



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

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NOTICE OF ADOPTED AMENDMENT

September 26, 2008



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 007-08

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Copies of the adopted plan amendment are available for review at DLCD offices in Salem, the applicable field office, and at the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: October 9, 2008

This amendment was submitted to DLCD for review prior to adoption with less than the required 45-day notice. 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 DATE SPECIFIED ABOVE.**

Cc: Gloria Gardiner, DLCD Urban Planning Specialist
Steve Oulman, DLCD Regional Representative
Luke Pelz, City of Newberg

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NR0F 2

DLCD

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

In person electronic mailed

DATE STAMP

DEPT OF

SEP 19 2008

LAND CONSERVATION
AND DEVELOPMENT

For DLCD Use Only

Jurisdiction: **Newberg**

Local file number: **ZMA-08-001**

Date of Adoption: **9/15/2008**

Date Mailed: **9/18/2008**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: **5/27/08**

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other: **Design Review**

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

AN ORDER ADOPTING A ZONING DISTRICT CHANGE FROM MEDIUM DENSITY RESIDENTIAL (R-2) TO COMMUNITY COMMERCIAL/LIMITED USE OVERLAY SUB-DISTRICT (C-2/LU), A COMPREHENSIVE PLAN CHANGE FROM MEDIUM DENSITY RESIDENTIAL (MDR) TO COMMERCIAL (COM), AND DESIGN REVIEW APPROVAL FOR OFFICE USE; ADDRESS: 613 N. ELLIOT ROAD; TAX LOT #: 3217DC-00402.

Does the Adoption differ from proposal? Yes, Please explain below:

No additional building is proposed on site. The initial proposal requested design review approval for an office trailer. Also the Adoption includes a Limited Use Overlay designation. This was not requested at the time of the initial notice.

Plan Map Changed from: **MDR**

to: **COM**

Zone Map Changed from: **R-2**

to: **C-2/LU**

Location: **613 N. Elliot Rd.**

Acres Involved: **0**

Specify Density: Previous: **1 unit**

New: **0**

Applicable statewide planning goals:

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

DLCD # 007-08 (16918)

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

DLCD file No. _____

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

Local Contact: **Luke Pelz** Phone: (503) 553-7728 Extension: _____
Address: **PO Box 970** Fax Number: **503-537-1272**
City: **Newberg** Zip: **97132-** E-mail Address: **luke.pelz@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 Complete Copies (documents and maps) 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. **Electronic Submittals:** At least **one** hard copy must be sent by mail or in person, but you may also submit an electronic copy, by either email or FTP. You may connect to this address to FTP proposals and adoptions: **webserver.lcd.state.or.us**. To obtain our Username and password for FTP, call Mara Ulloa at 503-373-0050 extension 238, or by emailing **mara.ulloa@state.or.us**.
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 now access these forms online at **http://www.lcd.state.or.us/**. Please print on **8-1/2x11 green paper only**. You may also call the DLCD Office at (503) 373-0050; or Fax



ORDER No. 2008-0016

AN ORDER ADOPTING A ZONING DISTRICT CHANGE FROM MEDIUM DENSITY RESIDENTIAL (R-2) TO COMMUNITY COMMERCIAL/LIMITED USE OVERLAY SUB-DISTRICT (C-2/LU), A COMPREHENSIVE PLAN CHANGE FROM MEDIUM DENSITY RESIDENTIAL (MDR) TO COMMERCIAL (COM), AND DESIGN REVIEW APPROVAL FOR OFFICE USE; ADDRESS: 613 N. ELLIOT ROAD; TAX LOT #: 3217DC-00402.

RECITALS:

1. On August 14, 2008, the Newberg Planning Commission adopted Resolution No. 2008-255, recommending that the Newberg City Council approve the application of Stuart Brown to change the zoning designation from Medium Density Residential (R-2) to Community Commercial (C-2) and a comprehensive plan change from Medium Density Residential (MDR) to Commercial (COM); and design review approval for office use for the property located at 613 N. Elliot Road; Tax Lot #: 3217DC-00402.
2. After proper notice, on September 15, 2008, the Newberg City Council held a hearing to consider the request.
3. The City Council finds that the proposal is consistent and promotes the goals and policies of the comprehensive plan and development code.

THE CITY OF NEWBERG ORDERS AS FOLLOWS:

1. The Newberg comprehensive plan map is hereby amended to change the designation of the Tax Lot #: 3217DC-00402 described in Exhibit "A" from (MDR) Medium Density Residential to (COM) Commercial.
2. The Newberg zoning map is hereby amended to change the designation of the Tax Lot #: 3217DC-00402 described in Exhibits "A" from (R-2) Medium Density Residential to (C-2)/(LU) Community Commercial/Limited Use Overlay Sub-District. The list of prohibited, permitted, and conditionally permitted uses for the C-2/LU District is contained in Exhibit "G".
3. The findings and conditions shown in Exhibit "C" and Exhibit "F" respectively are hereby adopted.

➤ **EFFECTIVE DATE** of this order is the day after the adoption date, which is: September 16, 2008.
ADOPTED by the City Council of the City of Newberg, Oregon, this 15th day of September, 2008.


Daniel Danicic, City Recorder

ATTEST by the Mayor this 18th day of September, 2008.



Bob Andrews, Mayor

Exhibit A

EXHIBIT "A": LOCATION MAP
ZMA-08-001
613 N. Elliot Rd., Tax Lot#: 3217DC-00402



TYPE III

ZMA-08-001

Z:\FILES\Z\2008\ZMA-08-001_613 N Elliot Rd. Stuart Brown\Staff Report\CC Revised criteria and findings post PC meeting.doc

