



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

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Salem, Oregon 97301-2524

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Web Address: <http://www.oregon.gov/LCD>

NOTICE OF ADOPTED AMENDMENT

August 21, 2006

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Newberg Plan Amendment
DLCD File Number 008-06



The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: September 5, 2006

This amendment was submitted to DLCD for review 45 days prior to adoption. Pursuant to ORS 197.830 (2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the 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). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.**

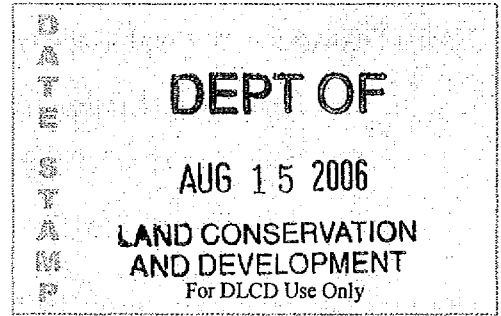
Cc: Gloria Gardiner, DLCD Urban Planning Specialist
Jason Locke, DLCD Regional Representative
Barton Brierly, City of Newberg

<paa> ya/



2 Notice of Adoption

THIS FORM MUST BE MAILED TO DLCD
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18



Jurisdiction: City of Newberg Local file number: CPA-06-05/ZMA-06-05

Date of Adoption: 8/7/2006 Date Mailed: 8/11/2006

Date original Notice of Proposed Amendment was mailed to DLCD: 5/2/2006

- Comprehensive Plan Text Amendment
- Land Use Regulation Amendment
- New Land Use Regulation
- Comprehensive Plan Map Amendment
- Zoning Map Amendment
- Other: _____

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

Comprehensive Plan designation change from Medium Density Residential to Public Quasi/Public in order to construct a park for a portion of tax lot 3220-1400. A similar size portion of land on tax lot 3220-1101 will change from Public Quasi/Public to Medium Density Residential. The zoning designation is proposed to change from AF-10 to R-2 and AF-10 to CF (Community Facility).

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "SAME". If you did not give Notice for the Proposed Amendment, write "N/A".

N/A

Plan Map Changed from: PQ and MDR to: MDR and PQ

Zone Map Changed from: AF-10 to: R-2 and CF

Location: Tax Lot 3220 1101 and 3220 1400 Acres Involved: 34.5 total

Specify Density: Previous: 10 acre minimum per du New: MDR/8.8 A/du

Applicable Statewide Planning Goals: 1-14

Was and Exception Adopted? YES NO

DLCD File No.: 008-06(15208)

Did the Department of Land Conservation and Development receive a Notice of Proposed Amendment.....

- Forty-five (45) days prior to first evidentiary hearing? Yes No
If no, do the statewide planning goals apply? Yes No
If no, did Emergency Circumstances require immediate adoption? Yes No

Affected State or Federal Agencies, Local Governments or Special Districts:

Yamhill County, ODOT

Local Contact: **Barton Brierley** Phone: **(503) 537-1240** Extension: _____
Address: **P.O. Box 970** City: **Newberg**
Zip Code + 4: **97132-** Email Address: **nplan@ci.newberg.or.us**

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO (2) Copies of the Adopted Amendment to:
**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**
2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only; or call the DLCD Office at (503) 373-0050; or Fax your request to:(503) 378-5518; or Email your request to **maru.ulloa@state.or.us** - ATTENTION: PLAN AMENDMENT SPECIALIST.



ORDINANCE No. 2006-2652

AN ORDINANCE DECLARING THAT PROPERTY LOCATED SOUTH OF E. 3RD ST., EAST OF EVEREST RD., AND WEST OF SPORTSMAN AIRPARK, YAMHILL COUNTY TAX LOT 3220-1101 AND -1400, BE ANNEXED INTO THE CITY OF NEWBERG, WITHDRAWN FROM THE NEWBERG RURAL FIRE PROTECTION DISTRICT, AND THAT THE COMPREHENSIVE PLAN MAP BE CHANGED TO MDR AND PARKS, AND THE ZONE CHANGED TO R-2/CF/M-3/SC/ARO/BI, SUBJECT TO A PUBLIC VOTE

