

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

98 MAR 24 11:27

FOR THE COUNTY OF YAMHILL

COUNTY CLERK

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of Amending Ordinance 631)
to Change the Terms and Conditions)
of the Limited Use Overlay Zone which)
Accompanied the Amendments to the)
Yamhill County Comprehensive Plan) **ORDINANCE 638**
and the Official Zoning Map Designations)
on a 10-Acre Parcel Known as Tax Lot)
3228-1800; Applicant Marvin Schneider;)
Docket PAZ-02-96.)

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) sat for the transaction of county business in special session on March 19, 1998, Commissioners Ted Lopuszynski, Robert Johnstone, and Thomas E.E. Bunn being present.

WHEREAS, on June 19, 1997, the Board enacted Ordinance No. 631, including findings, approving the application by Marvin Schneider ("applicant"), Planning Docket PAZ-02-96, to change the Comprehensive Plan (1974) Map from "VLDR" (Very Low Density Residential) to "I" (Industrial) and the Official Zoning Map from "VLDR 2.5" (Very Low Density Residential/2.5 acre minimum lot size) to "HI" (Heavy Industrial) and a Limited Use Overlay zone limiting the use of the property to waste reduction and fuel processing, on a 10 acre parcel known as Tax Lot 3228-1800; and

WHEREAS, the parcel is within the Urban Growth Boundary of Newberg, and therefore the matter was referred to the City of Newberg, and applicant reached an agreement with the City of Newberg to change the terms and conditions of the Limited Use Overlay which changes were adopted by the Newberg City Council as set forth in Newberg City Council Resolution No. 97-2074, and as more particularly described hereinbelow; and

WHEREAS, on October 30, 1997, the Board held a duly noticed public hearing to consider modifying Ordinance 631 to include the terms and conditions contained in Newberg City Council Resolution No. 97-2074, and following the close of the hearing, voted 2-1 (Commissioner Bunn voting no) to amend Ordinance 631 to incorporate the new terms and conditions as more specifically set forth hereinbelow and directed staff to prepare an ordinance, with supplemental findings, attached hereto as Exhibit "A" and incorporated herein by this reference;

MAR 24 1998

ORDINANCE 638

Page 1

B.O. 98-188

WHEREAS, adoption of this ordinance and supplemental findings is in the best interests of the citizens of Yamhill County; NOW THEREFORE,

THE YAMHILL COUNTY BOARD OF COMMISSIONERS ORDAINS AS FOLLOWS:

Section 1. Section 2 of Ordinance 631 is deleted and the following is inserted in lieu thereof:

"Section 2. The Official Zoning Map, as amended, is hereby amended as specified in the attached Exhibit "B" to reflect a zoning designation of "HI" (Heavy Industrial), with a Limited Use Overlay which restricts the uses and requires a Newberg Site Design Review of any proposed development as follows:

(A) The Limited Use Overlay shall only permit those uses specifically permitted in Newberg Development Code section 10.40.394 M-3 (Heavy Industrial). No other uses permitted within the Yamhill County Zoning Ordinance or Newberg Development Code shall be permitted

(B) The (RDF) Refuse Derived Fuel plan, 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 sewerage disposal shall be permitted.

(E) No land divisions are permitted.

(F) Any application for development shall be referred to and review by the City of Newberg through the City Site Design Review process (Section 10.28 NDC), and must comply with all City of Newberg Development standards.

The City of Newberg may impose any conditions deemed appropriate as part of the Site Design Review. Yamhill County shall attach and enforce any and all conditions imposed by the City of Newberg on any development permit requested within the Limit Use Overlay zone.

(G) As a condition to the plan amendment and zone change, the owners of the subject property shall sign a consent to annexation on forms supplied by the City of Newberg.

(H) As a condition to the plan amendment and zone change, the applicants shall initiate a new annexation request to the City of Newberg.

Section 2. The findings attached to Exhibit "A" part of Ordinance No. 631 are hereby deleted and the attached Findings For Approval attached hereto as Exhibit "A" to this Ordinance No. 638 and incorporated herein by reference are hereby adopted in lieu thereof and in support of this amendment to Ordinance 631.

