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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 Reversing the Planning)
 Commission's Denial of a Zone Change and)
 Comprehensive Plan Amendment from AF-10)
 Agriculture/Forestry to VLDR 2½ Very Low)
 Density Residential, Applicants Finis Carter,) ORDINANCE 702
 Thomas W. Edwards and the Bruce Fowler and)
 Beverly Fowler Living Trust, Docket Z-02-00;)
 Tax Lots 3324-7902, 7903, 7904 and 7905.)

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) sat for the transaction of county business in formal session on June 28, 2001, Commissioners Thomas E.E. Bunn, Leslie Lewis and Robert Johnstone being present.

THE BOARD MAKES THE FOLLOWING FINDINGS:

A. The applicants - Finis Carter, Thomas W. Edwards and the Bruce Fowler and Beverly Fowler Living Trust - requested a zone change from AF-10 to VLDR 2½ on Tax Lots 3324-7902, 7903, 7904 and 7905. The Planning Commission denied this request after a hearing on March 1, 2001.

B. A public hearing was held by the Board of Commissioners on May 23, 2001. After hearing from the applicants and opponents, the Board duly deliberated and voted 3-0 to overturn the Planning Commission's denial for the reasons set forth in Exhibit "A", attached and hereby incorporated into this Ordinance by reference. NOW, THEREFORE:

IT IS HEREBY ORDAINED BY THE BOARD that the Planning Commission's denial of application Z-02-00 is reversed for the reasons stated in the Finding for Approval and attached and incorporated into this Ordinance as Exhibit "A". The zoning on Tax Lots 3324-7902, 7903, 7904 and 7905 is hereby changed from AF-10 to VLDR 2½.

DONE at McMinnville, Oregon this 28th day of June, 2001.

ATTEST

CHARLES STERN
County Clerk

YAMHILL COUNTY BOARD OF COMMISSIONERS

Thomas E.E. Bunn
Chairman THOMAS E. E. BUNN

B.O.# 01-473

By: Kellye Fetters
Deputy KELLYE FETTERS

FORM APPROVED BY:

Rick Sanai
RICK SANAI
Assistant County Counsel

Leslie N Lewis
Commissioner LESLIE LEWIS

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Robert Johnstone
Commissioner ROBERT JOHNSTONE

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Exhibit "A"
FINDINGS FOR APPROVAL, ZONE CHANGE Z-02-00

A. Background Facts

1. *Lot size:* A combined total of approximately 24.87 acres

2. *Access:* The property has three access points, with two developed off of Highway 99W. The third access point is Hyland Drive. The road right-of-way for Hyland Drive is 60 feet in width and abuts the western boundary of the subject parcel. The end of Hyland Drive nearest the subject parcel is undeveloped and gated. Permission for the gate was granted by the Board of Commissioners to the Otter Creek Hyland Drive Road District by Board Order 00-796. The permission for placing this gate was granted with the condition that "...the permission granted by the Board is revocable at any future time." The Otter Creek Hyland Drive Road District has also made a request to the Board of Commissioners asking to vacate the last five feet of Hyland Drive nearest the subject property.

3. *On-site Land Use:* The property is an odd shape, best described as a triangle with two ends trimmed off. Near the middle of the property is a 2.13 acre parcel, not part of this request, that is zoned for Heavy Industrial use. The subject property contains three existing dwellings. These dwellings are shown on the Assessors' map as Tax Lots 3324-7902, 7903 and 7904. These tax lots are for property identification only and are not recognized as separate parcels. The topography of the property is relatively level with a slight slope to the north. The parcel is generally clear. There are some oak trees along the property lines and scattered through out the parcel.

4. *Surrounding Zoning and Land Use:* With notable exceptions, most of the surrounding area is rural residential in character. Most of the rural residential uses are located on parcels of one to 10 acres in size. Property to the north, northwest and southeast is zoned VLDR 2.5 (Very Low Density Residential). Property adjacent to the northeast is zoned VLDR-1. A little further to the northeast is property that is zone Light Industrial. Land to the southwest is a mixture of VLDR-5 and AF/10 Agricultural/Forestry Small Holding. Further to the southwest is an area zoned RI (Resource Industrial) which has the Duck Pond Cellars winery, As noted above, near the middle of the property is a 2.13 acre parcel, not part of this request, that is zoned for Heavy Industrial use. This parcel had been used as a wrecking yard. Within the last five years, the wrecking yard was closed and replaced by two other uses. These uses are RV storage and a body building gymnasium shop. This Heavy Industrial zone does not have a limited use overlay which limits it to these uses; so, the property could revert back at any time to a more intensive Heavy Industrial use.

5. *Water:* On-site wells appear to be the only option.

6. *Sewage Disposal*: Septic systems are the only option in this area.

7. *Soils*: Sheet 22 of the Yamhill County Soil Survey indicates the majority of the property is a mixture of Woodburn (WuB) and Amity (Am) soils. Both of which are rated Class II for agricultural purposes.

Previous Actions: Docket P-1243-81 allowed dividing off Tax Lot 3324-7900 in 1981. The 2.13 acres that is zoned HI was divided in 1984 by Docket P-1336-83. A request to change the plan designation and zoning on the subject property to allow for LI (Light Industrial) use was denied in 1985 under Docket PAZ-126-83. An application was made under Docket P-24-98 to divide the property in half but was later withdrawn.

Exception: The property was found to be a committed exception in Code Area 1.8, adopted by Exception's Statement II, April 23, 1980 and was plan designated VLDR Very Low Density Residential.

Zone Change Provisions and Analysis

1. Approval of a request for a zone change must be based on compliance with the standards and criteria in YCZO 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,

A. A zone change to VLDR 2 1/2 is consistent with the Comprehensive Plan designation of Very Low Density Residential (VLDR). A property plan designated VLDR complies with the Comprehensive Plan Goals and Policies for rural residential use.

1). The applicants have satisfied Comprehensive Plan Goal I.B.2 which states:

Yamhill County will continue to recognize that the appropriate location of very low density residential development is in designated large areas where commitments to such uses have already been made through existing subdivision, partitioning, or development and by virtue of close proximity to existing urban centers ...

a. The subject property complies with the aforesaid goal, because it is part of a large exception area 1.8 zoned for residential use located between Newberg and Dundee. The County has previously concluded that a property plan designated VLDR complies with the Comprehensive Plan Goals. Furthermore, the subject property satisfies Goal I.B.2 in that it is part of the large exception, as the area is committed to residential use as there are certain subdivisions already resident in the area.

2). Since the subject property is zoned Agriculture/Forestry Small Holding 10, it has already had an exception taken to Statewide Planning Goal 3, and thus an exception to Goal 3 is not required for approval.

3). Since an exception to the Statewide planning goals 3 and 4 has already been taken associated with the subject property, exceptions to Goals 3 and 4 are not required for approval.

4). The applicants have satisfied Comprehensive Plan Policy I.B.1.d which states:

No proposed rural development shall require or substantially influence the extension of costly services and facilities normally associated with urban centers, such as municipal water, supply and sanitary sewerage or power ...

a. The subject property complies with the aforesaid policy in that the application has demonstrated that the subject property can provide sufficient water, septic, and storm water drainage to accommodate a total of nine (9) residences on the subject property (which is the maximum number of residences that can be sited on the subject property) without imposing any additional net costs on mobile or other centralized public services [this satisfaction

by the application is set out in more detail regarding Criterion (C) set forth below].

5). The applicants have satisfied the summary in Section III A of the Comprehensive Plan which states:

A major concern of the County is to develop a transportation system that will maintain and enhance the quality of life enjoyed by its residents.

a. The subject property complies with the aforesaid policy in that the application has demonstrated that with the existing access (es) on OR State Hwy 99W and the available access via Hyland Drive (which is a platted 60' County right of way), that the subject property will maintain the County transportation system and enhance the quality of life enjoyed by its residents.

3. Regarding criteria (B) and (D) above,

A. Regarding the demonstrable need for VLDR 2 1/2 zoned property, the growth in Yamhill County over the past then (10) years has led to a tremendous market demand for VLDR 2 1/2 zoned properties.

1). The applicants have shown that there is a demonstrable need for VLDR 2 1/2 zoned property in the subject area, in that the applicants have shown:

a). Based on the testimony of Newberg realtor Marc Willcuts (both written and oral; Mr. Willcuts' written evidence is attached to this Exhibit and hereby incorporated into these Findings by this reference), the applicants have shown:

1)). There are a tremendous number of prospective purchasers of VLDR 2 1/2 zoned property, with the majority of those prospective purchasers being residents of Yamhill County. The applicants have shown why VLDR 1 or 5 zoned parcels will not fit the needs of these prospective purchasers, and that there is an existing market demand for VLDR 2 1/2 zoned properties.

