



Oregon

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NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

Date: May 04, 2016
Jurisdiction: City of Newberg
Local file no.: ANX-14-002
DLCD file no.: 003-16

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 04/29/2016. A copy of the adopted amendment is available for review at the DLCD office in Salem and the local government office.

Notice of the proposed amendment was submitted to DLCD 36 days prior to the first evidentiary hearing.

Appeal Procedures

Eligibility to appeal this amendment is governed by ORS 197.612, ORS 197.620, and ORS 197.830. Under ORS 197.830(9), a notice of intent to appeal a land use decision to LUBA must be filed no later than 21 days after the date the decision sought to be reviewed became final. If you have questions about the date the decision became final, please contact the jurisdiction that adopted the amendment.

A notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR chapter 661, division 10).

If the amendment is not appealed, it will be deemed acknowledged as set forth in ORS 197.625(1)(a). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

DLCD Contact

If you have questions about this notice, please contact DLCD's Plan Amendment Specialist at 503-934-0017 or plan.amendments@state.or.us



NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

FOR DLCD USE

File No.: 003-16 {24267}

Received: 4/29/2016

Local governments are required to send notice of an adopted change to a comprehensive plan or land use regulation **no more than 20 days after the adoption**. (See [OAR 660-018-0040](#)). The rules require that the notice include a completed copy of this form. **This notice form is not for submittal of a completed periodic review task or a plan amendment reviewed in the manner of periodic review.** Use [Form 4](#) for an adopted urban growth boundary including over 50 acres by a city with a population greater than 2,500 within the UGB or an urban growth boundary amendment over 100 acres adopted by a metropolitan service district. Use [Form 5](#) for an adopted urban reserve designation, or amendment to add over 50 acres, by a city with a population greater than 2,500 within the UGB. Use [Form 6](#) with submittal of an adopted periodic review task.

Jurisdiction: City of Newberg

Local file no.: **ANX-14-002**

Date of adoption: 4/4/16

Date sent: 4/29/2016

Was Notice of a Proposed Change (Form 1) submitted to DLCD?

Yes: Date (use the date of last revision if a revised Form 1 was submitted): 2/3/16

No

Is the adopted change different from what was described in the Notice of Proposed Change? Yes No

If yes, describe how the adoption differs from the proposal:

Only change is that the legal description was revised to include the adjacent right-of-way to allow for continuity of the city limits in the future.

Local contact (name and title): Jessica Pelz, AICP

Phone: 503-554-7744

E-mail: jessica.pelz@newbergoregon.gov

Street address: 414 E First Street

City: Newberg

Zip: 97132-

PLEASE COMPLETE ALL OF THE FOLLOWING SECTIONS THAT APPLY

For a change to comprehensive plan text:

Identify the sections of the plan that were added or amended and which statewide planning goals those sections implement, if any:

For a change to a comprehensive plan map:

Identify the former and new map designations and the area affected:

Change from	to	acres.	A goal exception was required for this
change.			
Change from	to	acres.	A goal exception was required for this
change.			
Change from	to	acres.	A goal exception was required for this
change.			
Change from	to	acres.	A goal exception was required for this change.

Location of affected property (T, R, Sec., TL and address):

The subject property is entirely within an urban growth boundary

The subject property is partially within an urban growth boundary

If the comprehensive plan map change is a UGB amendment including less than 50 acres and/or by a city with a population less than 2,500 in the urban area, indicate the number of acres of the former rural plan designation, by type, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

If the comprehensive plan map change is an urban reserve amendment including less than 50 acres, or establishment or amendment of an urban reserve by a city with a population less than 2,500 in the urban area, indicate the number of acres, by plan designation, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

For a change to the text of an ordinance or code:

Identify the sections of the ordinance or code that were added or amended by title and number:

For a change to a zoning map:

Identify the former and new base zone designations and the area affected:

Change from VLDR-1	to R-1	Acres: 2.29
Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:

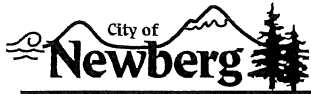
Identify additions to or removal from an overlay zone designation and the area affected:

Overlay zone designation:	Acres added:	Acres removed:
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Location of affected property (T, R, Sec., TL and address): 4016 N College St, TL 3208-2900

List affected state or federal agencies, local governments and special districts: Yamhill County, ODOT

Identify supplemental information that is included because it may be useful to inform DLCD or members of the public of the effect of the actual change that has been submitted with this Notice of Adopted Change, if any. If the submittal, including supplementary materials, exceeds 100 pages, include a summary of the amendment briefly describing its purpose and requirements.