Section 3. In all other respects Ordinance No. 631 shall remain in full force and effect.

Section 4. Effective Date. The first reading of the ordinance was March 5, 1998. The second reading was March 19, 1998. In accordance with ORS 203.045(9), 1997 replacement part, this ordinance shall become effective June 18, 1998.

Record of Vote: Ayes: Commissioners Lopuszynski and Johnstone
Nay: Commissioner Bunn.

DONE at McMinnville, Oregon this 19th day of March, 1998.

ATTEST

YAMHILL COUNTY BOARD OF COMMISSIONERS

CHARLES STERN
County Clerk

Ted Lopuszynski
Chairman TED LOPUSZYNSKI

By *Carol Ann White*
Deputy

Robert Johnstone
Commissioner ROBERT JOHNSTONE

FORM APPROVED BY:

John C. Pinkstaff
JOHN C. PINKSTAFF
Assistant County Counsel

Thomas E.E. Bunn
Commissioner THOMAS E.E. BUNN

H:\ADMIN\PINKSTF\LU\paz2-69.002

Accepted by Yamhill County
Board of Commissioners on
3-19-98 by Board Order
98-188

EXHIBIT "A"

ORDINANCE 638

Findings for Approval

**DATE OF NEWBERG URBAN AREA
MANAGEMENT COMMISSION
RECOMMENDATION:**

March 20, 1997

**DATE OF ADOPTION
OF IMPLEMENTING ORDINANCE 631:**

June 2, 1997

**DATE OF ADOPTION OF
ORDINANCE 638, AMENDING
ORDINANCE 631:**

March 5, 1998

DOCKET: PAZ-02-96

REQUEST: Plan amendment from VLDR Very Low Density Residential to I Industrial and a zone change from VLDR-2.5 Very Low Density Residential to HI Heavy Industrial.

PLAN DESIGNATION: VLDR Very Low Density Residential.

APPLICANT: Marvin Schneider.

TAX LOT: 3228-1800.

LOCATION: 2808 Wynooski Road, Newberg.

CRITERIA: Sections 502, 801, and 1208 of the Yamhill County Zoning Ordinance; Statewide Planning Goals. The application will be processed using the Newberg Urban Area Management Agreement.

FINDINGS:

A. Background Facts

1. Lot Size: Approximately 10 acres.
2. Access: Wynooski Road.

3. On-Site Land Use: The northern half of the parcel contains a level area. The southern end of the property slopes down to a creek. This portion contains mature trees and riparian vegetation. Approximately six of the ten acres is suitable for development.
4. Surrounding Land Use and Zoning: Property to the north is inside the city limits and zoned M2. Property to the south is zoned EF-40 Exclusive Farm Use. Property to the east contains the Newberg Transfer Station and is zoned PWS Public Works Safety. One adjacent parcel to the west and properties to the southwest are zoned VLDR 2.5 Very Low Density Residential. These properties contains rural residential and small farm/forestry uses. The majority of the adjacent land to the west is zoned HI Heavy Industrial. The City's Waste Water Transfer Plant and Smurfit pulp and paper mill are in the vicinity of this parcel.
5. Urban Reserve Area: Property to the east and west of the subject parcel is designated as an Urban Reserve Area.
6. Water and Sewage Disposal: City representative's have stated that sewer and water will not be available if the use is developed in the county.
7. Fire Protection: Newberg Rural Fire District.
8. Taxes: The property is not receiving a farm or forestry deferral.
9. Soils: Sheet 22 of the Soil Survey shows that the northern 1/3 of the property contains Woodburn (WuB) and Aloha (Ah) soils. These are rated as Agricultural Class II. The southern 2/3 of the property contains Terrace Escarpments (Class VI) and Wapato (Wc - Class III).
10. Previous Actions: In 1993 there was a request to have this property included in the Newberg Urban Growth Boundary (UGB). The application was assigned county Docket PA-2-93 and city Docket UGB-2-93. On September 14, 1993 the Newberg Urban Area Management Commission (NUAMC) reviewed the request and unanimously recommended approval. The recommendation was adopted by each jurisdiction. Subsequently there was an application made for annexation and a zone change to a city designation of M-3 Heavy Industrial. This request was approved by the Newberg City Council on December 4, 1995.