2)). A large supply of available VLDR 2 1/2 zoned properties within the said exception area is necessary to maintain a healthy economy in the County, and 13 available parcels as set forth below in Section B is not nearly enough of a supply of VLDR 2 1/2 zoned parcels within the exception area to maintain a healthy economy and provide for the needs of the citizenry of the area.

B. Regarding the availability and location of other lands so zoned and their suitability for the uses allowed by the zone,

1). "Available" as defined in this Ordinance means those properties that have no improvements on them and whose physical characteristics would allow building a residence on them.

2). Yamhill County Assessor's maps show a total of 59 vacant VLDR 2 1/2 zoned parcels within the said exception area, which is approximately 12 sq. miles in size, with "vacant" connoting those properties that have no improvements on them as those properties would tentatively be considered as "available" properties within the meaning of the said Ordinance.

a). The applicant physically surveyed the aforesaid 59 "tentatively available" parcels within the exception area 1.8, and after completing the said physical survey, the applicant found that there were only a total of 23 VLDR 2 1/2 zoned vacant land parcels within the exception area, with those 23 properties then tentatively being considered as "available" properties; *i.e.* the 59 available properties as set forth on the assessor's map was overstated and incorrect.

1)). The applicants have shown that of the 23 "tentatively available" properties within the exception area, that a total of only thirteen (13) of those properties are to be considered as available within the meaning of the Ordinance, with the "available" properties set forth on attached Exhibit "A" (as only one of those available properties currently for sale) and the "unavailable" properties set forth on attached Exhibit "B", with the specific reasons why each of the "unavailable" properties is considered as unavailable set forth on attached Exhibit "B".

a)). Based upon the specific reasons set forth on Exhibit "B", the applicants have shown why each of the properties set forth on Exhibit "B" is either unavailable or not as well-suited for the anticipated VLDR 2 1/2 zoned uses due to location, size or other factors.

2)). The applicants have further shown that only 13 available VLDR 2 1/2 zoned properties out of hundreds of properties in the said exception area is not nearly a large enough number of properties to provide for the needs of the citizenry of the area and a healthy economy.

C. Regarding other lands in the County already designated for the proposed uses, the applicants:

1). Have shown that out of the hundreds of properties within the said exception area, there are only 13 VLDR 2 1/2 zoned properties which are currently available.

2). Have shown that based on the reasons set forth on Exhibit "B" why the ten (10) "tentatively available" VLDR 2 1/2 zoned properties within the exception area are not as well-suited to the anticipated use of VLDR 2 1/2 zoning due to location or other factors and thus should be considered as unavailable properties.

4. Regarding criterion (C) above,

A. Regarding showing that the change is appropriate considering the surrounding land uses and the density and patten of development in the area and any changes which may have occurred in the area, the applicants have satisfied this condition in that the applicants have shown that (based on the testimony of planner Bill Campbell; Mr. Campbell's written evidence, "HI-Zoned Property - 3324-7906" is attached and incorporated into these Findings by this reference):

- 1). The subject property already contains three (3) residences, and the zone change is an extension of an existing usage of the subject property.
- 2). The subject property adjoins lands already zoned VLDR and other rural residential lands, as the predominant nature of adjoining properties is rural residential, as the subject property will be a nice fit with the area. Specifically, property to the north, northwest and southeast is zoned VLDR 2.5 (Very Low Density Residential). Property adjacent to the northeast is zoned VLDR-1. A little further to the northeast is property that is zone Light Industrial. Land to the southwest is a mixture of VLDR-5 and AF/10 Agricultural/Forestry Small Holding.
- 3). The subject property is not prime agricultural or forest property because of its soil type, size, and topography, as the best usage for the subject property is rural residential.
- 4). The heavy industrial zoned property of approximately 2.13 acres that is resident in the middle of the subject property does not contain heavy industrial uses but rather uses that are really commercial in nature; i.e., a health and gymnasium club, an RV storage facility, and a masonry office, as the existing uses are compatible bordering rural residential property.

a). Furthermore, the characteristics and limitations of the heavy industrial zoned property are such that there is little likelihood that most permitted uses associated with heavy industrial zoned property can ever be implemented on the heavy industrial zoned property for the following reasons:

- 1)). There is inadequate access for heavy truck traffic necessary for heavy industrial uses.
 - 2)). The said property is too close a proximity to rural residential development.
 - 3)). There is no rail line to service the heavy industrial property.
 - 4)). The existence of wetlands and other constraints on site.
- 5). Based on the testimony of realtor Marc Willcuts, other rural residential developments have been constructed near the same type of usages that are presently in existence on the said

heavy industrial zoned property.

6). Based on the testimony of Bill Campbell, adequate screening, buffering, and berming via elevation changes can effectively screen the heavy industrial property from the subject property.

B. Regarding utilities and services, the Board of Commissioners has previously interpreted the general question of availability of utilities and services likely to be needed by the anticipated uses in the proposed district to mean that these uses are accessible or obtainable. The Board has not previously interpreted that each and every service is already developed to the site, nor could this be a reasonable interpretation. An example of this is the availability of on-site sewage disposal systems (septic systems). If the Board interpreted that the availability of utilities meant that sewage disposal needed to be provided by an installed system then a developer would be placed in an impossible "Catch-22." The developer could not receive approval for the zone change without the on-site sewage disposal systems being installed and yet they could not receive land use approvals to install these on-site systems without having a zone change approved. Therefore, the Board has previously interpreted that availability of utilities and services likely to be needed by the anticipated uses in the proposed district to mean that the applicant demonstrate these uses are accessible or obtainable.

1). The Board specifically interprets the definition of "availability" as set forth in said zoning ordinance regarding access, water, septic and storm water to be the following:

a. As to access, "available" means the applicant is required to show that the subject property can be accessed via an existing public road(s) that is platted and recorded as a public right-of-way open to usage by members of the public. The opponents' attorney representing the Otter Creek Hylands Road District asserted that, "available" access means that the applicant is required to show that there is an existing public road that is already constructed pursuant to County standards that is already accessing the subject property. This is contrary to the Board's previous interpretations regarding availability.

The applicant is proposing to use Hyland Drive as the access for up to six additional residences. This has caused considerable concern on the part of the Otter Creek Hylands Road District who have a road association to maintain a portion of this road. In 2000, the Road District requested that the Board grant approval for them to place a gate at the eastern end of Hyland Drive. The Board granted this approval with the condition that it could be revoked at any time. The Road District has also applied to the Board to have them approve the vacation of the most easterly five feet of Hyland Drive. A January 22, 2001 memorandum from Dan Linscheid outlined why he did not believe that this road vacation would be found to be in the public interest. Although the above actions appear to have been made to prevent the use of Hyland Drive it is clear that this access is "available" for the proposed use. Hyland Drive is a 60-foot wide dedicated public road. The dedicated road abuts the western boundary of the subject parcel and, by virtue of this platting, was

intended to be used as a future access for this parcel. Although this road right-of-way is available, this is not to say that there are no concerns with the use of this road. A memo from the Public Works Director received January 24, 2001 noted concerns with the road. The Public Works Director stated that, "Prior to allowing additional development to be served by this road, significant widening and strengthening should be required." These concerns were noted in the staff report and were discussed at the public hearing. Improvements to the road, like other aspects of the proposed development, would be required to occur at the time of subdivision approval, not during the consideration of a zone change.

Lastly, it should be noted that the actions of the Otter Creek Hylands Road District show that they agree with this interpretation. In the months prior to the land use approval they aggressively pursued trying to make the road unavailable by placing a gate at its eastern end and then by filing with the Board of Commissioners to have the last five feet of the road right-of-way vacated. Why pursue these actions if the road is already unavailable?

Further Analysis

1)). Based on the testimony of transportation engineer Tom Lancaster (both written and oral; Mr. Lancaster's written evidence is attached to this Exhibit and hereby incorporated into these Findings by this reference), the applicant has shown that:

a). There are two (2) existing accesses from OR State Hwy 99W to the subject property and that Hyland Dr is a public platted right of way that is available to access the west end of the subject property, and thus, there are available accesses to access the subject property.

b). There will be a maximum of three (3) residences which will access the subject property via OR State Hwy 99W and a maximum of six (6) residences which will access the subject property via Hyland Dr.

1))). Since there are already three (3) residences accessing the subject property via OR State Hwy 99W, there will be no net increase in traffic on State Hwy 99W as a result of the said zone change, and thus no adverse impact on either Hwy 99W or the surrounding properties.

2))). The zone change will generate 58 additional trips per day on Hyland Dr, with six (6) additional trips generated during the peak hour (approximately 1 each 10 minutes). The capacity of Hyland Dr is approximately 200 to 400 cars per hour; the actual number of trips generated by the existing residences using Hyland Dr is much less than the said capacity. Thus, the generation of six (6) additional trips per hour by the subject property will not have any adverse impact on either Hyland Dr or the surrounding properties.

b. As to water, "available" means the applicant is required to show that there the subject property can provide sufficient water for the maximum number of residences without adversely affecting the surrounding properties.