RECITALS:

1. On March 31, 2006, an application for annexation and consent to annex was submitted by Newberg Communities, LLC for property located south of E. 3rd St., east of Everest Rd., and west of Sportsman Airpark, Yamhill County Tax Lot 3220-1101 and -1400, consisting of 34.5 acres. The applicant submitted a concurrent comprehensive plan map amendment/zoning map amendment to exchange the designation for a portion of the property to Parks/CF and MDR/R-2. The applicant submitted a signed Measure 37 waiver for both of the properties.
2. After proper notice; on August 7, 2006 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.
3. The Council finds that the requirements of the City of Newberg Comprehensive Plan and Newberg Development Code regarding annexations have been met.

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 in 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 Primary or biennial General Election (an election held in May and 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 a Primary or 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 shown in Exhibit B and described in Exhibit C, is annexed and withdrawn from the Newberg Rural Fire Protection District.
 - B. The territory shown in Exhibit B and described in Exhibit C, shall be zoned R-2/CF/M-3/SC/ARO/BI, as shown on the map. 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.

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

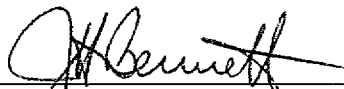
ADOPTED by the City Council of the City of Newberg, Oregon, this 7th day of August, 2006, by the following votes:

AYE: 5

NAY: 2

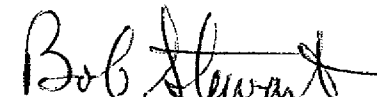
ABSENT: 0

ABSTAIN: 0



James H. Bennett, City Recorder

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



Bob Stewart, Mayor

LEGISLATIVE HISTORY

By and through Planning Commission Committee at 6/22/2006 meeting.

**EXHIBIT A: ANNEXATION/COMPREHENSIVE PLAN MAP AMENDMENT/ZONE MAP
AMENDMENT Findings
ANX-06-007/CPA-06-005/ZMA-06-005
Tax lot 3220-1101, -1400**

§ 151.262 - TYPE III ANNEXATION CRITERIA

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 subject site is within Newberg's urban growth boundary.

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

Finding: The site is bordered on the north by the City limits boundary.

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: Tax lot -1101 has a Public-Quasi/Public comprehensive plan designation and tax lot -1400 has a Medium Density Residential/Industrial comprehensive plan designation. The applicant has requested a concurrent comprehensive plan map amendment change from PQ to MDR/P for tax lot 3220-1101 and comprehensive plan change from MDR to P for a portion of tax lot 3220-1400. The remaining portion of tax lot -1400 will be zoned R-2 and M-3 which is consistent with the comprehensive plan designation of MDR and IND.

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: As indicated below, upon development, public utilities will have adequate capacity to accommodate the future demands of the area.

Water: Upon development, the water mainline in E 3rd Street must be extended through Tax lot 3220-1300 to the site.

Sanitary sewer: Upon development, the sewer lines will connect to the existing mainline located at the southern end of the property.

Stormwater: Upon development, the stormwater system will outfall to the south or east into Hess Creek.

Roads: Upon development, local street extensions from E. 3rd Street will be required.

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 services are currently provided to the area outside the City by Yamhill County Sheriff's Office. Newberg Rural Fire District currently provides fire service. The proposed annexation will shift police and fire services to the City. The fiscal analysis calculation estimated that the annual revenues from the annexation will improve the level of public safety provided in the City. The current level of public safety service for the city is 3.1 FTE (full time employees) per 1000 people. The annexed properties, when developed, would generate revenue at a rate of 3.4 FTE per 1000, which will help improve the overall level of public safety provided within the city. The residential development on the site would create additional demand for parks and school services, which will be offset by the system development charge for parks and State per pupil funding for schools. The development of the site will not have adverse affects on the availability of police, fire, parks, and school facilities and services for the community as a whole. The site will provide future park space for residents.

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 written Findings for this section.

5. *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 division (B) above, but where annexation is needed to address a health hazard, to annex an island, to address sewer 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*

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: Urban services can be made available within the three year time frame.

§ 151.122 – TYPE III COMPREHENSIVE PLAN MAP AND ZONING MAP AMENDMENT CRITERIA.

