADDITIONAL LAND USE REVIEW FEES – ENGINEERING DEPARTMENT**

PLANNING REVIEW, PARTITION, SUBDIVISION & PUD'S(TYPE II/III APPLICATIONS)	**$329.90 FIRST 19 LOTS + $14.66 PER LOT OVER 19**
FINAL PLAT REVIEW: PARTITION & SUBDIVISION	**$329.90 + $8.29 PER LOT OR PARCEL**
DEVELOPMENT REVIEW FOR PUBLIC IMPROVEMENTS ON COMMERCIAL, INDUSTRIAL, INSTITUTIONAL ZONES, & MULTIFAMILY DEVELOPMENTS	**$461.37 1ST ACRE + $263.54 PER ADDITIONAL ACRES**

Adoption and Revision: Resolution NO: 2023-3887, March 20,2023

City of Newberg

FILE #: _____

COMMUNITY DEVELOPMENT
PLANNING DIVISION
(503) 537-1240
planning@newbergoregon.gov

VACATION RENTALS CRITERIA FORM

NOTE TO APPLICANTS - PROVIDE THIS INFORMATION WITH A TYPE II or TYPE III LAND USE APPLICATION AND A BUSINESS LICENSE APPLICATION.
For questions on this form, please contact the Planning Division at 503-537-1240 or email: planning@newbergoregon.gov.

SITE INFORMATION:

Address:	215 N. School
Applicant Name:	Teresa Drevdahl
Mailing Address:	215 N. School Newberg State/Zip: OR 97132
Phone:	503-490-1175 Email: daleandteresa@earthlink.net
This is a single-family house:	☐ Yes ☐ No House Type: _____

FUTURE REQUIREMENTS:

Initial to commit to meeting these requirements if the vacation rental application is approved.

TD I/we will register and pay the transient lodging tax each year.

TD I/we will post the vacation rental home registration that contains the information listed in the Development Code in 15.445.340.

TD I/we understand the complaint process and revocation of registration listed in the Development Code in 15.445.350.

GENERAL INFORMATION:

Provide a brief description of your proposed vacation rental including how it will be rented out.

The home located at 215 N. School is myself and my husbands primary residence, we absolutly love the historic charater and prime location of our home, located just one block from Historic Downtown Newberg, it is directly behind the library and across the street from the Cultural Center.

Our plan is to offer it as a vacation rental on airbNb and VRBO 6-8 wks during the summer this will not be a year round fulltime Vacation Rental, as it will be Owner Occupied at least 10 month per y

VACATION RENTALS CRITERIA:

Provide a brief response to the criteria listed below from the Newberg Development Code in 15.445.330.

1. The vacation rental home shall provide a minimum of two parking spaces on the site that are available for use of the rental occupants. Please state where those parking spaces will be located.

The parking spaces are located on the north/back side of property.

2. The applicant shall provide for regular refuse collection. Please state the location and collection day.

215 N. School/rear - north side, collection is Monday AM.

3. The vacation rental home may not be occupied by more than two rental occupants per bedroom, up to a maximum of 15 people. Please state how you'll meet this criterion.

I have 5 bedroom spaces and will be able to house up to 10 guests.

4. The premises of the vacation rental home may not include any occupied recreational vehicle, trailer, tent or temporary shelter during the rental occupancy. Please state how you'll meet this criterion.

I currently don't have an RV/tent and have no plans of getting any for the future or offering it as part of the Vacation Rental

CONDITIONAL USE CRITERIA:

Provide a brief response to the criteria listed below from the Newberg Development Code in 15.225.060.

1. The location, size, design and operating characteristics of the vacation rental are such that it can be made reasonably compatible with and have minimal impact on the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration to be given to the generation of traffic and the capacity of surrounding streets, and to any other relevant impact of the use.

The location and home are perfect afor use as a vacation rental as our direct Neighbors are (shared fences) library & library employee parking. The home is large and has many historic features, there are 2 dedicated parking spaces at the back of property there will be no negative traffic to the neighborhood

2. The proposed vacation rental will provide a convenient and functional living, working, shopping or civic environment, and will be as attractive as the nature of the use and its location and setting warrants.

The homes character and location is perfectly located directly behind library, and situated beside library employee parking, across the street from curtural center and a 2 minute walk to downtown Newberg. Most of the Neighboring homes across the street are full time Vacation Rentals.

Other/Continued Response Section:

COMMUNITY DEVELOPMENT
PLANNING DIVISION
(503) 537-1240
planning@newbergoregon.gov

FILE #: _____

BED & BREAKFAST CRITERIA FORM

NOTE TO APPLICANTS - PROVIDE THIS INFORMATION WITH A TYPE II or TYPE III LAND USE APPLICATION AND A BUSINESS LICENSE APPLICATION.
For questions on this form, please contact the Planning Division at 503-537-1240 or email: planning@newbergoregon.gov.

SITE INFORMATION:

Address:	
Applicant Name:	
Mailing Address:	State/Zip:
Phone:	Email:
This is a single-family house: ☐ Yes ☐ No	House Type: _____
The applicant continues to occupy the property while renting : ☐ Yes ☐ No	

FUTURE REQUIREMENTS:

Initial to commit to meeting these requirements if the bed and breakfast application is approved.

_____ I/we will register and pay the transient lodging tax each year.

_____ The bed and breakfast establishment conforms to the requirements of the current edition of the Oregon Structural Specialty Code and Oregon Fire Code.

_____ The duration of each guest's stay shall be limited to no more than seven (7) consecutive days and no more than 15 days with a 30-day period.

GENERAL INFORMATION:

Provide a brief description of your proposed bed and breakfast including how it will be rented out.

Project Statement

I am applying for a permit for a vacation rental at 215 N. School Newberg OR. 97132. The home is my primary residence and I plan on living in the home myself at least 10 months per year, and doing vacat rental with it for 6-8 weeks per year. I will be the only Employee.

The property sits directly behind the library and across the street from the cultural center and one block from Historic Downtown Newberg, it will not have any impact on traffic, odor or noise problems.

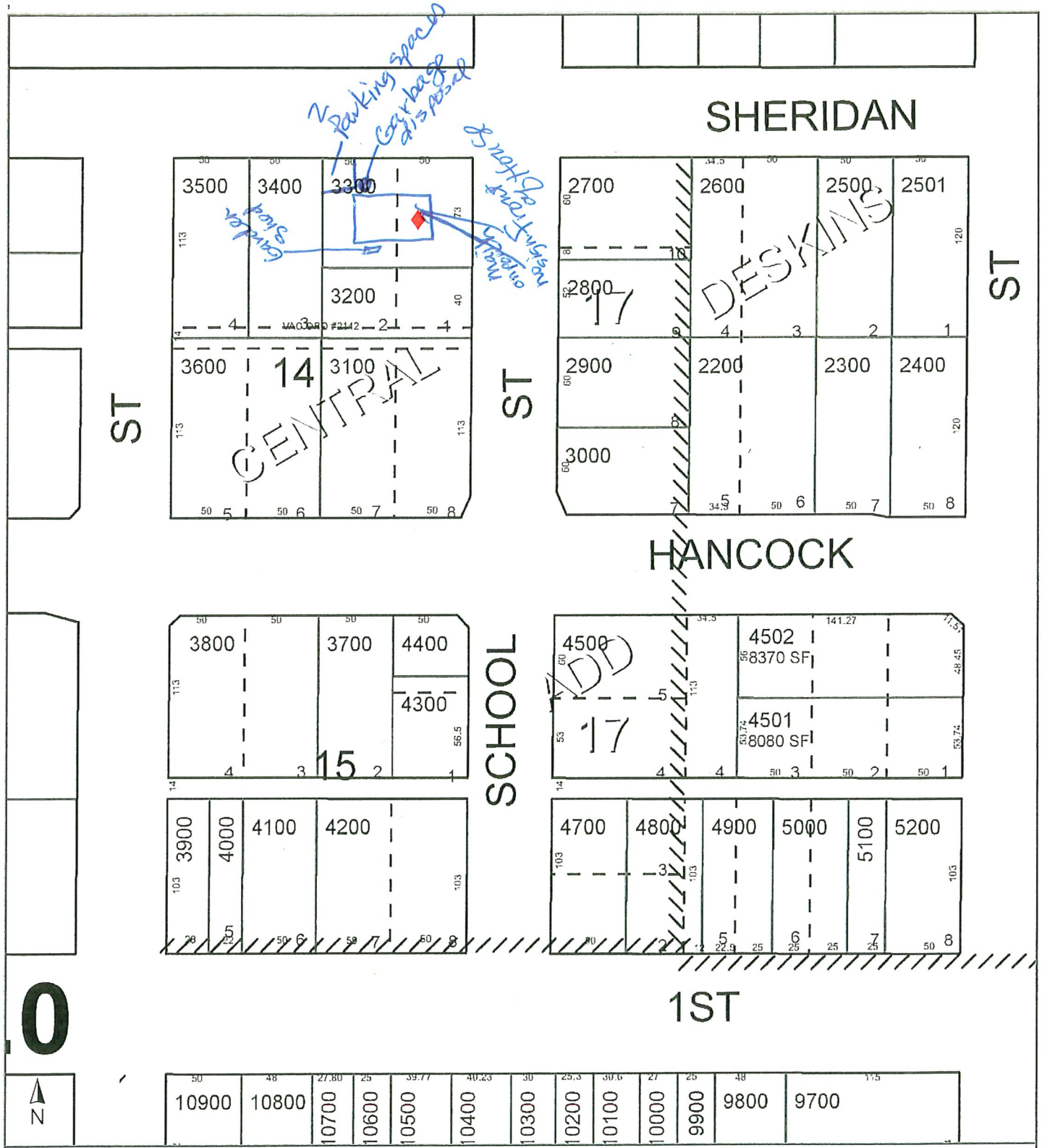
I will advertise on Airbnb & VRBO

Thanks for Your Consideration

R Dwoland

Wall

Rear
Parking



This map/plat is being furnished as an aid in locating the herein described land in relation to adjoining streets, natural boundaries and other land, and is not a survey of the land depicted. Except to the extent a policy of title insurance is expressly modified by endorsement, if any, the company does not insure dimensions, distances, location of easements, acreage or other matters shown thereon.

TICOR TITLE™
Company of Oregon

1455 SW Broadway, Suite 1450
(503)646-4444

OWNERSHIP AND ENCUMBRANCES REPORT WITH GENERAL INDEX LIENS
Informational Report of Ownership and Monetary and Non-Monetary Encumbrances

To ("Customer"): Teresa and Dale Drevdahl
215 N School Street
Newberg, OR 97132

Customer Ref.: _____
Order No.: 471823128322
Effective Date: October 3, 2023 at 08:00 AM
Charge: $300.00

The information contained in this report is furnished by Ticor Title Company of Oregon (the "Company") as a real property information service based on the records and indices maintained by the Company for the county identified below. THIS IS NOT TITLE INSURANCE OR A PRELIMINARY TITLE REPORT FOR, OR COMMITMENT FOR, TITLE INSURANCE. No examination has been made of the title to the herein described property, other than as specifically set forth herein. Liability for any loss arising from errors and/or omissions is limited to the lesser of the charge or the actual loss, and the Company will have no greater liability by reason of this report. THIS REPORT IS SUBJECT TO THE LIMITATIONS OF LIABILITY STATED BELOW, WHICH LIMITATIONS OF LIABILITY ARE A PART OF THIS REPORT.

THIS REPORT INCLUDES MONETARY AND NON-MONETARY ENCUMBRANCES.

Part One - Ownership and Property Description

Owner. The apparent vested owner of property ("the Property") as of the Effective Date is:

Teresa Drevdahl and Dale Drevdahl, as tenants by the entirety

Premises. The Property is:

(a) Street Address:

215 N School Street, Newberg, OR 97132

(b) Legal Description:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

Part Two - Encumbrances

Encumbrances. As of the Effective Date, the Property appears subject to the following monetary and non-monetary encumbrances of record, not necessarily listed in order of priority, including liens specific to the subject property and general index liens (liens that are not property specific but affect any real property of the named person in the same county):

EXCEPTIONS

1. Unpaid Property Taxes are as follows:

Fiscal Year:	2023-2024
Amount:	$4,812.67, plus interest, if any
Levy Code:	29.0
Account No.:	48399
Map No.:	R3219AA 03300

2. City Liens, if any, in favor of the City of Newberg.

3. Please be advised that our search did not disclose any open Deeds of Trust of record.

4. A judgment, for the amount shown below, and any other amounts due:

Amount:	$3,032.88
Debtor:	Dale J. Drevdahl and Teresa K. Drevdahl
Creditor:	Metropolitan Agencies, Inc.
Date entered:	October 25, 2023
County:	Yamhill
Court:	Circuit
Case No.:	23SC24734

Note: This map/plat is being furnished as an aid in locating the herein described Land in relation to adjoining streets, natural boundaries and other land. Except to the extent a policy of title insurance is expressly modified by endorsement, if any, the Company does not insure dimensions, distances or acreage shown thereon.