1)). Based upon the testimony of EnviroLogic Resources hydrogeologist Tom Calabrese (both written and oral; Mr. Calabrese's written evidence is attached to this Exhibit and hereby incorporated into these Findings by this reference), the applicant has shown that:

a). Water for a maximum of nine (9) residences will be supplied by on site wells.

b). Tom Calabrese performed a scientific analysis associated with ground water availability using a study area which includes the area of all properties which intersect a line that is 1/4 mile area from the subject property boundaries, with this scientific analysis associated with ground water usage and recharge rates, with the study using a Marion County ordinance associated with the determination of the ground water availability associated with land development, with this said calculation analysis being a scientifically accepted analysis associated with determination of ground water availability associated with development. Tom Calabrese calculated a total amount of recharge used by the subject property for a total of nine (9) residences to be 81%. Any recharge rate calculated to be less than 90% means that the said property can provide sufficient water without adversely affecting the surrounding properties.

1))). The said Marion County ordinance is relevant, appropriate, and scientifically accepted for ground water availability determination for this application because: (1) The subject property conditions are similar to those of certain properties in Marion County, and (2) The said Marion County ordinance was developed and promulgated after several years of study and is a very restrictive ordinance from a development standpoint associated with ground water availability calculations.

c). Tom Calabrese also examined well logs from the State of OR Water Resources Department for all wells in the study area to determine if certain of the said wells had been deepened to further analyze the ground water availability of the subject property, with this examination also scientifically accepted as an additional method utilized to analyze ground water availability for development purposes, and determined the following:

1))). Less than 10% of the wells in the area examined have been deepened which according to the said Marion County Ordinance indicates that there the said examination area has not experienced any declining water levels.

d). Based upon the results of Tom Calabrese's scientific analysis and examination of the wells in the examination area, the subject property can provide water for nine (9) residences without adversely affecting the surrounding properties.

c). As to storm water, "available" means the applicant is required to show that there the subject property can manage storm water runoff for the maximum number of residences without adversely affecting the surrounding properties.

1)). Based upon the testimony of hydrogeologist Tom Calabrese,

a). The total amount of new impervious square footage regarding nine (9) residences and a new access road on the property which would be added by the development totals less than 2% of the entire subject property area, which is a very small amount of impervious area associated with the total subject property area.

b). The topography of the subject property area does not contain any severe slopes or elevation changes which would make storm water management difficult.

c). On site storm water associated with a total of nine (9) residences can be successfully managed on the subject property without adversely affecting surrounding properties.

d). As to septic, "available" means the applicant is required to show that there the subject property can accommodate on site septic disposal for the maximum number of residences without adversely affecting the surrounding properties.

1)). Based on the testimony of sanitary engineer Martin Boatwright (both written and oral; Mr. Boatwright's written evidence is attached to this Exhibit and hereby incorporated into these Findings by this reference),), the applicant has shown that:

a). Septic disposal will be accommodated on site.

b). Martin Boatwright performed an on site inspection of the subject property and inspected the applicable soil maps associated with the subject property, the topography of the subject property, as well as the applicable ground cover and current uses of the subject property.

c). The subject property contains Woodburn soils at the north end and the south end of the subject property, as Woodburn soils are good drainage soils and are suitable for on site septic disposal.

d). The topography of the subject property area does not contain any severe slopes or elevation changes which would make on site septic disposal difficult.

e). Based upon the existence of Woodburn soil on the property as well as certain technological advances in design of septic systems (such as sand filtration systems), on site septic systems can be designed and constructed so that the subject property will accommodate on site septic disposal for nine (9) residences.

5. Regarding criterion (E) above,

A. The subject property is part of an exception area 1.8 that was excepted on April 23,

1980 as part of Yamhill County Ordinance #234; therefore, the subject property is not subject to Goal 3 or Goal 4.

B. The said zone change application was submitted on September 27, 2000.

C. The effective date of Oregon Administrative Rule 660-004-0040 (the "Application of Goal 14 to Rural Residential Areas") was October 4, 2000; specifically, section (6) of the said OAR which states:

"After the effective date of this rule, a local government's requirements for minimum lot or parcel sizes in rural residential areas shall not be amended to allow a smaller minimum for any individual lot or parcel without taking an exception to Goal 14."

1). Since the zone change application for the subject property was submitted prior to the effective date of the said OAR, the said OAR 660-004-0040 is not applicable to this application, and thus, an exception to Goal 14 is not required.

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**TRANSPORTATION AND ACCESS
ANALYSIS**

CARTER ENGINEERING
Studies • Planning • Safety

February 19, 2001

Michael G. Gunn
PO Box 1046
Newberg, OR 97132

Re: Carter, Edwards, Fowler Zone Change Application Z-02-00

Dear Mr. Gunn:

As you requested, I have examined the potential traffic impacts of a plan amendment and zone change for the Carter, Edwards, and Fowler property of approximately 25 acres on Highway 99W in Yamhill County. I understand that there would be a maximum of seven parcels with residences, but the existing three residences on the property would be replaced by three new ones so that there would be a net increase of four residences. Four residential lots are proposed that would have access to Hyland Drive, and three lots would have access to Highway 99W. I also understand that Hyland Drive is a platted public roadway, and that if additional houses had access to the roadway, improvements to Hyland Drive would probably be required in order to meet minimum Yamhill County roadway standards.

The intent of my study was to analyze the traffic impact of the proposed change to VLDR 2.5 zoning and the development of seven residences and to determine whether adequate transportation services are available.

To estimate the number of trips that could be generated by the proposed residential lots, trip rates from the *TRIP GENERATION* handbook, Sixth Edition, published by the Institute of Transportation Engineers, were used. Trip rates for ITE land-use category 210, *Single-Family Detached Housing*, are based on the number of dwelling units.

If four new residential lots were to have access to Hyland Drive, they could generate up to 38 trips per day. During the peak hour of the day there would be four new trips generated by the four houses, an average of one car every 15 minutes. The capacity of a narrow, winding, low-speed two-way roadway without shoulders such as Hyland Drive is approximately 200 to 400 cars per hour, but the actual current peak-hour volume on Hyland Drive is well below this capacity. The addition of four cars

Michael G. Gunn
February 19, 2001
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during a one-hour period would have an insignificant impact on safety and congestion on Hyland Drive and would not cause the roadway to approach or exceed its capacity.

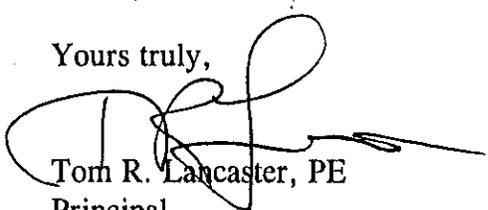
There have been concerns expressed by existing residents regarding traffic speeds on Hyland Drive. The addition of four trips during the peak hour would not, in itself, result in a change in traffic speeds. Increased volumes can sometimes result in reduced speeds, but in this case the additional volumes would not be sufficient to produce reduced speeds. If there are inappropriate speeds on the street, the installation of speed humps to encourage low speeds would be a suitable mitigation.

The proposed three lots which would have access to Highway 99W would generate about 29 trips per day, and about three trips during the peak hour. These are the same numbers of trips that are currently generated by the existing three houses that are on this tax lot. If the existing three houses are removed and three new houses are constructed, there will be no net change to the trip generation or to the impact of traffic on Highway 99W.

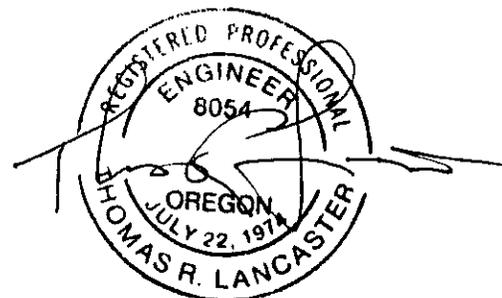
Based on the information available to me and on my analysis I have not found any significant negative traffic impact of the proposed land-use action. With improvements to the east end of Hyland Drive to meet County standards, adequate transportation services would be available to serve the proposed land use.

If you have any questions regarding this analysis, please let me know.

Yours truly,



Tom R. Lancaster, PE
Principal



FIRM PROFILE

Lancaster Engineering was formed in 1983, and has been involved in a variety of transportation planning, design, and operations projects in Oregon, Washington, and California. The firm specializes in traffic signals, signing, striping, traffic control for light-rail systems, planning studies, geometric design, and traffic impact studies.

Lancaster Engineering has also been involved in school safety studies, legal testimony, access control studies, and accident analysis projects. Clients of the firm have included transit agencies, public utility commissions, cities, counties, state highway departments, universities, school districts, port districts, law firms, and private developers.