ORDINANCE NO. 2016-2799

AN ORDINANCE ANNEXING PROPERTY LOCATED AT 4016 N COLLEGE STREET, YAMHILL COUNTY TAX LOT 3208-02900, INTO THE NEWBERG CITY LIMITS AND WITHDRAWING IT FROM THE NEWBERG RURAL FIRE PROTECTION DISTRICT, AND CHANGING THE CURRENT ZONING FROM YAMHILL COUNTY VLDR-1 TO CITY R-1

RECITALS:

1. J. William Rourke, Jr. & Myrlene J. Rourke submitted an application to annex 2.29 acres into the City of Newberg and change the zoning from Yamhill County VLDR-1 to Newberg R-1. The property is located directly north of the current Newberg city limits on the east side of College Street/Highway 219, 4016 N. College Street, Tax Lot 3208-02900.
2. The property is located within the Newberg urban growth boundary and is adjacent to the Newberg city limits. The Comprehensive Plan designation of the property is LDR (Low Density Residential), which is consistent with the proposed zoning of R-1 (Low Density Residential). Adequate public services and utilities are or can be made available to serve the property within three years.
3. After proper notice, the Newberg Planning Commission held a hearing on March 10, 2016, to consider the application. The Commission considered testimony, deliberated, and voted to approve Planning Commission Resolution No. 2016-316 recommending that the City Council approve the annexation request and concurrent zone change.
4. State law recently changed with the passage and adoption of Oregon Senate Bill 1573, which added language to ORS 222.111 that preempts Newberg's requirement that annexations go to a public vote, and instead directs the legislative body of a city to annex property without a public vote when the property meets certain requirements, including: being within the urban growth boundary; subject to the Comprehensive Plan of the city; contiguous to city limits; and meeting the city's adopted Development Code criteria for annexation. This property meets those criteria.
5. After proper notice, the Newberg City Council held a hearing on April 4, 2016 to consider the proposed annexation and concurrent zone change. After the staff report and public testimony, the City Council finds the proposal has met the required criteria.

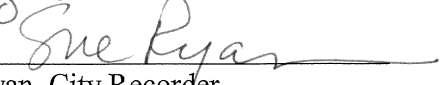
THE CITY OF NEWBERG ORDERS AS FOLLOWS:

1. The property shown in Exhibit "A" and described in Exhibit "B" is hereby annexed into the City of Newberg and withdrawn from the Newberg Rural Fire Protection District, and the zoning of the property is changed from Yamhill County VLDR-1 to Newberg R-1. Exhibits "A" and "B" are hereby adopted and by this reference incorporated.
2. The applicant shall revise the legal description of the property to be annexed to include area to the centerline of the adjacent College Street/Highway 219 right-of-way to provide for continuity of the city limits to the west.

3. This recommendation is based on the findings shown in Exhibit "C". Exhibit "C" is hereby adopted and by this reference incorporated.

➤ **EFFECTIVE DATE** of this ordinance is 30 days after the adoption date, which is: May 4, 2016.

ADOPTED by the City Council of the City of Newberg, Oregon, this 4th day of April, 2016, by the following votes: AYE: ☒ NAY: ☐ ABSENT: ☐ ABSTAIN: ☐


Sue Ryan, City Recorder

ATTEST by the Mayor this 7th day of April, 2016.