End of Reported Information

There will be additional charges for additional information or copies. For questions or additional requests, contact:

Deborah Clark
5035353743
deborah.clark@titlegroup.fntg.com

Ticor Title Company of Oregon
1455 SW Broadway, Suite 1450
Portland, OR 97201

EXHIBIT "A"

Legal Description

For APN/Parcel ID(s): 48399
For Tax Map ID(s): R3219AA03300

The North 70 feet of Lots 1 and 2, Block 14, CENTRAL ADDITION, in the City of Newberg, County of Yamhill, State of Oregon.

LIMITATIONS OF LIABILITY

"CUSTOMER" REFERS TO THE RECIPIENT OF THIS REPORT.

CUSTOMER EXPRESSLY AGREES AND ACKNOWLEDGES THAT IT IS EXTREMELY DIFFICULT, IF NOT IMPOSSIBLE, TO DETERMINE THE EXTENT OF LOSS WHICH COULD ARISE FROM ERRORS OR OMISSIONS IN, OR THE COMPANY'S NEGLIGENCE IN PRODUCING, THE REQUESTED REPORT, HEREIN "THE REPORT." CUSTOMER RECOGNIZES THAT THE FEE CHARGED IS NOMINAL IN RELATION TO THE POTENTIAL LIABILITY WHICH COULD ARISE FROM SUCH ERRORS OR OMISSIONS OR NEGLIGENCE. THEREFORE, CUSTOMER UNDERSTANDS THAT THE COMPANY IS NOT WILLING TO PROCEED IN THE PREPARATION AND ISSUANCE OF THE REPORT UNLESS THE COMPANY'S LIABILITY IS STRICTLY LIMITED. CUSTOMER AGREES WITH THE PROPRIETY OF SUCH LIMITATION AND AGREES TO BE BOUND BY ITS TERMS

THE LIMITATIONS ARE AS FOLLOWS AND THE LIMITATIONS WILL SURVIVE THE CONTRACT:

ONLY MATTERS IDENTIFIED IN THIS REPORT AS THE SUBJECT OF THE REPORT ARE WITHIN ITS SCOPE. ALL OTHER MATTERS ARE OUTSIDE THE SCOPE OF THE REPORT.

CUSTOMER AGREES, AS PART OF THE CONSIDERATION FOR THE ISSUANCE OF THE REPORT AND TO THE FULLEST EXTENT PERMITTED BY LAW, TO LIMIT THE LIABILITY OF THE COMPANY, ITS LICENSORS, AGENTS, SUPPLIERS, RESELLERS, SERVICE PROVIDERS, CONTENT PROVIDERS AND ALL OTHER SUBSCRIBERS OR SUPPLIERS, SUBSIDIARIES, AFFILIATES, EMPLOYEES, AND SUBCONTRACTORS FOR ANY AND ALL CLAIMS, LIABILITIES, CAUSES OF ACTION, LOSSES, COSTS, DAMAGES AND EXPENSES OF ANY NATURE WHATSOEVER, INCLUDING ATTORNEY'S FEES, HOWEVER ALLEGED OR ARISING, INCLUDING BUT NOT LIMITED TO THOSE ARISING FROM BREACH OF CONTRACT, NEGLIGENCE, THE COMPANY'S OWN FAULT AND/OR NEGLIGENCE, ERRORS, OMISSIONS, STRICT LIABILITY, BREACH OF WARRANTY, EQUITY, THE COMMON LAW, STATUTE OR ANY OTHER THEORY OF RECOVERY, OR FROM ANY PERSON'S USE, MISUSE, OR INABILITY TO USE THE REPORT OR ANY OF THE MATERIALS CONTAINED THEREIN OR PRODUCED, **SO THAT THE TOTAL AGGREGATE LIABILITY OF THE COMPANY AND ITS AGENTS, SUBSIDIARIES, AFFILIATES, EMPLOYEES, AND SUBCONTRACTORS SHALL NOT IN ANY EVENT EXCEED THE COMPANY'S TOTAL FEE FOR THE REPORT.**

CUSTOMER AGREES THAT THE FOREGOING LIMITATION ON LIABILITY IS A TERM MATERIAL TO THE PRICE THE CUSTOMER IS PAYING, WHICH PRICE IS LOWER THAN WOULD OTHERWISE BE OFFERED TO THE CUSTOMER WITHOUT SAID TERM. CUSTOMER RECOGNIZES THAT THE COMPANY WOULD NOT ISSUE THE REPORT BUT FOR THIS CUSTOMER AGREEMENT, AS PART OF THE CONSIDERATION GIVEN FOR THE REPORT, TO THE FOREGOING LIMITATION OF LIABILITY AND THAT ANY SUCH LIABILITY IS CONDITIONED AND PREDICATED UPON THE FULL AND TIMELY PAYMENT OF THE COMPANY'S INVOICE FOR THE REPORT.

THE REPORT IS LIMITED IN SCOPE AND IS NOT AN ABSTRACT OF TITLE, TITLE OPINION, PRELIMINARY TITLE REPORT, TITLE REPORT, COMMITMENT TO ISSUE TITLE INSURANCE, OR A TITLE POLICY, AND SHOULD NOT BE RELIED UPON AS SUCH. THE REPORT DOES NOT PROVIDE OR OFFER ANY TITLE INSURANCE, LIABILITY COVERAGE OR ERRORS AND OMISSIONS COVERAGE. THE REPORT IS NOT TO BE RELIED UPON AS A REPRESENTATION OF THE STATUS OF TITLE TO THE PROPERTY. THE COMPANY MAKES NO REPRESENTATIONS AS TO THE REPORT'S ACCURACY, DISCLAIMS ANY WARRANTY AS TO THE REPORT, ASSUMES NO DUTIES TO CUSTOMER, DOES NOT INTEND FOR CUSTOMER TO RELY ON THE REPORT, AND ASSUMES NO LIABILITY FOR ANY LOSS OCCURRING BY REASON OF RELIANCE ON THE REPORT OR OTHERWISE.

IF CUSTOMER (A) HAS OR WILL HAVE AN INSURABLE INTEREST IN THE SUBJECT REAL PROPERTY, (B) DOES NOT WISH TO LIMIT LIABILITY AS STATED HEREIN AND (C) DESIRES THAT ADDITIONAL LIABILITY BE ASSUMED BY THE COMPANY, THEN CUSTOMER MAY REQUEST AND PURCHASE A POLICY OF TITLE INSURANCE, A BINDER, OR A COMMITMENT TO ISSUE A POLICY OF TITLE INSURANCE. NO ASSURANCE IS GIVEN AS TO THE INSURABILITY OF THE TITLE OR STATUS OF TITLE. CUSTOMER EXPRESSLY AGREES AND ACKNOWLEDGES IT HAS AN INDEPENDENT DUTY TO ENSURE AND/OR RESEARCH THE ACCURACY OF ANY INFORMATION OBTAINED FROM THE COMPANY OR ANY PRODUCT OR SERVICE PURCHASED.

NO THIRD PARTY IS PERMITTED TO USE OR RELY UPON THE INFORMATION SET FORTH IN THE REPORT, AND NO LIABILITY TO ANY THIRD PARTY IS UNDERTAKEN BY THE COMPANY.

CUSTOMER AGREES THAT, TO THE FULLEST EXTENT PERMITTED BY LAW, IN NO EVENT WILL THE COMPANY, ITS LICENSORS, AGENTS, SUPPLIERS, RESELLERS, SERVICE PROVIDERS, CONTENT PROVIDERS, AND ALL OTHER SUBSCRIBERS OR SUPPLIERS, SUBSIDIARIES, AFFILIATES, EMPLOYEES AND SUBCONTRACTORS BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, INDIRECT, PUNITIVE, EXEMPLARY, OR SPECIAL DAMAGES, OR LOSS OF PROFITS, REVENUE, INCOME, SAVINGS, DATA, BUSINESS, OPPORTUNITY, OR GOODWILL, PAIN AND SUFFERING, EMOTIONAL DISTRESS, NON-OPERATION OR INCREASED EXPENSE OF OPERATION, BUSINESS INTERRUPTION OR DELAY, COST OF CAPITAL, OR COST OF REPLACEMENT PRODUCTS OR SERVICES, REGARDLESS OF WHETHER SUCH LIABILITY IS BASED ON BREACH OF CONTRACT, TORT, NEGLIGENCE, THE COMPANY'S OWN FAULT AND/OR NEGLIGENCE, STRICT LIABILITY, BREACH OF WARRANTIES, FAILURE OF ESSENTIAL PURPOSE, OR OTHERWISE AND WHETHER CAUSED BY NEGLIGENCE, ERRORS, OMISSIONS, STRICT LIABILITY, BREACH OF CONTRACT, BREACH OF WARRANTY, THE COMPANY'S OWN FAULT AND/OR NEGLIGENCE OR ANY OTHER CAUSE WHATSOEVER, AND EVEN IF THE COMPANY HAS BEEN ADVISED OF THE LIKELIHOOD OF SUCH DAMAGES OR KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY FOR SUCH DAMAGES.

END OF THE LIMITATIONS OF LIABILITY

RECORDING REQUESTED BY:

TICOR TITLE™
Company of Oregon

115 N College St., Ste 2
Newberg, OR 97132

AFTER RECORDING RETURN TO:
Order No.: 471823127098-MJH
Teresa Drevdahl and Dale Drevdahl
215 N School Street
Newberg, OR 97132-2717

SEND TAX STATEMENTS TO:
Teresa Drevdahl and Dale Drevdahl
215 N School Street
Newberg, OR 97132-2717

APN/Parcel ID(s): 48399
Tax/Map ID(s): R3219AA 03300

215 N School Street, Newberg, OR 97132-2717

Yamhill County Official Records **202308533**
DMR-DDMR
Stn=1036 DAVISM **09/15/2023 09:16:01 AM**
2Pgs $10.00 $11.00 $5.00 $60.00 **$86.00**

I, Keri Hinton, County Clerk for Yamhill County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.

Keri Hinton - County Clerk

SPACE ABOVE THIS LINE FOR RECORDER'S USE

TICOR TITLE 471823127098

STATUTORY WARRANTY DEED

Sharon K. Bowman, trustee of the Bowman Family Trust, dated May 2, 2003, as to an undivided 50% interest and Sharon K. Bowman, trustee of the Bowman Disclaimer Trust, dated May 6, 2010, as to an undivided 50% interest., Grantor, conveys and warrants to **Teresa Drevdahl and Dale Drevdahl, as tenants by the entirety**, Grantee, the following described real property, free and clear of encumbrances except as specifically set forth below, situated in the County of Yamhill, State of Oregon:

The North 70 feet of Lots 1 and 2, Block 14, CENTRAL ADDITION, in the City of Newberg, County of Yamhill, State of Oregon.

THE TRUE AND ACTUAL CONSIDERATION FOR THIS CONVEYANCE IS FIVE HUNDRED SEVENTY-FIVE THOUSAND AND NO/100 DOLLARS **($575,000.00)**. (See ORS 93.030).

Subject to:

Property taxes in an undetermined amount, which are a lien but not yet payable, including any assessments collected with taxes to be levied for the fiscal year 2023-2024.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

STATUTORY WARRANTY DEED
(continued)

IN WITNESS WHEREOF, the undersigned have executed this document on the date(s) set forth below.

Dated: 9/13/23

Bowman Family Trust, dated May 2, 2003

BY: Sharon K. Bowman, Trustee
Sharon K. Bowman
Trustee

Bowman Disclaimer Trust, dated May 6, 2010

BY: Sharon K. Bowman, Trustee
Sharon K. Bowman
Trurstee

State of OR
County of Yamhill

This instrument was acknowledged before me on Sept. 13, 2023 by Sharon K. Bowman as Trustee of the Bowman Family Trust, dated May 2, 2003, as to an undivided 50% interest.