Members of the firm include Registered Professional Civil Engineers in Oregon, Washington, and Nevada, and registered Traffic Engineers in Oregon and California.

Following are typical examples of projects in which the firm has been involved:

- A traffic safety and circulation study for Mt. Hood Community College in Gresham, Oregon.
- City-wide school crossing studies in Portland and Eugene, Oregon.
- Traffic signal preemption at 30 traffic signals on the light-rail transit system in Portland, Oregon.
- A study of traffic safety and signal preemption on the light-rail system in San Jose, California.
- City-wide traffic and safety studies for several cities in Oregon.

- Plans and specifications for the installation of traffic signals in Albany, Beaverton, Bend, Lake Oswego, Oregon City, Portland, Redmond, Roseburg, Salem, Sutherlin, Tigard, Tualatin, Vancouver, Washougal, Clark County, Multnomah County, and Washington County.
- A traffic access and circulation study for a proposed hotel and convention center in Salem, Oregon.
- Development of a proposed access control program for the Oregon Department of Transportation.
- Traffic impact studies for numerous residential, commercial, institutional, and industrial development projects in Oregon and Washington.
- Parking occupancy studies in Portland, Hillsboro and Depoe Bay, Oregon.
- Traffic studies for Indian tribe gaming facilities in Oregon and Washington.
- Traffic calming projects for several Oregon cities.

Resume

TOM R. LANCASTER, PE
Principal

As the Principal of Lancaster Engineering since formation of the firm in 1983, Mr. Lancaster is in responsible charge of all projects produced by the firm. He has directed projects involving traffic signal designs, light-rail transit preemption of traffic signals, signing and striping plans, construction traffic control plans, traffic calming programs, parking studies, and traffic safety studies.

Mr. Lancaster was previously Traffic Engineer for Lane County, Oregon, for seven years. He was responsible for all aspects of traffic engineering on County roads, including signing, striping, traffic signals, speed zoning, accident analysis, intersection and arterial layouts, and community relations. Prior to his position with Lane County, Mr. Lancaster was a traffic engineer with the Oregon Department of Transportation for six years. His responsibilities included reviewing safety and traffic operations aspects of design proposals for highway construction projects, evaluating traffic signal systems for arterial streets, developing State standards for highway signing and striping, and the preparation of traffic studies for small cities.

Mr. Lancaster received a BS degree in Civil Engineering from Oregon State University and an MS degree in Transportation Engineering from the University of California. He is a member of the Transportation Research Board, the American Society of Civil Engineers, the National Committee on Uniform Traffic Control Devices Railroad Grade Crossing Subcommittee, and the Institute of Transportation Engineers.

He is a Past President of District 6 (comprising the 13 western states) of the Institute of Transportation Engineers. He has been a guest lecturer at the Transportation Research Institute at Oregon State University on the subjects of traffic engineering fundamentals, accident mitigation, and uniform traffic control device standards.

Mr. Lancaster is a Registered Professional Civil Engineer in Oregon, Washington, and Nevada, and a registered Traffic Engineer in Oregon and California. He is also a certified Professional Traffic Operations Engineer in Oregon.

CASTER ENGINEERING
Studies • Planning • Safety

April 30, 2001

Michael G. Gunn
PO Box 1046
Newberg, OR 97132

Re: Carter, Edwards, Fowler Zone Change Application Z-02-00

Dear Mr. Gunn:

As you requested, I have examined the potential traffic impacts of a plan amendment and zone change for the Carter, Edwards, and Fowler property of approximately 25 acres on Highway 99W in Yamhill County. I understand that a maximum of seven residences are planned, but that the zoning code would allow up to none. In either case, the existing three residences on the property would be replaced by three new ones so that there would be a net increase of no more than six residences. Three of the lots would have access to Highway 99W as they do now, and the remainder would have access to Hyland Drive. I also understand that Hyland Drive is a platted public roadway, and that if additional houses had access to the roadway, improvements to Hyland Drive would probably be required by the Yamhill County Public Works Department.

The intent of my study was to analyze the traffic impact of the proposed change to VLDR 2.5 zoning and the development of up to nine residences and to determine whether adequate transportation services are available.

To estimate the number of trips that could be generated by the proposed residential lots, trip rates from the *TRIP GENERATION* handbook, Sixth Edition, published by the Institute of Transportation Engineers, were used. Trip rates for ITE land-use category 210, *Single-Family Detached Housing*, are based on the number of dwelling units.

If six new residential lots were to have access to Hyland Drive, they could generate up to 58 trips per day. During the peak hour of the day there would be six new trips generated by four houses, an average of one car every ten minutes. The capacity of a narrow, winding, low-speed two-way roadway without shoulders such as Hyland Drive is approximately 200 to 400 cars per hour, but the actual current peak-hour volume on Hyland Drive is well below this capacity. The addition of six cars during a

Michael G. Gunn
April 30, 2001
Page 2

one-hour period would have an insignificant impact on safety and congestion on Hyland Drive and would not cause the roadway to approach or exceed its capacity.

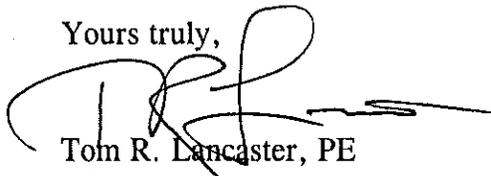
There have been concerns expressed by existing residents regarding traffic speeds on Hyland Drive. The addition of six trips during the peak hour would not, in itself, result in a change in traffic speeds. Increased volumes can sometimes result in reduced speeds, but in this case the additional volumes would not be sufficient to produce reduced speeds. If there are inappropriate speeds on the street, the installation of speed humps to encourage low speeds would be a suitable mitigation.

The proposed three lots which would have access to Highway 99W would generate about 29 trips per day, and about three trips during the peak hour. These are the same numbers of trips that are currently generated by the existing three houses that are on this tax lot. If the existing three houses are removed and three new houses are constructed, there will be no net change to the trip generation or to the impact of traffic on Highway 99W.

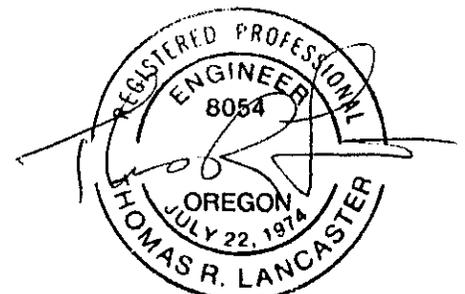
Based on the information available to me and on my analysis I have not found any significant negative traffic impact of the proposed land-use action. With certain improvements to the east end of Hyland Drive to meet County standards, adequate transportation services would be available to serve the proposed land use.

If you have any questions regarding this analysis, please let me know.

Yours truly,



Tom R. Lancaster, PE
Principal



12-02

SEPTIC ANALYSIS

**Boatwright Engineering Inc.**2613 12th ST SE, SALEM, OREGON 97302
civil engineers • land surveyors

(503) 363-9225 (FAX) 363-1051

February 19, 2001

Michael G. Gunn P.C., Attorney at Law

FAX: (503) 537-0591

RE: ZONE CHANGE EDWARDS, CARTER, FOWLER Z-02-00

Dear Mr. Gunn,

I was retained to determine if the subject property could provide sanitary septic service for 7 residences. The information provided identified that the site will require an interceptor drain and a capped fill for on site disposal of sewage effluent when considered earlier for an Auto Dealership.

The use of the site for 7 dwellings, 2½ acre parcel, would also require an interceptor drain and a capped fill. On site disposal for the auto dealership proposal identified waste water from 30 people day needs, say 15 gpd or 450 gallons per day of waste water, requiring a drain field of 375 lineal feet. Seven single family dwellings, 3 bedrooms would generate 140 gpcd per bedroom or 420 gallons per residence per day or 2940 gallons per day of waste water at design. This would equate a drain field of 2450 LF of drain field at 1.2 gpd per lineal foot plus a 100% replacement area.

I am of the opinion it will be necessary to install a recirculating sand filter treatment system prior to the drain field reducing the drain field size by 2/3 or to be equal to 2.33 residences a reasonable on site disposal.

A 7 residential recirculating sand filter would consist of individual septic tanks at each house, a dilution dose tank of a volume equal to the daily sewage flow (3000 gallons) and a recirculating sand filter size with a filter area equal to the daily flow of waste water at 5 gallons per day per square foot of filter, say 600 square feet. D.E.Q. would require a permit to develop a capped fill, the individual septic tanks gravity collector system and the recirculating sand filter treatment system including the pumps and controls. DEQ has issued permits for similar development in the last 2 years.

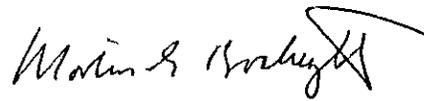
Page 2

On site surge treatment and disposal is allowable with a public water system as long as the wells are at least 100 feet away from the drain field and up gradient.

