



# Oregon

Theodore R. Kubongski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



## NOTICE OF ADOPTED AMENDMENT

11/23/2009

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Newberg Plan Amendment  
DLCD File Number 003-09

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: Friday, December 04, 2009

This amendment was submitted to DLCD for review 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 THAT IT WAS MAILED TO DLCD. AS A RESULT, YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.

Cc: Jessica Nunley, City of Newberg  
Gloria Gardiner, DLCD Urban Planning Specialist  
Steve Oulman, DLCD Regional Representative  
Bill Holmstrom, DLCD Transportation Planner

<paa> YA

# 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**

**NOV 16 2009**

**LAND CONSERVATION  
AND DEVELOPMENT**

For DLCD Use Only

Jurisdiction: **City of Newberg**

Local file number: **UGB-09-002**

Date of Adoption: **11/4/09**

Date Mailed: **11/13/09**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: 8/05/09

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other: **UGB Amendment**

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

Adds a 1.24 acre parcel to the Newberg Urban Growth Boundary and designates the parcel as Industrial (IND) in the Newberg Comprehensive Plan. The parcel is located at 2716 Wynooski Road, Newberg, OR, Tax Lot 3229-00300. The parcel was located within the Newberg Urban Reserve Area.

Does the Adoption differ from proposal? **No**

Plan Map Changed from: **County VLDR**

to: **City IND**

Zone Map Changed from:

to:

Location: **2716 Wynooski Road, Newberg, OR**

Acres Involved: **1.24**

Specify Density: Previous:

New:

Applicable statewide planning goals:

- |                                     |                                     |                          |                          |                          |                          |                          |                          |                                     |                          |                                     |                          |                          |                                     |                          |                          |                          |                          |                          |
|-------------------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|--------------------------|-------------------------------------|--------------------------|--------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| <b>1</b>                            | <b>2</b>                            | <b>3</b>                 | <b>4</b>                 | <b>5</b>                 | <b>6</b>                 | <b>7</b>                 | <b>8</b>                 | <b>9</b>                            | <b>10</b>                | <b>11</b>                           | <b>12</b>                | <b>13</b>                | <b>14</b>                           | <b>15</b>                | <b>16</b>                | <b>17</b>                | <b>18</b>                | <b>19</b>                |
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Was an Exception Adopted?  YES  NO

Did DLCD receive a Notice of Proposed Amendment...

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.** 003-09 (17751) [15831]

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

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Local Contact: **Jessica Nunley**

Phone: **(503) 554-7744** Extension:

Address: **414 E First St/P.O. Box 970**

Fax Number: **503-537-1272**

City: **Newberg** Zip: **97132**

E-mail Address: **jessica.nunley@newbergoregon.gov**

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## **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, or by emailing **[larry.french@state.or.us](mailto:larry.french@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 your request to: (503) 378-5518; or Email your request to **[larry.french@state.or.us](mailto:larry.french@state.or.us)** - **Attention: Plan Amendment Specialist**.

Updated March 17, 2009

BEFORE THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of a Comprehensive Plan Amendment and Zone Change )  
from VLDR 2.5 Very Low Density Residential to LI Light Industrial, )  
Amending Newberg's Urban Growth Boundary to include a 1.24 Acre ) Ordinance 845  
Parcel Located at 2716 NE Wynooski Road, Newberg, Tax Lot 3229-300, )  
PAZ-03-09, Applicant Elizabeth L. Fettig, and Declaring an Emergency )

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) sat for the transaction of county business on November 4, 2009, Commissioners Leslie Lewis, Kathy George and Mary P. Stern being present.

IT APPEARING TO THE BOARD that Elizabeth Fettig applied for a Comprehensive Plan Amendment and Zone Change for a 1.24 Acre parcel from VLDR 2.5 Very Low Density Residential to LI Light Industrial be taken into the into the Newberg UGB, and

IT APPEARING TO THE BOARD that the Newberg Urban Area Management Commission heard this matter at a duly noticed public hearing on September 30, 2009 and unanimously voted to recommend approval to the Board, and the Board held a duly noticed public hearing on October 28, 2009, and voted unanimously to approve the application, NOW, THEREFORE,

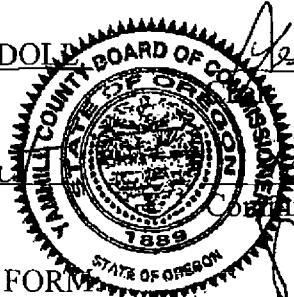
IT IS HEREBY ORDAINED BY THE BOARD, that the application is approved as detailed in the Findings for Approval, attached as Exhibit "A" and by this reference incorporated herein. This ordinance, being necessary for the health, safety, and welfare of the citizens of Yamhill County, and an emergency having been declared to exist, is effective upon passage. A map is appended as Exhibit "B".

DONE this 4th day of November, 2009, at McMinnville, Oregon.

ATTEST:

YAMHILL COUNTY BOARD OF COMMISSIONERS

REBEKAH STERN DOUGLAS  
County Clerk



*Leslie A. Lewis*  
LESLIE LEWIS

By *Annelle Britt*  
Deputy Anne Britt

*Kathy George*  
KATHY GEORGE

APPROVED AS TO FORM

*Mary P. Stern*  
Commissioner MARY P. STERN

*Rick Sanai*  
Rick Sanai, Assistant County Counsel

**Exhibit "A" - FINDINGS**

**DOCKET NO.:** PAZ-03-09

**REQUEST:** To amend Newberg's Urban Growth Boundary to take in 1.24 acres. Approval of the request would allow eventual inclusion of the property into the city limits. The application includes a request for a comprehensive plan designation from VLDR Very Low Density Residential to the City plan designation of Industrial and a zone change from VLDR 2.5 Very Low Density Residential to LI Light Industrial.

**APPLICANT:** Elizabeth L. Fettig

**TAX LOTS:** 3229-300

**LOCATION:** 2716 NE Wynooski Road, Newberg

**COMPREHENSIVE PLAN:** VLDR Very Low Density Residential/Urban Reserve Area

**ZONE:** VLDR 2.5 Very Low Density Residential

**CRITERIA:** Section 908 of the Yamhill County Zoning Ordinance, Newberg Urban Area Management Agreement, Statewide Planning Goals, Yamhill County Comprehensive Plan Goals and Policies and the Oregon Administrative Rules, including OAR 660-021 and OAR 660-012-0060.

A. Background Facts

1. *Size:* Approximately 1.24 acres.
2. *Access:* Wynooski Road
3. *On-site Land Use:* The subject parcel is bordered by trees along the western and southern property lines. The property contains a pump house.
4. *Current Zoning:* VLDR 2.5 Very Low Density Residential. On September 30, 2004 the property was designated as part of the Interchange Overlay District. While this property is within the Interchange Overlay District, it is not within the planned bypass corridor. The Interchange Overlay District is subject to Section 908 of the Yamhill County Zoning Ordinance and the amended provisions of the Yamhill County Comprehensive Plan. On June 17, 2009, the Yamhill County Board of Commissioners amended the overlay district to allow for Urban Growth Boundary expansions, subject to coordination with ODOT and the local jurisdictions.