Notary Public - State of Oregon

My Commission Expires: 6/16/2024

OFFICIAL STAMP
MARY JANE HENDRIX
NOTARY PUBLIC - OREGON
COMMISSION NO. 1000969
MY COMMISSION EXPIRES JUNE 16, 2024

State of OR
County of Yamhill

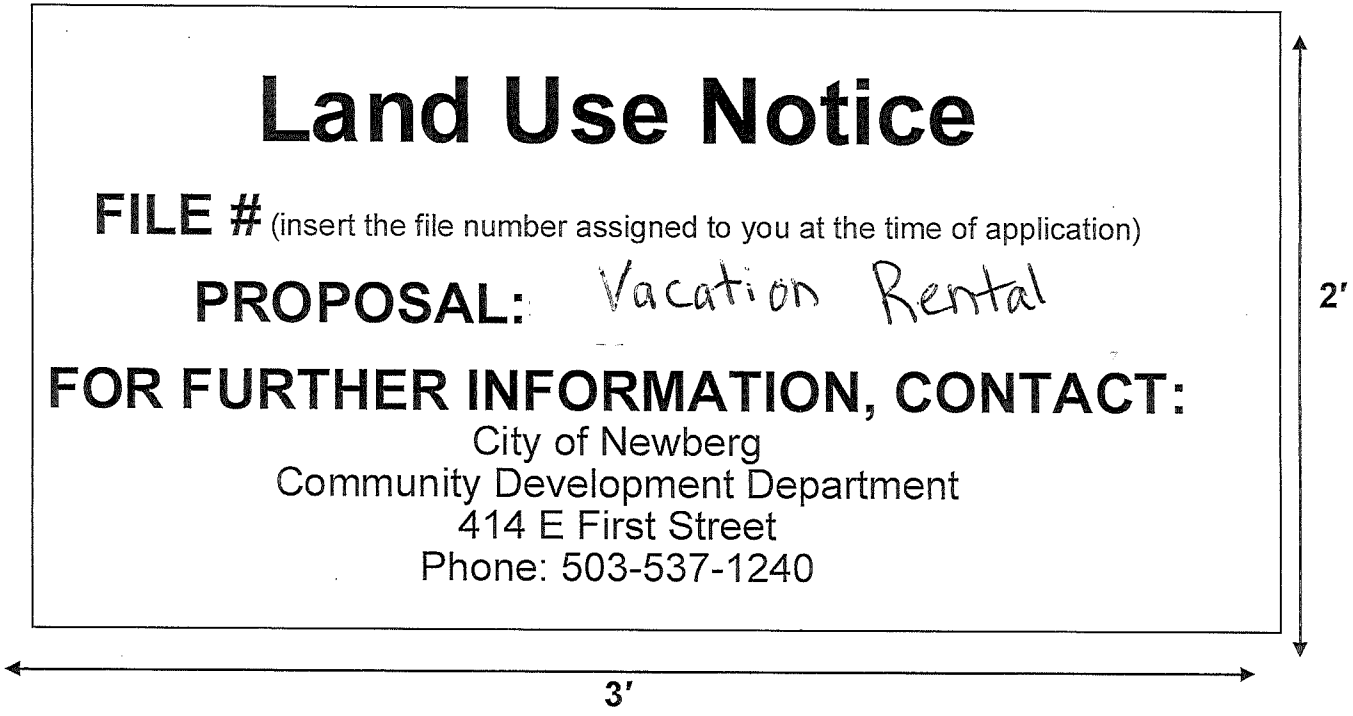
This instrument was acknowledged before me on Sept. 13, 2023 by Sharon K. Bowman as Trustee of the Bowman Disclaimer Trust, Trust dated May 6, 2010. as to an undivided 50% interest .

Notary Public - State of Oregon

My Commission Expires: 6/16/2024

OFFICIAL STAMP
MARY JANE HENDRIX
NOTARY PUBLIC - OREGON
COMMISSION NO. 1000969
MY COMMISSION EXPIRES JUNE 16, 2024

CITY OF NEWBERG
SAMPLE POSTED NOTICE



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

City of Newberg
Community Development Department
P.O. Box 970 ▪ 414 E First Street ▪ Newberg, Oregon 97132
503-537-1240. Fax 503-537-1272 www.newbergoregon.gov

NOTICE OF PLANNING COMMISSION HEARING ON A CONDITIONAL USE PERMIT – VACATION RENTAL

A property owner in your neighborhood submitted an application to the City of Newberg for a conditional use permit to use their home as a short-term vacation rental. The Newberg Planning Commission will hold a hearing on ***(insert date)*** at 7 p.m. at the Newberg Public Safety Building, 401 E Third Street, Newberg OR, to evaluate the proposal. You are invited to take part in the City's review of this project by sending in your written comments or by testifying before the Planning Commission. For more details about giving comments, please see the back of this sheet.

This application would allow for the approval of a conditional use to for a Vacation Rental that will be Applying for license to run a vacation rental for 2 months per year in my primary residence. I will manage it myself and use air bnb as advertising. There are 2 off Street parking spaces on the back (north) up to 10 occupants

APPLICANT: *(name)* Teresa Dreydahl

TELEPHONE: *(number)* 503-490-1175

PROPERTY OWNER: *(name)* Teresa Dreydahl

LOCATION: *(site address)* 215 N. School

TAX LOT NUMBER: *(Yamhill County Tax Map and Lot Number)* R3219AA-03300

Insert site map with the project location highlighted as shown on the adjacent sample map.

TICOR TITLE COMPANY

This map/plat is being furnished as an aid in locating the herein described land in relation to adjoining streets, natural boundaries and other land, and is not a survey of the land depicted. Except to the extent a policy of title insurance is expressly modified by endorsement, if any, the company does not insure dimensions, distances, location of easements, acreage or other matters shown thereon.