In my opinion, on site sewage disposal on the subject property for 7 residences along with a private water system are both possible under current rules and regulations in effect in the State of Oregon.

Give me a call if you have any questions.

Yours truly,

A handwritten signature in black ink, appearing to read "Martin G. Boatwright". The signature is written in a cursive style with a large, sweeping flourish at the end.

Martin G. Boatwright P.E.

Martin Boatwright has extensive experience in a wide variety of fields of Civil Engineering and Land Surveying. He has spent 40 years in Private Engineering Employment (Consulting Firms) in the State of Oregon. As Principal Engineer of a private firm since 1962 all types of engineering investigations, reports, designs and construction supervision projects have been completed under his direct supervision.

EMPLOYMENT

Civil Engineer
BOATWRIGHT ENGINEERING, INC.
Principal Engineer

1960-present
SALEM, OREGON

Drafter and Field Surveyor
BOATWRIGHT ENGINEERING
Assistant Drafter of engineering plans. Field survey of preliminary data, construction staking and property boundaries. Quantities and calculations.

1950-1960
SALEM, OREGON

EDUCATION

B.S. Civil Engineering
OREGON STATE UNIVERSITY
Graduate School Courses: Advanced Fluid Mechanics and Pre-stressed Concreted

1957-1960
CORVALLIS, OREGON

Undergraduate Work
WILLAMETTE UNIVERSITY

1956-1957
SALEM, OREGON

CONTINUING EDUCATION
Pavement Design, Dam Safety

REGISTRATION: Registered Professional Engineer, State of Oregon
Registered Professional Survey, State of Oregon

MEMBERSHIP: Consulting Engineers of Oregon
Professional Engineers of Oregon
Marion County Building Code of Appeals
Tau Beta Pi, Engineering Honor Society
Sigma Tau, Engineering Honor Society
Phi Kappi Phi, Honor Society

SKILLS

- Conducted and supervised many rural and urban water system analysis and prepared engineering feasibility studies, developed financial programs to cover construction and right of way costs along with the final plans, specifications and contract documents. Rights of ways and land acquisitions have been acquired under his supervision along with necessary County, Railroad and State Highway Permits.

Many of these projects required developing new sources of supply, treatment facilities where necessary, pumping and control equipment, master plans of distribution system for sizing and configuration, inline storage, reservoir sites and capacity determinations. These projects range in cost from \$25,000 to over \$6,000,000 and in size from a few miles of pipe to in excess of 100 miles of pipe. These projects have required extensive engineering and judgement to allow service to large areas of low density population within acceptable economic limits.

- Experienced with administering Grand Fund Contracts from HUD, Farms Home Administration, OEDD, EPA and DEQ.
- Prepared countywide sewer and water plans for Polk, Yamhill, Columbia, Grant, Sherman and Wheeler Counties.

- Investigated and designed many Sanitary Sewer Projects varying in size from minor lateral extensions to major trunk lines, treatment plan modifications and complete new treatment plant facilities.
- Participates in Land Use Matters including Master Plans, Zone Changes, Conditional Use Permits, Partitionings, Subdivisions and Planned Unit Developments on projects varying in size from a few acres, up to 700 acres with 1400 dwelling units.
- Called upon to represent various public agencies in the correction of storm damage severe enough to obtain Presidential Disaster Declarations. Work supervised, engineered and cost accounted and controlled through the letting of contracts are as follows:
 1. Land Slide Removal and Stabilization, Canyon City
 2. Bridge Replacement (26) Oregon State Forestry, (8) Ashland, Oregon
 3. Channel and Surface Debris Clearance:
 - City of Tillamook
 - City of Ashland
 - City of Manzanita
 - City of Corvallis
 4. Dredging of Reservoir Storm Deposits, City of Ashland
 5. Dam Emergency Repair, City of Tillamook
 6. Bank Removal, Port of Tillamook and Bay City, Oregon
 7. Structural Repair, Blimp Hanger Walls and Roof System, Port of Tillamook
- Recent design and construction supervision of:
 1. 5,000,000 gallon reservoir and new 20" and 12" supply lines; reconstruction of slow sand filters 1 and 2 with miscellaneous piping modifications to waste; and reconstruction of South 1st Avenue for City of Stayton.
 2. New 500,000 and 50,000 gallon reservoirs; new spring collection system for springs 3 and 4; Willamina Creek Waterline Extension for Grand Ronde Community Water Association.
 3. Riemer Road Well Field development, 53,000 gallon reservoir, 3 wells with pump controls, piping and housing, Perrydale Domestic Water Association.
 4. Gravity collection sewer system duplex pump station and 14,000 lineal feet of pressure sewer line for Fargo Interchange Service District, Marion County Public Works.
 5. Numerous irrigation and recreational dams and storage reservoirs.
- Experienced with projects requiring FEMA elevation certification.
- Regularly prepares DOGAMI permits.
- Experienced with wetlands inventories, permits for fill and removal, and mitigation.
- Works on water right matters; new applications for groundwater, surface water and stored water.

**Boatwright Engineering Inc.**2613 12th ST SE, SALEM, OREGON 97302
civil engineers • land surveyors

(503) 363-9225 (FAX) 363-1051

May 11, 2001

Michael G. Gunn, P.C.
P.O. Box 1046
Newberg, Oregon 97132

RE: ON-SITE SEWAGE EFFLUENT DISPOSAL POTENTIAL 25 ACRE ± SITE FACING
99W BETWEEN NEWBERG AND DUNDEE, OREGON

Dear Mr. Gunn,

As per your request I have inspected the acreage tract facing 99W in the east half of Section 24, T3S, R3W, Willamette Meridian, Yamhill County, Oregon, within the David Rasey DLL No. 59 in Yamhill County.

The soil maps were inspected, topography of the site, type of vegetation and ground cover and 3 related housing units, a masonry company, fitness gym and RV storage lot to develop an understanding of the site natural features and uses of the land to date. Most of the site has a modest slope parallel to 99W downward from S SW to N NE with ground cover consisting of scattered oak trees largely free of brush and grass ground cover in untreed areas.

An interceptor drain had been constructed parallel the west property line, in the last 3 years or so, 15 to 20 feet into this site.

At the south end of the property next to 99W and the northern end of the property north of Hylands Drive the natural ground was found to possess soils with the best drainage and greatest potential for on site sewage effluent disposal. The soils map identify the soils on site as Woodburn silt loam at the south end of the parcel, and covering some 6 acres at the north end of the parcel. Between the better soils are located Amity and Dayton silty loams with poorer natural drainage than Woodburn. The long term effect of the interceptor drain is unknown at the time, we do know that it is going to improve the soil ground water removal.

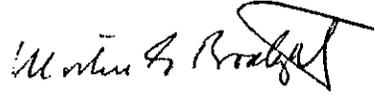
The amount of Woodburn soils available on site clearly identifies that soils exist that are suitable for on site effluent disposal. The final design must address the location of these more desirable soils and make them available to the individual residential tracts. Each residential unit

On Site Sewage Affluent Disposal
Page 2

will require 300 to 450 LF of drainfield.

In my opinion, an on site sewage affluent disposal system can be designed so that the subject parcel can accommodate 9 separate 2.5 acre residential parcels.

Yours truly,



Martin G. Boatwright, P.E.

MGB/kv



Expires 12-31-01

**WATER AND STORM WATER
ANALYSIS**

February 21, 2001
10059.001

FILM 71 PAGE 1563

Michael G. Gunn, P.C.
201 North Meridian Street
PO Box 1046
Newberg, Oregon 97132

VIA Hand Delivery

Attention: Michael G. Gunn
Attorney at Law

Subject: Water Supply and Stormwater Management for Re-Zoning Application
Carter, Edwards, Fowler/Chehalem Creek Properties
Yamhill County, Oregon

Dear Mr. Gunn:

An application to change the zoning of a property from AF-10 to VLDR-2.5 has been submitted to Yamhill County for consideration. As a result, questions regarding water supply and stormwater management have been raised. This letter presents information related to water matters at the Chehalem Creek Properties site southwest of Newberg in Yamhill County, Oregon. The subject property, and related area thereto, is located in Township 3 South, Range 3 West, Sections 24 and 25; and Township 3 South, Range 2 West, Section 19, Willamette baseline and meridian, and is shown on Figure 1. The property covers approximately 25 acres.

EnviroLogic Resources, Inc., was retained by Messrs. Carter, Edwards, and Fowler, aka Chehalem Creek Properties, to provide an expert opinion regarding whether the property will support water supply and stormwater management for the total of seven residences that could be built under the proposed new zoning designation. Currently, there are three residences on the property. For purposes of evaluating water supply and stormwater matters, four new residences are considered added to the property.