5. *Surrounding Land Use:* Property to the north, across Wynooski Road, contains industrial uses including a mattress factory. The property adjacent to the south and west is owned by Smurfit Paper Plant. Property to the east is owned by the applicant and is subject to a zone change request to go from HI Heavy Industrial to LI Light Industrial.
6. *Surrounding Zoning:* The surrounding properties to the north are in the city limits of Newberg and are zoned M-2. The other adjacent lots to the south, east and west are zoned HI Heavy Industrial. Property to the south and west is within the Newberg Urban Reserve Area. Land to the east is within Newberg's Urban Growth Boundary and is owned by the applicant.
7. *Water:* The property contains a well and old pump house.
8. *Sewage Disposal:* The property contains a septic system.
9. *Fire Protection:* Newberg Rural Fire District
10. *Soils:* One-third of the parcel is classified as Aloha silt loam, one-third is Dayton silt loam and the remainder is Terrace Escarpment. (Note: While the property does contain soils that are rated as "high-value" agricultural soils, in 1979 the property had an exception to the farm and forest preservation goals.)
11. *Exception:* The subject parcel and area to the north, south, east and west were all granted a "committed" exception from the statewide planning goals protecting farm and forestry uses (goals 3 and 4). The area was granted an exception and plan designated VLDR Very Low Density Residential by Exceptions Statement I. This document was adopted by the Board of Commissioners May 3, 1979. In 1995 Yamhill County and the City of Newberg adopted the Urban Reserve Area. Yamhill County adopted Ordinance 596 on July 19, 1995 which identified the subject parcel as part of the Newberg Urban Reserve Area.
12. *Fish and Wildlife:* The property is not identified as being on any county adopted fish and wildlife habitat plan.
13. *Coordinated Population Projection:* Under ORS 195.036 cities are required to coordinate their population projections with the counties. The last coordinated population projection for Newberg is 54,097 citizens for the year 2040.
14. *Urban Reserve Area:* While the property is within the Urban Reserve Area the addendum to the Urban Area Management Agreement states that: "The County shall prohibit zone amendments allowing more intensive uses, including higher residential density, than permitted at the date of this agreement." This requirement is taken from the Oregon Administrative Rule 660-021-0040(3), which governs Urban Reserve Areas. The zone change portion of this application would only be approved subsequent to the urban growth boundary amendment.

B. Interchange Overlay District

1. On June 17, 2009 the Board of Commissioners adopted Ordinance No. 838 which modified the regulations that applied to the Interchange Overlay District as detailed in Section 908 of the Yamhill County Zoning Ordinance. Subsection 908.06(B and C) lists processes for expansion of the Urban Growth Boundary (UGB). It states:
  - B. *Proposed amendments to the UGBs are governed by the criteria in Statewide Planning Goal 14 (Urbanization) and acknowledged UGB management agreements between Yamhill County and the respective cities. A decision to expand the UGB must be approved by the Yamhill County*
  - C. *The 1999 OHP (Action 1B.3) directs ODOT to avoid expansions of UGBs along Interstate and State Highways and around interchanges unless ODOT and the appropriate local governments agree to an interchange area management plan to protect interchange operation.*

As stated above, Section 908 of the Yamhill County Zoning Ordinance allows UGB expansion within the Interchange Overlay District.

C. Urban Growth Boundary Amendment Criteria

1. Criteria to be addressed in UGB amendment requests include the *Newberg Urban Area Growth Management Agreement*, the statewide planning goals, and the city and county Comprehensive Plans. The review standards from the first three of these are detailed in the city's staff report, which is hereby adopted in its entirety by this reference. The application did consider Newberg's Comprehensive Plan and much of the justification of Newberg's Comprehensive Plan criteria follows similar reasoning for justification of the Yamhill County Comprehensive Plan Criteria. It should be noted that if this property were brought into the Urban Growth Boundary of the City of Newberg, the Comprehensive Plan designation would be the city's IND Industrial plan designation.

Even though the majority of the Yamhill County Goals and Policies are aspirational and not to be mistaken for, or treated as, approval criteria it is required that they be considered. It is a fact that some of the goals and policies conflict with one another. They are simply to be used as a guide to aid decision makers. For example, where goals or policies conflict the decision makers need to weigh the evidence and decide which goal or policy the request satisfies. Therefore, the Board of Commissioners finds the parcel is more appropriate for urban development than to be preserved for rural residential use.

2. The Yamhill County Comprehensive Plan, Section I.A., Goal 1, directs County:

*To encourage the containment of growth within existing urban centers, provide for the orderly, staged, diversified and compatible development of all of the cities of Yamhill County, and assure an efficient transition from rural to urban land use.*

In 1995 the urban reserve area project was completed. The Newberg Urban Reserve Area (URA) land supply was intended to provide adequate land for the City of Newberg needs to 2020.<sup>1</sup> The subject parcel was included in the URA. The urban reserve anticipated to fulfill the need for urban development 10-years beyond the adopted UGB. At that time, the reserve was to fulfill the needed land for urban development until 2020.

3. The Yamhill County Comprehensive Plan, Section I.A., Goal 2, directs Yamhill County:

*To encourage the containment of urban services and facilities and other public capital improvements within existing urbanizing areas in order to achieve an orderly pattern of urban growth.*

The expansion is proposed for property that was designated in 1995 as being part of the Newberg Urban Reserve Area. Recently, the city has undertaken a study to develop the South Industrial Area Master Plan. The preliminary results of that study have identified a portion of this property as being appropriate for some level of industrial development. Based on the available urban improvements to the property, it appears that approval will result in an orderly pattern of urban growth.

4. The Yamhill County Comprehensive Plan, Section I.H., Goal 1, directs Yamhill County:

*To concentrate industries of similar types, service needs, and performance characteristics within designated areas of each of the existing urban centers; to encourage adequate land for new industrial development within urban growth boundaries; to encourage the relocation of existing industries from undesirable locations in order to eliminate land use conflicts; to attract new industries in accordance with the need to achieve a more balanced local property tax and employment base, while maintaining a high standard of environmental quality; and to protect the stability and functional aspect of industrial areas by protecting them from incompatible uses.*

Approval of this request will move the property up the priority list from the Urban Reserve Area to the Urban Growth Boundary. An appropriate amount of land, properly located in the community, will help to assure a long term diversified employment base. The applicant is proposing to sell the property and have the new owners use the property for a few years for light industrial uses that do not require the extension of services. Ultimately, the property would be annexed into the Newberg city limits and developed with some type of appropriate light industrial business. Interim development of the property should be done with the thought in mind that the property will be within the city. The City requested conditions to be placed on a limited use overlay zone to require the interim development be done to city standards.

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<sup>1</sup>The city and the County have adopted an expansion to the Urban Reserve Area, however, this expansion is still being reviewed by the Land Conservation and Development Commission.

5. The Yamhill County Comprehensive Plan, Section I.H., Goal 1, Policy h., directs Yamhill County:

*Established industrial areas may be extended and new industrial areas designated by plan amendment where development trends warrant such extension or designation and full urban services are extended into the area, if appropriate, and the extension or designation of land use and services is consistent with all other goals and policies of the comprehensive plan.*

As indicated by the City of Newberg's draft South Industrial Area Master Plan, this area is suitable for industrial development based on the past development trends. Both Heavy Industrial and Light Industrial uses exist on neighboring properties. This is the strongest argument for the urban growth boundary amendment and the zone change - the simple fact that all of the surrounding area is either zoned for, or in, industrial uses. A spot zone of residential in the middle of industrial uses could set up a conflict between neighboring uses. A zone change to light industrial will minimize this possibility.

6. The Yamhill County Comprehensive Plan, Section II, Goal 2, Policy a. states:

*Yamhill County will continue to preserve those areas for farm use which exhibit Class I through IV soils as identified in the Capability Classification System of the U.S. Soil Conservation Service.*

The majority of the property is made up of high-value farmland which consists of agricultural Class I-IV soils. However, as noted above an exception to Goal 3, related to the protection of agricultural land was taken in 1980. The exception was based on the subject parcel and surrounding area being irrevocably committed to rural residential use. Therefore the goals and policies related to the protection of farm land do not apply to the subject parcel.