382286
R3219AA04501
STEVENS MARK & LORIE (DBA)
19155 NE HERRING LN
NEWBERG OR 97132

45506
R3218DD09300
MEGAN MARKEL
406 N BLAINE ST
NEWBERG OR 97132

45533
R3218DD09400
BELLINGAR ENTERPRISES LLC
24055 NE NORTH VALLEY RD
NEWBERG OR 97132

45551
R3218DD09500
LLP PROPERTIES LLC
PO BOX 1060
NEWBERG OR 97132

45659
R3218DD09900
CHARLES DITTMAN
410 N HOWARD ST
NEWBERG OR 97132

45695
R3218DD10000
FRANCIS ENTERPRISES INC
2950 CRATER LN
NEWBERG OR 97132

45711
R3218DD10100
FRANCIS ENTERPRISES INC
ATTN: BRIAN FRANCIS
NEWBERG OR 97132

45720
R3218DD10200
MARCIA ARTAJO
PO BOX 3236
NEWBERG OR 97132

45739
R3218DD10300
ROGER GENTRY
515 E SHERMAN ST
NEWBERG OR 97132

45748
R3218DD10400
SCHOOL STREET LLC
411 N SCHOOL ST
NEWBERG OR 97132

45775
R3218DD10700
AMY MACY
406 N SCHOOL ST
NEWBERG OR 97132

45784
R3218DD10800
COLLEEN MCCOMBS
8150 SW 191ST PL
BEAVERTON OR 97007

45793
R3218DD10900
DAVID MEHLER
402 N SCHOOL ST
NEWBERG OR 97132

45800
R3218DD11000
MARTIN CHLUMAK
400 N SCHOOL ST
NEWBERG OR 97132

45819
R3218DD11100
ANTONIO RUSSO
403 N COLLEGE ST
NEWBERG OR 97132

45828
R3218DD11200
ANTONIO RUSSO
403 N COLLEGE ST
NEWBERG OR 97132

46284
R3218DD14200
LINDA M NEWTON-CURTIS
314 N COLLEGE ST
NEWBERG OR 97132

46293
R3218DD14300
ROBERT CANEDAY
310 N COLLEGE ST
NEWBERG OR 97132

46300
R3218DD14400
ROBERT SOPPE
709 E SHERIDAN ST
NEWBERG OR 97132

46355
R3218DD14600
SEAN GANN
315 N COLLEGE ST
NEWBERG OR 97132

46373
R3218DD14700
RACHAEL KUBIK
610 E SHERMAN ST
NEWBERG OR 97132

46391
R3218DD14800
KATHLEEN HOLMAN
PO BOX 845
NEWBERG OR

46408
R3218DD14900
FOX TRUSTEE FOR
20805 NE HIGHWAY 240
NEWBERG OR 97132

46710
R3218DD14901
CONRADO PEREDA
PO BOX 382
NEWBERG OR 97132

46729
R3218DD15000
LON L PETERS
495 NW GREENLEAF RD
PORTLAND OR 97229

46738
R3218DD15100
MATTEW FOSKET
306 N SCHOOL ST
NEWBERG OR 97132

46747
R3218DD15200
AMID 601 LLC
1632 NW WILD RYE CIR
BEND OR 97703

46756
R3218DD15300
AMID 605 LLC
1632 NW WILD RYE CIR
BEND OR 97703

46765
R3218DD15400
C PETERSEN RENTALS LLC
1818 N PAGE CT
NEWBERG OR 97132

46774
R3218DD15500
ADAM LONG
611 E SHERIDAN ST
NEWBERG OR 97132

46783
R3218DD15600
LARRY HINDMAN
301 N COLLEGE ST
NEWBERG OR 97132

46792
R3218DD15700
CHEHALEM PARK & RECREATION DISTRICT
535 NE 5TH ST
MCMINNVILLE OR 97128

46809
R3218DD15800
PETER J FARR
314 E SHERMAN ST
NEWBERG OR 97132

46854
R3218DD16300
TIMOTHY ASSAD
315 E SHERIDAN ST
NEWBERG OR 97132

47611
R3219AB00100
WILLAMETTE EDUCATION SERVICE DISTRICT
2045 SW HIGHWAY 18
MCMINNVILLE OR 97128

47648
R3219AB00200
NEWBERG CITY OF
414 E FIRST ST
NEWBERG OR 97132

47684
R3219AB00300
LLP PROPERTIES LLC
PO BOX 1060
NEWBERG OR 97132

47700
R3219AB00400
NEWBERG CITY OF
414 E FIRST
NEWBERG OR 97132

47719
R3219AB00500
NEWBERG CITY OF
414 E FIRST
NEWBERG OR 97132

47826
R3219AB00600
CHEHALEM PARK & RECREATION DISTRICT
125 S ELLIOTT RD
NEWBERG OR 97132

47844
R3219AB00700
NEWBERG MASONIC TEMPLE ASSN
PO BOX 101
NEWBERG OR 97132

47853
R3219AB00800
LLP PROPERTIES LLC
PO BOX 1060
NEWBERG OR 97132

47862
R3219AB00900
NOAH JOHN CLAIR LLC
215 N BLAINE ST
NEWBERG OR 97132

47880
R3219AB01000
ZEYES REAL ESTATE LLC
1100 N MAIN AVE
SAN ANTONIO TX 78231

48157
R3219AA01800
MICHAEL PENDER
708 E SHERIDAN ST
NEWBERG OR 97132

48175
R3219AA01900
JOHN PAXMAN
700 E SHERIDAN ST
NEWBERG OR 97132

48184
R3219AA02000
DEGAJE LLC
708 E SHERIDAN ST
NEWBERG OR 97132

48200
R3219AA02100
FRANCIS ENTERPRISES INC
ATTN: BRIAN FRANCIS
NEWBERG OR 97132

48228
R3219AA02200
JAMES CAIN
27775 NW WILLIAMS CANYON RD
GASTON OR 97119

48255
R3219AA02300
JAMES CAIN
27775 NW WILLIAMS CANYON RD
GASTON OR 97119

48273
R3219AA02400
SALMON LLC
606 CORINNE DR
NEWBERG OR 97132

48308
R3219AA02500
GARY ALLEN
614 E SHERIDAN ST
NEWBERG OR 97132

48326
R3219AA02600
ANDREW WHITE
610 E SHERIDAN ST
NEWBERG OR 97132

48335
R3219AA02700
JOHN HYNES
600 E SHERIDAN ST
NEWBERG OR 97132

48344
R3219AA02800
MARY CLARK
210 N SCHOOL ST
NEWBERG OR 97132

48353
R3219AA02900
TATE 2018 FAMILY TRUST
206 N SCHOOL ST
NEWBERG OR 97132

48362
R3219AA03000
GMB INVESTORS LLC
1118 NORTHSHORE RD
LAKE OSWEGO OR 97034

48371
R3219AA03100
FINANCE NORTHWEST LLC
2071 WOODHILL ST NW
SALEM OR 97304

48380
R3219AA03200
NEWBERG CITY OF
PO BOX 970
NEWBERG OR 97132

48406
R3219AA03400
NEWBERG CITY OF
414 E 1ST ST
NEWBERG OR 97132

48415
R3219AA03500
NEWBERG CITY OF
414 E 1ST ST
NEWBERG OR 97132

48424
R3219AA03600
NEWBERG PUBLIC LIBRARY
503 E HANCOCK ST
NEWBERG OR 97132

48433
R3219AA03700
EAGLE NEWSPAPERS INC
PO BOX 12008
SALEM OR 97309

48442
R3219AA03800
EAGLE NEWSPAPERS INC
PO BOX 12008
SALEM OR 97309

48451
R3219AA03900
YAMHILL DEVELOPMENT CORP
ATTN: PASSMORE
PORTLAND OR 97217

48460
R3219AA04000
SCOTT RIPPLE
503 E 1ST ST
NEWBERG OR 97132

48479
R3219AA04100
LOUIE FAMILY TRUST
3268 SE SHERMAN ST
PORTLAND OR 97214

48488
R3219AA04200
NEWBERG PROPERTIES LLC
515 E 1ST ST
NEWBERG OR 97132

48497
R3219AA04300
EAGLE NEWSPAPERS INC
PO BOX 12008
SALEM OR 97309

48503
R3219AA04400
EAGLE NEWSPAPERS INC
PO BOX 12008
SALEM OR 97309

48512
R3219AA04500
FIRST INTERSTATE BANK
PO BOX 2609
CARLSBAD CA 92018

48683
R3219AA04700
FIRST INTERSTATE BANK
ATTN: THOMSON PROPERTY TAX SERVICES
CARLSBAD CA 92018

48709
R3219AA04800
CORRIGAN DANIEL O TRUSTEE FOR
1833 NW ST ANDREWS DR
MCMINNVILLE OR 97128

48718
R3219AA04900
PCH PROPERTIES LLC
311 N MERIDIAN ST
NEWBERG OR 97132

48727
R3219AA05000
VICENTE GONZALEZ
23501 NE SUNNYCREST RD
NEWBERG OR

48736
R3219AA05100
WALA PROPERTIES LLC
4695 RAYBELL RD NE
ST PAUL OR 97137

48745
R3219AA05200
NEWBERG CITY OF
414 E FIRST ST
NEWBERG OR 97132

48754
R3219AA05400
FIRST FEDERAL SAVINGS & LOAN ASSOC
PO BOX 239
MCMINNVILLE OR 97128

488644
R3219AA02501
MATT MEYER
1600 E 2ND ST
NEWBERG OR 97132

49655
R3219AB07600
TYLER FRANK
689 NW 12TH ST
MCMINNVILLE OR 97128

49673
R3219AB07700
RONALD JANSSEN
629 NW 19TH ST
MCMINNVILLE OR 97128

49682
R3219AB07800
OREGON FIRST COMMUNITY CREDIT UNION
ATTN: ACCOUNTS PAYABLE
COQUILLE OR 97423

49717
R3219AB07900
OREGON FIRST COMMUNITY CREDIT UNION
ATTN: ACCOUNTS PAYABLE
COQUILLE OR 97423

49735
R3219AB08000
NEWBERG CITY OF
ATTN: CITY HALL / FINANCE DEPT
NEWBERG OR 97132

49744
R3219AB08100
USA
535 NE 5TH ST
MCMINNVILLE OR 97128

558964
R3219AA04502
SLPD PROPERTIES LLC
115 N COLLEGE ST STE 3
NEWBERG OR 97132

CUP23-0019

Attachment 2: Agency Comments

COMMUNITY DEVELOPMENT
LAND USE APPLICATION REFERRAL

The enclosed material has been referred to you for your information and comment. Any comments you wish to make should be returned to the Community Development Department prior to: June 20, 2024
Please refer questions and comments to: James Dingwall

NOTE: Full size plans are available at the Community Development Department Office.

APPLICANT:	Dale & Teresa Drevdahl
REQUEST:	Short Term Vacation Rental
SITE ADDRESS:	215 N School St
LOCATION:	
TAX LOT:	R3219AA 03300
FILE NO:	CUP23-0019
ZONE:	R-2 (Medium Density Res)
HEARING DATE:	7/11/2024

Project Information is Attached:

- [x] Reviewed, no conflict.
- [ ] Reviewed; recommend denial for the following reasons:
- [ ] Require additional information to review. (Please list information required)
- [ ] Meeting requested.
- [ ] Comments. (Attach additional pages as needed)

BROOKS BATEMAN
Reviewed By:

Date:

BUILDING
Organization:

COMMUNITY DEVELOPMENT
LAND USE APPLICATION REFERRAL

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TAX LOT:	R3219AA 03300
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ZONE:	R-2 (Medium Density Res)
HEARING DATE:	7/11/2024

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☐ Reviewed; recommend denial for the following reasons:

☐ Require additional information to review. (Please list information required)

☐ Meeting requested.

_____ Comments. (Attach additional pages as needed)

_____ _____

Reviewed By: Date:

_____

Organization:

COMMUNITY DEVELOPMENT
LAND USE APPLICATION REFERRAL

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LOCATION:	
TAX LOT:	R3219AA 03300
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☐ Require additional information to review. (Please list information required)

☐ Meeting requested.

☐ Comments. (Attach additional pages as needed)

W E Worthey

Digitally signed by W E Worthey
DN: O=City of Newberg, CN=W E Worthey, E=will.worthey@newbergoregon.gov
Reason: I have reviewed this document
Location: your signing location here
Date: 2024.06.07 12:18:21-07'00'
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Reviewed By: Will Worthey CM

6/7/24

Date:

Organization:

COMMUNITY DEVELOPMENT
LAND USE APPLICATION REFERRAL

The enclosed material has been referred to you for your information and comment. Any comments you wish to make should be returned to the Community Development Department prior to: June 20, 2024
Please refer questions and comments to: James Dingwall

NOTE: Full size plans are available at the Community Development Department Office.

APPLICANT:	Dale & Teresa Drevdahl
REQUEST:	Short Term Vacation Rental
SITE ADDRESS:	215 N School St
LOCATION:	
TAX LOT:	R3219AA 03300
FILE NO:	CUP23-0019
ZONE:	R-2 (Medium Density Res)
HEARING DATE:	7/11/2024

Project Information is Attached:

- [✔] Reviewed, no conflict.
- [ ] Reviewed; recommend denial for the following reasons:
- [ ] Require additional information to review. (Please list information required)
- [ ] Meeting requested.
- [ ] Comments. (Attach additional pages as needed)

Brett Musick
Digitally signed by Brett Musick
DN: CN=Brett Musick, E=brett.musick@newbergoregon.gov
Reason: I have reviewed this document
Location: your signing location here
Date: 2024.06.10 15:26:32-07'00'
Foxit PhantomPDF Version: 10.1.10

Reviewed By:

6/10/24
Date:

CON PW Engineering
Organization:

COMMUNITY DEVELOPMENT
LAND USE APPLICATION REFERRAL

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☐ Meeting requested.

☐ Comments. (Attach additional pages as needed)

S.EGGIMAN
Reviewed By:

6/10/24
Date:

PGE
Organization:

Save changes Referral - CUP23-001... - Editing

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- [ ] Meeting requested.
- [ ] Comments. (Attach additional pages as needed)

Reviewed By: Date: 06/07/2024

Organization: Newberg-Dundee Police Department

COMMUNITY DEVELOPMENT
LAND USE APPLICATION REFERRAL

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Please refer questions and comments to: James Dingwall

NOTE: Full size plans are available at the Community Development Department Office.

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☐ Meeting requested.

_____ Comments. (Attach additional pages as needed)

_____ _____

Reviewed By: Date:

_____

Organization:

COMMUNITY DEVELOPMENT
LAND USE APPLICATION REFERRAL

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Please refer questions and comments to: James Dingwall

NOTE: Full size plans are available at the Community Development Department Office.

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REQUEST:	Short Term Vacation Rental
SITE ADDRESS:	215 N School St
LOCATION:	
TAX LOT:	R3219AA 03300
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ZONE:	R-2 (Medium Density Res)
HEARING DATE:	7/11/2024

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- [ ] Meeting requested.
- [ ] Comments. (Attach additional pages as needed)

Reviewed By: _____ Date: 6/10/24

Maintenance Superintendent
Organization:

COMMUNITY DEVELOPMENT
LAND USE APPLICATION REFERRAL

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Please refer questions and comments to: James Dingwall

NOTE: Full size plans are available at the Community Development Department Office.

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REQUEST:	Short Term Vacation Rental
SITE ADDRESS:	215 N School St
LOCATION:	
TAX LOT:	R3219AA 03300
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ZONE:	R-2 (Medium Density Res)
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- [ ] Meeting requested.
- [ ] Comments. (Attach additional pages as needed)

April Catan
Digitally signed by April Catan
DN: C=US, OU=Operations, O=City of Newberg, CN=April Catan, E=april.catan@newbergoregon.gov
Reason: I am the author of this document
Location: your signing location here
Date: 2024.06.10 09:02:25-07'00'
Foxit PhantomPDF Version: 10.1.10

Reviewed By:

6/10/24
Date:

City of Newberg
Organization:

COMMUNITY DEVELOPMENT
LAND USE APPLICATION REFERRAL

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Please refer questions and comments to: James Dingwall

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- [ ] Meeting requested.
- [ ] Comments. (Attach additional pages as needed)

Reviewed By: _____ Date: 6/7/24

City of Newberg - Operations
Organization:

PLANNING COMMISSION STAFF REPORT
VACATION RENTAL CONDITIONAL USE PERMIT
215 N SCHOOL STREET

HEARING DATE:	July 11, 2024
FILE NO:	CUP23-0019
REQUEST:	Conditional use permit approval to use a single-family dwelling as a vacation rental home
LOCATION:	215 N School Street
TAX LOT:	R3219AA 03300
APPLICANT:	Teresa Drevdahl
OWNER:	Teresa and Dale Drevdahl
ZONE:	R-2 (Medium Density Residential)
PLAN DISTRICT:	MDR (Medium Density Residential)

ATTACHMENTS:

Planning Commission Order 2024-05 with:
- Exhibit A: Findings
- Exhibit B: Conditions of Approval

Attachment 1: Application Materials
Attachment 2: Agency Comments

A. DESCRIPTION OF APPLICATION:

Teresa Drevdahl (Applicant) is requesting Conditional Use Permit (CUP) approval to use an existing three-bedroom single family dwelling as a vacation rental at 215 N School Street. The Applicant has submitted a Change of Use building permit (Permit No. NSTR24-0079) to increase the number of permitted bedrooms to five (5) upon inspection by the Building Official. According to the application materials (Attachment 1), the home is the Applicant's primary residence and is proposed to be used as a vacation rental home for 6-8 weeks during the summer. It is anticipated that the dwelling will be owner-occupied for at least 10 months per year. The Applicant has stated that there will be two off-street parking spaces in the driveway for use by short-term rental tenants. The subject property is located in the Medium Density Residential (R-2) zoning district. Attachment 1 contains the submitted application materials and Attachment 2 contains agency comments.