Exhibit **B**

EXHIBIT "B": ZONING MAP
ZMA-08-001
613 N. Elliot Rd., Tax Lot#: 3217DC-00402

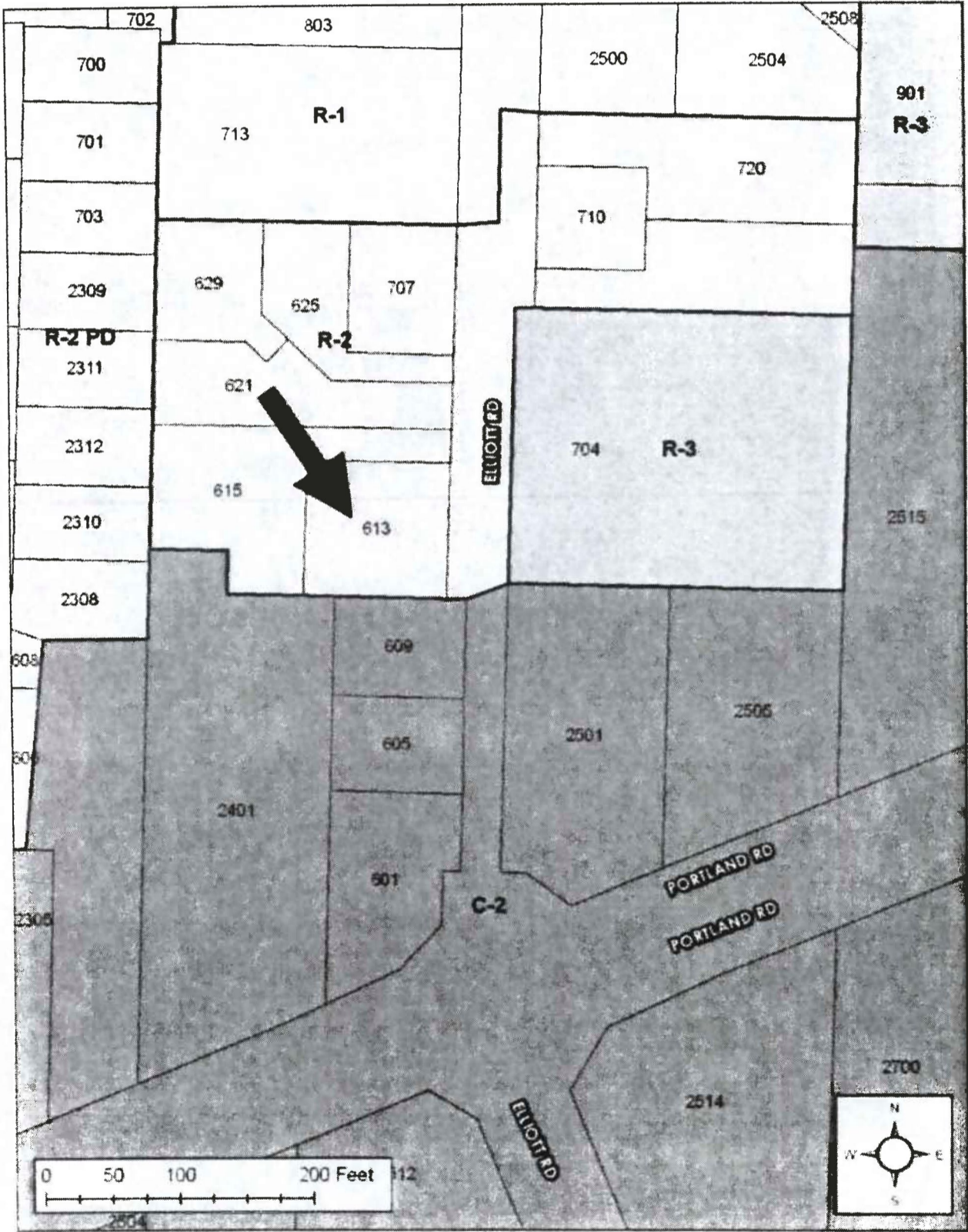


EXHIBIT "C": FINDINGS

ZMA-08-001

613 N. Elliot Rd.

I. Procedures and Criteria That Apply - Newberg Development Code § 151.122:

(A) *Property owners or the city may initiate a map amendment for one parcel or a small group of parcels under the Type III procedure. May be initiated by a resolution of the Planning Commission or City Council. Unlike other Type III procedures, the decision of the Planning Commission on a Type III plan map amendment shall be in the form of a recommendation to the City Council. The City Council shall hold another new hearing and make a final decision.*

Finding: The property owner of 613 N. Elliot has initiated this map amendment request.

(B) *Where an application has been denied, no new application for the same purpose shall be filed within one year of the date of the previous denial unless the City Council for good cause shall grant permission to do so.*

Finding: This is the first application requesting a zone change and comprehensive plan amendment for 613 N. Elliot Road.

(C) *Amendment criteria. The applicant must demonstrate compliance with the following criteria:*

1. The proposed change is consistent with and promotes the goals and policies of the Newberg Comprehensive Plan and this code.

Finding: The applicant is requesting a zone change from (R-2) Medium Density Residential to (C-2) Community Commercial and a comprehensive plan designation change from (MDR) Medium Density Residential to (COM) Commercial. With conditions, the proposed site design is consistent with and promotes the policies of the Newberg Development Code. Specific development policies, findings, and conditions are discussed further in section II below.

Finding: *Comprehensive Plan: Economic Policies*

Regarding the comprehensive plan policies, the proposed change promotes the economic policies and promotes the goal of the Commercial (COM) plan classification. Approval of the request will:

- **Increase the overall supply of commercial land in the City.** This subsequently increases the opportunity, to some degree, for persons to both live and work in Newberg.
- **Provide an increased opportunity for existing and new businesses to locate within the City limits.** Highway 99W, west of downtown, is identified in the comprehensive plan as a commercial growth area. The location of this site is adjacent to existing commercially zoned land that is adjacent to Highway 99W.