D. Zone Change Review Criteria and Analysis

1. The zone change must comply with the standards and criteria in YCZO Section 1208.02. These provisions are:

- A. *The proposed change is consistent with the goals, policies and any other applicable provisions of the Comprehensive Plan.*
- B. *There is an existing, demonstrable need for the particular uses allowed by the requested zone, considering the importance of such uses to the citizenry or the economy of the area, the existing market demand which such uses will satisfy, and the availability and location of other lands so zoned and their suitability for the uses allowed by the zone.*
- C. *The proposed change is appropriate considering the surrounding land uses, the density and pattern of development in the area, any changes which may have*

*occurred in the vicinity to support the proposed amendment and the availability of utilities and services likely to be needed by the anticipated uses in the proposed district.*

- D. Other lands in the County already designated for the proposed uses are either unavailable or not as well-suited for the anticipated uses due to location, size or other factors.*
  - E. The amendment is consistent with the current Oregon Administrative Rules (OAR's) for exceptions, if applicable.*
2. Regarding criterion (A) above, see Section C above. It should be noted that both Heavy Industrial and Light Industrial uses exist on neighboring properties, both in the County and in the city limits. The simple fact that all of the surrounding area is either zoned for, or in, industrial use is the strongest argument for zoning this property to industrial use. A spot zone of residential in the middle of industrial uses would set up a conflict between neighboring uses. A zone change to light industrial will minimize this possibility.
  3. Criterion (B) requires a finding that there is an existing, demonstrable need for the uses allowed in a light industrial zone. The applicant has indicated that they wish to sell this property to provide capital for their other business and believes the best use would be some type of light industrial use. The availability and suitability of other Industrial zoned lands will be discussed in Finding D.5.
  4. Regarding criterion (C), as discussed earlier in the report, the surrounding land uses are primarily industrial, with light manufacturing businesses on the parcels adjacent to the north and east. The application does not contain any specific development proposal however certain light industrial uses would be compatible with this area. The city has an interest in narrowing down some of the uses and they have requested a limited use overlay zone to specify what could occur on the property. Specifically, the Newberg City Council has requested to limit the permitted, conditional or similar uses to those that are allowed in the LI Light Industrial zone (excluding a Refuse Derived Fuel plant).

Regarding the availability of utilities and services, an on-site well and septic system exist on the property but even the applicant acknowledges that their present condition is unknown. Other utilities likely to be needed are available to the site. Fire service is available and no objection was voiced by the Newberg Fire District.

5. Criterion (D) requires the consideration of whether there are other available lands in the county that are zoned for light industrial uses. Location, size and suitability are factors that may be considered. The Board finds that the Newberg Planning and Building Department Report 08-09 shows that the current access to available, buildable, industrially zoned property is very low compared to the need.
6. Regarding criterion (E), an exception to Goals 3 and 4 is not required. As noted in the above Finding A.11 this area was granted an exception to State Planning Goals 3 and 4.

E. Limited Use Overlay Provisions

The purpose of the Limited Use Overlay District is to limit permitted use(s) and activities in a specific location to only those uses and activities which are justified and approved through a Comprehensive Plan Amendment or a zone change. The City has an interest in limiting the uses to those that are appropriate to border the city limits. In addition, the city and County both have an interest in the development being compatible with the neighboring development the property is planned to eventually go into the city limits. The Newberg City Council has requested twelve conditions to be placed on a limited use overlay zone. These are detailed in the attached Resolution No. 2009-2867. Item (E) on this list is "No land divisions are permitted." The minimum lot size in the County's Light Industrial zone is 20,000 square feet. Since the property is 1.24 acres, such a limitation will be placed on the property. Conditions (J), (K) and (L) appear to go beyond what can be enforced through the Limited Use Overlay zone. Conditions (J) and (K) are to have the owners sign a consent to annex and file for a zone change respectively. Condition (L) would require that the failure to meet conditions (J) and (K) would "... nullify the zone change." Since zone changes require action by the Yamhill County Board of Commissioners, there is not a mechanism whereby a zone change can be nullified by not fulfilling a condition of approval. The Board chooses to replace conditions (J), (K) and (L) with the following requirement:

*Prior to site design review approval the property owner shall sign and record a waiver of remonstrance against the property being annexed into the city limits.*

F. Other Ordinance Considerations

Site design review is required for any development in a LI district. Since the applicant is not presently proposing any use it is not possible to do a site design review at this time. Setbacks, landscaping, signs, building size and location, parking, access, and other requirements of the YCZO will be reviewed as part of the site design review. Since the property will be within the City's UGB, it would be appropriate to apply city development standards.

G. Goal 12 (Transportation Rule) Provisions and Analysis

1. Transportation Planning Rule, implementing Goal 12, as being required to be addressed. OAR 660-12-0060 states:

(1) Amendments to functional plans, acknowledged comprehensive plans, and land use regulations which significantly affect a transportation facility shall assure that allowed land uses are consistent with the identified function, capacity, and level of service of the facility. (Underline added)

2. As noted above, amendments to functional plans, comprehensive plans, or land use regulation amendments are required to address OAR 660-12-0060. The Urban Reserve Area is part of both the City and County comprehensive plans. The URA identifies areas for eventual inclusion in the UGB. Therefore, the request to move a property from the

URA to the UGB is consistent with the comprehensive plans of the City and the County.

**CONCLUSION:**

1. The request is to amend Newberg's Urban Growth Boundary to take in an additional 1.24 acres. The application includes a request for a comprehensive plan designation from VLDR Very Low Density Residential to the city plan designation of Industrial and a zone change from VLDR 2.5 Very Low Density Residential to LI Light Industrial.
2. The applicant has demonstrated that the request satisfies the Yamhill County Comprehensive Plan goals and policies for inclusion in the Newberg Urban Growth Boundary.
3. The applicant has demonstrated that the request satisfies the Yamhill County Comprehensive Plan goals and policies related to industrial development.
4. The applicant has demonstrated that the request satisfies the zone change provisions of Section 1208.02 of the Yamhill County Zoning Ordinance.

**DECISION:**

The request by Elizabeth Fettig for expansion of the Urban Growth Boundary to include 1.24 acres of land identified as Tax Lot 3229-300, and a zone change from VLDR 2.5 to LI Light Industrial is hereby **approved** with a limited use overlay zone with the following conditions:

(A) The Limited Use Overlay shall only allow those permitted, conditional, or similar uses in the Yamhill County Light/General Industrial District (LI).

(B) The (RDF) Refuse Derived Fuel plant, similar use or any use that is accessory or incidental to such use is specifically not permitted.

(C) No city sewer or water facilities shall be authorized for any use permitted outside the City Limit boundary.

(D) One septic system may be authorized for the entire property which is the subject to this application. The septic system shall not exceed a capacity equal to three dwelling units or 15 people. No alternative forms of sewage disposal shall be permitted.

(E) Any application for development shall be referred to and reviewed by the City of Newberg.

(F) Site development shall be restricted in the area of the existing stream corridor and shall comply with the City of Newberg Stream Corridor Sub-District overlay (151.465). The stream corridor boundary is typically defined as being either at the logical top of bank or 50 feet from the edge of the wetland.

(G) The Division of State Lands has identified hydric soils on the site and potential wetland areas. A wetland delineation is required prior to any site development.