B. LOCATION: 215 N School Street

Aerial Map

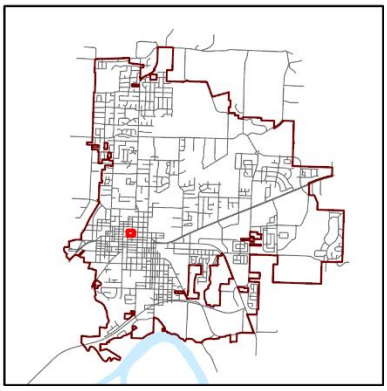
215 N School Street

Subject Property

Taxlots

N
W
E
S

0 50 100 Feet



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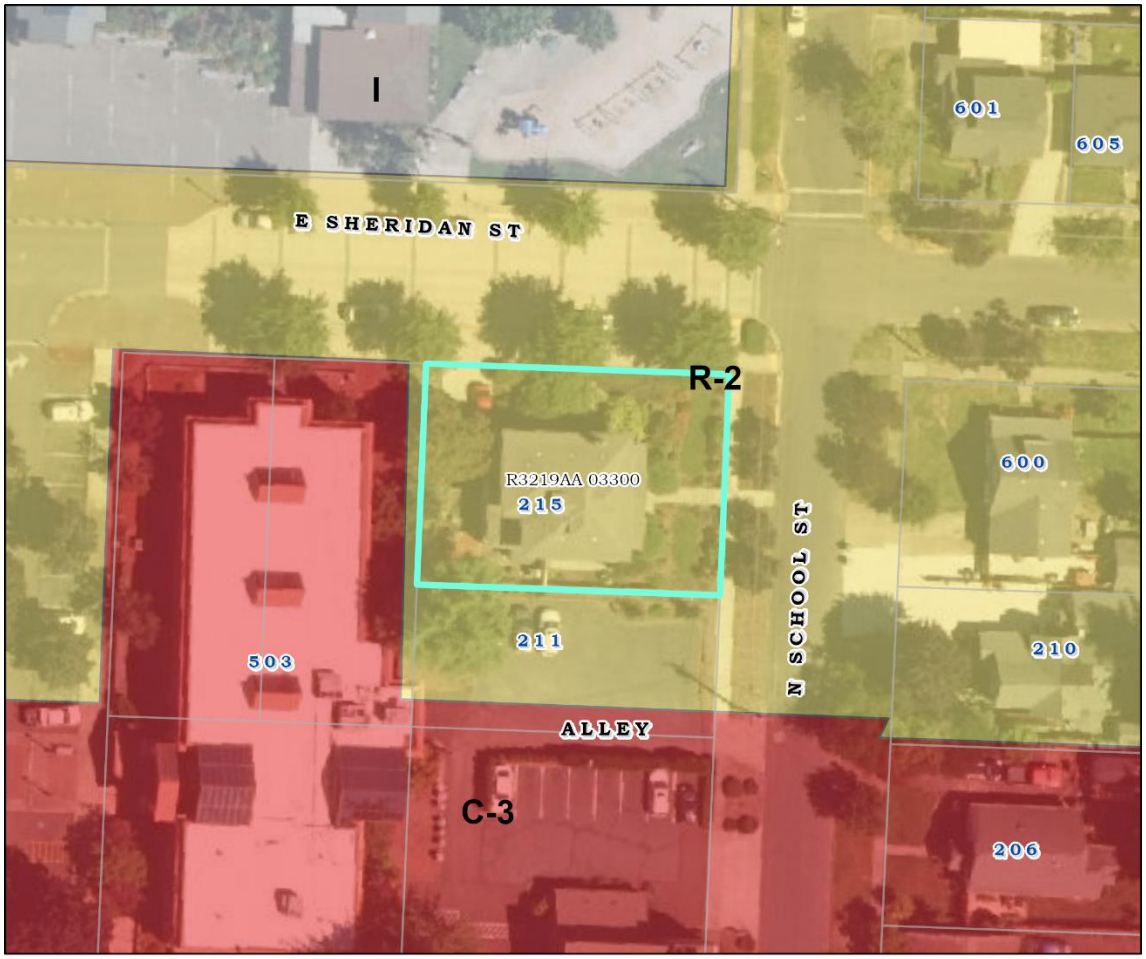
This map is intended for general planning purposes only.
Map updated: 11/13/2023

Zoning Map



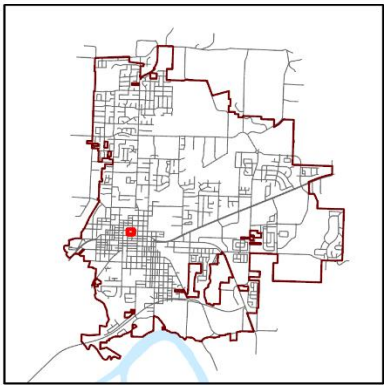
215 N School Street - Zoning

Subject Property
Taxlots

ZONING
C-3 Central Business District
R-2 Medium Density Residential
I Institutional

N
W E
S

0 50 100 Feet



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The map is created from various data sources and is subject to change without notice.
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Date Exported: 7/1/2024 2:10 PM

Public Utility Map

215 N School Street - Utilities

- Subject Property
- Taxlots
- Sewer Manholes
- Sewer Laterals
- Gravity Main
- Storm CleanOut
- Active Storm Inlet
- Collector Storm Pipe
- Collector Storm Pipe - Pvt
- Water Meter
- Water Valves
- CITY OF NEWBERG, Potable Main
- Hydrant Lateral
- Service Lateral

N W E S

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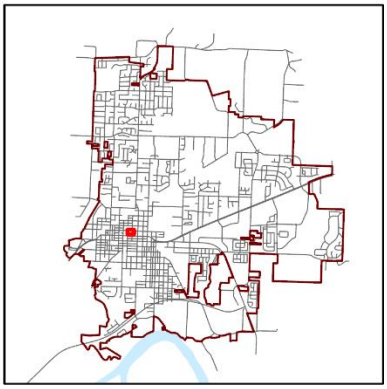

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C. SITE INFORMATION:

1. Location: 215 N School Street
2. Total Lot Size: 6,187 square feet
3. Topography: Flat
4. Current Land Uses: Single-family residential
5. Natural Features: Residential landscaping
6. Adjacent Land Uses:
   a. North: Institutional
   b. South: Single-family residential
   c. East: Single-family residential
   d. West: Institutional
7. Adjacent Zoning:
   a. North: I (Institutional)
   b. South: R-2 (Medium Density Residential)
   c. East: R-2 (Medium Density Residential)
   d. West: C-3 (Central Business District)
8. Access and Transportation: Access to the vacation rental will occur via E Sheridan Street. This section is classified as a Local Residential Street in the City's Transportation System Plan.
9. Utilities:

   Water: The City's GIS identifies an eight-inch water main located east of the subject property in N School Street which provides service to the property through a .75-inch service lateral.

   Wastewater: The City's GIS identifies an eight-inch wastewater main located east of the subject property in E Chandler Drive and connected to an eight-inch wastewater main in N Chase Street which provides service to the property through an existing service lateral.

Stormwater: The City's GIS identifies one storm inlets and a storm pipe north of the property in E Sheridan Street.

Overhead Lines: The property is served by overhead power lines. Any new overhead utility connections to the property must be undergrounded. See Newberg Municipal Code (NMC) 15.430.010 for exception provisions.

D. **PROCESS:** This CUP request is a Type III application and follows the procedures in NMC Section Code 15.100.050. The Planning Commission will hold a quasi-judicial public hearing on the application. The Commission will make a decision on the application based on the criteria listed in the attached findings. The Planning Commission's decision is final unless appealed. Important dates related to this application are as follows:

12/5/2023:	The Community Development Director deemed the application complete.
1/5/24:	The Applicant extended the 60-day and 120-day decision limit pursuant to NMC 15.100.140 and ORS 222.178 by 60 days to June 2, 2024, to allow time to provide additional information.
5/8/24:	The Applicant extended the 60-day and 120-day decision limit pursuant to NMC 15.100.140 and ORS 222.178 by 60 days to August 1, 2024, to allow time to provide additional information.
6/11/24:	The Applicant mailed notice to the property owners within 500 feet of the site.
6/11/24:	The Applicant posted notice on the site.
6/27/24:	The *Newberg Graphic* published notice of the Planning Commission hearing and notice was posted in four public places.
7/11/23:	The Planning Commission will hold a quasi-judicial public hearing to consider the application.

E. **AGENCY COMMENTS:** On June 7, 2024, the application was routed to several public agencies and City departments for review and comment. Comments and recommendations from City departments have been incorporated into the findings and conditions of approval. As of the writing of this report, the City received the following responses from the following referral agencies which are also provided in Attachment 2:

1. Building Official: Reviewed, no conflict.

2. City Manager: Reviewed, no conflict.

3. Community Development Director: Reviewed, no conflict.

4. Engineering: Reviewed, no conflict.

5. Newberg Dundee Police Department: Reviewed, no conflict.

6. Portland General Electric: Reviewed, no conflict.

7. Public Works Director: Reviewed, no conflict.

8. Public Works Maintenance: Reviewed, no conflict.

9. Public Works: Wastewater Treatment Plan: Reviewed, no conflict.

10. Public Works: Water Superintendent: Reviewed, no conflict.

F. **PUBLIC COMMENTS:** As of the writing of this report, the City has received no public comments related to this proposal.

G. **ANALYSIS:** The proposed vacation rental will be compatible with the surrounding residential uses and neighborhood based on the proposed use, size, operating characteristics, and scope. The characteristics of a vacation rental are not dissimilar from other rented and owned dwellings. The maximum occupancy is regulated by the number of bedrooms – two guests per bedroom. The Applicant originally submitted a request for a 5-bedroom vacation rental home with a maximum occupancy of 10 guests. However, the Yamhill County Assessor's data indicates that the structure has three bedrooms. The Applicant has submitted a Change of Use building permit (Permit No. NSTR24-0079) to increase the number of permitted bedrooms from three (3) to five (5), which will be verified by inspection of the Building Official prior to permit approval. The application materials indicate that two (2) off-street parking spaces will be available in the driveway for use by vacation rental guests. Refuse collection will be collected on Wednesdays.

H. **PRELIMINARY STAFF RECOMMENDATION:** The preliminary staff recommendation is made in the absence of public hearing testimony and may be modified after the close of the public hearing. At the time this report was drafted, staff recommends the following motion:

Move to adopt Planning Commission Order 2024-05, which approves the requested conditional use permit with the attached conditions of approval in Exhibit "B".

PLANNING COMMISSION ORDER 2024-05

AN ORDER APPROVING CONDITIONAL USE PERMIT CUP23-0019 FOR A VACATION RENTAL HOME AT 215 N SCHOOL STREET, YAMHILL COUNTY TAX LOT R3219AA 03300.

RECITALS

1. Teresa Drevdahl applied for a conditional use permit for a vacation rental home at 215 N School Street, Yamhill County Tax Lot R3219AA 03300.

2. After proper notice, the Newberg Planning Commission held a public hearing on July 11, 2024, to consider the application. The Commission considered testimony and deliberated.

3. The Newberg Planning Commission finds that the application meets the applicable Newberg Municipal Code criteria as shown in the findings in Exhibit "A".

The Newberg Planning Commission orders as follows:

1. Conditional Use Permit Application CUP23-0019 is hereby approved. Exhibit "B" is hereby adopted and by this reference incorporated.

2. The findings shown in Exhibit "A" are hereby adopted. Exhibit "A" is hereby adopted and by this reference incorporated.

3. This Order shall be effective on July 30, 2024, unless appealed prior to this date.

4. This Order shall expire one year after the effective date above if the applicant does not commence use of the home as a vacation rental unless an extension is granted per Newberg Development Code 15.225.100.

Adopted by the Newberg Planning Commission this 11th day of July 2024.

ATTEST:

Planning Commission Chair

Planning Commission Secretary

List of Exhibits:

Exhibit "A": Findings
Exhibit "B": Conditions of Approval

Exhibit "A" to Planning Commission Order 2024-05
Findings – File CUP23-0019
Vacation Rental at 215 N School Street

Formatting notes: The Newberg Municipal Code (NMC) criteria are written in ***italic bold*** font and the findings are written in regular font. The NMC criteria will be presented first, followed by the findings of fact. Finding of fact with underlined font indicate subsequent inclusion in Exhibit "B" Conditions of Approval.

Applicable Criteria for Conditional Use Permits (NMC Section 15.225.060)

15.225.060 General Conditional Use Permit Criteria – Type III

A conditional use permit may be granted through a Type III procedure only if the proposal conforms to all the following criteria:

A. The location, size, design and operating characteristics of the proposed development are such that it can be made reasonably compatible with and have minimal impact on the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration to be given to harmony in scale, bulk, coverage and density; to the availability of public facilities and utilities; to the generation of traffic and the capacity of surrounding streets, and to any other relevant impact of the development.

Finding: The vacation rental would occur in an existing three-bedroom, single-family dwelling located in downtown Newberg. The Applicant originally submitted a request for a 5-bedroom vacation rental home with a maximum occupancy of 10 guests. However, the Yamhill County Assessor's data indicated that the structure had three bedrooms. The Applicant submitted a Change of Use building permit to establish a higher number of bedrooms (Permit No. NSTR24-0068). Upon inspection by the Building Official and approval of a Change of Use Permit, the conditional use approval may be increased to a higher number of bedrooms meeting applicable code requirements. Weekly refuse collection is in place for the property and the applicant materials (Attachment 1) indicate that collection occurs on Monday. The subject property will provide two off-street parking spaces in the driveway.