The comprehensive plan policies that are consistent with the proposal are listed below:

The Economy: General Policies

- *In order to lessen the percentage of persons who live in Newberg but must work elsewhere, the City should **encourage a diverse and stable economic base through** tax incentive programs, **land use controls**, preferential assessments and capital improvement programs. The formation of a community development corporation should also be considered.*
- *The City shall **encourage economic expansion** consistent with local needs.*
- *The City shall **encourage business** and industry to locate within the Newberg City limits.*

Plan Classifications

- *Commercial Land Use (COM). The objective of this designation is to **provide for a wide variety of commercial activities** including offices, retail sales and services....The area **along Highway 99W** east of the CBD [Central Business District] is recognized as a commercial growth area. It will serve primarily as a service-type commercial area providing shopping centers, restaurants, motels, and other services.*

Finding: Comprehensive Plan Housing Policies

The housing goal of the comprehensive plan is as follows:

“To provide for a diversity in the type, density and location of housing within in the City to ensure there is an adequate supply of affordable housing units to meet the needs of the City resident’s of various income levels”

There are a few issues to consider regarding the comprehensive plan’s housing goal and the zone change request:

- **Approval of the zone change would not have a significant affect on total land supply.** The total area of land proposed for the zone change is about 0.25 acres or 11,000 square feet. Within the city limits there are about 74 buildable acres of Medium Density Residential land and about 50 acres of Commercial land. Keeping the land zoned (R-2) Medium Density Residential will not have significant impact on the overall amount of the R-2 land supply. Alternatively, changing the zoning will not have a significant impact on the overall amount of (C-2) Community Commercial land in Newberg.
- **There is a need for both residential and commercial land.** The table below shows that within the next 20 years the city needs a substantial amount of both Medium Density Residential and Commercial land. About twice as much buildable land is needed for Medium Density Residential (155 acres) compared to Commercial (83 acres). The table was excerpted from the *Newberg Planning and Building Development Report Fiscal Year 2007-2008 (Source: Newberg Planning Department)*.

Buildable Land In Newberg UGB, City Limits
Compared to Comprehensive Plan Projected Needs, as of July 1, 2008

Plan Designation	Total Buildable Acres Needed 2008-2028	Buildable Acres in UGB 7/1/2008	Est. Years Supply in UGB	Buildable Acres in City 7/1/2008	Est. Years Supply in City
MDR	155	140	18	74	10
COM	83	89	21	50	12

- **Having an R-2 zoning designation does not guarantee residential development.** The (R-2) Medium Density Residential district permits other uses besides residential. Examples include agricultural uses (e.g., flower gardening, tree crops, etc.), bed and breakfast establishments, churches, day nurseries, open space, parks, and schools.
- **Dwelling units are a permitted use in the C-2 district.** The C-2 district permits dwelling units provided the units are above any other permitted use.
- **Dwelling units are a permitted conditional use in the proposed C-2/LU zoning district.** If a zone change to C-2 is approved, residential development of any density may be approved in the future through the conditional use permit process.

Finding: Comprehensive Plan: Urban Design and Commercial Areas Policies

There are several comprehensive plan policies that encourage consideration of the impacts of locating commercial uses adjacent to residential development. These policies include:

Urban Design: General Policies

- *Non-residential uses abutting residential areas should be subject to special development standards in terms of setbacks, landscaping, sign regulations, building heights and designs.*
- *The City shall encourage innovative design and ensure that developments consider site characteristics and the impact on surrounding areas.*
- *The City shall encourage residential-professional uses as a buffer between intensive commercial uses and less intensive residential uses.*

Commercial Areas Policies

- *Residents of the City should have access to neighborhood commercial facilities, and these should conform to the character of the area in which they are located. The Neighborhood Commercial designation and the corresponding C-1 Zone should be allowed only on property with the following characteristics:*
 - *A distance, measured along public streets, of at least 1/4 mile from any other properties designated for commercial uses; and*

- *A location at an intersection of a local street and either a collector or arterial street.*

Finding: *Limited Use Overlay Sub-District*

In general commercial development can be compatible with abutting residential development provided certain design standards are met (e.g., screening, setbacks, height, design, etc.). However, the C-2 district permits many intensive uses that are not compatible if located adjacent to residential development. "Intensive uses" are defined as those uses that are primarily auto-oriented (where people typically drive to the site), do not serve the immediate neighborhood, typically have tall high-wattage exterior lighting, emit noxious odors, and the hours of operation extend into the evening (typically after 6 p.m.). Some examples of intensive uses include service stations, drive through restaurants, automobile sales, bowling alleys, car washes, taverns, hotels, and dry cleaners.

The following is a summary of a several comprehensive plan policies that are intended to lessen the impact of commercial development adjacent to residential development:

- Residential-professional uses are encouraged as a buffer between intensive commercial uses and residential uses.
- The site characteristics of a development and impact on surrounding areas should be encouraged.
- Non-residential uses should be subject to special development standards.
- Residents should have access to neighborhood commercial facilities that conform to the character of the area.

The comprehensive plan policies mentioned above encourage commercial near residential when the use and design are compatible (relatively less intensive). A zoning district designation of residential-professional (RP) or neighborhood commercial (C-1) are encouraged by the comprehensive plan policies, and are considered suitable for this site. Because of the intense uses permitted in the C-2, a zoning designation of (C-2) Community Commercial is considered suitable for this site only with a (LU) Limited Use Overlay designation. The Limited Use Overlay Sub-District designation may prohibit certain uses, require conditional permits for specific uses, or set special development standards. For this site, limiting specific uses is found to be the most effective and least complex to administer. The Newberg Development Code details the purpose and applicability of the Limited Use Overlay Sub-District. A description of the sub-district designation is described below:

Limited Use Overlay Sub-District (LU): Purpose

(A) Zoning strives to create a list of uses that are generally compatible with one another in a single district. In limited circumstances, however, some of the uses permitted in a base zoning district are allowable or desirable in a particular location while others may not be. Circumstances might include topographic constraints on the site, differing characteristics of surrounding uses, or limits on local facilities, such as street capacity, that are not addressed in capital

improvement plans.

(B) The limited use overlay is designed to allow those uses that are or can be made compatible in a certain district, while prohibiting or limiting those uses that are incompatible.

(C) It is the intention that limited use overlays be used sparingly and only where unusual circumstances warrant.

Limited Use Overlay Sub-District (LU): Applicability

(A) The limited use overlay may be applied to any zoning classification. It may do any of the following:

- (1) Prohibit certain uses otherwise allowed under the base zoning district.*
- (2) Require conditional use permits for uses otherwise permitted outright in the base zoning district.*
- (3) Set special standards that uses in the overlay must meet, such as height restrictions or setbacks.*

Staff recommends that the Limited Use Overlay Sub-District designation be adopted for this site. The Limited Use Overlay should not permit nor conditionally permit commercial uses that are considered intensive and incompatible when located adjacent to a residential district.