Ground water is an important source of water for populations in Yamhill and nearby counties. In response to pressures on the ground-water supply in rural residential areas, Marion County promulgated an ordinance (Chapter 181 of the Marion County Rural Zoning Ordinance) designed to guide the evaluation of ground-water availability in partition and subdivision applications. As such, this ordinance is a relevant and appropriate guidance for the evaluation presented in this letter. In the sections that follow, salient information about the subsurface hydrogeologic system will be discussed and calculations as used in the Marion County ordinance will be presented.

The ground-water availability calculation is based on determining the amount of recharge the target aquifer receives, and comparing the recharge to the projected amount that will be consumptively used. The recharge is calculated for the Study Area, as defined in the ordinance (the area within ¼-mile of the property boundary), from annual precipitation over the area.

Mr. Michael G. Gunn.
February 21, 2001
Page 2

Usage is based on the number of parcels in Study Area and a rate set in the ordinance (525 gallons per day), plus the amount of water withdrawals authorized by water rights and permits.

Stormwater management will be addressed in terms of a projected amount of new impervious area as a result of complete development of the property under the proposed zoning change.

REGIONAL HYDROGEOLOGY

The Study Area (Figure 1) is located in the Willamette Valley, north of the Willamette River, southwest of the city of Newberg. The subject property is just south of Harvey Creek. The area is composed of lacustrine and fluvial sediments and rocks of the Pleistocene. These geologic units generally consists of unconsolidated to semiconsolidated lacustrine clay, silt, sand, and gravel; and in places includes mudflow and fluvial deposits and discontinuous layers of peat. The unit includes older alluvium and related deposits of Piper (1942), Willamette Silt, alluvial silt, sand, and gravel that form terrace deposits of Wells and others (1983), and Gresham and Estacada Formations of Trimble (1963). Beneath the sedimentary unit is basalt of the Columbia River Basalt Group, which generally is the target aquifer for development of new water supply wells.

The land surface elevation of the subject property ranges from 160 to 180 feet above mean sea level. The Oregon Climate Service reports a mean precipitation in McMinnville of 41.86 inches per year over the 1961-1990 period. Recharge to alluvial systems occurs by infiltration of precipitation, irrigation water, and septic systems. Columbia River Basalt aquifers are recharged by release of water from overlying saturated alluvial sediments to the basalt.

Ground water occurs in the basalt of the Columbia River Basalt Group in semi-confined or confined conditions where it occurs below saturated alluvium. In upland areas, basalt aquifers can have perched or unconfined zones as well. The tops and bottoms of the volcanic flows generally are more rubbly and/or vesicular and readily transmit water to wells. Vertical migration of water through basalt can occur where fractures from columnar jointing are sufficiently dense and fully penetrating. The sedimentary units yield small to moderate quantities of water to some wells.

GEOLOGY/HYDROGEOLOGY OF THE STUDY AREA

Several soil types are present within the Study Area. The soil types covering the most area are those of the Amity silt loam series and Woodburn silt loam, which consist of somewhat poorly-drained to moderately well-drained soils that formed in old alluvium on valley terraces with 0 to 3 percent slopes. A small area of Dayton silt loam, which consists of poorly-drained soils is present on the property in an area currently considered a wetland environment. Permeabilities of these soils range from 0.2 to 2.0 inches per hour (USDA, 1983).

Mr. Michael G. Gunn.
February 21, 2001
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FIL# 71 PAGE 1565

Lacustrine and fluvial sedimentary rocks of the Pleistocene time are present beneath the surface soil profile. Below the soils and the sedimentary unit is the Columbia River Basalt. This unit supplies most of the water to wells in the Study Area.

Well logs of representative wells in the Study Area were retrieved from the GRID database from the Oregon Water Resources Department (WRD) website. A review of these well logs, summarized on Table 1 and presented in Appendix A, shows the principal hydrogeologic units from youngest to oldest, are: 1) a clay of variable thickness over the Study Area; and 2) basalt. The clay ranges from 0 feet to over 230 feet thick. Basalt boulders are sometimes found within this unit. At times clay is also found layered within the basalt layers.

Basalts of the Columbia River Basalt Group occur below the clay and silt, where it is present. Wells drilled into the basalts encounter decomposed, weathered, fractured, or broken zones alternating with harder layers. Identification of specific aquifer zones is not possible because of the variety of descriptors used and the variation in depths of where water is present. It is likely that ground water in the basalt aquifers occurs in a confined or semi-confined condition.

There are 17 wells identified on parcels within the Study Area, including one on the subject property and one on the parcel inside of the subject property. Of these, none have been deepened since they were originally drilled according to WRD records. One well, which appears to have been a test well, has been abandoned. Guidance in the Marion County evaluation process suggests that when more than 10 percent of the wells in an area have been deepened, a potential problem with declining water levels may exist. Because, according to WRD records, none of the wells in the study area have been deepened, declining water levels do not appear to have been an historical problem in the Study Area.

Several certificated or permitted water rights have been granted within the Study Area. Two permits (Hillview Acres Water District and Wilderness Canyon Water District) name a well as the source. These permits will allow for irrigation of 20 acres of land and domestic supply for 45 households. Many of these are for domestic use and/or name a surface water source for the water. Information pertaining to water rights within the Study Area is presented in Appendix B.

GROUND-WATER RECHARGE AND USAGE

Recharge to the ground-water system occurs through direct infiltration of precipitation and irrigation water, and from effluent from septic systems. Recharge enters the Columbia River Basalt Group aquifer system by the release of water from storage in the saturated alluvial sediments.

Mr. Michael G. Gunn.
February 21, 2001
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FILM 71 PAGE 1566

The ground-water budget for the Study Area is evaluated by multiplying the mean annual precipitation by an average annual recharge rate. The result is then applied over the area of the Study Area to calculate the recharge from precipitation in acre-feet per year. Additionally, recharge from effluent from septic systems is calculated based on a per capita rate and the number of parcels in the Study Area (Snyder and others, 1994). These are added together to develop a volume of Total Recharge for the Study Area. Discharge is based on the number of parcels and an assumed consumption per parcel added to the permitted ground-water use in the Study Area. The ground-water budget calculations are presented on Table 2.

In this analysis, 266.34 acre-feet of water recharges the aquifer from precipitation. Another 10.40 acre-feet are estimated to recharge from septic effluent for a total recharge of 276.75 acre-feet. Irrigation recharge is not considered in these calculations. Discharge amounts to 223.60 acre-feet, including permitted ground-water use and the new potential parcels in the proposed zone change. Total discharge is 81 percent of total recharge. If septic recharge is disregarded, the total discharge becomes 84 percent of precipitation recharge.

These values are based on a recharge rate of 16% of annual precipitation (NGS, 1997). While a number of factors can influence the average annual recharge rate (estimates range from 0.5% to 16% in Marion County), 16% is considered by NGS to be a reliable estimate for the Columbia River Basalt Group when overlaid by a saturated alluvial aquifer. Site-specific hydrogeologic conditions may cause the average annual recharge rate in an area to deviate from this value, but collection of data to make this kind of analysis is unwarranted for this proposed zone change.

Is there enough water to support the proposed zone change? Guidance from Marion County indicates that a proposed partition or subdivision may proceed if the amount of recharge used is less than 90 percent. Based on the scope of analysis included in this evaluation, *EnviroLogic Resources* believes that sufficient ground-water supplies are available without causing an adverse impact on surrounding properties. The proposed zone change adds four households to the Study Area. Long-term water-level trends are not declining in a nearby state observation well. No wells in the Study Area have been deepened, according to WRD records, indicating that there has not been an historic problem with water levels. While other areas of the County may have experienced water level declines as discussed by the City of Newberg, these conditions do not appear to predominate in the study based available records.

In *EnviroLogic Resources'* opinion, based on a reasonable degree of scientific certainty, this area will support a water supply for seven residences without adversely affecting the surrounding properties.

Mr. Michael G. Gunn.
February 21, 2001
Page 5

STORMWATER MANAGEMENT

Four new residences and a roadway may potentially be added to the property as a result of development in accordance with the proposed zone change. Each new residence may add up to 2,500 square feet of new impervious area to the property, including a 16 feet by 30 feet driveway. This amounts to 10,000 square feet of new impervious area for residences. New roadway is assumed to be constructed for a linear distance of approximately 660 feet. If this road is assumed to be 16 feet wide, it will add another 10,000 square feet of impervious area to the property. The additional 20,000 square feet of impervious area amounts to less than 2 percent of the total property area. Stormwater runoff from this new impervious area can be sufficiently managed on the property, especially if Best Management Practices and low impact development concepts (Coffman and others, 1998) are applied. Stormwater can be adequately managed on the property with an eventual exit point to Harvey Creek without adverse impact to surrounding properties.

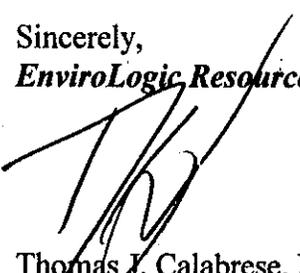
In *EnviroLogic Resources'* opinion, based on a reasonable degree of scientific certainty, this area will support a stormwater management system for seven residences without adverse impact to surrounding properties.