The proposed vacation rental use is similar to other residential uses in design and operating characteristics. The home has three bedrooms and is therefore eligible to host a maximum of six (6) occupants. Upon inspection approval by the Building Official and approval of a Change of Use Permit, the maximum number of occupants may be higher, no greater than two (2) per the approved number of bedrooms. The subject property is located in the Medium Density Residential (R-2) zoning district is and abutted on the east and south by properties in the R-2 zoning district, on the north by property in the Institutional (I) zoning district, and to the west by properties in the Central Business District (C-3) zoning district.

Because the size, design and operating characteristics of a vacation rental home are similar to residential use of the existing single-family residence, the use is compatible with the surrounding residential neighborhood and would effectively function no differently than the existing residential uses in the surrounding area.

This criterion is met.

B. The location, design, and site planning of the proposed development will provide a convenient and functional living, working, shopping or civic environment, and will be as attractive as the nature of the use and its location and setting warrants.

Finding: The subject property is located in downtown Newberg, in close proximity to the Chehalem Cultural Center, George Fox University, and the downtown business district, which provides convenient and functional access to living, working, shopping, and civic amenities.

Because the operating characteristics of a vacation rental home are similar in size and scope to a long-term rental (longer than 30-days) or owner-occupied dwelling, a vacation rental home is a compatible use with other residential uses and a functional living environment.

This criterion is met.

C. The proposed development will be consistent with this code.

Finding: The vacation rental standards are addressed in findings below. If the proposed project complies with the standards of Article VII. Vacation Rentals (NMC Chapter 15.445.300-350) the application will be consistent with code requirements.

Applicable Criteria for Vacation Rental Homes (NMC 15.445.300 Special Use Standards, Article VII. Vacation Rental Homes)

15.445.310 Where allowed.

Vacation rental homes are permitted in areas shown on Chapter 15.305 NMC. The vacation rental home must be a structure approved for occupancy as a single-family dwelling unit.

Finding: The subject property is zoned R-2. The table below is an excerpt from NMC Chapter 15.305, which states that vacation rental homes are permitted as a conditional use in the R-2 zoning district. The owner has applied for a conditional use permit for the proposed vacation rental home. The structure was previously approved for occupancy as a single-family dwelling unit.

Use	**R-1**	**R-2**	**R-3**	**R-4**	**RP**	**C-1**	**C-2**	**C-3**
Vacation rental home	C	C	S	S	S	S(13)	S(13)	S(13)

Because vacation rental homes are permitted in the R-2 zoning district as a conditional use and the subject property possesses a single-family dwelling located in the R-2 zoning district, the use is permitted pursuant to approval of a conditional use permit.

This criterion is met.

15.445.320 Registration required.

> ***Prior to use or advertising for use of a dwelling as a vacation rental home, the owner or operator shall register the vacation rental home with the city on forms provided by the director. The registration shall include such information required by the director, including the name and contact information for the owner, operator and a local contact.***

Finding: According to NMC Chapter 3.10, agents and operators must register for and pay a Transient Lodging Tax for occupancy activities within the City of Newberg which are less than 30 successive calendar days. According to NMC Chapter 5.05, businesses that operate within the City are required to obtain and hold a business license. Because vacation rental homes are characterized as commercial uses involved in occupancy activities which are less than 30 successive calendar days, operators are required to comply with requirements identified in NMC Chapters 3.10 and 5.05 relating to Transient Lodging Tax and business licenses.

As required by NMC 15.445.320 and other code provisions, prior to the use of the home as a vacation rental the Owner or Applicant will be required to register the vacation rental home with the City, will be required to pay the transient lodging tax, and will be required to obtain a Business License. This criterion will be met with the adherence to the aforementioned condition of approval.

15.445.330 Standards.

> ***A. The vacation rental home shall provide a minimum of two parking spaces on the site that are available for use of the rental occupants.***
>
> ***B. The applicant shall provide for regular refuse collection.***
>
> ***C. The vacation rental home may not be occupied by more than two rental occupants per bedroom, up to a maximum of 15 people.***
>
> ***D. The premises of the vacation rental home may not include any occupied recreational vehicle, trailer, tent or temporary shelter during the rental occupancy.***

Finding: The Applicant has requested to operate a vacation rental property.

The application materials (Attachment 1) originally submitted a request for a 5-bedroom vacation rental home with a maximum occupancy of 10 guests. However, the Yamhill County Assessor's data indicated that the structure had three bedrooms. The Applicant submitted a Change of Use building permit to establish a higher number of bedrooms (NSTR24-0068). Upon inspection and approval by the Building Official for an increase in the number of bedrooms, the maximum occupancy allowed by the conditional use approval may be increased to a higher

number no greater than two (2) occupants per bedrooms. If such an increase in the number of bedrooms is approved by the Building Official and will be utilized for the vacation rental home, the Applicant shall notify the Planning Division of the change in bedroom count. The application materials also indicate that two off-street parking spaces are provided on the north side of the property. The parking spaces are located on the driveway providing access off of E Sheridan Street. Refuse collection is provided on Monday mornings, and the Applicant has indicated that they do not own an RV and have no plans of offering RV accommodation as part of the vacation rental offering. Because the standards relate to continued operation of the vacation rental, the Applicant shall ensure that the vacation rental will:

A. Provide two off-street parking spaces in the driveway at the subject property.

B. Maintain weekly refuse collection.

C. Offer a vacation rental in an existing single-family home with a maximum occupancy of two vacation rental guests per bedroom, a maximum of six (6) occupants.

D. Guest contracts shall not allow recreational vehicles, trailers, tents, or temporary shelters during rental occupancy.

These criteria are met with the adherence to the aforementioned conditions of approval.

15.445.340 Registration posting.

The applicant shall post the vacation rental home registration within the dwelling adjacent to the front door. At a minimum, the posting will contain the following information:

A. The name of the operator and a telephone number where the operator may be reached.

B. The telephone number for the police department.

C. The maximum number of occupants permitted to stay in the dwelling.

D. The standards for the rental occupancy.

E. The solid waste collection day.

Finding: The Applicant has acknowledged the requirements listed in NMC Section 15.445.340 and has stated that they will comply with these requirements. Because the Applicant has stated that they will comply with the requirements, prior to the use of the home as a vacation rental and during the use of the home as a vacation rental, the Applicant is required to post the required information for NMC 15.445.040(A-E) by the front door of the vacation rental.

Operator Name: Teresa Drevdahl

Operator Phone Number: 503-490-1175

Rental Management Company and Contact: TBD

Rental Management Company Phone Number: TBD

In the event of an emergency, call: 911 | Non-Emergency Police #: (503) 538-8321

Max Number of Guests: Six (6)

Trash Pick-Up Day: Monday

City of Newberg Vacation Rental Standards:

- Each vacation rental home shall provide a minimum of two parking spaces on the site that are available for use of the rental occupants.
- The Applicant shall provide for regular refuse collection.
- The vacation rental home may not be occupied by more than two rental occupants per bedroom, up to a maximum of six (6) people.
- The premises of the vacation rental home may not include any occupied recreational vehicle, trailer, tent, or temporary shelter during the rental occupancy.

Because the Applicant has indicated an interest in an increased bedroom count and is actively submitted an application to the Building Division to obtain approval of an increased bedroom count, Following inspection and approval by the Building Official, the posting shall be updated to reflect the maximum number of occupants, which shall be up to two (2) occupants per bedroom.

The requirements of NMC Section 15.445.040 will be met with adherence to the aforementioned conditions of approval.

15.445.350 Complaints and revocation of registration.

If the city receives two or more written complaints within a one-year period regarding a vacation rental home occupancy, and the issues have not been resolved through the code enforcement officer, the city manager may schedule a hearing to consider revoking the vacation rental home registration. The hearing may be conducted by the city manager, or other such hearings officer as the city manager may appoint for this purpose. The city manager shall notify the owner and operator of the hearing, those submitting written complaints, and may invite others to submit testimony at the hearing. After hearing the facts, the city manager may do any of the following:

A. Revoke the registration for noncompliance with the standards in this section. If this permit is revoked, the premises may not be used as a vacation rental home for a period of two years, or a period of lesser time as determined by the hearings officer.

B. Impose additional conditions necessary to fulfill the purpose of this section.

C. Establish a probationary period to monitor compliance.

D. Dismiss the complaint.

E. Refer the matter to the code enforcement officer for citation in

municipal court or other appropriate jurisdiction.

The hearings officer's decision may be appealed to the planning commission by the applicant, owner, or person filing the written complaint within 14 calendar days of the date of the decision in the manner provided in NMC 15.100.170.

Finding: The City will follow the procedures listed above in the event complaints are received about the vacation rental home. The Applicant's narrative acknowledges Section 15.445.050 complaints and revocation of registration. The Applicant has indicated they understand the potential for an approval to be revoked if the requirements for operating a vacation rental are not adhered to.

CONCLUSION:

Based on the above-mentioned findings, the application meets the required criteria within the Newberg Municipal Code, subject to completion of and adherence to the attached conditions of approval in Exhibit "B".

Exhibit "B" to Planning Commission Order 2024-05
Conditions of Approval – File CUP23-0019
Vacation Rental Home at 215 N School Street

THE FOLLOWING MUST BE ACCOMPLISHED PRIOR TO USE AS A VACATION RENTAL AND ADHERED TO IN ORDER TO CONTINUE THE USE OF A VACATION RENTAL:

1. **Transient Lodging Tax and Business License:** Prior to the use of the home as a vacation rental the Owner or Applicant will be required to register the vacation rental home with the City, will be required to pay the transient lodging tax, and will be required to obtain a Business License.

2. **Parking**: Provide two off-street parking spaces in the driveway at the subject property.

3. **Refuse Collection:** Maintain weekly refuse collection.

4. **Maximum Occupancy**: Offer a vacation rental in an existing single-family home with a maximum occupancy of two vacation rental guests per bedroom, a maximum of six (6) occupants.

    a. Upon inspection and approval by the Building Official for an increase in the number of bedrooms, the maximum occupancy allowed by the conditional use approval may be increased to a higher number no greater than two (2) occupants per bedrooms. If such an increase in the number of bedrooms is approved by the Building Official and will be utilized for the vacation rental home, the Applicant shall notify the Planning Division of the change in bedroom count.

5. **Temporary Occupancy Limits**: Guest contracts shall not allow recreational vehicles, trailers, tents, or temporary shelters during rental occupancy.

6. **Posting:** Prior to the use of the home as a vacation rental and during the use of the home as a vacation rental, the Applicant is required to post the required information for NMC 15.445.040(A-E) by the front door of the vacation rental.

    a. Operator Name: Teresa Drevdahl

    Operator Phone Number: 503-490-1175

    Rental Management Company and Contact: TBD

    Rental Management Company Phone Number: TBD

    In the event of an emergency, call: 911 | Non-Emergency Police #: (503) 538-8321

    Max Number of Guests: Six (6)

Trash Pick-Up Day: Monday

City of Newberg Vacation Rental Standards:

- Each vacation rental home shall provide a minimum of two parking spaces on the site that are available for use of the rental occupants.
- The Applicant shall provide for regular refuse collection.
- The vacation rental home may not be occupied by more than two rental occupants per bedroom, up to a maximum of fourteen (14) people.
- The premises of the vacation rental home may not include any occupied recreational vehicle, trailer, tent, or temporary shelter during the rental occupancy.

b. Following inspection and approval by the Building Official, the posting shall be updated to reflect the maximum number of occupants, which shall be up to two (2) occupants per bedroom.

Request for an Appeal of Planning Commission Order 2024-05 Authorizing the Operation of a Vacation Rental Home at 215 N School Street (File No. APL24-0001/CUP23-0019)

Exhibit "E"

Draft minutes of the July 11, 2024 Newberg Planning Commission meeting

Planning Commission Meeting
July 11, 2024

CALL MEETING TO ORDER
Meeting called to order at 7:00 p.m.