The following uses shall not be permitted in the (C-2) Community Commercial / (LU) Limited Use Overlay Sub-District:

- | | |
|--|---|
| 1. Agricultural machinery sales and service. | 16. Hobby shops, including slot racing tracks. |
| 2. Ambulance services | 17. Hotels, motels, motor hotels or tourist courts. |
| 3. Auction Sales. | 18. Hospitals. |
| 4. Auditorium and theaters. | 19. Liquor stores, package. |
| 5. Automobile sales, new and used. | 20. Marine sales and service. |
| 6. Bars or night clubs. | 21. Miniature golf courses. |
| 7. Bowling alleys. | 22. Mobile home sales and service. |
| 8. Car washes, coin operated or mechanical | 23. Movie theaters. |
| 9. Clubs, lodges, and meeting halls. | 24. Pool and billiard halls. |
| 10. Cocktail lounges. | 25. Reducing salons. |
| 11. Dance halls. | 26. Repair garages. |
| 12. Department stores. | 27. Retail building material sales. |
| 13. Driving Ranges. | 28. Service stations. |
| 14. Dry cleaning establishments; coin operated, custom and self-service. | 29. Skating rinks. |
| 15. Equipment sales (limited to self-propelled equipment, if not within an enclosed building). | 30. Taverns. |
| | 31. Theaters. |
| | 32. Tobacco shops. |

The following uses shall be permitted in the (C-2) Community Commercial / (LU) Limited Use Overlay Sub-District:

1. Antique shops.
2. Appliance sales and service.
3. Art supplies.
4. Artist studios.
5. Athletic facilities.
6. Automobile parts and accessories stores.
7. Bakeries, retail.
8. Bakeries, wholesale.
9. Banks.
10. Barber and beauty shops.
11. Bed and breakfast establishments.
12. Bicycle shops.
13. Blood banks.
14. Blueprinting.
15. Book stores.
16. Building maintenance service.
17. Business offices, general.
18. Camera and supplies shops.
19. Catering services.
20. Chapels.
21. Christmas tree sales (outdoor sales) in accordance with this code.
22. Churches.
23. Clinics.
24. Clothing apparel shops.
25. Colleges, business or private.
26. Confectionery stores with fountains.
27. Curio shops.
28. Dairy products stores, retail only.
29. Day nurseries.
30. Data processing centers.
31. Delicatessen stores.
32. Drapery stores.
33. Dress and millinery shops.
34. Dwelling units, provided the units are above any use permitted in section 151.355, 151.356 and 151.357. 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.
35. Electrical and electronic supplies, retail.
36. Fireworks sales (outdoor sales) from June 24 to July 6.
37. Floor covering stores.
38. Florist shops.
39. Furniture stores.
40. Garden supplies.
41. Gift shops.
42. Grocery stores, markets and supermarkets, including food products stores, retail.
43. Group care homes provided they comply with the requirements listed under "Dwelling Units", listed above in this section.
44. Hardware stores.
45. Health studios.
46. Interior decorators studios.
47. Jewelry stores.
48. Laboratories, medical and dental.
49. Leather goods stores.
50. Lockers, cold storage, retail use only.
51. Locksmith shops.
52. Mortuaries.
53. Music or dancing schools.
54. Music stores.
55. Newspaper printing establishments.
56. Offices for the following:
 - a. Accountants.
 - b. Attorneys.
 - c. Physicians, osteopaths, dentists, optometrists, opticians, chiropractors and others licensed by the state to practice the healing arts.
 - d. Engineers, architects, landscape architects, surveyors and those engaged in the practice of drafting or graphics.
 - e. General administration.
 - f. Insurance brokers.
 - g. Lumber brokers.
 - h. Real estate sales.
 - i. Savings and loans.
 - j. Stockbrokers.
 - k. Telephone answering services.
57. Office supplies and equipment stores.
58. Open space.
59. Paint and wallpaper stores.
60. Parking areas; public or private.
61. Parking garages; public or private.

The following uses shall be permitted in the (C-2) Community Commercial / (LU) Limited Use Overlay Sub-District (Cont.):

- | | |
|--|---|
| <ul style="list-style-type: none"> 62. Pet shops. 63. Photographic film processing, photo-engraving, photocopying and photostating. 64. Photographers studios. 65. Planned unit developments. 66. Post offices. 67. Printing shops. 68. Public and semi-public buildings. 69. Radio and television broadcasting studios. 70. Radio, television and record sales and service. 71. Research institutes (non-manufacturing). 72. Restaurants, except drive-through. 73. Schools; business or private. 74. Secondhand stores (if conducted wholly within an enclosed building. 75. Sewing machine sales and service. 76. Shoe repair shops. 77. Shoe stores. 78. Small animal hospitals and clinics. 79. Sporting goods stores. 80. Storage buildings (household goods only). Mini-storage. | <ul style="list-style-type: none"> 81. Surgical, medical and dental supplies and equipment stores. 82. Tailor shops. 83. Telecommunication facility, including radio towers and transmitters which are incorporated into an existing structure or an existing utility pole, and which will not extend above the existing structure more than 18 feet. 84. Telephone and telegraph exchanges. 85. Toy stores. 86. Transit centers. 87. Transportation facilities and improvements. 88. Travel agencies. 89. Upholstery; automobile and furniture. 90. Variety shops. 91. Any other building or uses determined to be similar to those listed in this section. Such other uses shall not have any different or more detrimental effect upon the adjoining neighborhood area than the buildings and uses specifically listed in this section. |
|--|---|

Within the (LU) Limited Use Overlay / (C-2) Community Commercial district the Planning Commission may grant a conditional use permit for any of the following buildings and uses in accordance with a Type III procedure:

- | | |
|--|---|
| <ul style="list-style-type: none"> 1. Dwelling units. The permitted density shall be stated on the conditional use permit. 2. Fumigation chambers. 3. Group care facilities. The permitted density shall be stated on the conditional use permit. 4. Group care homes not meeting the requirements listed under permitted uses in 151.356. 5. Nursing homes. 6. Recreational vehicle parks. 7. Telecommunication facility, including radio towers and | <ul style="list-style-type: none"> transmitters which are either freestanding or which are incorporated into an existing structure or an existing utility pole, and will extend above the existing structure more than 18 feet. 8. Theaters, drive-in. 9. Any other building or uses determined to be similar to those listed in this section. Such other uses shall not have any different or more detrimental effect upon the adjoining neighborhood area than the buildings and uses specifically listed in this section. |
|--|---|

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

Finding: Adequate water, sewer, storm water, and transportation infrastructure exists and is available for the proposed use at 613 N. Elliot Road. An eight-inch water line and an eight-inch sewer line are located along Elliot Road. No culvert congestion has been identified within the downstream drainage shed of this site. If a more intense use is proposed in the future the capacity of the utilities will be reviewed at that time. Elliot Road is paved however is lacking curb, gutter, planter strip, and sidewalk along the frontage of the proposed development site. The street pavement is in good condition. Street paving is required to be extended to the new curb along the entire frontage of the development site. These street improvements are required as a condition of approval.

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

Finding: According to the TPR guidelines, to have a significant affect the amendment 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) *As measured by the end of the planning period identified in the adopted transportation system plan [TSP]:*
 - i. *Allow land uses or levels of development that would result in types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;*
 - ii. *Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP or comprehensive plan; or*
 - iii. *Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.*

The proposed comprehensive plan amendment does not satisfy the criteria to have a significant affect; therefore the proposal complies with the TPR.

4. *The property owner who desired to have his property reclassified has the burden of establishing that the requested classification meets the requirements of this section. As part of the application, the property owner requesting a change shall file a waiver stating that the owner will not file any demand against the city under Ballot Measure 49, approved November 6, 2007, that amended O.R.S. Chapters 195 and 197.*

Finding: A copy of the recorded waiver has been submitted to the city.

5. *A traffic study shall be submitted for any proposed change that would significantly affect a transportation facility, or that would allow uses that would increase trip generation in excess of 40 trips per p.m. peak hour. This requirement may be waived by the Director when a determination is made that previous traffic study adequately addresses the proposal and/or when off-site and frontage improvements have already been completed, which adequately mitigate any traffic impacts and/or the proposed use is not in a location, which is adjacent to an intersection, which is functioning at a poor level of service. A traffic study may be required by the Director for changes in areas below 40 trips per p.m. peak hour where the use is located immediately adjacent to an intersection functioning at a poor level of service. The traffic study shall be conducted according to the City of Newberg Design Standards.*

Finding: A traffic study is not required. The *ITE (Institute of Transportation Engineers) Trip Generation Manual* was used to identify the estimated average p.m. peak hour rate of traffic to this site. According to the *ITE Manual* an office use generates about 1.7 trips per 1,000 square feet of gross floor area. This proposal will generate approximately 3.2 trips per p.m. peak hour.

II. Criteria That Apply - Newberg Development Code § 151.194:

(A) *Design Compatibility. The proposed design review request incorporates an architectural design which is compatible with and/or superior to existing or proposed uses and structures in the surrounding area. This shall include, but not limited to, building architecture, materials, colors, roof design, landscape design, and signage.*

Finding: No new building or additions are proposed. The existing building is proposed to be converted from residential use to office use. Approval of the zone change would make the existing single-family home non-conforming in regard to the C-2 design standards 151.196. However, the exterior design of the building is compatible with other buildings in the neighborhood. The design is compatible because the building has typical residential design elements such as pitched roof, porch, horizontal siding, and sliding windows with contrasting trim. Exhibit "E" of Order 2008-0016 contains photos of the existing structure on-site.

(B) *Parking and On-site Circulation. Parking areas shall meet the requirements of § 151.610. Parking studies may be required to determine if adequate parking and circulation are provided for uses not specifically identified in § 151.610. Provisions shall be made to provide efficient and adequate on-site circulation without using the public streets as part of the parking lot circulation pattern. Parking areas shall be designed so that vehicles can efficiently enter and exit the public streets with a minimum impact on the functioning of the public street.*

Finding: With conditions the proposed site plan meets the minimum parking number and dimension requirements. Parking areas and drive aisles are required to be paved with asphalt or concrete; gravel is not permitted. The type of paving is required to be indicated on a revised plan. Parking stall number "5" does not meet the dimensional requirements of the Development Code. The design of stall "5" would allow a vehicle to enter the stall easily but exiting would be difficult.

A revised site plan is required to be submitted that shows:

1. All parking areas and drive aisles paved with either asphalt or concrete.
2. The parking and drive aisle areas on the adjacent lot, 609 N. Elliot Road, Tax Lot 3217DC-00500 paved with either asphalt or concrete.
3. A sufficient amount of paved area for vehicles to exit from parking stall number "5". A "sufficient amount" will need to be demonstrated by showing the turning radius for a typical size vehicle.

(C) Setbacks and General Requirements. The proposal shall comply with §§ 151.535 through 151.540 regarding height restrictions and public access; and § 151.511 and §§ 151.550 through 151.568 regarding setbacks, coverage, vision clearance, and yard requirements.

Finding: Because the site abuts a residential zoning district a 10 foot wide setback is required along the north and west lot lines. However, parking is permitted in this area. The proposal illustrates a 5 foot wide landscape buffer along the north lot line and a 22 foot wide landscape buffer along the west lot line. No pedestrian path to the right-of-way has been shown. No lighting plan has been submitted.

A revised site plan is required to be submitted that shows:

1. A pedestrian walkway, with a minimum 4 foot width, extending from the building to the public right-of-way.

A lighting plan is required to be submitted that shows:

1. The illumination levels from all existing and proposed exterior lighting.
2. A minimum amount of lighting provided along the on-site walkways to ensure safety and security.
3. Light not exceeding 0.5 foot candles at the property line.

(D) Landscaping. The proposal shall comply with Code § 151.580 and §151.511 regarding landscape requirements and landscape screening.

Finding: The proposed plan does not meet Development Code requirements regarding: the required combination of planting materials at the required spacing, size and type of street trees, the method of irrigation, and required screening between the proposed development and the adjacent residential district.