A. The proposed change is consistent with and promotes the objectives of the Newberg Comprehensive Plan and this Code.

1. Comprehensive Plan Description

MEDIUM DENSITY RESIDENTIAL (MDR)

The objective of this designation is to provide a wide range of housing types and styles while maintaining an overall density of up to 8.8 units per acre. Typical housing types include single-family housing on small lots, attached or detached single-family or duplex units or tri- or four-plexes where adequate open areas exist and where the overall density is within the limits of this classification. Services shall include improved streets, underground utilities (except electrical transmission lines), street lighting, sidewalks and, in some cases, bikeways.

PARKS (P)

Park lands are usually publicly-owned or leased open areas which provide recreational or other types of leisure-oriented opportunities. Boundaries of these areas are specifically defined on the Plan map. These areas shall be located throughout the planning area in order to minimize travel distances to recreation opportunities.

Finding: The request is to exchange the location of 4.5 acres of Park and Medium Density Residential comprehensive plan designations within the same site. The exchange of designation will allow for a more efficient use of the site. The MDR designation on the northern portion will be adjacent to other residential development and the Parks designation for the park area will be in southern portion near the stream corridor. The residential concept plan is single-family housing on small lots, approximately 6 units per acres (excluding the Stream Corridor area). This meets the development standards for the MDR designation, however, is far below the maximum density of 9 units/acre. In order to reach the planned density, future requirements may include duplex or multi-family only in the MDR designation, excluding detached single-family homes. Services will be required at the time of development. This meets the objective of the MDR designation.

The proposed Park will be adjacent to other Park designated land, with a concept plan for a future park area by Chchalem Park and Recreation District. The public comment letter received by a neighbor to the west of the site had concern for overcrowding in residential neighborhoods. The Medium Density Residential designation allows for single-family homes placed on medium sized lots, with room for private outdoor space. Additionally, the park will serve the new residents of the neighborhood with further open space opportunity. The park area will also act as a buffer between established

neighborhoods to the west and the new residential development.

2. Development Code - Description and Purpose

R-2 MEDIUM DENSITY RESIDENTIAL DISTRICT

- (A) The purpose of this land use designation is to provide a wide range of housing types and styles, while maintaining a maximum overall density of 8.8 units per gross residential acre.
- (B) Typical housing types will include single-family dwellings on small lots, attached and detached single family, duplex or multi-family housing, cluster developments and townhouses. The R-2 District is intended to be consistent with the "Medium Density Residential" designation of the comprehensive plan.

COMMUNITY FACILITY (CF)

The purpose of the Community Facilities (CF) district is to provide for appropriate development of community facilities, primarily by public agencies or non-profit organizations. It encourages the preservation of natural resources and open space resources inventoried in the Comprehensive Plan. The CF District is intended to be consistent with the Parks (P) and Public-Quasi Public (PQ) designations in the Comprehensive Plan. It may also be consistent with any other designation of the Comprehensive Plan as determined by City Council.

Finding: The proposed R-2 district would be consistent with the proposed MDR comprehensive plan district. The proposed use is for single-family homes, which is consistent with the R-2 zone requirements. The proposal is for 5 units per acre which will not exceed the maximum 8.8 dwelling units per acre as allowed in the R-2 zone. In order for actual build out to better meet the planned density zone requirements, future development regulations such as excluding detached single-family homes, minimum density requirements or incentives, or so forth may take place. Thus, it is possible that the applicant's concept development plan (detached single-family units at 6 dwelling units per acre) may not ultimately be the plan that is approved for this site. The proposed CF district is intended for a future park with preservation of natural and open resources. This is consistent with the Parks (P) comprehensive plan designation.

3. Comprehensive Plan Goals and Policies

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 process of holding a public hearing before the Planning Commission and City Council for approval of this request is consistent with providing citizens an opportunity to have involvement in the land use process.

HOUSING GOAL: To provide for a diversity in the type, density and location of housing within the City to ensure that there is an adequate supply of affordable housing units to meet the needs of City residents' of various income levels.

