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IN 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 an Amendment to the Newberg Urban Growth)
 Boundary to include a 181.7 Acre Parcel, Tax Lots 3221-4200,)
 3222-3300, 3400 and 3500, located between Fernwood and)
 Wilsonville Road, Newberg; applicant Chehalem Park and) ORDINANCE 765
 Recreation District, Docket No. PA-01-03, Amending)
 Ordinance 765 to Conform to the Land Conservation and)
 and Development Commissioner's Order 04-UGB AMEND-001649)

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) sat for the transaction of county business on February 23, 2005, Commissioners Mary P. Stern, Leslie Lewis, and Kathy George and being present.

IT APPEARING TO THE BOARD that the Chehalem Park and Recreation District applied to the Department of Planning for an amendment to the city of Newberg's Urban Growth Boundary to include 181.7 acres between Fernwood and Wilsonville Road. Public hearings were held before the Newberg Urban Area Management Commission and Newberg City Council. The Board held a duly noticed public hearing on October 23, 2003, heard from the applicants and their supporters, as well as opponents, deliberated, and voted 2-1 to approve the application, Ordinance 731. After review and mediation between the parties, the Commissioner of the Land Conservation and Development Commission issued Order 04-UGB AMEND-001649. The City of Newberg amended its approval to conform to this order, and the County wishes to do likewise. NOW, THEREFORE,

IT IS HEREBY ORDAINED BY THE BOARD that Ordinance 731 approving the application is amended to conform to the Land Conservation and Development Commission Commissioner's Order 04-UGB AMEND-001649, attached as Exhibit "A" and by this reference incorporated.

DONE this 9th day of March, 2005, at McMinnville, Oregon.

ATTEST

YAMHILL COUNTY BOARD OF COMMISSIONERS

JAN COLEMAN

County Clerk

By: Anne Britt
Deputy Anne Britt



Chair

Commissioner

MARY P. STERN

LESLIE LEWIS

APPROVED AS TO FORM:

Rick Sanai

Commissioner

KATHY GEORGE

Rick Sanai
Assistant County Counsel

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Ordinance 765

B.O. 05-157

BEFORE THE
LAND CONSERVATION AND DEVELOPMENT COMMISSION
OF THE STATE OF OREGON

IN THE MATTER OF)	COMMISSION'S
THE APPEAL OF THE CITY OF)	ORDER
NEWBERG'S UGB AMENDMENT)	04-UGB AMEND-001649
)	

This matter came before the Land Conservation and Development Commission (Commission) as a proposal, by stipulated agreement, to resolve two appeals of an order of the Department of Land Conservation and Development (department) that remanded an urban growth boundary (UGB) amendment submitted by the City of Newberg (city). The Commission, having considered the stipulated agreement and the report of the director of the department on the stipulated agreement, now enters its:

Findings

Jurisdiction

1. The city is not in periodic review.
2. The city has a population of more than 2,500 within its UGB.
3. The UGB amendment submittal under appeal was for approximately 182 acres.
4. The Commission has jurisdiction in this matter pursuant to ORS 197.626 and OAR 660-025-0175(1) which provide that a city with a population of 2,500 or more within its urban growth boundary that amends the urban growth boundary to include more than 50 acres must submit the amendment to the Commission in the manner provided for periodic review.

Procedural History

1. On September 15, 2003, the City of Newberg City Council adopted by Ordinance No. 2003-2589 an amendment to the city's UGB to accommodate a regional park and golf course for applicant Chehalem Parks and Recreation District (Park District),

- and amendments to the city's comprehensive plan recreation policies and land use needs tables (Exhibit A).
2. On December 23, 2003, the Yamhill County Board of Commissioners adopted Ordinance 731 approving the UGB amendment (Exhibit B).
 3. On February 2, 2004, the City of Newberg City Council adopted Ordinance No. 2004-2595 amending findings adopted in support of the UGB amendment (Exhibit C).
 4. On February 10, 2004, the department received the city's UGB and comprehensive plan amendments submittal (DLCD File No. 2004-001 and Local File No. UGB-07-03) (Exhibit D).
 5. On March 2, 2004, the department received timely, valid objections from 1000 Friends of Oregon and its affiliate Friends of Yamhill County, and Donn Alexander (1000 Friends) (Exhibit E).
 6. On April 2, 2004 the department notified the city of its intent to conduct a review of the UGB amendment (Exhibit F).
 7. On June 9, 2004, the department, based on its review of the submittal and objections remanded the submittal to the city and Yamhill County. (DLCD Order 001637) (Exhibit G). DLCD Order 001637 required the city to amend its comprehensive plan and the findings of fact for the proposed UGB amendment in specific ways in order to comply with the statewide planning goals.
 8. On June 30, 2004, the city appealed the department's remand order to the Commission (Exhibit H).
 9. On June 30, 2004, 1000 Friends appealed the department's remand order to the Commission (Exhibit I).
 10. On September 30, 2004, pursuant to ORS 197.633(3)(b)(B), the Commission extended the time for taking action on this matter, finding that the appeal raised complex issues of fact and law that made it unreasonable for the Commission to give the matter adequate consideration within 90 days of the appeals. The Commission continued the matter to its November 2004 meeting.
 11. On October 12, 2004, the city, the Park District, 1000 Friends of Oregon, and the department, entered into an Agreement to Mediate (Exhibit J).