(H) In addition to any other conditions of site design review, any development on the site requiring site design review shall be conditioned upon the following:

1. Either construction of half-street improvements on Wynooski Road or making a payment-in-lieu for future street improvements.
2. Either extending sewer lines and other needed utilities along the frontage of the property, or making a payment-in-lieu for sewer extension to the site.
3. Complying with City of Newberg front yard landscaping requirements.
4. Paving the driveway with asphalt or concrete for a minimum distance of 100 feet from Wynooski Road to minimize rocks and gravel carrying onto the street.

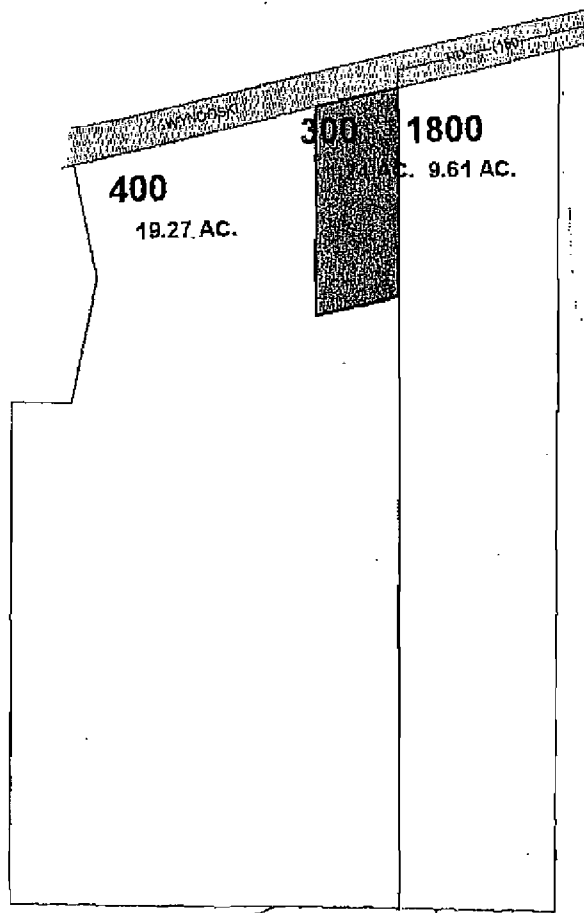
(I) Prior to site design review approval, the owners of the subject property shall sign a consent to annex on forms supplied by the City of Newberg.

(J) No land divisions are permitted.

End

B.O. 09-767

EXHIBIT MAP FOR ORDINANCE NO. 845  
PLAN AMENDMENT AND ZONE CHANGE  
ADOPTED BY THE YAMHILL COUNTY BOARD OF COMMISSIONERS  
November 4, 2009  
FOR A COMPREHENSIVE PLAN AMENDMENT FROM  
VERY LOW DENSITY RESIDENTIAL  
TO  
INDUSTRIAL  
AND TO CHANGE OFFICIAL ZONING MAP FROM  
*VLDR 2.5 VERY LOW DENSITY RESIDENTIAL*  
TO  
*LI LIGHT INDUSTRIAL*



CHANGE APPLIES TO TAX LOT 3229-300 AS IDENTIFIED ABOVE.  
APPROXIMATE SCALE - 1 INCH = 300 FEET

BO.09-767  
Ordinance 845  
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## **ORDER NO. 2009-0024**

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**AN ORDER INCLUDING A 1.24 ACRE PARCEL LOCATED AT 2716 WYNOOSKI ROAD INTO THE URBAN GROWTH BOUNDARY AND CHANGING ITS COMPREHENSIVE PLAN DESIGNATION FROM YAMHILL COUNTY VERY LOW DENSITY RESIDENTIAL TO NEWBERG INDUSTRIAL WITH A STREAM CORRIDOR OVERLAY, TAX LOT 3229-00300**

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### **RECITALS:**

1. Elizabeth Fettig submitted an application for an Urban Growth Boundary amendment on August 10, 2009. The application was deemed complete on the same day. The application included two requests: 1) to include the 1.24 acre parcel in Newberg's Urban Growth Boundary, and 2) to amend the Comprehensive Plan designation of the parcel from Yamhill County VLDR (Very Low Density Residential) to Newberg IND (Industrial). The parcel is located at 2716 Wynooski Road, Tax Lot 3229-00300, and was included in the Newberg Urban Reserve Area in 1995.
2. The Newberg Urban Area Management Commission (NUAMC) held a hearing on September 30, 2009 to consider the request. NUAMC passed Resolution 2009-21 recommending that the City Council approve the requested Urban Growth Boundary amendment and Comprehensive Plan amendment.
3. After proper notice, the City Council held a hearing on October 19, 2009 to consider the request.
4. The City Council finds that the proposal meets the applicable City and County Comprehensive Plan and Development Code criteria and satisfies the applicable statewide planning rules and statutes.

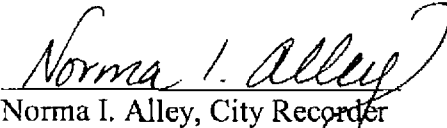
### **THE CITY OF NEWBERG ORDERS AS FOLLOWS:**

1. The property shown and described in Exhibit "A" is hereby included within the Newberg Urban Growth Boundary and the Comprehensive Plan designation for said property is hereby amended from Yamhill County VLDR (Very Low Density Residential) to Newberg IND (Industrial) with a SC (Stream Corridor) Overlay.

2. The findings shown in Exhibit "B" are hereby adopted and by this reference incorporated.

➤ **EFFECTIVE DATE** of this order is the day after the adoption date, which is: October 20, 2009.

**ADOPTED** by the City Council of the City of Newberg, Oregon, this 19<sup>th</sup> day of October, 2009.

  
Norma I. Alley, City Recorder

**ATTEST** by the Council President this 22<sup>nd</sup> day of October, 2009.

  
Bob Larson, Council President

**QUASI-JUDICIAL HISTORY**

By and through NUAMC at their 09/30/2009 meeting. Or, \_\_\_ None.  
(committee name) (date) (check if applicable)



# LEGAL MAP AND LEGAL DESCRIPTION (CONTINUED)

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

Being a part of the Samuel D. Snowden Donation Land Claim, Notification No. 1476, Claim No. 68, in Section 29, Township 3 South, Range 2 West of the Willamette Meridian in Yamhill County, Oregon; and beginning at the Northeast corner of a tract of land deeded by Etta B. Church to Emma B. Jacobsen and Gearhardt W. Jacobsen, on July 30, 1943, recorded in Book 122, Page 284 of the Deed Records of Yamhill County, Oregon, said point being 24.53 chains North and 1.03 chains West of the Quarter Section corner between Sections 29 and 28; thence South 400 feet; thence South 760 West 150 feet; thence North 400 feet to the center of County Road; thence North 760 East 150 feet along center of County Road to the place of beginning.

Tax Parcel Number: R3229-300

# EXHIBIT B: URBAN GROWTH BOUNDARY AMENDMENT FINDINGS

**Request: Include a 1.24 acre parcel in the Newberg Urban Growth Boundary  
File No. UGB-09-002**

## **I. ORS Standards:**

**ORS 197.298.** ORS 197.298 establishes priorities for land to be included within an urban growth boundary. ORS 197.298 (1)(a) states: “In addition to any requirements established by rule addressing urbanization, land may not be included within an urban growth boundary except under the following priorities: (a) First priority is land that is designated urban reserve land under ORS 195.145, rule or metropolitan service district action plan.”

**Finding:** The subject property was included in Newberg’s Urban Reserve Area in 1995, through Newberg Ordinance 95-2370, and therefore is first priority for inclusion in the Urban Growth Boundary.