A revised landscape plan needs to be submitted that shows:

1. The type and size of street trees. The trees are required to have a minimum caliper of 1.5-1.75 inches.
2. The front yard planted with a combination of two of the following; trees, shrubs, grass or ground cover.
3. The interior yards with a combination of two of the following; trees, shrubs, grass or ground cover. The plan illustrates 10' maple trees and smaller unidentified plants.
4. The number and spacing of plantings. The amount and spacing are dependent on the size of plant. Please see §151.580 of the Newberg Development Code for specific requirements.
5. A continuous evergreen hedge located immediately adjacent and along the north and west lot lines. The hedge shall have a minimum height of 8 feet when planted. A fence is already located along the north and west property lines, although it is part of the neighboring property. An additional fence would not provide any additional screening benefits.
6. The method of irrigation for all required landscaping.

There are two existing mature cedar trees located along the south lot line, three mature trees located on the west side of the existing home, and a large tree/shrub located near the northwest corner of the lot. It is recommended that the existing trees and shrubs along the north and west property line remain to provide additional landscape buffering between the residential areas. This recommendation is based on the comprehensive plan urban design policy that states: "*Developments should respect the natural ground cover of their sites to the extent possible and plans should be made to preserve existing mature, non hazardous trees in healthy condition*".

(E) Signs. Signs shall comply with § 151.511 et seq. regarding signs.

Finding: No signs have been submitted as part of this review. Any new sign application submitted after the date of this design review decision will be reviewed as a separate application.

(F) Manufactured home, mobile home and RV parks. Manufactured homes, mobile home, and recreational vehicle parks shall also comply with the standards listed in §§151.655 et seq., in addition to the other criteria listed in this section.

Finding: Not applicable.

(G) Zoning District Compliance. The proposed use shall be listed as a permitted or conditionally permitted use in the zoning district in which it is located as found in §§ 151.280 through 151.438. Through this site review process, the Director may make a determination that a use is determined to be similar to those listed in the applicable zoning district, if it is not already specifically listed. In this case, the Director shall make

a finding that the use shall not have any different or more detrimental effects upon the adjoining neighborhood area than those specifically listed.

Finding: An office is a permitted use in the C-2 district and the uses recommended to be included in the Limited Use Overlay. A change to a more intense use would require, at a minimum, administrative review.

(H) Sub-District Compliance. *Properties located within sub-districts shall comply with the provisions of those sub-districts located in §§ 151.450 through 151.526.*

Finding: The site is located in the Airport Overlay Horizontal Surface Zone. The proposed building height does not exceed the height requirements for this sub-district. The proposed office use complies with the recommended C-2/Limited Use Overlay Sub-District.

(I) Alternative Circulation, Roadway Frontage Improvements, and Utility Improvements. *Where applicable, new developments shall provide for access for vehicles and pedestrians to adjacent properties which are currently developed or will be developed in the future. This may be accomplished through the provision of local public streets or private access and utility easements. At the time of development of a parcel, provisions shall be made to develop the adjacent street frontage in accordance with city street standards and the standards contained in the transportation plan. At the discretion of the city, these improvements may be deferred through use of a deferred improvement agreement or other form of security.*

Finding: The entire roadway frontage along 613 N. Elliot Road is unimproved. Curb, gutter, planter strip, sidewalk, extend street paving to new curb, and street trees are required as a condition of approval.

(J) Traffic Study Improvements. *If a traffic study is required, improvements that have been identified in the traffic study shall be implemented as required by the Director.*

Finding: A traffic study is not required. The *ITE Trip Generation Manual* was used to identify the estimated average p.m. peak hour rate of traffic to this site. According to the *Manual* an office use generates about 1.7 trips per 1,000 square feet of gross floor area. This proposal will generate approximately 3.2 trips per p.m. peak hour.

III. Criteria That Apply - Newberg Development Code § 151.196 (Additional Criteria for C-2):

(A) Building entrances. *Each building on a lot shall have a primary pedestrian entrance oriented to the primary street. "Oriented to a street" means that the building entrance faces the street or is connected to the street by a direct and convenient pathway not exceeding 60 feet in length. "Primary street" means the highest classification street abutting the lot. On lots which abut two or more streets of equal classification, the primary street shall be the street which has the highest estimated volume of pedestrian traffic. This requirement does not apply to buildings that are located behind other buildings on the lot such that 50% or more of their building frontage is blocked by the front building, as measured by sight lines that are perpendicular to the street right-of-way. Such rear buildings shall have a primary entrance oriented to an internal sidewalk*

or pedestrian pathway system which is internally connected and provides a connection to the primary street.

Finding: Not applicable. The existing building is considered non-conforming and is not required to meet the requirements unless substantial modifications are made to the building.

(B) Parking and service drives. *No off-street parking or service drives shall be placed within the required front yard setback. No off-street parking shall be placed between the front property line of the primary street, as defined in division (A) above, and the building. This requirement does not apply to buildings that are located behind other buildings on the lot such that 50% or more of their building frontage is blocked by the front building, as measured by sight lines that are perpendicular to the street right-of-way.*

Finding: The proposal meets this criterion because no off-street parking is proposed between the building and the front property line.

(C) Exceptions. *The review body may approve exceptions to the above provided there are no reasonable alternatives that would allow access to or parking on the lot.*

Finding: The applicant has not requested exceptions to the criteria "A" or "B".

(D) Building mass. *Where building elevations are oriented to the street in conformance with (A) above, architectural features such as windows, pedestrian entrances, building offsets, projections, detailing, change in materials or similar features, shall be used to break up and articulate large building surfaces and volumes.*

Finding: Not applicable. The existing building is considered non-conforming and not required to meet the requirements unless substantial modifications are made to the building.

(E) Corner lots. *Buildings on corner lots shall have their primary entrance oriented to the street corner, or within 40 feet of the street corner (i.e., as measured from the lot corner). In this case, the street corner shall provide an extra-wide sidewalk or plaza area with landscaping, seating or other pedestrian amenities. The building corner shall provide architectural detailing or beveling to add visual interest to the corner.*

Finding: The proposed development site is not a corner lot. The criteria in subsection (E) are not applicable.