ROLL CALL
Commissioners Present:

Jason Dale (Chair)
Layne Quinn (Vice Chair)
Kriss Wright
Abby Seits (Student)
Michael Griffiths
Linda Newton-Curtis
Randy Rickert
Jose Villalpando

City Council Representative:

Glenn Cloyd

Staff Present:

Planning Manager: Clay Downing
Assistant Planner: James Dingwall
Associate Planner: Jeremiah Cromie
Administrative Assistant: Fé Bates
Police Officer: Eric Ronning

PUBLIC COMMENTS
None

CONSENT CALENDAR

Approve May 1, 2024 Minutes & May 9, 2024 Minutes

Action:	Approve the minutes from 5/1/24 & 5/9/24
Motion:	Commissioner Wright
Second:	Commissioner Newton-Curtis
Vote:	Unanimous Yes

QUASI-JUDICIAL PUBLIC HEARINGS

DRAFT

CUP23-0019: Conditional use permit to use a single-family dwelling as a vacation rental home at 215 N School Street.
Assistant Planner presented the Staff report to the Planning Commission and answered Commissioners questions about it.

Chair opened the floor Public Testimony:
PROPONENT: Applicant Teresa Drevdahl testified to the Commissioners in regard to her application and answered questions from Planning Commissioners.

OPPONENT: Robert Soppe asked that the application be denied due to the provisions in NMC 15.225.060A not being met. He discussed how the proposed use does not meet the minimal impact on the livability for abutting properties and the surrounding neighborhood due to the current number of Vacation Rental homes in that neighborhood and how this has negatively impacted the parking availability in the neighborhood.

Chair Closed the Public Testimony and asked for final comments from Staff:
Staff recommended approval of CUP23-0019 a Conditional use permit to use a single-family dwelling as a vacation rental home at 215 N School Street.

Chair Opened the floor for Planning Commissioners deliberation:
The Planning Commission considered the testimonies and staff report from Staff and found that the proposed full-time operation of an additional vacation rental in that vicinity would create a negative impact on the livability of the surrounding neighbors due to the density of Vacation Rentals in that area. They determined that the use as a Part-time vacation rental would have minimal impact on livability of abutting properties and the surrounding neighborhood and conditioned that the applicant can use the home as a Vacation Rental for two (2) months per year.

Action: Approve CUP23-0019 as a vacation rental home at 215 N School St, Subject to the condition from Planning Commission that the home shall only be used as a Vacation Rental Home for two (2) months per year.
Motion: Commissioner Wright
Second: Commissioner Quinn
Vote: Unanimous Yes

LEGISLATIVE PUBLIC HEARINGS

DCA23-0002: Daycare Code Amendments (Legislative): *Consider code amendments related to allowing daycares as permitted uses in light industrial zones, reducing parking requirements and defining play structures and where they can be placed.*
Associate Planner presented the Staff report to the Planning Commission and answered Commissioners questions about it.

DRAFT

Chair opened the floor Public Testimony: NONE

Chair Closed the Public Testimony and asked for final comments from Staff:
Staff Recommends approving RES2024-394 which recommends City Council adopt the Daycare Code Amendments

Chair Opened the floor for Panning Commissioners deliberation:
Commissioners agreed that the proposed code changed is beneficial for the City.

Action: Recommend adopting RES2024-394 as written by Staff.
Motion: Commissioner Griffiths
Second: Commissioner Wright
Vote: Unanimous Yes

DCA24-0001: Sign Code Amendments (Legislative): ***Consider code amendments related to the sign code by updating definitions of free standing and portable signs as well as updating regulations regarding signs in the Right-of-Way***
Associate Planner presented the Staff report to the Planning Commission and answered Commissioners questions about it.

Chair opened the floor Public Testimony:
PROPONENT: Seargent Eric Ronning addressed the planning commission with why the police department requested this change be made by the Planning Department and answered the Planning Commissioner's questions.

OPPONENT: Robert Soppe informed the commissioners that he was part of the work done on the Sign code amendment done nine years ago and gave some history as to why some of the Sign code is written the way it is. He expressed that he is happy that the definition between portable and free standing is getting cleared up but feels that the rest of the code is not being reviewed as carefully as it could be. He brought up a few examples of possible discrepancies in the code that could create issues.

Chair Closed the Public Testimony and asked for final comments from Staff:
Staff Recommends approving RES2024-395 which recommends City Council adopt the Sign Code Amendments

Chair Opened the floor for Panning Commissioners deliberation:
Commissioners asked clarification questions from staff.
Action: Approve DCA24-0001 for recommendation to City Council for Sign Code Amendments updating definitions of free standing and portable signs as well as updating regulations regarding signs in the Right-of-Way
Motion: Commissioner Wright

Second: Commissioner Quinn
Vote: Unanimous Yes

ITEMS FROM STAFF

City Planning Manager Clay Downing reviewed with the Commission the anticipated schedule of land use projects for the upcoming months.

City Planning Manager Clay Downing informed the Commission that the staff is working on a series of initiatives aimed at improving customer service outcomes which are tentatively scheduled to be presented to the City Council on July 15th. For one of the initiatives, the Planning Division will be reviewing its staff reports to make the materials reviewed by the Planning Commission and the public more informative, effective, and user friendly. He requested recommendations from the planning commission and involvement in upcoming public outreach.
He continued to update the Planning Commission of the other items staff have been working on updating and that the Planning Division work plan and Progress reports can be found online.

ITEMS FROM COMMISSIONERS

Planning Commissioners introduced themselves to the new members and the City Council Representatives.

ADJOURNMENT

Meeting adjourned at 9:02 p.m.

Attest:

Jason Dale, Planning Commission Chair

Fé Bates, Office Assistant

DRAFT

Request for an Appeal of Planning Commission Order 2024-05 Authorizing the Operation of a Vacation Rental Home at 215 N School Street (File No. APL24-0001/CUP23-0019)

Exhibit "F"

APL24-0001 Application and Supplemental Materials

APPEAL APPLICATION

File #: APL24-0001

TYPE - PLEASE CHECK ONE:

- ☐ Appeal of a Type I Decision (i.e. Design Review for a Duplex, Sign, or Single Family Residence)
- ☐ Appeal of a Type II Decision (i.e. Variance, or Design Review, Subdivision)
- ☒ Appeal of a Type III Decision (i.e. Conditional Use Permit)
- ☐ Appeal of Peddler, Solicitor, or Temporary Merchant
- ☐ Other (explain): _____

APPLICANT INFORMATION:

APPLICANT: Teresa Drevdahl
ADDRESS: 215 N. School St. Newberg OR. 97132
PHONE: 503-490-1175 MOBILE: Same FAX: _____
CO-APPLICANT (if applicable): N/A PHONE _____
ADDRESS: _____

GENERAL INFORMATION:

PROJECT NAME: _____
FILE NUMBER OF PROJECT BEING APPEALED: _____
PROJECT LOCATION: 215 N. School St. Newberg OR. 97132
PROJECT DESCRIPTION / USE: Vacation Rental

BRIEFLY DESCRIBE THE REASON FOR YOUR APPEAL:

Decision made by planning Commision is very restrictive, I need my license to be opened up so that I don't have to pick 2 specific monthes.

SPECIFIC APPEAL REQUIREMENTS ARE ATTACHED

General Checklist: ☐ Fees ☐ Notice Information ☐ Written Response Supporting Appeal.

THE ABOVE STATEMENTS AND INFORMATION HEREIN CONTAINED ARE IN ALL RESPECTS TRUE, COMPLETE, AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. I AFFIRM THAT I WAS PARTY TO THE INITIAL PROCEEDINGS.

Applicant Signature Date 7-31-24 Owner Signature Date 7-31-24

Teresa Drevdahl
Print Name

Teresa Drevdahl
Print Name

James Dingwall

From: Teresa Drevdahl <daleandteresa@earthlink.net>
Sent: Sunday, August 4, 2024 11:15 PM
To: James Dingwall
Subject: My response to the 3 questions

This email originated from outside the City of Newberg's organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

1) This is in response to the decision made by the planning commission regarding 215 N School st. CUP23-0019 The hearing Date was 7-11-24

2) my name is Teresa Drevdahl and I am the owner of the property located at 215 N School st. I did participate in the planning commission hearing on 7-11-24 cup23-0019 but when one of the commissioners wanted to question me about allowing the vacation rental open for 2 months out of the year instead of the whole year I was not given the opportunity to explain because the meeting had progressed beyond that point.

3)I am appealing the decision because the rules of the decision I would have to pick 2 months out of every 12 months to open my home as a vacation rental this is to restrictive and will not work.

I regret very much that I didn't get to explain to the planning commission what I am in the process of creating at 215 N school, as it will not be a typical vacation rental. This beautiful historic home will be a fine art experience vacation rental, every room will be presented as its own unique gallery space showcasing original one of a kind, Fine Art and Sculpture from all over Europe as well as art created locally, many of the paintings showcased are centuries old. The art will flow into the outdoor space as well with a beautiful fountain and garden areas.
I plan on living in my home when it is not occupied, but I need to have it available for at least 10 months out of the year, what I envision for a year is dry few or no bookings in January and February, several days or a weekend in March, April and May and 10-15 days spread out over the whole month in June,July,August, September and then a few days or weekend in October,November,December.

PLANNING DIVISION FILE #: APL 24-0001
Cup 23-0019

CITY OF NEWBERG
AFFIDAVIT OF NOTICING

REFERENCE ATTACHED LIST(S)/NOTICE(S)

I, Teresa Dreyfahl, do hereby certify that the attached Notice of Land Use Action was:

a) mailed to the following list of property owners, by United States mail, postage prepaid on 14th (date);

b) posted on the site according to standards established in Newberg Development Code §15.100.260 on June 20th & updated on 8-15-24 (date)

I acknowledge that failure to mail the notice in a timely manner constitutes an agreement by the applicant to defer the 120-day process limit and acknowledge that failure to mail will result in the automatic postponement of a decision on the application *15.100.210.(D)(2)* 9-3-24 (date).

Signature 8-16-24 Date

Teresa Dreyfahl
Print name

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

NOTICE OF APPEAL
APPEAL OF A PLANNING COMMISSION DECISION OF A CONDITIONAL USE PERMIT

A property owner in your neighborhood submitted an application to the City of Newberg to allow the use of their home located at 215 N School Street with the zoning of R-2 (Medium Density Residential) as a vacation rental home, which requires a Conditional Use Permit to be approved by the Planning Commission.

On July 12, 2024 the Planning Commission approved CUP23-0019 subject to conditions of approval. An appeal was filed by the Applicant and will be heard and decided by the City Council. The basis of the appellant's appeal is that the decision by the Planning Commission is overly restrictive in its interpretation of NMC 15.225.060(A) and imposing a condition limiting the operation of a vacation rental home to two months per year. The Newberg City Council will hold a hearing on ***September 3, 2024*** at 6pm at the Newberg Public Safety Building, 401 E. Third Street, Newberg, OR, to evaluate the proposal. You are invited to take part in the City's review of this project by sending in your written comments or testifying before the City Council. For more details about giving comments, please see the back of this sheet.

APPLICANT: ***Teresa Drevdahl***
TELEPHONE: ***(503) 490-1175***

PROPERTY OWNER: ***Teresa Drevdahl***

LOCATION: ***215 N School Street***

TAX LOT NUMBER: ***R3219AA 03300***

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

If you would like to submit comments for this meeting, please visit the following webpage and input your information:

https://www.newbergoregon.gov/citycouncil/webform/public-comment-city-meetings

Day of Meeting: September 3, 2024

Agenda Item: Request for an Appeal of Planning Commission Order 2024-05 Authorizing the Operation of a Vacation Rental Home at 215 N School Street (File No. APL24-0001 / CUP23-0019)

The City Council asks that written testimony be submitted to the City Recorder before 12:00 p.m. on the preceding Friday (August 30, 2024) to the hearing. Written testimony submitted after that will not be accepted online but can be brought before the Council on the night of the meeting. The City Recorder during normal business hours can be reached at 503-537-1283 or e-mailed at cityrecorder@newbergoregon.gov if you need additional help.

You can look over all the information about this project at the Newberg Wastewater Treatment Plant, 2301 NE Wynooski Road. Information can also be accessed at: https://www.newbergoregon.gov/planning/page/cup23-0019-vacation-rental-home-215-n-school-street.

You can also buy copies of the information for a cost of 25 cents a page. A staff report relating to the proposal will be available for inspection at no cost seven days prior to the public hearing. If you have any questions about the project, you can call the Newberg Planning Division at 503-537-1240.