## **II. OAR Standards:**

**660-021-0060 Urban Growth Boundary Expansion.** All lands within urban reserve areas established pursuant to this division shall be included within an urban growth boundary before inclusion of other lands, except where an identified need for a particular type of land cannot be met by lands within an established urban reserve area.

**Finding:** The subject property was included in Newberg’s Urban Reserve Area in 1995, through Newberg Ordinance 95-2370, and therefore is first priority for inclusion in the Urban Growth Boundary.

**660-024-0060 Boundary Location Alternatives Analysis.** “(1) When considering a UGB amendment, a local government must determine which land to add by evaluating alternative boundary locations. This determination must be consistent with the priority of land specified in ORS 197.298 and the boundary location factors of Goal 14, as follows:

- (a) Beginning with the highest priority of land available, a local government must determine which land in that priority is suitable to accommodate the need deficiency determined under OAR 660-024-0050.
- (b) If the amount of suitable land in the first priority category exceeds the amount necessary to satisfy the need deficiency, a local government must apply the location factors of Goal 14 to choose which land in that priority to include in the UGB.
- (c) If the amount of suitable land in the first priority category is not adequate to satisfy the identified need deficiency, a local government must determine which land in the next priority is suitable to accommodate the remaining need, and proceed using the same method specified in subsections (a) and (b) of this section until the land need is accommodated.

- (d) Notwithstanding subsection (a) to (c) of this section, a local government may consider land of lower priority as specified in ORS 197.298(3).
  - (e) For purposes of this rule, the determination of suitable land to accommodate land needs must include consideration of any suitability characteristics specified under section (5) of this rule, as well as other provisions of law applicable in determining whether land is buildable or suitable.
- (2) Notwithstanding OAR 660-024-0050(4) and subsection (1)(c) of this rule, except during periodic review or other legislative review of the UGB, a local government may approve an application under ORS 197.610 to 197.625 for a UGB amendment proposing to add an amount of land less than necessary to satisfy the land need deficiency determined under OAR 660-024-0050(4), provided the amendment complies with all other applicable requirements.
  - (5) If a local government has specified characteristics such as parcel size, topography, or proximity that are necessary for land to be suitable for an identified need, the local government may limit its consideration to land that has the specified characteristics when it conducts the boundary location alternatives analysis and applies ORS 197.298.
  - (6) The adopted findings for UGB adoption or amendment must describe or map all of the alternative areas evaluated in the boundary location alternatives analysis. If the analysis involves more than one parcel or area within a particular priority category in ORS 197.298 for which circumstances are the same, these parcels or areas may be considered and evaluated as a single group.”

**Finding:** Pursuant to subsection (2) above, this UGB amendment application was initiated by the landowner. According to the buildable lands table below, the city has a need for an additional 114 acres of buildable industrial land in the UGB. This UGB amendment application is limited to a 1.24 acre parcel and is therefore not enough land to satisfy the industrial land deficiency. However, the amendment proposal complies with all other applicable requirements and with subsection (2) above.

**Buildable Land in Newberg UGB, City Limits**

Compared to Comprehensive Plan Projected Needs, as of June 30, 2009

Plan Designation	Buildable Acres Needed 2009-2029**	Buildable Acres in UGB* 6/30/2009	Est. Years Supply in UGB	Buildable Acres in City 6/30/2009	Est. Years Supply in City
LDR	664	599	18	419	13
MDR	155	115	15	83	11
HDR	105	45	9	31	6
COM	97	92	19	60	12
IND	158	44	6	21	3
P I, PQ, or other	105	13	2	13	2
Inst.	205	84	8	54	5
<b>Total</b>	<b>1,489</b>	<b>992</b>	<b>13</b>	<b>681</b>	<b>9</b>

\*The Urban Growth Boundary (UGB) includes the city

\*\*Estimated as need from 1/1/2009 to 1/1/2029

Source: Newberg Planning and Building Department

Data subject to change

In accordance with subsection (5) above, the city does have specified characteristics necessary for suitable industrial land. The industrial site suitability characteristics are specified in the *Ad Hoc Committee on Newberg's Future Report to Newberg City Council* (Accepted by Newberg City Council in July 2005) and are as follows:

1. **Site Size:** Larger (20+ acre) sites serve two purposes: 1) they can meet the siting needs of larger employers; or 2) they can provide land for industrial and business parks that provide shovel ready lots for smaller firms.
2. **Topography:** Industrial sites need to be relatively flat, generally less than 5% slope, and not more than 10% slope.
3. **Land Ownership:** Generally, large industrial sites should have no more than 2 separately owned parcels that combine to meet buildable site needs.
4. **Level of Development:** Although undeveloped sites are preferred, developed sites may be more attractive to developers in a limited supply situation.
5. **Natural Features:** Unbuildable land is removed from the calculation. Land with protected natural features is not included in the buildable land calculations. Streams or wetlands that are located in the middle of a site could have the effect of dividing a large site, and reducing the area available for development.
6. **Street Access:** Industries are heavily dependent on surface transportation for efficient movement of goods, commodities, and workers. Poor access to I-5 is a key constraint for Newberg. Direct access to Highway 99 or the future bypass is an important factor for most industries.
7. **Shape:** Industrial users are attracted to sites that offer adequate flexibility in site circulation and building layout.
8. **Services:** Sanitary sewer and water service must be available or feasible.
9. **Compatibility:** Industrial areas have operational characteristics that do not blend well with residential land uses. Generally, as industrial use intensifies, so too does the importance of buffering to mitigate impacts of noise, outdoor lighting, odors, traffic, and 24-hour 7-day week operations. Therefore, industrial sites should not be located next to low- or medium-density residential areas.

Subsection (5) permits limiting the location analysis to these 9 industrial site suitability characteristics. To also satisfy subsection (1) above, we will review the locational analysis by beginning with the highest priority of land available and applying the 9 suitability criteria. The highest priority of lands would be those already included within the Urban Reserve Area. These areas include: Klimek Lane URA area, South Springbrook Road URA area, North Hills URA area, and Wynooski Road URA area (which the subject property is part of).

According to the site suitability comparison (see Attachment 9), each of the areas includes larger parcels than the subject property. However, in many cases the other study areas have considerable constraints as well, including future impacts from the bypass and/or slopes that would hamper industrial development. The subject property does have considerable slopes on the southern and southwestern portions of the property; however, when taken into consideration with the adjacent parcel (as they share ownership), together they have approximately 440 feet of street frontage and comprise approximately 10.8 acres in size. The subject property also has direct access onto Wynooski Road and is very close to Highway 219 for easy truck access. Many of the other study areas have constrained access or would have to use local roads for quite

a distance to get to one of the major highways. The subject property is located near the wastewater and water treatment plants and could feasibly be served with city utility infrastructure.

One of the most important site suitability criteria is the compatibility measure. The subject property is located adjacent to other industrially zoned and developed properties and therefore development on the site would have a lesser impact than if it were adjacent to residentially developed properties. All of the other study areas are located either adjacent to residentially zoned and developed properties or adjacent to resource lands. Industrial development in these areas would have a negative impact on the surrounding uses.

Overall, the subject property is the best choice for future industrial development due to its location, access, limited impact on surrounding uses, and size (when combined with the adjacent parcel).