Part of the approval required completion of a Development Agreement between the city and the applicant in accordance with the requirements of the previously approved Urban Growth Boundary Amendment. An agreement was drawn up and was sent to the City Council. The Council needed five affirmative votes to pass the Development Agreement. The agreement failed to receive the five affirmative votes so the annexation could not be finalized.
11. Other Factors: FIRM map 410249 0187 shows the southern half of the property is within the 100-year floodplain.

12. Exceptions: 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.

B. Transportation Planning Rule.

1. OAR 660, Division 12, is the "Transportation Planning Rule." Certain land-use actions are subject to provisions of the rule. OAR 660-12-060 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. This shall be accomplished by either:

- (a) Limiting allowed land uses to be consistent with planned function, capacity and level of service of the transportation facility;*
- (b) Amending the TSP to provide transportation facilities adequate to support the proposed land uses consistent with the requirements of this division; or,*
- (c) Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes.*

(2) A plan or land use regulation amendment significantly affects a transportation facility if it:

- (a) Changes the functional classification of an existing or planned transportation facility;*
- (b) Changes standards implementing a functional classification system;*
- (c) Allows types or levels of land uses which would result in levels of travel or access which are inconsistent with the functional classification of a transportation facility; or*
- (d) Would reduce the level of service of the facility below the minimum acceptable level identified in the TSP.*

(3) *Determinations under subsection (1) and (2) of this section shall be coordinated with affected transportation facility and service providers and other affected local or state governments.*

2. The applicant has provided a study prepared by Kittelson and Associates, dated February, 1995 and updated traffic impact analysis dated December 21, 1995 to address concerns regarding potential traffic impacts to Highway 219 (Villa Road)/Highway 99W, Springbrook Street/Highway 99W and Highway 219/Wilsonville Road intersections and Wynooski Road ("Kittelson traffic impact analysis"). The study analyzed the impact a refuse derived fuel facility would have on the adjacent roads. While the fuel facility was not approved for this site, this type of facility, with frequent deliveries, is indicative of traffic expected in the Heavy Industrial zone. The study examines the level of service on nearby roads and concludes that the facility will not significantly impact the level-of-service on the road system.

The Kittelson traffic impact analysis was sent to the Oregon Department of Transportation and the Yamhill County Public Works Department for referral. The Kittelson traffic impact analysis was reviewed by the Director of Yamhill County Public Works Department, Bill Gille, who testified that he concurs with the analysis. Therefore, the Board adopts and incorporates herein the Kettelson traffic impact analysis as part of these findings. For the reasons contained in the Kittelson traffic impact analysis, the Board finds that the proposed amendment to the comprehensive plan and zoning district will not "significantly affect any transportation facility" as defined in OAR 660-12-060.

C. Zone Change and Plan Amendment Provisions and Analysis.

1. This request is for a zone change from VLDR 2.5 Very Low Density Residential to HI Heavy Industrial and a Plan amendment from VLDR to I Industrial for 10 acres.

2. The zone change portion of the request must comply with the standards and criteria in YCZO Section 1208.02. These provisions are:

- (a) *That the proposed change is consistent with the goals, policies, and any other applicable provisions of the Comprehensive Plan.*
- (b) *That 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) *That 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) *That other lands in the county already designated for the proposed use are either unavailable or not as well-suited for the anticipated uses due to location, size, or other factors.*
- (e) *That the amendment is consistent with the current Oregon Administrative Rules for exceptions, if applicable.*

The findings regarding these criteria are provided in subsections C.3 through C.7 below.

3. The Board finds that the proposed change is consistent with the goals, policies, and any other applicable provisions of the Comprehensive Plan, as required by YCZO 1208.02 (a). There are several references in the *Yamhill County Comprehensive Plan* to industrial uses. Yamhill County Comprehensive Plan ("YCCP") Section I.H. Industrial Development notes in the summary that "The provision of adequate urban services is a major concern in an industry's location and operation." Goal Statement 1 of this section directs the 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.