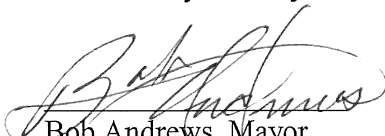

Bob Andrews, Mayor

Exhibit "A" to City Council Ordinance No. 2016-2799
Property Map – Rourke Annexation

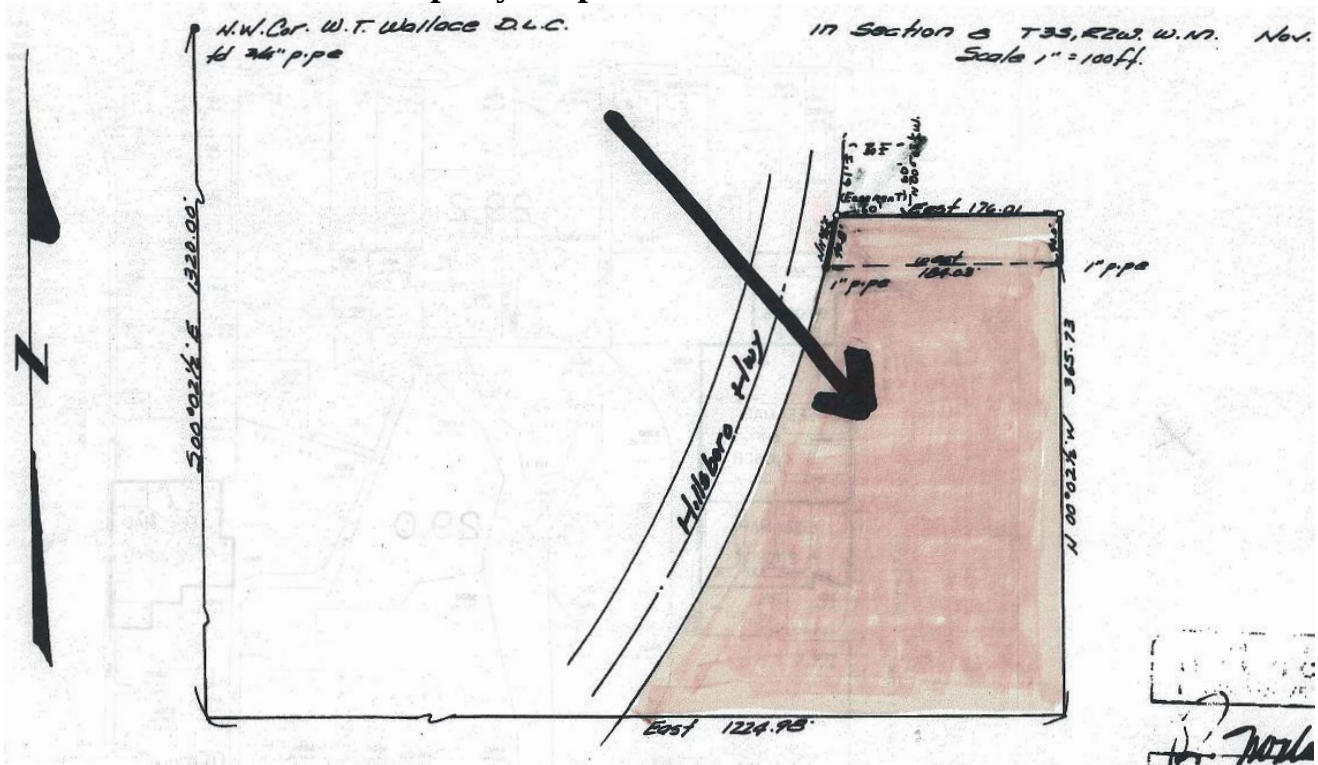


Exhibit “B” to City Council Ordinance No. 2016-2799
Legal Description – Rourke Annexation

Real property in the County of Yamhill, State of Oregon, described as follows:

Beginning at an iron pipe at the East boundary of Hillsboro-Silverton Highway, said point being South 00°02½' East 1320.0 feet and East parallel to the North boundary of Section 8, a distance of 869.85 feet from the Northwest corner of William T. Wallace Donation Land Claim, Township 3 South, Range 2 West of the Willamette Meridian, Yamhill County, Oregon; thence East parallel to the North boundary of Section 8, a distance of 355.13 feet to an iron pipe; thence North 00°02½' West parallel to the West boundary of Donation Land Claim, 405.73 feet; thence West parallel with South boundary, distance of 178 feet, more or less, to the East boundary of State Highway; thence Southwesterly along State Highway, a distance of 447 feet, more or less, to the place of beginning.