### **III. Statewide Planning Goals and Newberg Comprehensive Plan:**

As required by State Senate Bill 100, the Newberg Comprehensive Plan addresses and is consistent with the established statewide planning goals and guidelines. Each of the goals within the Comprehensive Plan corresponds with an applicable statewide planning goal and implements the goal through the guise of local needs and desires. Because an Urban Growth Boundary amendment is also a Comprehensive Plan amendment, it must be found that “the proposed change is consistent with and promotes the goals and policies of the Newberg Comprehensive Plan and this Code (Development Code)” (NDC § 151.122). Statewide planning goals 3, 4, 15, 16, 17, 18, and 19 do not apply to this application. The remaining goals are addressed through the applicable Comprehensive Plan goals and policies below:

- A. Citizen Involvement (Statewide Goal 1).** NCP Goal: To maintain a Citizen Involvement Program that offers citizens the opportunity for involvement in all phases of the planning process.

**Finding:** Ordinance 91-2297 amended Ordinance 1967 with a new citizen involvement strategy. Part of the evaluation of the current program notes that, in addition to other avenues of citizen participation, “involvement is also encouraged through citizen involvement at public meetings”. The analysis section of the report also noted that “the City of Newberg has a sound and comprehensive citizen involvement program” (ORD 91-2297). We are currently using the same citizen involvement program as described and analyzed by Ordinance 91-2297.

The proposed UGB amendment offers several opportunities for citizens to be involved in the planning process. Yamhill County Department of Planning and Development sent mailed notices of the project and NUAMC hearing date to surrounding property owners, inviting them to either send in written comments about the proposal or to testify at the meeting. In addition, a similar public notice will be sent to surrounding property owners prior to the Newberg City Council meeting, which is the next step for this proposal.

**B. Land Use Planning (Statewide Goal 2).** NCP Goal: To maintain an on-going land use planning program to implement statewide and local goals. The program shall be consistent with natural and cultural resources and needs.

**Finding:** This goal provides for creating and maintaining a Comprehensive Plan for the city. The statewide goal further states that “city...plans and actions related to land use shall be consistent with the comprehensive plans...adopted under ORS Chapter 268”. This staff report serves to determine the compliance of the proposal with the City’s adopted Comprehensive Plan and statewide goals.

**C. Agricultural Lands (Statewide Goal 3 – Goal 3 does not apply to UGB amendments).** NCP Goal: To provide for the orderly and efficient transition from rural to urban land uses.

Applicable Comprehensive Plan Policies: 1) The conversion of urbanizable land from agricultural to urban land uses shall be orderly and efficient; 2) Agriculture is a part of our heritage, uniqueness, culture and future. Inclusion of lands in agricultural use within the Urban Growth Boundary is recognition of a commitment to future urbanization, as such lands are necessary to meet long-range population and economic needs, based on criteria outlined in the statewide Urbanization Goal. Urbanization of agricultural land shall be carefully considered and balanced with the needs of the community as a whole.

**Finding:** The subject parcel is currently located in the Urban Reserve Area and is therefore considered to be a future area for urbanization. There are several reasons why this parcel is an appropriate choice to bring into the Urban Growth Boundary: 1) the parcel is located adjacent to the current city limits and is classified as exception land so the conversion of this parcel to future urban land uses would be orderly and efficient with no “leapfrog” development pattern; 2) city utility services are not currently located near this parcel but could be brought down Wynooski Road to serve the parcel in the future; and 3) the city’s long range population, economic, and buildable land needs forecasts show that we have a shortage of industrially designated and zoned properties to serve our population. This property is an exception area, currently zoned VLDR 2.5 (Very Low Density Residential 2.5 acre minimum), and is not classified or zoned for agricultural use.

**D. Wooded Areas (Statewide Goal 4 – Goal 4 does not apply to UGB amendments).**

NCP Goal: To retain and protect wooded areas.

Applicable Comprehensive Plan Policies: 2) Development in drainageways shall be limited in order to prevent erosion and protect water quality. Trees provide needed protection from erosion and should be maintained.

**Finding:** The southern and southwestern portions of the property slope off to a natural drainageway stream corridor. The City has regulations governing development within mapped stream corridors. Because the subject property is located outside of the current Urban Growth Boundary, the City does not yet have the stream corridor mapped on the parcel. A wetland delineation to map the stream corridor and any onsite wetlands would have to be done prior to any development on the site, and development would have to comply with the stream corridor regulations in the Newberg Development Code.

**E. Air, Water, and Land Resource Quality (Statewide Goal 6).** NCP Goal: To maintain, and where feasible, enhance the air, water and land resource qualities within the community.

Applicable Comprehensive Plan Policies: 1) Development shall not exceed the carrying capacity of the air, water or land resource base; 3) As public sanitary sewer systems become available, all development shall connect to the public system; 5) New industry should be located in areas which minimize impacts upon the air, water, and land resource base, as well as upon surrounding land uses.

**Finding:** The subject parcel would be designated industrial if it were included within the Urban Growth Boundary. The parcel is an appropriate place for industrial development as it is located adjacent to other industrially zoned and developed parcels, is adjacent to a road and near the highway, and can be adequately served with sewer and water. As noted above, any site development would have to comply with the city's stream corridor regulations to protect the natural vegetation and the quality of water in the stream corridor.

**F. Areas Subject to Natural Disasters and Hazards (Statewide Goal 7).** NCP Goal: To protect life and property from natural disasters and hazards.

Applicable Statewide Goal 7 Standards: A.2. (Natural Hazard Planning) Natural hazards for purposes of this goal are: floods (coastal and riverine), landslides, earthquakes and related hazards, tsunamis, coastal erosion, and wildfires. Local governments may identify and plan for other natural hazards; B.4. (Implementation) When reviewing development requests in high hazard areas, local governments should require site-specific reports, appropriate for the level and type of hazard prepared by a licensed professional.

**Finding:** The Division of State Lands has identified hydric soils on the site and potential wetland areas. In addition, the area of the property sloping to the stream corridor has a relatively steep slope. Development in these areas would be limited, and a wetland delineation would be required prior to any development.

**G. Open Space, Scenic, Natural, Historic and Recreational Resources (Statewide Goals 5 & 8).** NCP Goals: 1) To ensure that adequate land shall be retained in permanent open space use and that natural, scenic and historic resources are protected; 2) To provide adequate recreational resources and opportunities for the citizens of the community and visitors; 3) To protect, conserve, enhance and maintain the Willamette River Greenway.

Applicable Comprehensive Plan Policies: 1.e) The floodplains and natural drainageway areas in Newberg should be preserved with a largely open character to provide a basic open space framework for the community. The capacities of these areas shall be maintained to provide a natural stormwater and natural drainage system, as well as to continue to provide a natural habitat for local fish and wildlife. Natural drainageways should be kept in open space uses. Bicycle and pedestrian pathways might be included in these areas. Care should be taken to minimize disturbances in these often erosive and steep areas. All uses should be compatible with the specific sites.

Applicable Statewide Goal 5 Standards: Local governments shall adopt programs that will protect natural resources and conserve scenic, historic, and open space resources for present and future generations.

Applicable Statewide Goal 8 Standards: To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.

**Finding:** In accordance with Goal 5, Newberg has adopted stream corridor regulations to protect and conserve the area within the stream corridor as open space for the city. According to the stream corridor map (Attachment 4), the south and southwest portion of the property appear to be located within a stream corridor and would be an appropriate place for the stream corridor zoning overlay. Any development on the site would have to comply with the stream corridor regulations. The stream corridor regulations restrict any development or mechanized removal of vegetation and seek to minimize any disturbance in the corridor area.

The subject parcel is within the study area for the South Industrial Area Master Plan. The draft plan shows a parks and trails system through the area, including through the stream corridor on the subject property, that takes advantage of the natural open spaces. Bicycle and pedestrian paths might be included in those areas in the future for the enjoyment of the public.