Any issue which might be raised in an appeal of this case to the Land Use Board of Appeals (LUBA) must be raised during the public hearing process. You must include enough detail to enable the decision maker an opportunity to respond. The applicable criteria used to make a decision on this application for a vacation rental home are found in Newberg Development Code Sections 15.225.060 and 15.445.300 – 350.

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

The City Council will make a decision on the application at the end of the public hearing process. If you participate in the public hearing process, either by testifying at the public hearing, or by sending in written comments, you will be sent information about any decision made by the City relating to this project.

Date Mailed: ***August 14, 2024***

ACCOMMODATION OF PHYSICAL IMPAIRMENTS:

In order to accommodate persons with physical impairments, please notify the City Recorder's office of any special physical or language accommodations you may need as far in advance of the meeting as possible and no later than 48 hours prior to the meeting. To request these arrangements, please contact the City Recorder at 503- 537-1283. For TRS services please dial 711.

TICOR TITLE COMPANY

This map/plat is being furnished as an aid in locating the herein described land in relation to adjoining streets, natural boundaries and other land, and is not a survey of the land depicted. Except to the extent a policy of title insurance is expressly modified by endorsement, if any, the company does not insure dimensions, distances, location of easements, acreage or other matters shown thereon.

382286
R3219AA04501
STEVENS MARK & LORIE (DBA)
19155 NE HERRING LN
NEWBERG OR 97132

45506
R3218DD09300
MEGAN MARKEL
406 N BLAINE ST
NEWBERG OR 97132

45533
R3218DD09400
BELLINGAR ENTERPRISES LLC
24055 NE NORTH VALLEY RD
NEWBERG OR 97132

45551
R3218DD09500
LLP PROPERTIES LLC
PO BOX 1060
NEWBERG OR 97132

45659
R3218DD09900
CHARLES DITTMAN
410 N HOWARD ST
NEWBERG OR 97132

45695
R3218DD10000
FRANCIS ENTERPRISES INC
2950 CRATER LN
NEWBERG OR 97132

45711
R3218DD10100
FRANCIS ENTERPRISES INC
ATTN: BRIAN FRANCIS
NEWBERG OR 97132

45720
R3218DD10200
MARCIA ARTAJO
PO BOX 3236
NEWBERG OR 97132

45739
R3218DD10300
ROGER GENTRY
515 E SHERMAN ST
NEWBERG OR 97132

45748
R3218DD10400
SCHOOL STREET LLC
411 N SCHOOL ST
NEWBERG OR 97132

45775
R3218DD10700
AMY MACY
406 N SCHOOL ST
NEWBERG OR 97132

45784
R3218DD10800
COLLEEN MCCOMBS
8150 SW 191ST PL
BEAVERTON OR 97007

45793
R3218DD10900
DAVID MEHLER
402 N SCHOOL ST
NEWBERG OR 97132

45800
R3218DD11000
MARTIN CHLUMAK
400 N SCHOOL ST
NEWBERG OR 97132

45819
R3218DD11100
ANTONIO RUSSO
403 N COLLEGE ST
NEWBERG OR 97132

45828
R3218DD11200
ANTONIO RUSSO
403 N COLLEGE ST
NEWBERG OR 97132

46284
R3218DD14200
LINDA M NEWTON-CURTIS
314 N COLLEGE ST
NEWBERG OR 97132

46293
R3218DD14300
ROBERT CANEDAY
310 N COLLEGE ST
NEWBERG OR 97132

46300
R3218DD14400
ROBERT SOPPE
709 E SHERIDAN ST
NEWBERG OR 97132

46355
R3218DD14600
SEAN GANN
315 N COLLEGE ST
NEWBERG OR 97132

46373
R3218DD14700
RACHAEL KUBIK
610 E SHERMAN ST
NEWBERG OR 97132

46391
R3218DD14800
KATHLEEN HOLMAN
PO BOX 845
NEWBERG OR

46408
R3218DD14900
FOX TRUSTEE FOR
20805 NE HIGHWAY 240
NEWBERG OR 97132

46710
R3218DD14901
CONRADO PEREDA
PO BOX 382
NEWBERG OR 97132

46729
R3218DD15000
LON L PETERS
495 NW GREENLEAF RD
PORTLAND OR 97229

46738
R3218DD15100
MATTEW FOSKET
306 N SCHOOL ST
NEWBERG OR 97132

46747
R3218DD15200
AMID 601 LLC
1632 NW WILD RYE CIR
BEND OR 97703

46756
R3218DD15300
AMID 605 LLC
1632 NW WILD RYE CIR
BEND OR 97703

46765
R3218DD15400
C PETERSEN RENTALS LLC
1818 N PAGE CT
NEWBERG OR 97132

46774
R3218DD15500
ADAM LONG
611 E SHERIDAN ST
NEWBERG OR 97132

46783
R3218DD15600
LARRY HINDMAN
301 N COLLEGE ST
NEWBERG OR 97132

46792
R3218DD15700
CHEHALEM PARK & RECREATION DISTRICT
535 NE 5TH ST
MCMINNVILLE OR 97128

46809
R3218DD15800
PETER J FARR
314 E SHERMAN ST
NEWBERG OR 97132

46854
R3218DD16300
TIMOTHY ASSAD
315 E SHERIDAN ST
NEWBERG OR 97132

47611
R3219AB00100
WILLAMETTE EDUCATION SERVICE DISTRICT
2045 SW HIGHWAY 18
MCMINNVILLE OR 97128

47648
R3219AB00200
NEWBERG CITY OF
414 E FIRST ST
NEWBERG OR 97132

47684
R3219AB00300
LLP PROPERTIES LLC
PO BOX 1060
NEWBERG OR 97132

47700
R3219AB00400
NEWBERG CITY OF
414 E FIRST
NEWBERG OR 97132

47719
R3219AB00500
NEWBERG CITY OF
414 E FIRST
NEWBERG OR 97132

47826
R3219AB00600
CHEHALEM PARK & RECREATION DISTRICT
125 S ELLIOTT RD
NEWBERG OR 97132

47844
R3219AB00700
NEWBERG MASONIC TEMPLE ASSN
PO BOX 101
NEWBERG OR 97132

47853
R3219AB00800
LLP PROPERTIES LLC
PO BOX 1060
NEWBERG OR 97132

47862
R3219AB00900
NOAH JOHN CLAIR LLC
215 N BLAINE ST
NEWBERG OR 97132

47880
R3219AB01000
ZEYES REAL ESTATE LLC
1100 N MAIN AVE
SAN ANTONIO TX 78231

48157
R3219AA01800
MICHAEL PENDER
708 E SHERIDAN ST
NEWBERG OR 97132

48175
R3219AA01900
JOHN PAXMAN
700 E SHERIDAN ST
NEWBERG OR 97132

48184
R3219AA02000
DEGAJE LLC
708 E SHERIDAN ST
NEWBERG OR 97132

48200
R3219AA02100
FRANCIS ENTERPRISES INC
ATTN: BRIAN FRANCIS
NEWBERG OR 97132

48228
R3219AA02200
JAMES CAIN
27775 NW WILLIAMS CANYON RD
GASTON OR 97119

48255
R3219AA02300
JAMES CAIN
27775 NW WILLIAMS CANYON RD
GASTON OR 97119

48273
R3219AA02400
SALMON LLC
606 CORINNE DR
NEWBERG OR 97132

48308
R3219AA02500
GARY ALLEN
614 E SHERIDAN ST
NEWBERG OR 97132

48326
R3219AA02600
ANDREW WHITE
610 E SHERIDAN ST
NEWBERG OR 97132

48335
R3219AA02700
JOHN HYNES
600 E SHERIDAN ST
NEWBERG OR 97132

48344
R3219AA02800
MARY CLARK
210 N SCHOOL ST
NEWBERG OR 97132

48353
R3219AA02900
TATE 2018 FAMILY TRUST
206 N SCHOOL ST
NEWBERG OR 97132

48362
R3219AA03000
GMB INVESTORS LLC
1118 NORTHSHORE RD
LAKE OSWEGO OR 97034

48371
R3219AA03100
FINANCE NORTHWEST LLC
2071 WOODHILL ST NW
SALEM OR 97304

48380
R3219AA03200
NEWBERG CITY OF
PO BOX 970
NEWBERG OR 97132

48406
R3219AA03400
NEWBERG CITY OF
414 E 1ST ST
NEWBERG OR 97132

48415
R3219AA03500
NEWBERG CITY OF
414 E 1ST ST
NEWBERG OR 97132

48424
R3219AA03600
NEWBERG PUBLIC LIBRARY
503 E HANCOCK ST
NEWBERG OR 97132

48433
R3219AA03700
EAGLE NEWSPAPERS INC
PO BOX 12008
SALEM OR 97309

48442
R3219AA03800
EAGLE NEWSPAPERS INC
PO BOX 12008
SALEM OR 97309

48451
R3219AA03900
YAMHILL DEVELOPMENT CORP
ATTN: PASSMORE
PORTLAND OR 97217

48460
R3219AA04000
SCOTT RIPPLE
503 E 1ST ST
NEWBERG OR 97132

48479
R3219AA04100
LOUIE FAMILY TRUST
3268 SE SHERMAN ST
PORTLAND OR 97214

48488
R3219AA04200
NEWBERG PROPERTIES LLC
515 E 1ST ST
NEWBERG OR 97132

48497
R3219AA04300
EAGLE NEWSPAPERS INC
PO BOX 12008
SALEM OR 97309

48503
R3219AA04400
EAGLE NEWSPAPERS INC
PO BOX 12008
SALEM OR 97309

48512
R3219AA04500
FIRST INTERSTATE BANK
PO BOX 2609
CARLSBAD CA 92018

48683
R3219AA04700
FIRST INTERSTATE BANK
ATTN: THOMSON PROPERTY TAX SERVICES
CARLSBAD CA 92018

48709
R3219AA04800
CORRIGAN DANIEL O TRUSTEE FOR
1833 NW ST ANDREWS DR
MCMINNVILLE OR 97128

48718
R3219AA04900
PCH PROPERTIES LLC
311 N MERIDIAN ST
NEWBERG OR 97132

48727
R3219AA05000
VICENTE GONZALEZ
23501 NE SUNNYCREST RD
NEWBERG OR

48736
R3219AA05100
WALA PROPERTIES LLC
4695 RAYBELL RD NE
ST PAUL OR 97137

48745
R3219AA05200
NEWBERG CITY OF
414 E FIRST ST
NEWBERG OR 97132

48754
R3219AA05400
FIRST FEDERAL SAVINGS & LOAN ASSOC
PO BOX 239
MCMINNVILLE OR 97128

488644
R3219AA02501
MATT MEYER
1600 E 2ND ST
NEWBERG OR 97132

49655
R3219AB07600
TYLER FRANK
689 NW 12TH ST
MCMINNVILLE OR 97128

49673
R3219AB07700
RONALD JANSSEN
629 NW 19TH ST
MCMINNVILLE OR 97128

49682
R3219AB07800
OREGON FIRST COMMUNITY CREDIT UNION
ATTN: ACCOUNTS PAYABLE
COQUILLE OR 97423

49717
R3219AB07900
OREGON FIRST COMMUNITY CREDIT UNION
ATTN: ACCOUNTS PAYABLE
COQUILLE OR 97423

49735
R3219AB08000
NEWBERG CITY OF
ATTN: CITY HALL / FINANCE DEPT
NEWBERG OR 97132

49744
R3219AB08100
USA
535 NE 5TH ST
MCMINNVILLE OR 97128

558964
R3219AA04502
SLPD PROPERTIES LLC
115 N COLLEGE ST STE 3
NEWBERG OR 97132

REQUEST FOR COUNCIL ACTION

Date Action Requested: (September 3, 2024)

Order ☐ Ordinance ☐ Resolution ☐ Motion ☒ Information ☐ Proclamation ☐	
Subject: Mayor and City Manager to set up a debate forum for the new term council race	Staff: Will Worthey Department: Admin
Business Session	Order On Agenda:

Is this item state mandated? Yes ☐ No ☐

If yes, please cite the state house bill or order that necessitated this action:

Recommendation: No recommendation from staff.

Executive Summary: Mayor Bill Rosacker has asked City Manager Will Worthey to work with staff to setup, plan and execute a debate forum including all candidates for the 2025 City Council Election.

Fiscal Impact: No Significant fiscal impact expected.

Council Goals: This falls in line with Council Goal G5: "Create and maintain a high level of transparency with our residents in order to build trust."