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

HOUSING DENSITY POLICY (b): Target densities should be as follows: Urban Medium Density: 9 units per gross acre (includes a 25 percent allowance for streets). The City shall encourage development to occur at or near these planned densities by providing positive incentives, such as lot size averaging while maintaining and improving livability.

HOUSING LOCATION POLICY (a): Medium and high-density areas should be located for immediate access to collector streets or minor arterials and should not cause traffic to move through low-density areas.

High-density areas should be easily accessible to arterial streets. They should also be located near commercial services and public open spaces.

HOUSING MIX POLICY (j): The City shall encourage innovation in housing types and design as a means of offering a greater variety of housing and reducing housing costs.

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

HOUSING MIX POLICY (o): The City shall encourage incentive-based affordable housing for low and very low income housings in the R-2 and R-3 zones.

Finding: The request is to exchange the location of 4.5 acres of the Parks and MDR comprehensive plan designations within the same site. The net result of the exchange is the same number of R-2 zoned acres available for future housing. The exchange of designation will cluster the residential development together on the northern portion of the site. This will allow for a more efficient use of city services while creating an open space to the south for residents to enjoy. This single-family housing on small lots meets the housing mix policy for a mix of housing types.

TRANSPORTATION GOAL 2: Establish consistent policies which require concurrent consideration of transportation/land use system impacts.

TRANSPORTATION POLICY: Transportation improvements shall be used to guide urban development and shall be designed to serve anticipated future needs.

TRANSPORTATION GOAL 9: Create effective circulation and access for the local transportation system. Promote reliance on multiple modes of transportation and reduce reliance on the automobile.

TRANSPORTATION POLICIES:

c. Develop a system of roads which provide for efficient movement of traffic, considering the general design guidelines below:

5) Local Streets. Local streets provide direct access to adjoining properties and connect to collector streets.

Finding: The request is to exchange the location of 4.5 acres of the Parks and MDR comprehensive plan designations within the same site. The exchange of designation will cluster the residential development together on the northern portion of the site, creating a more efficient circulation and use of transportation infrastructure.

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

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

Finding: Exchanging the MDR and Park designations to be clustered together would contribute to a more compact and energy-efficient development and help implement this policy.

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

Finding: Water is not currently available at the site, but the applicant has submitted a utility plan that shows how it could be reasonably extended from E. 3rd Street. Sanitary sewer may connect the existing sewer line at the southern end of the property. The storm water system will outfall into the Hess Creek to the south or east.

CONCLUSION FOR THE COMPREHENSIVE PLAN MAP AMENDMENT /ZONING MAP AMENDMENT:

The request to change the designation to Medium Density Residential for the northern portion of the site and to Parks for the southern portion meets the comprehensive plan policies. The change will create a more efficient use of the site for future residential and park development.

DEVELOPMENT NOTES:

1. **Division of State Lands:** Prior to development a removal-fill permit may be required, a permit may be required by the Corps of Engineers (503-808-4373), and a wetland determination/delineation report will be needed.
2. **Planning Division:** Applicant must apply for a lot line adjustment between tax lot 3220-1101 and -1400 prior to residential or park development.