CLOSING COMMENTS

The information collected during the preparation of this evaluation describes the ground-water and stormwater conditions in the Study Area sufficiently to draw the conclusions presented within reasonable certainties. While the availability of new and more quantitative information could modify the calculations, collection of these data does not appear to be warranted.

Please call me at (503)768-5121 if you have any questions or comments.

Sincerely,
EnviroLogic Resources, Inc.



Thomas J. Calabrese, R.G.
Principal/Hydrogeologist

cc:

clients/chehalemcreekproperties/mgg022101water.doc

Mr. Michael G. Gunn.
February 21, 2001
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ATTACHMENTS

Table 1	Local Well Inventory
Table 2	Recharge Calculations
Figure 1	Site Location
Figure 2	Study Area
Figure 3	Hydrograph for Well YAMH 2428
Appendix A	Well Logs
Appendix B	Water Rights
Appendix C	Resume for Thomas J. Calabrese, RG, CWRE

REFERENCES

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Mr. Michael G. Gunn.
February 21, 2001
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APPENDIX C

RESUME for THOMAS J. CALABRESE, RG, CWRE

71 / 1571

THOMAS J. CALABRESE, R.G.
Principal/Hydrogeologist

CREDENTIALS/REGISTRATIONS

A.B., Geology, Occidental College, 1981
GradStudy, MineEng, Univ of Nev-Reno, 1981-1983
Hydrogeology Studies, Wright St Univ, 1985
Registered Geologist, Oregon G1784 and California 5391
Certified Water Rights Examiner No. 60488

PROFESSIONAL AFFILIATIONS

Association of Ground-Water Scientist and Engineers
American Society for Testing and Materials
Oregon Association of Environmental Professionals
Geological Society of America
Citizen Member - Tryon Creek Watershed Council
Board Member - Oregon Water Resources Congress

SPECIALIZED EXPERTISE

Water-Resources Evaluations

- Water Supply and Water Quality
- Aquifer Testing and Modeling
- Well Design and Construction
- Geophysical Techniques
- Stormwater

RI/FS and RD/RA related to:

- Hydrocarbons
- Wood Treating & MGPs
- Solvents

Property Transfer/Redevelopment Assessments
Litigation Support/Expert Witness
Strategic Planning/Environmental Management
Project Management

EXPERIENCE SUMMARY

As Principal of *EnviroLogic Resources, Inc.*, Mr. Calabrese is the lead investigator and project manager for all work for this consulting practice. Mr. Calabrese has nearly 20 years of experience and is a technical leader in the collection and interpretation of hydrogeological and chemical data to describe ground-water flow and contaminant transport. He has conducted hydrogeological studies in several western states for water resources exploration and development and for ground-water protection programs. Mr. Calabrese has been successful in identifying reliable water supplies for agriculture, property development, and mining companies using a

variety of hydrogeologic and geophysical tools, including several ground-water model codes.

KEY PROJECTS

Water Resources Evaluation for Agricultural Concern - Supervised ground-water management planning and basin development for a large alfalfa and rice farm in Modoc County, California. Sited production wells capable of producing 5,000 to 10,000 gpm from volcanic aquifers, planned and performed aquifer tests, and monitored the effects of iron-bacteria contamination problems on the specific capacity of affected wells.

Stormwater Compliance Evaluation for Utility Company - Reviewed current and proposed stormwater regulations and compliance status for multiple sites in Oregon and Washington. Made recommendations for best management practices and a strategy for addressing future regulatory changes.

Residential Water Seepage Evaluation - Investigated hydrogeologic factors contributing to water seepage into subgrade of a home in Washington County, Oregon.

Ground-Water Exploration and Development for Food-Processing Industry - Developed and implemented a program consisting of a hydrogeologic evaluation and test-well drilling to evaluate the availability of ground-water resources in Tillamook County, Oregon.

Ground-Water Supply Management and Development for Agriculture - Managed and planned the ground-water exploration, development, and management program in basalt aquifers for a farm in Eastern Washington. Prepared regional hydrogeologic evaluations and site-specific data to support water rights applications and protect the resource.

Expert Witness for Stormwater Matter - Reviewed hydrogeologic conditions and provided an opinion regarding partition conditions as they related to the installation of stormwater control structures in Clackamas County, Oregon.

THOMAS J. CALABRESE, RG, CWRE
Principal/Hydrogeologist

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Hydrogeologic Evaluation for Agricultural Property - Performed a hydrogeologic study to make recommendations on potential water supplies for an agricultural property in Gilliam County, Oregon. Conducted preliminary ground-water modeling to evaluate potential pumping levels in Columbia River Basalt Group aquifers.

Aquifer Characterization for Agriculture - Performed aquifer testing of a confined groundwater system in volcanic aquifers featuring flowing geothermal wells in Harney County, Oregon, as part of a water resources evaluation.

Production-Well Maintenance Program for Property Development - Prepared and implemented a well rehabilitation program to bring an unused well in Keizer, Oregon, back into productive use. Conducted ground-water sampling and aquifer testing to characterize the resource for potential use classifications.

Water Resources Evaluation for Future Development Site - Developed and supervised a three-phase program of geophysical exploration, test drilling, and well construction and testing to assess ground-water resources for a future residential development site in the Santa Ynez River Valley, Santa Barbara County, California.

Hydrogeology Review for Subdivision - Performed a Hydrogeology Review under a Marion County, Oregon, ordinance to support a subdivision and development of property in a Ground-Water Limited Area.

Water Resource Evaluations - Performed geophysical surveys, hydrologic mapping, test drilling, and aquifer testing to locate and effectively utilize water resources for a placer mining operation in the Northwestern Mojave Desert and a lode deposit in the Southeastern Mojave Desert, California.

Ground-Water Resource Development for Residential Supply - Conducted drilling and well design in volcanic terrain to develop a deep ground-water resource for use at a vacation home in Nevada County, California.

Dewatering Study at Power Generating Facility - Designed and implemented a modeling study to evaluate design parameters for a new dewatering system to be installed at a electrical generating station in Long Beach, California.

Wellhead Protection Analyses - Conducted an analysis of the risk to municipal water supply wells from a proposed new service stations in Clark County, Washington. The analyses was made by calibrating an analytical model of ground-water flow and coupling conceptual contaminant transport scenarios to the calibrated model.

PUBLICATIONS/PRESENTATIONS

- Spreizer, G.M., T.J. Calabrese, and R.S. Weidner, 1991, Assessing the Usability of Historical Water-Quality Data for Current and Future Applications: ASTM Symposium on Ground Water and Vadose Zone Investigations, San Diego, California, January 1991.
- Calabrese, T.J. and M.R. San Miguel, 1993, Environmental Firms Make a Difference: Job Training in Los Angeles: Ground Water Age Magazine, October 1993.
- Calabrese, T.J., 1994, Designing Investigations, Environmental Science for Lawyers, Lenders, Corporate, Government & Real Estate Professionals: Short Course by Law Seminars International, The Governor Hotel, Portland, Oregon, July 21 and 22, 1994.
- Calabrese, T.J., 1995, Hydrocarbon Investigations and Cleanup, Fundamentals of Groundwater Contamination and Remediation: Short Course by University of Wisconsin-Madison, Tropicana Hotel, Las Vegas, Nevada, May 15-17, 1995.
- Saar, R. and T.J. Calabrese, 1996, Quality Assurance for Environmental Investigations: Two-hour seminar presented to the Port of Portland, Portland, Oregon, January 1996.
- Calabrese, T.J. and L.E. Roberts, 1996, Managing Your Environmental Projects: Presentation to the Washington Public Ports Association Environmental Committee, Olympia, Washington, February 1996.

May 15, 2001
10059.001

Michael G. Gunn, P.C.
201 North Meridian Street
PO Box 1046
Newberg, Oregon 97132

VIA Hand Delivery

**Attention: Michael G. Gunn
Attorney at Law**

**Subject: Water Supply and Stormwater Management for Re-Zoning Application
Supplemental Information
Chehalem Creek Properties/Edwards, Carter, Fowler
Yamhill County, Oregon**

Dear Mr. Gunn:

I have conducted a supplemental analysis of water supply availability to reflect the possibility of nine (9) new parcels being developed on the subject property. The original analysis considered that seven new parcels, four more than the current configuration, would be developed under a VLDR-2.5 zoning. The subject property, and related area thereto, is located in Township 3 South, Range 3 West, Sections 24 and 25; and Township 3 South, Range 2 West, Section 19, Willamette baseline and meridian. The property covers approximately 25 acres.