**H. The Economy (Statewide Goal 9).** NCP Goal: To develop a diverse and stable economic base.

Applicable Comprehensive Plan Policies: 2.a) Industrial expansion shall be located and designed to minimize impacts on surrounding land uses; 2.f) Concerted community efforts should be made to see that industrial development expands outward from existing areas rather than occurring in haphazard patterns.

**Finding:** The subject property would be designated industrial if it were included within the Urban Growth Boundary. It is located in an appropriate place for industrial development as it is adjacent to other industrially zoned and developed properties, as well as an access road. Including this parcel in the Urban Growth Boundary would promote a sensible extension of industrial development and would not result in haphazard “leapfrog” development patterns.

**I. Housing (Statewide Goal 10).** NCP Goal: To provide for a diversity in the type, density and location of housing within the City to ensure there is an adequate supply of affordable housing units to meet the needs of City residents of various income levels.

**Finding:** Inclusion of the subject property in the Newberg Urban Growth Boundary will not help provide housing as prescribed by this goal. However, it will provide additional industrial land which in turn will provide jobs, helping City residents afford housing. In addition, industrial land provides a stable tax base for the city that generally doesn't use many City resources (Police, Fire). The City is currently exploring options to use tax revenue to assist in funding affordable housing programs. Therefore, inclusion of industrial land in the Urban Growth Boundary, and eventually annexing it into the city, may be beneficial to the housing goals and policies of the City.

**J. Urban Design.** NCP Goals: 1) To maintain and improve the natural beauty and visual character of the City; 2) To develop and maintain the physical context needed to support the livability and unique character of Newberg.

Applicable Comprehensive Plan Policies: 1.e) 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; 2.a) Industrial development should be encouraged to be located in industrial parks offering good access, buffering and landscaping.

**Finding:** The subject property is located near other industrially zoned and developed properties, making it a good choice to add to the Urban Growth Boundary. The property has good access to Wynooski Road and Highway 219, and would have to comply with applicable City landscaping and buffering regulations upon site development. In addition, any development on the site would have to comply with the City's stream corridor regulations to preserve and protect trees and other vegetation within the stream corridor.

**K. Transportation (Statewide Goal 12).** NCP Goals: 1) Establish cooperative agreements to address transportation based planning, development, operation and maintenance; 2) Establish consistent policies which require concurrent consideration of transportation/land use system impacts; 3) Promote reliance on multiple modes of transportation and reduce reliance on the automobile; 4) Minimize the impact of regional traffic on the local transportation system; 5) Maximize pedestrian, bicycle, and other non-motorized travel throughout the City; 6) Provide effective levels of non-auto oriented support facilities (e.g. bus shelters, bicycle racks, etc.); 7) Minimize the capital improvement and community costs to implement the transportation plan; 8) Maintain and enhance the City's image, character and quality of life; 9) Create effective circulation and access for the local transportation system; 10) Maintain the viability of existing rail, water and air transportation systems; 11) Establish fair and equitable distribution of transportation improvement costs; 12) Minimize the negative impact of a Highway 99 bypass on the Newberg community.

**Finding:** The 2005 update of the Transportation System Plan (TSP) assumed that this property would eventually be zoned industrial upon annexation into the city. Therefore, all the transportation models were done with that assumption, and any perceived traffic impacts from future development are already built into the TSP. Any future development of this property would require improvements along the Wynooski Road frontage to meet the needs of bicycles and pedestrians and bring the street frontage up to city standards.

**L. Public Facilities and Services (Statewide Goal 11).** NCP Goal: To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban development.

Applicable Comprehensive Plan Policies: 1.e) Owners of properties which are located on unimproved streets should be encouraged to develop their streets to City standards; 2.d) Sewer and water service shall not be provided outside the City limits except for cases of health hazards, where no other alternative exists, and where property owners agree to annex upon request of the City.

Applicable Statewide Goal 11 Standards: A.5) A public facility or service should not be provided in an urbanizable area unless there is provision for the coordinated development of all the other urban facilities and services appropriate to that area.

**Finding:** The subject property is located along Wynooski Road, a major collector with direct access to Highway 219. Wynooski Road is currently improved to county standards along the property's frontage. If included within the Urban Growth Boundary, any development on the site should have to complete a half street improvement on Wynooski Road to improve it up to city standards with curb, gutter, sidewalk and street trees.

The property is not currently served with city sewer and water lines. If included within the Urban Growth Boundary, development on the site should be limited to temporary type uses (parking, storage) until such time that annexation into the city occurs and city utility lines are extended to serve the site. The City has completed work on a Wynooski Road local improvement district study that determined the costs per property to extend sewer service along Wynooski Road. This document can be used as a guideline for the property owners to help determine the size, cost, and location of extending necessary sewer lines to their property. The property must be served with city sewer and water prior to any permanent development on the site.

**M. Energy (Statewide Goal 13).** NCP Goal: To conserve energy through efficient land use patterns and energy related policies and ordinances.

Applicable Comprehensive Plan Policies: 1.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.

Applicable Statewide Goal 13 Standards: B.1) Land use plans should be based on utilization of the following techniques and implementation devices which can have material impact on energy efficiency: a. lot size, dimension, and siting controls; b. building height, bulk and surface area; c. density of uses, particularly those which relate to housing densities; d. availability of light, wind and air; e. compatibility of and competition between competing land use activities; and f. systems and incentives for the collection, reuse and recycling of metallic and nonmetallic waste.

**Finding:** The subject property is located adjacent to a major transportation facility (Wynooski Road to Highway 219), and is adjacent to other industrially zoned and developed properties. By including this property in the Urban Growth Boundary with an Industrial designation, the City would be encouraging energy-efficient development patterns. Any industrial development on this property could have a symbiotic relationship with surrounding industrial uses, and would not require supply and delivery trucks to travel far off the main transportation facility. In addition, any industrial development on the property would have to comply with the Newberg Development Code standards (once annexed) for lot dimensions, density, bulk, and other similar standards in accordance with statewide Goal 13.

**N. Urbanization (Statewide Goal 14).** NCP Goals: 1) To provide for the orderly and efficient transition from rural to urban land uses; 2) To maintain Newberg's identity as a

community which is separate from the Portland Metropolitan Area; 3) To create a quality living environment through a balanced growth of urban and cultural activities.

Applicable Comprehensive Plan Policies: 1.a) The conversion of lands from rural to urban uses within the Urban Growth Boundary will be based on a specific plan for the extension of urban services; 1.b) The City shall oppose urban development outside the city limits but within the Newberg Area of Influence; 1.c) The City shall encourage urban development within the city limits; 1.d) The Urban Growth Boundary shall designate urbanizable land; 1.e) The City will support development within the areas outside the city limits but within the Newberg Urban Growth Boundary or Urban Reserve Area based on the following standards or restrictions: ...New commercial or industrial uses will generally be discouraged within the UGB and Urban Reserve Area; 3.b) The City shall coordinate planning activities with the County in order that lands suitable for industrial use but not needed within the planning period are zoned in a manner which retains these lands for future industrial use.

Applicable Statewide Goal 14 Standards:

Land Need – Establishment and change of urban growth boundaries shall be based on the following: 1) Demonstrated need to accommodate long range urban population, consistent with a 20-year population forecast coordinated with affected local governments; and 2) Demonstrated need for housing, employment opportunities, livability or uses such as public facilities, street and roads, schools, parks or open space, or any combination of the need categories in this subsection (2). In determining need, local government may specify characteristics, such as parcel size, topography or proximity, necessary for land to be suitable for an identified need. Prior to expanding an urban growth boundary, local governments shall demonstrate that needs cannot reasonably be accommodated on land already inside the urban growth boundary.