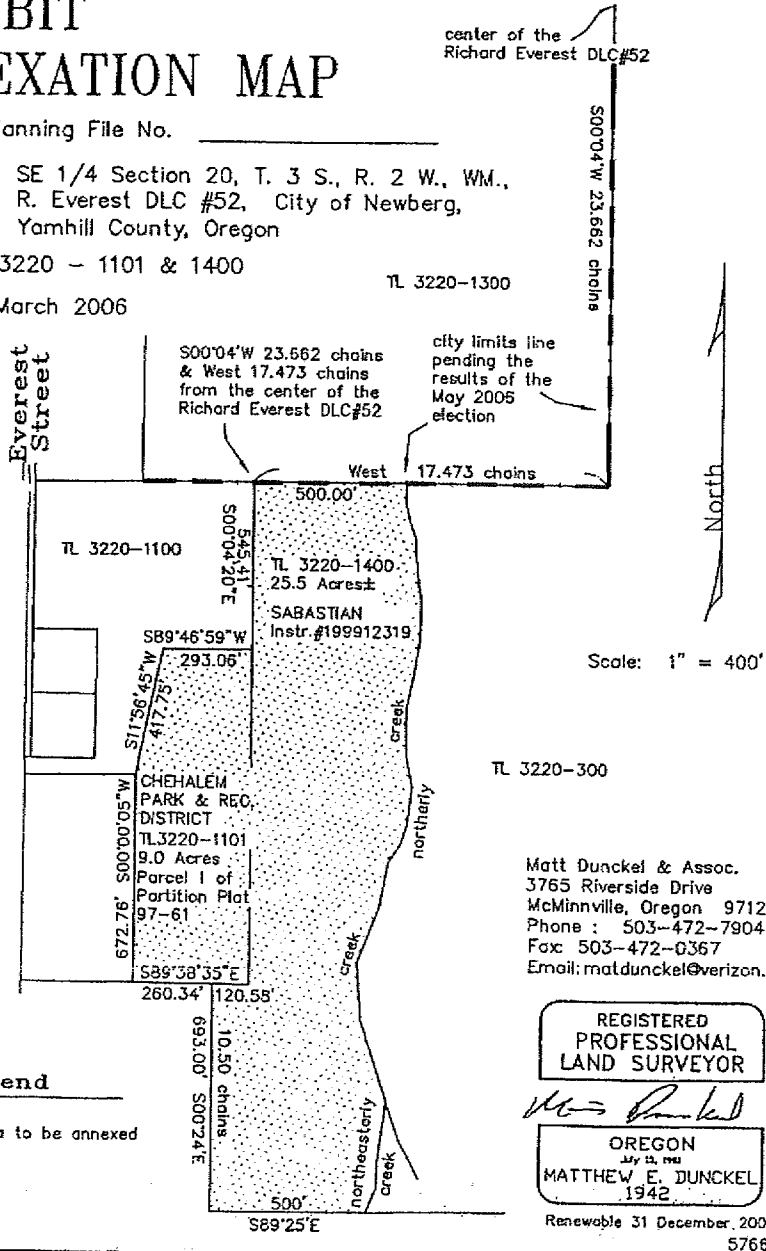
EXHIBIT ANNEXATION MAP

Newberg Planning File No. _____

Location: SE 1/4 Section 20, T. 3 S., R. 2 W., WM.,
R. Everest DLC #52, City of Newberg,
Yamhill County, Oregon

Tax Lot: 3220 - 1101 & 1400 TL 3220-1300

Date: 23 March 2006



Description: Annexation of 34.5 acres
File: ANX-06-007/CPA-06-005/
ZMA-06-005
Date: August 7, 2006

EXHIBIT "B" ANNEXATION MAP

Tax Lot: Tax lot 3220-1101, -
1400
Location: S. of E. 3rd St., east of
Everest Rd., and west of Sportsman
Airpark
Application By: Newberg
Communities, LLC

EXHIBIT "C" - LEGAL DESCRIPTION

A tract of land in Section 20, Township 3 South, Range 2 West, Yamhill County, Oregon, being more particularly described as follows:

Beginning at a point that is South 00°04' West 23.662 chains and West 17.473 chains West of the center of the Richard Everest Donation Land Claim #52, said point being the northwest corner of that tract of land described in deed from RENAISSANCE DEVELOPMENT CORPORATION to RANDALL S. SEBASTIAN and recorded in Instrument No. 199912319, Yamhill County Deed Records; thence South 00°04'20" East 545.41 feet along the west line of said SEBASTIAN tract to the northeast corner of Parcel 1 of Yamhill County Partition Plat No. 97-61; thence South 89°46'59" West 293.06 feet to the northwest corner of said Parcel 1; thence South 11°56'45" West 417.75 feet along the west line of said Parcel 1; thence South 00°05'00" West 672.76 feet to the southwest corner of said Parcel 1; thence South 89°38'35" East 260.34 feet along the south line of said Parcel 1 to the west line of said SEBASTIAN tract; thence South 00°24' East 693.00 feet to the southwest corner of said tract; thence South 89°25' East 500 feet; thence in a northeasterly direction to the junction of two small creeks; thence in a northerly direction up one of said creeks to a point that is 500 feet east of the point of beginning; thence West 500 feet to the point of beginning.