Policy statement b. of this goal states:

To the greatest extent possible, industrial areas will be located within urban growth boundaries. Those industrial areas located outside urban growth boundaries will be compatible with the industrial development goal and will be located where they can be adequately served by necessary major utility lines, including electric power substations and transmission lines, trunk sewer lines, trunk water lines, and where appropriate, trunk gas lines.

The Goals and Policies cited above direct the county to encourage the clustering of industrial development in areas appropriate to handle the use. In accomplishing these goals, the county must also be sensitive to the concerns of Newberg. YCCP Section V Goal Statement 2 directs the county to:

To preserve and enhance the charm and amenity values of the county, while accommodating change, through ensuring harmony between urban development and the natural environment, at the same time cultivating more attractive urban environments in which to live, work and play.

To assure that the development satisfies this Goal, a Site Design Review and Similar Use approval will be required.

The Board finds that the proposed zone change is also consistent with the following additional YCCP provisions:

"h. Established industrial areas may be extended and new industrial areas designated by plan amendment where development trends warrant such extension or designation ...". (YCCP I. H. 1. h)

The Board finds that zoning and industrial uses on Wynooski Road has established a trend that this area is appropriate for heavy industrial use. There is an established trend on Wynooski to locate industrial uses (Smurfit, Newberg Garbage and Transfer Services, and Newberg's waste water treatment facility)

4. The Board finds that 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, as required by YCZO 1208.02(b).

The City of Newberg submitted information that indicated a long term need for industrial land within the city limits. Although this property is not within their city limits, the City has taken this property into its Urban Growth Boundary. Presently the property is zoned in the county as Very Low Density Residential. The applicant stated that if this parcel were used pursuant to the existing Comprehensive Plan we would see single family residences and families living: (1) next door to a garbage collection and transfer site, (2) across the street from heavy industrial property, (3) down the street from Smurfit Pulp and Paper Mill, and (4) near Newberg's waste water transfer plant.

The Board is persuaded by the applicant's statement of need. The Board also finds that a need exists for the proposed zone change given the availability and location of other lands so zoned and their suitability for the uses allowed by the zone. Although there are other sites within the Newberg city limits zoned industrial, none of those properties are as suitable as this property because of the proximity of this property to other heavy industrial uses in the area, including the property inside the city limits to the north which is zoned M2, the city waste water treatment plant adjacent to the site within 0.3 mile, Smurfit paper plant within 0.4 mile, within 1600 feet of the Smurfit sewer lagoons, the vehicular access from Wynooski Road which was improved for industrial traffic by the County in 1989/90, and the PWS zoned Newberg Transfer Station property

to the east. The Smurfit properties are planned and zoned for heavy industrial use to the west are planned and zoned industrial property

5. The Board finds that 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, as required by YCZO 1208.02(c).

The applicant stated:

"As mentioned above, the surrounding land use designation is all industrial, heavy industrial is next door and down the street. The road has been improved to accommodate industrial traffic. Because all the surrounding land use designation is industrial, this facility fits into the current pattern of development ...".

As described in Finding A.4 above, the surrounding land uses, the density and pattern of development in the surrounding area contains industrial or industrial types of uses. The city of Newberg has expressed approval of the location of this facility. On December 4, 1995 the Newberg City Council adopted Ordinance 95-2423. Exhibit "A" to Ordinance 95-242 contains reference to a comprehensive plan policy which states:

"Heavy industrial uses should be located in the area near Smurfit Newsprint, an existing pulp and paper mill. Other designated areas should be developed to light industrial or industrial park type areas."

The staff response to this plan policy stated:

"By zoning the proposed property M-3 (Heavy Industrial) ... will further this very specific goal. The proposed area is situated within 4/10 of a mile from Smurfit, within 3/10 of a mile from the Waste Water Treatment Plant, within 1600 feet of the Smurfit sewer lagoons and next door to the Newberg Transfer Station. ... There is no better location for M-3 (Heavy Industrial) zoning that the proposed site."