Boundary Location – The location of the urban growth boundary and changes to the boundary shall be determined by evaluating alternative boundary locations consistent with ORS 197.298 and with consideration of the following factors: 1) Efficient accommodation of identified land needs; 2) Orderly and economic provision of public facilities and services; 3) Comparative environmental, energy, economic and social consequences; and 4) Compatibility of the proposed urban uses with nearby agricultural and forest activities occurring on farm and forest land outside the UGB.

#### **Land Need Finding:**

The Comprehensive Plan contains recent population forecasts that were prepared in 2004 by Barry Edmonson, Director of the Population Research Center at Portland State University. Two different methods were used to complete the population projections: a ratio method based on Yamhill County forecasts, and a cohort component method. While the two methods produced similar results, City staff and the Ad Hoc Committee on Newberg's Future felt that the cohort component method was based on sounder methodology and data. The Committee selected the medium growth projections as the most likely and used those for the future land needs analysis. Based on the medium growth projection, Newberg's population will be 38,352 in 2025 and 54,097 in 2040. This population project was adopted into the Comprehensive Plan and coordinated with Yamhill County.

Based on the population forecasts and long range employment forecasts, the industrial land need for the 2005-2025 period was set at 150 acres (comprised of a need for 50 acres of

small/medium sites and 100 acres of large, 20+ acre sites) and 157 acres for the 2026-2040 period (37 acres of small/medium sites and 120 acres of large sites). City staff recently updated the buildable lands inventory by interpolating the adopted land need to the 2009-2029 planning period.

**Buildable Land In Newberg UGB, City Limits**

Compared to Comprehensive Plan Projected Needs, as of June 30, 2009

Plan Designation	Buildable Acres Needed 2009-2029**	Buildable Acres in UGB*	Est. Years Supply in UGB	Buildable Acres in City 6/30/2009	Est. Years Supply in City
LDR	664	599	18	419	13
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HDR	105	45	9	31	6
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IND	158	44	6	21	3
P I, PQ, or other Inst.	105 205	13 84	2 8	13 54	2 5
<b>Total</b>	<b>1,489</b>	<b>992</b>	<b>13</b>	<b>681</b>	<b>9</b>

\*The Urban Growth Boundary (UGB) includes the city

\*\*Estimated as need from 1/1/2009 to 1/1/2029

Source: Newberg Planning and Building Department

Data subject to change

There is very little suitable industrial land located within the current UGB. Of the available suitable industrial land, much of it is compromised by the future bypass or by steep slopes associated with the stream corridor. Due to the limited amount of available suitable industrial land and our demonstrated land need, we must look outside the current UGB for industrial land.

**Boundary Location Finding:**

ORS 197.298 specifies the priority of land to be included within the UGB and states, “(1) In addition to any requirements established by rule addressing urbanization, land may not be included within an urban growth boundary except under the following priorities: (a) First priority is land that is designated urban reserve land under ORS 195.145 (Urban Reserves), rule or metropolitan service district action plan”. The subject property meets the requirement of ORS 197.298 as it is located within an acknowledged Urban Reserve Area. Analysis of the four boundary location factors is as follows:

- 1) Efficient accommodation of identified land needs: Including the subject property in the UGB is an efficient accommodation of identified land needs as it is located adjacent to other industrially zoned and developed properties so it will not have significant negative impacts on surrounding uses. It is also located adjacent to the current city limits and UGB, making it an efficient choice because it is on the urban fringe. In addition, it is located adjacent to Wynooski Road and near Highway 219 for easy truck access.

- 2) Orderly and economic provision of public facilities and services: The subject property is located near the wastewater and water treatment plants. City sewer and water services can feasibly be extended along Wynooski Road to serve this and other properties in the vicinity. Any development on the site would require the street frontage to be improved to City standards, providing pedestrian and bicycle infrastructure as well as street trees and landscaping.
- 3) Comparative environmental, energy, economic and social consequences: The site appears to have a significant stream corridor located in the southern and southwestern portions of the site. One condition of including this property in the UGB would require that a stream corridor overlay be placed on the property along with the IND Comprehensive Plan designation. In addition, any development on the site would first require a wetland determination so that any wetland areas may be protected. Including this property as a location for future industrial development is appropriate due to its location near a major highway – less travel time for trucks in town on congested roadways reduces the energy impacts generated by the site. Because the site is located near the wastewater treatment plant, any industrial development may be able to take advantage of the city’s “purple pipe” system of using recycled water for irrigation or other non-potable purposes. Including this property within the UGB has the potential to provide future jobs in local industry. Finally, the subject property is in an appropriate place for industrial development. In comparison to other potential areas for future industrial use, this area is the only one that is adjacent to other exception lands that are zoned and developed industrially. The other study areas are located either adjacent to residential or resource lands where industrial development would have a negative social impact on the surrounding uses.
- 4) Compatibility of the proposed urban uses with nearby agricultural and forest activities occurring on farm and forest land outside the UGB: None of the areas adjacent to the subject property are being used in active agricultural or forest activities. The adjacent areas to the west, south and east are all exception lands that are zoned for industrial use and the properties to the north are within the city limits and are actively used for industrial development.

#### **IV. Newberg Urban Area Management Agreement -Urban Growth Boundary Amendment**

**Criteria:** Amendment of the Urban Growth Boundary shall be treated as a map amendment to both City and County Comprehensive Plan maps. Change of the boundary shall be based upon consideration of the following factors:

- (a) Demonstrated need to accommodate long-range urban population growth requirements consistent with LCDC goals;
- (b) Need for housing, employment opportunities, and livability;
- (c) Orderly and economic provision for public facilities and services;
- (d) Maximum efficiency of land uses within and on the fringe of the existing urban area;
- (e) Environmental, energy, economic and social consequences;
- (f) Retention of agricultural land as defined, with Class I being the highest priority for retention and Class VI the lowest priority; and
- (g) Compatibility of the proposed urban uses with other adjacent uses.

**Finding:** See section II above for a discussion of the industrial/employment land needs to accommodate our long-range population forecast. The subject property is located near the wastewater and water treatment plants and is in a location that is feasible and reasonable to serve with city utility infrastructure. The subject property is adjacent to the existing city limits and UGB boundaries and is therefore a viable choice to add to the UGB for maximum efficiency of land without extending beyond the fringe of the urban area. Adding the subject property to the UGB has the future potential to add jobs to Newberg in an appropriate area that would not negatively impact surrounding residential uses. Any development on the site would have to comply with the City's Stream Corridor overlay, protecting the natural stream corridor environment on the site. The subject property is in an exception area and not in agricultural use.

**V. Newberg Development Code, Section § 151.122 – Newberg Comprehensive Plan**

**Amendment:** The applicant 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:** See section III above for a full discussion of how the proposed change meets the Comprehensive Plan goals and policies.

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

**Finding:** Public facilities and services may be made available to serve the site prior to urban development.

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

**Finding:** The proposal is in compliance with the State Transportation Planning Rule as the updated Transportation System Plan (2005) assumed that this property would be designated as industrial and developed with industrial type uses. Therefore, all traffic modeling was done with this assumption. Any future industrial development of the property would fit the existing models and assumptions from the TSP.

**VI. Yamhill Comprehensive Plan Policies**

Yamhill County comprehensive plan policies are addressed in the Yamhill County staff report and in the application.

**VII. CONCLUSION:**

Based on all of the above mentioned findings, and with the conditions noted, the application meets the criteria for an Urban Growth Boundary amendment.

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