12. On October 27, 2004, the parties met in Newberg, Oregon, to participate in mediation to address mutual concerns regarding the UGB amendment.
13. On November 4, 2004, pursuant to ORS 197.633(3)(b)(A), the Commission extended the time for taking action on this matter, finding that the appeal is appropriate for mediation based on the October 12, 2004 agreement to mediate. (Exhibits J and K). The Commission continued the matter to its December 2004 meeting.
14. On December 10, 2004, the Commission considered the department's November 17, 2004 staff report and the stipulated agreement reached by the parties.

Conclusion

Based on the foregoing findings, the stipulated agreement, and the department's report dated November 17, 2004, the Commission concludes that the amendment to the City of Newberg UGB will be in compliance with the statewide planning goals upon execution of the following order.

THEREFORE, IT IS ORDERED THAT:

1. The adopted UGB amendment of 182 acres shall be reduced to 100 acres reflecting the recent donation to the Park District of approximately 83 acres within the UGB for use as a 9-hole public golf course. The site remaining in the UGB includes one parcel identified as Yamhill County tax lot 3221-4200 located south of Fernwood Road.
2. The city and Yamhill County shall amend their respective comprehensive plans to remove three parcels from the UGB. These parcels are identified as tax lots 3222-3300, 3400, and 3500.

Yamhill County shall re-designate these parcels as Agriculture/Forestry Large Holding on the comprehensive plan map and restore the zoning to EF-40 (Exclusive Farm-40 acre minimum), applicable to tax lots 3222-3300, 3400, and EF-20 (Exclusive Farm-20 acre minimum) applicable to tax lot 3222-3500.

- 3. The city shall amend its comprehensive plan Land Use Requirements table (Table IV-9) as follows (additions in bold, deletions are in strikeout):

TABLE IV-9
LAND USE REQUIREMENTS
TOTAL ACRES NEEDED BY CATEGORY
1990 - 2010

Use	1990	2000	2010	In UGB as of April, 2003*
Residential	1,580	2,090	2,765	2,050 2,030
Commercial	250	309	381	333
Industrial	490	730	1,087	607 544
Public	223	299	375	180
Parks	44	100	478	118 301
Unbuildable	462	462	462	269
TOTAL	3,049	3,990	5,548	3,557 3,657

* Totals are as of April 2003, plus 100 acres of Parks for a golf course regional park brought into the UGB in 2004 (file UGB-7-03), and plus 83 acres of industrial and residential land donated for a golf course regional park in 2004. Rights-of-way are not included.

- 4. The city shall amend its comprehensive plan Park Area Standards table to replace "200 acre minimum" with a service size range of "180 to 200 acres" under the "Regional Park" classification.
- 5. The city shall submit amendments adopted by the city and county to comply with conditions 1-4 of this order to the department within six (6) months of the date of this order.

6. Pursuant to OAR 660-025-0160(8)(c), these changes are final when adopted by the local governments; no further review is necessary. The failure of either the city or county to adopt the required revisions by the date established in this order shall constitute failure to comply with the remand order by the specified deadline, requiring the director to initiate a hearing before the Commission according to the procedures in OAR 660-025-0090(5).

DATED THE 6TH DAY OF JANUARY, 2005.

FOR THE COMMISSION:



Lane Shetterly, Director
Department of Land
Conservation and Development

Copies of all exhibits are available for review at the Department of Land Conservation and Development's office at 635 Capitol Street NE, Salem, Oregon.

JUDICIAL REVIEW NOTICE: You may be entitled to judicial review of this order. Judicial review may be obtained by filing a petition for review within 60 days from the service of this final order. Judicial review is pursuant to the provision of ORS 183.482 and 197.650.

LCDC Final Order 01-06-2005.doc