The request for a zone change to a County designation of HI Heavy Industrial is very similar to Newberg's M-3 Heavy Industrial designation. The City of Newberg did have some concerns about design standards of the initially proposed use, rather than the location of the use. The proposed use has been withdrawn so any use must satisfy the restrictions of the limited use overlay. Additionally, the design and conditions of approval for the site will be evaluated at the time an application is made for a Site Design Review.

The Board finds that utilities and services likely to be needed by the anticipated uses in the proposed district are available. The road system is adequate to handle Heavy Industrial traffic.

Water will be an on-site well and on-site sewage disposal system will be required. Electricity can be extended to the property. Fire protection will be furnished by the Newberg Rural Fire District.

6. The Board finds that other lands in the county already designated for the proposed use are either unavailable or not as well-suited for the anticipated uses due to location, size, or other factors, as required by YCZO 1208.02 (d). As discussed in finding C.4 above, location of this property is better suited for the proposed use than other industrial property in the county.

7. The Board finds that the amendment is consistent with the current Oregon Administrative Rules for exceptions, if applicable. As discussed in Finding A.12 above, this property was part of Exception Statement I which was adopted by Yamhill County in 1979, in which a "committed" exception was taken.

Although it may be argued that a new exception is required if there is a change in use, the Board finds that a new exception is not required on the subject property because the property was the subject of a "committed exception" to Goals 3 and 4, and the committed exception was taken before the 3/20/86 effective date of the administrative rule, current OAR 660-04-018(2). OAR 660-04-018(4) states that the rule applies only to plan and zoning designations and exceptions adopted following the effective date of the rule.¹ Additionally, even if an exception were required, an exception was taken in 1993 when the property was taken into Newberg's Urban Growth Boundary. Therefore the request is consistent with YCZO 1208.02(e).

D. Limited Use Overlay District.

1. An exception was taken at the time the UGB amendment was completed. However, the Department of Land Conservation and Development requested that the City include a plan policy that indicates the use of this property is limited to the described "waste reduction and fuel processing." This limitation does not appear to have been placed on the property by the City.

2. Section 904.03 of the *Yamhill County Zoning Ordinance* allows the placement of a limited use overlay to be placed on plan amendments. Section 904.03 states:

When the Limited Use Overlay District is applied, the uses permitted in the underlying zone shall be limited to those specifically referenced in the ordinance adopting the Limited Use Overlay District.

¹ See *Murray v. Marion County*, 23 Or LUBA 268, note 10 (1992). Former OAR 660-04-018 was interpreted to require a new exception only where the original exception required consideration of impacts on adjacent uses, and since a "committed exception" standards do not require assessment of impacts whereas a "reasons" exception does include a requirement that the proposed uses will be compatible. See *Cook v. Yamhill County*, 14 Or LUBA 78 (1985) (holding that a change in use of property for which a "committed" exception is taken did not require a new exception under former OAR 660-04-018 because the standards for a "committed" exception consider impracticability of compliance, rather than compatibility and impacts).

3. On June 19, 1997, the Board enacted Ordinance No. 631, including findings, approving the application by Marvin Schneider ("applicant"), Planning Docket PAZ-02-96, to change the Comprehensive Plan (1974) Map from "VLDR" (Very Low Density Residential) to "I" (Industrial) and the Official Zoning Map from "VLDR 2.5" (Very Low Density Residential/2.5 acre minimum lot size) to "HI" (Heavy Industrial) and a Limited Use Overlay zone limiting the use of the property to waste reduction and fuel processing. Following adoption by the County, the Newberg City Council declined to approve the requested plan amendment and zone change, and the City advised the County that it opposed the use of the property for a waste reduction and fuel processing. The County met with the applicant and the City.