ALSO a non-exclusive easement for roadway purposes over a strip of land described as follows:

Beginning at the most Northwest corner of the above described tract; thence East 60 feet; thence North 00°02½' West 60 feet; thence West 50 feet, more or less, to the Easterly boundary of Hillsboro-Silverton Highway; thence Southwesterly along the Easterly boundary of said Highway, 60 feet, more or less, to the place of beginning.

**Exhibit “C” to City Council Ordinance No. 2016-2799
Findings –File ANX-14-002 – Rourke Annexation**

A. 15.250.020 Conditions for annexation.

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

A. The subject site must be located within the Newberg urban growth boundary or Newberg urban reserve areas.

B. The subject site must be contiguous to the existing city limits.

Finding: The Rourke property located at 4016 N College Street, Tax Lot 3208-2900, is located within the urban growth boundary and is contiguous to the Newberg city limits along its southern boundary. The Planning Commission has placed a condition in Resolution No. 2016-316 that the applicant shall revise the legal description of the property to be annexed to include area to the centerline of the adjacent College Street/Highway 219 right-of-way to provide for continuity of the city limits to the west. This criterion is met.

B. 15.250.030 Quasi-judicial annexation criteria.

The following criteria shall apply to all annexation requests:

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

Finding: The applicant is requesting a city zone of R-1 (Low Density Residential), which is consistent with the current comprehensive plan map designation of LDR (Low Density Residential).

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

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

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

consider public costs for improvement and the ability of the city to provide for those costs.

Finding: City water and sewer lines were previously extended across this property to the North Valley Friends and Veritas properties in 2014 in accordance with a Development Agreement the city had executed with North Valley Friends in 2010. There are no issues with the new sewer line; however, the newly extended water line connects to the Oak Knoll booster pump station, which was constructed in 2000 to augment low system pressure for the 40-lot Summit at Oak Knoll subdivision [2004 City of Newberg Water Distribution System Plan]. Based on the size and purpose of the Oak Knoll booster pump station, the city was concerned about adequate water flows to the Rourke property to serve their future development, as well as development on the adjacent North Valley Friends and Veritas sites. The applicant hired AKS Engineering & Forestry (AKS) to explore the capacity of the Oak Knoll booster pump station and to identify any upgrades necessary to serve the future developments. AKS found that the Oak Knoll booster station would need to be upgraded to supply adequate water to Rourke, North Valley Friends, and Veritas. In addition, AKS identified the specific required improvements and provided a cost estimate for the upgrades. The city concurs with the AKS assessment, and finds that the upgrades can be made to serve the property consistent with the annexation requirements.

The Rourke property is currently accessed from Highway 219/College Street via a “non-exclusive easement for roadway purposes” over a small property owned by North Valley Friends. Future development of the Rourke property will likely necessitate dedication of right-of-way to extend a public street access into the property. Street improvements to the College Street/Highway 219 frontage will be required at the time of development.

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

Finding: The city sends the application information out to the Police and Fire Departments, Chehalem Parks and Recreation District (CPRD), and the Newberg School District, among other agencies, for comments prior to the staff report. The Newberg School District and Fire Department both replied with “no comments”, and the Police Department and CPRD did not comment. There is no information to suggest that city services could not support the addition of the 2.29 acres to the city limits, and in fact future development of the site helps fund these city services and other System Development Charge or permit fee funded services such as the School District and CPRD.

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

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

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

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

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

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

Finding: This current Comprehensive Plan designation of the property is LDR (Low Density Residential). The applicant is asking for a corresponding zoning of R-1 (Low Density Residential). Therefore, the proposed zone change from Yamhill County VLDR-1 to Newberg R-1 is consistent with the Comprehensive Plan, and continues to meet the Comprehensive Plan goals and policies as envisioned when the property was brought into the urban growth boundary with the LDR designation.

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

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

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

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

boundary in 2006 as part of a larger urban growth boundary amendment that included a full report with adequate justifications for transportation and other public facilities.

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

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

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

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

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

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

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

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

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

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

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

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

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