(F) Pedestrian-scale building entrances. *Recessed entries, canopies, and/or similar features shall be used at the entries to buildings in order to create a pedestrian-scale.*

Finding: Not applicable. The existing building is considered non-conforming and not required to meet the additional requirements unless substantial modifications are made to the building.

(G) Windows. *On commercial building facades facing a public street, windows shall comprise a minimum of 40% of the ground floor facade.*

Finding: Not applicable. The existing building is considered non-conforming and not required to meet the requirements unless substantial modifications are made to the building.

(H) *Design of large-scale buildings and developments. Commercial buildings and uses comprising more than 40,000 square feet of total ground-floor building space shall additionally conform to the standards below:*

(1) Incorporate changes in building direction (i.e., articulation), and divide large masses into varying heights and sizes. Such changes may include building offsets; projections; changes in elevation or horizontal direction; sheltering roofs; terraces; a distinct pattern of divisions in surface materials; and use of windows, screening trees; small-scale lighting (e.g., wall-mounted lighting, or up-lighting); and similar features.

(2) Every building elevation facing a street with a horizontal dimension of more than 100 feet, as measured from end-wall to end-wall, shall have a building entrance no more than 100 from another entrance or end-wall; except that buildings elevations that are unable to provide an entrance due to the internal function of the building space (e.g., mechanical equipment, areas where the public or employees are not received, etc.) may not be required to meet this standard. Pathways shall connect all entrances to the street right-of-way.

Finding: The proposed building's square footage is below 40,000 square feet. The criteria in subsection (H) are not applicable.

IV. Conclusion: Based on the above mentioned findings, the project meets the criteria required within the Newberg Development Code, subject to completion of the conditions of approval contained in Exhibit "F".

Exhibit D

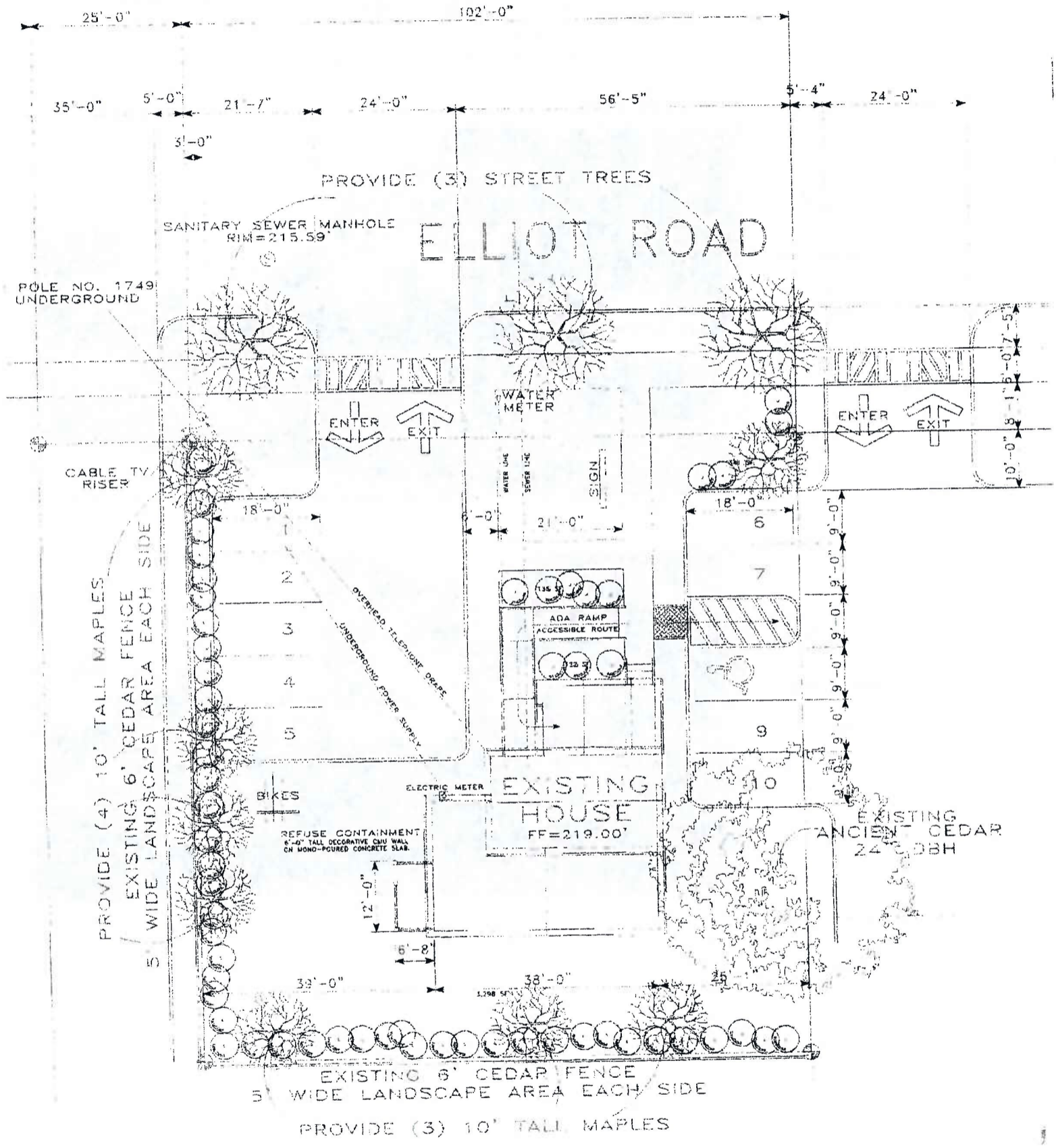


Exhibit **E**

EXHIBIT "E": SITE PHOTOS
ZMA-08-001
613 N. Elliot Rd., Tax Lot#: 3217DC-00402

Photo of Existing House (southeast)



Photo of Existing House (northeast)



TYPE III

ZMA-08-001

Z:\FILES\2008\ZMA-08-001. 613 N Elliot Rd. Stuart Brown\Staff Report\CC\Revised criteria and findings post PC meeting.doc

Exhibit F

EXHIBIT "F": CONDITIONS OF APPROVAL

ZMA-08-001

613 N. Elliot Rd., Tax Lot#: 3217DC-00402

1. The applicant must provide the following information for review and approval prior to construction of any improvements:

a. Revised Site Plan: Provide a site plan that shows the following:

- i. All parking areas and drive aisles paved with either asphalt or concrete.
- ii. The parking and drive aisle areas on the adjacent lot, 609 N. Elliot Road-Tax Lot 3217DC-00500, paved with either asphalt or concrete.
- iii. A sufficient amount of paved area for vehicles to exit from parking stall number "5". A "sufficient amount" will need to be demonstrated by showing the turning radius for a typical size vehicle.
- iv. A pedestrian walkway, with a minimum 4 foot width, extending from the building to the public right-of-way.
- v. Standard drive approach, curb, gutter, sidewalk, planter strip, street trees, and extend street paving to new curb along the entire frontage of 613 N. Elliot Road.

b. Revised Landscape Plan: Provide a landscape plan that shows the following:

- i. The type and size of street trees. The trees are required to have a minimum caliper of 1.5-1.75 inches.
- ii. The front yard (10 feet wide) planted with a combination of two of the following; trees, shrubs, grass or ground cover.
- iii. The interior yards (10 feet wide where no parking or drive aisle exists) with a combination of two of the following; trees, shrubs, grass or ground cover.
- iv. The number and spacing of plantings. The amount and spacing are dependent on the size of plant. Please see §151.580 of the Newberg Development Code for specific requirements.
- v. A continuous evergreen hedge located immediately adjacent and along the north and west lot lines. The hedge shall have a minimum height of 8 feet when planted. A fence is already located along the north and west property lines, although it is part of the neighboring property. An additional fence would not provide any additional screening benefits.
- vi. The method of irrigation for all required landscaping.
- vii. It is recommended that the existing trees and shrubs along the north and west property line remain to provide additional landscape buffering between the residential areas. There are two existing mature cedar trees located along the south lot line, three mature trees located on the west side of the existing home, and a large tree/shrub located near the northwest corner of the lot.

c. Revised Exterior Lighting Plan: Provide a lighting plan that shows the following:

- i. The illumination levels from all existing and proposed exterior lighting.
- ii. A minimum amount of lighting provided along the on-site walkways to ensure safety and security.
- iii. Light not exceeding 0.5 foot candles at the property line.

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- d. **Approval from Newberg Garbage Service:** Provide written confirmation from Newberg Garbage Service that the proposed method of garbage collection is adequate.
- e. **Drainage Plan:** Provide a drainage plan that shows how storm water will be directed to the city storm water system.
- f. **Utility Plan:** Provide a utility plan that shows all existing and proposed utilities to the site located underground.

2. The applicant must complete the following prior to occupancy.

- a. **Design Review Conditions:** Contact the Planning Division (537-1240) to verify that all design review conditions have been completed.
- b. **Building Division Requirements:** This project is subject to compliance with all Building Division standards. This includes obtaining all applicable building, plumbing, mechanical, and electrical permits.
- c. **Fire Department Requirements:** This project is subject to compliance with all Fire Department standards relating to access and fire protection. Access and water supply must meet current standards. If alarms or sprinklers are present a KNOX-BOX is required.
- d. **Engineering Division Requirements:** This project is subject to compliance with all Engineering Division standards.
- e. **Substantially Complete the Construction Improvements:** Prior to issuance of an occupancy permit, construction improvements must be made substantially complete and secured for in accordance with city policy.
- f. **Site Inspection:** Contact the Building Division (537-1240) for Building, Mechanical, and Plumbing final inspections. Contact the Fire Department (537-537-1260) for Fire Safety final inspections. Contact Yamhill County (538-7302) for electrical final inspections. Contact the Planning Division (537-1240) for landscaping final inspections.

Exhibit 6

Exhibit "G" to Order 2008-0016
List of permitted uses in the CU/LU District for
613 N. Elliot Rd., Tax Lot#: 3217DC-00402

***Permitted uses for the Limited Use Overlay Sub-District
613 N. Elliot Road***

Prohibited uses. The recommended prohibited uses include:

- | | |
|---|--|
| 1. <i>Agricultural machinery sales and service.</i> | 16. <i>Hobby shops, including slot racing tracks.</i> |
| 2. <i>Ambulance services</i> | 17. <i>Hotels, motels, motor hotels or tourist courts.</i> |
| 3. <i>Auction Sales.</i> | 18. <i>Hospitals.</i> |
| 4. <i>Auditorium and theaters.</i> | 19. <i>Liquor stores, package.</i> |
| 5. <i>Automobile sales, new and used.</i> | 20. <i>Marine sales and service.</i> |
| 6. <i>Bars or night clubs.</i> | 21. <i>Miniature golf courses.</i> |
| 7. <i>Bowling alleys.</i> | 22. <i>Mobile home sales and service.</i> |
| 8. <i>Car washes, coin operated or mechanical</i> | 23. <i>Movie theaters.</i> |
| 9. <i>Clubs, lodges, and meeting halls.</i> | 24. <i>Pool and billiard halls.</i> |
| 10. <i>Cocktail lounges.</i> | 25. <i>Reducing salons.</i> |
| 11. <i>Dance halls.</i> | 26. <i>Repair garages.</i> |
| 12. <i>Department stores.</i> | 27. <i>Retail building material sales.</i> |
| 13. <i>Driving ranges.</i> | 28. <i>Service stations.</i> |
| 14. <i>Dry cleaning establishments, coin operated, custom and self-service.</i> | 29. <i>Skating rinks.</i> |
| 15. <i>Equipment sales (limited to self-propelled equipment, if not within an enclosed building).</i> | 30. <i>Taverns.</i> |
| | 31. <i>Theaters.</i> |
| | 32. <i>Tobacco shops.</i> |

Permitted uses. All currently permitted uses in the C-2 District, excluding the prohibited uses identified above.

Conditional uses. All uses currently permitted conditionally in the C-2 District.

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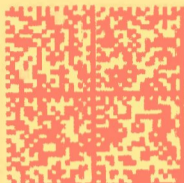
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Attention: Plan Amendment Specialist
Department of Land Conservation and
Development
635 Capitol Street NE, Suite 150
Salem, OR 97301-2540