At the request of the City, the applicant changed the request from a Refuse Derived Fuel facility to simply having the property rezoned to a Heavy Industrial zone designation. The City demanded placement of conditions on the limited use overlay to prevent the use of the property for a Refuse Derived Fuel facility. Because the applicant did not object to these limitations the Board finds that based on the conditions suggested by the City, the subject property should be subject to a Limited Use Overlay which restricts the uses and requires a Newberg Site Design Review of any proposed development as follows:

(A) The Limited Use Overlay shall only permit those uses specifically permitted in Newberg Development Code section 10.40.394 M-3 (Heavy Industrial). No other uses permitted within the Yamhill County Zoning Ordinance or Newberg Development Code shall be permitted

(B) The (RDF) Refuse Derived Fuel plan, 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 sewerage disposal shall be permitted.

(E) No land divisions are permitted.

(F) Any application for development shall be referred to and reviewed by the City of Newberg through the City Site Design Review process (Section 10.28 NDC), and must comply with all City of Newberg Development standards.

The City of Newberg may impose any conditions deemed appropriate as part of the Site Design Review. Yamhill County shall attach and enforce any and all conditions imposed by the City of Newberg on any development permit requested within the Limit Use Overlay zone.

(G) As a condition to the plan amendment and zone change, the owners of the subject property shall sign a consent to annexation on forms supplied by the City of Newberg.

(H) As a condition to the plan amendment and zone change, the applicants shall initiate a new annexation request to the City of Newberg.

Any other use allowed by the HI zone will require amendment to the overlay zone and taking of an exception pursuant to OAR 660-04.

CONCLUSIONS FOR APPROVAL:

1. The request is for a plan amendment from VLDR Very Low Density Residential to I Industrial and a zone change from VLDR-2.5 Very Low Density Residential to HI Heavy Industrial.
2. The request complies with Section 1208.02(a) of the YCZO because the proposal appears to be consistent with the goals and policies of the Yamhill County Comprehensive Plan concerning rural residential zoning.
3. The request complies with Section 1208.02(b) of the YCZO because there is an existing demonstratable need for heavy industrial zoning in the Newberg Area.
4. The request complies with Section 1208.02(c) of the YCZO because the proposal would be appropriate, considering surrounding zoning.
5. The request complies with Section 1208.02(d) because the NUAMC previously determined in a related UGB amendment that there was a demonstrated lack of other nearby locations that could accommodate Heavy Industrial use.
6. The request complies with Section 1208.02(e) of the YCZO because a new exception is not required to be taken for a committed exception was taken in 1979, and even if a new exception were required, an exception for the proposed use was taken in 1993 which satisfied the requirements of OAR 660-04 for taking an exception to Statewide Planning Goals 3 and 4.

DECISION:

Based on the above findings, analysis and conclusions, the Board hereby approves the request by Marvin Schneider, Planning Docket PAZ-02-96, to change the Comprehensive Plan (1974) Map from "VLDR" (Very Low Density Residential) to "I" (Industrial) and the Official Zoning Map from "VLDR 2.5" (Very Low Density Residential / 2.5 acre minimum lot size) to "HI" (Heavy Industrial) on Tax lot 3228-1800, subject to the following:

1. In addition to the zoning designation of "HI" (Heavy Industrial), the subject property shall be subject to a Limited Use Overlay which restricts the uses and requires a Newberg Site Design Review of any proposed development as follows:

(A) The Limited Use Overlay shall only permit those uses specifically permitted in Newberg Development Code section 10.40.394 M-3 (Heavy Industrial). No other uses permitted within the Yamhill County Zoning Ordinance or Newberg Development Code shall be permitted.

(B) The (RDF) Refuse Derived Fuel plan, 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 sewerage disposal shall be permitted.

(E) No land divisions are permitted.

(F) Any application for development shall be referred to and review by the City of Newberg through the City Site Design Review process (Section 10.28 NDC), and must comply with all City of Newberg Development standards.

The City of Newberg may impose any conditions deemed appropriate as part of the Site Design Review. Yamhill County shall attach and enforce any and all conditions imposed by the City of Newberg on any development permit requested within the Limit Use Overlay zone.

(G) As a condition to the plan amendment and zone change, the owners of the subject property shall sign a consent to annexation on forms supplied by the City of Newberg.

(H) As a condition to the plan amendment and zone change, the applicants shall initiate a new annexation request to the City of Newberg.

F:\ADMIN\PINKSTJALU\PAZ2-96.001