EnviroLogic Resources, Inc., was retained by Messrs. Edwards, Carter, and Fowler, aka Chehalem Creek Properties, to provide an expert opinion regarding whether the property will support water supply and stormwater management under the proposed new zoning designation. Currently, there are three residences on the property. For purposes of evaluating water supply and stormwater matters, six new residences are considered added to the property in this analysis.

Ground water is an important source of water for populations in Yamhill and nearby counties. In response to pressures on the ground-water supply in rural residential areas, Marion County promulgated an ordinance (Chapter 181 of the Marion County Rural Zoning Ordinance) designed to guide the evaluation of ground-water availability in partition and subdivision applications. As such, this ordinance is a relevant and appropriate guidance for the evaluation presented in this letter.

The ground-water availability calculation is based on determining the amount of recharge the target aquifer receives, and comparing the recharge to the projected amount that will be consumptively used. The recharge is calculated for the Study Area, as defined in the

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ordinance (the area within ¼-mile of the property boundary), from annual precipitation over the area. Usage is based on the number of parcels in Study Area and a rate set in the ordinance (525 gallons per day), plus the amount of water withdrawals authorized by water rights and permits.

Stormwater management will be addressed in terms of a projected amount of new impervious area as a result of complete development of the property under the proposed zoning change.

GROUND-WATER RECHARGE AND USAGE

Recharge to the ground-water system occurs through direct infiltration of precipitation and irrigation water, and from effluent from septic systems. Recharge enters the Columbia River Basalt Group aquifer system by the release of water from storage in the saturated alluvial sediments and from infiltration of rainfall in uplands areas.

The ground-water budget for the Study Area is evaluated by multiplying the mean annual precipitation by an average annual recharge rate. The result is then applied over the area of the Study Area to calculate the recharge from precipitation in acre-feet per year. Additionally, recharge from effluent from septic systems is calculated based on a per capita rate and the number of parcels in the Study Area (Snyder and others, 1994). These are added together to develop a volume of Total Recharge for the Study Area. Discharge is based on the number of parcels and an assumed consumption per parcel added to the permitted ground-water use in the Study Area.

Figure 1 shows a tax lot map with an outline of the Study Area used for the calculations. The Study Area includes the area of parcels that intersect a line ¼-mile from the property boundary. Precipitation recharge over the 477.2-acre area amounts to 266.34 acre-feet per year. Another 10.65 acre-feet per year recharges from water released from septic systems, for a total of 276.99 acre-feet of recharge. Irrigation recharge is not considered in these calculations.

Discharge amounts to 225.37 acre-feet, including permitted ground-water use and the new potential parcels in the proposed zone change. Total discharge is 81 percent of total recharge. If septic recharge is disregarded, the total discharge becomes 85 percent of precipitation recharge. The ground-water budget calculations are presented on Table 1.

These values are based on a recharge rate of 16% of annual precipitation (NGS, 1997). While a number of factors can influence the average annual recharge rate (estimates range from 0.5% to 16% in Marion County), 16% is considered by NGS to be a reliable estimate for the Columbia River Basalt Group when overlaid by a saturated alluvial aquifer. Site-specific hydrogeologic conditions may cause the average annual recharge rate in an area to deviate

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from this value, but collection of data to make this kind of analysis is unwarranted for this proposed zone change.

Is there enough water to support the proposed zone change? Guidance from Marion County indicates that a proposed partition or subdivision may proceed if the amount of recharge used is less than 90 percent. Based on the scope of analysis included in this evaluation, *EnviroLogic Resources* believes that sufficient ground-water supplies are available without causing an adverse impact on surrounding properties. The proposed zone change potentially adds six households to the Study Area. Long-term water-level trends are not declining in a nearby state observation well. No wells in the Study Area have been deepened, according to WRD records, indicating that there has not been an historic problem with water levels. While other areas of the County may have experienced water level declines as discussed by the City of Newberg, these conditions do not appear to predominate in the study area, based available records.

In *EnviroLogic Resources*' opinion, based on a reasonable degree of scientific certainty, this area will support a water supply for nine residences without adversely affecting the surrounding properties.

STORMWATER MANAGEMENT

Six new residences and a roadway may potentially be added to the property as a result of development in accordance with the proposed zone change. Each new residence may add up to 2,500 square feet of new impervious area to the property, including a 16 feet by 30 feet driveway. This amounts to 15,000 square feet of new impervious area for residences. New roadway is assumed to be constructed for a linear distance of approximately 660 feet. If this road is assumed to be 16 feet wide, it will add another 10,000 square feet of impervious area to the property. The additional 25,000 square feet of impervious area amounts to approximately 2 percent of the total property area. Stormwater runoff from this new impervious area can be sufficiently managed on the property. Stormwater can be adequately managed on the property with an eventual exit point to Harvey Creek without adverse impact to surrounding properties.

In *EnviroLogic Resources*' opinion, based on a reasonable degree of scientific certainty, this area will support a stormwater management system for nine residences without adverse impact to surrounding properties.

CLOSING COMMENTS

The information collected during the preparation of this evaluation describes the ground-water and stormwater conditions in the Study Area sufficiently to draw the conclusions presented

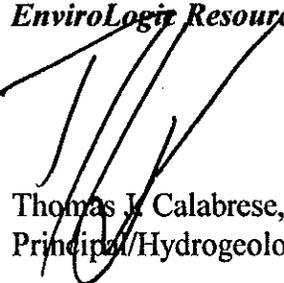
Mr. Michael G. Gunn.
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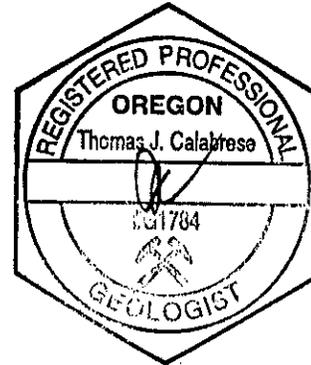
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within reasonable scientific certainties. While the availability of new and more quantitative information could modify the calculations, collection of these data does not appear to be warranted.

Please call me at (503)768-5121 if you have any questions or comments.

Sincerely,
EnviroLogic Resources, Inc.


Thomas J. Calabrese, R.G.
Principal/Hydrogeologist



cc:

clients/chehalem-creek-properties/mgg051501water.doc

ATTACHMENTS

Table 1 Ground-Water Recharge and Usage Calculations
Figure 1 Study Area

**DEMONSTRABLE NEED AND AVAILABLE PROPERTIES
ANALYSIS**



PROFESSIONAL
GROUP

RESIDENTIAL REAL ESTATE
2501 PORTLAND RD.
NEWBERG, OR 97132

BUS. (503) 538-0468
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February 14, 2001

Mr. Michael Gunn, Attorney
P. O. Box 1046
Newberg, OR 97132

Re: Edwards, Carter, zone change

Dear Sir,

I have been a resident of Yamhill County since 1968. I am a graduate of Newberg High School and George Fox University. I obtained my real estate license in 1983 and Brokers license in 1986. Currently I am a Designated Broker for Coldwell Banker Professional Group. I am also President of Coyote Homes Inc., a building and development company.

Throughout the last several years, we have developed, built homes, sold lots and homes in the VLDR 2 1/2 acre zone. We have found the greatest source of buyers for the VLDR 2 1/2 acre zoned property, tend to have the following characteristics: they are residents of Yamhill County - approx. 60 % of the time. They are looking for a site which provides room for not only their home, but, outbuildings, shops, elbow room, ect.

We have found that the VLDR 2 1/2 zone fills this need perfectly. The VLDR 1 zone tends to attract buyers interested in building estate type homes. They tend to have community water systems due to the fact it is difficult to site a well and drain field, house and backup drain field on a one acre site. Some recent examples of VLDR 1 acre developments are Aspen Estates and Red Hills Estates in the Newberg and Dundee area. These neighborhoods are upper end properties with no farm type animals and few detached garages or other outbuildings. VLDR 5 acre zoned land generally attracts buyers who are more than weekend farmer types. 5+ acre lots tend to require more time and larger equipment.

The VLDR 2 1/2 zone is a perfect fit for the population interested in 4-H, FFA, ECT. The sites are large enough for these uses, yet small enough to maintain on the weekends. Currently we are facing a shortage of VLDR 2 1/2 acre zoned property in the study area. While the county map shows there are 59 undeveloped lots in the study area, our site survey conducted February 10, 2001, shows there are 21 undeveloped lots in the study area, but after personally examining the study area, I have found a total of 23.

After examining the sites in the study area, realistically, there are only 13 vacant sites which could be available for homes. Of these 13 lots, it appears that only 1 is currently for sale. According to the Realtors Multiple listing Service, in the last year, five parcels in the study area have been available for sale and have sold to buyers currently building or planning to build.

As the above indicates, it appears there is a severe shortage of land in the VLDR 2 1/2 acre zone in the study area. To maintain a healthy economic outlook, it is important to increase supply to a level which will be closer in meeting demand levels. As previously indicated, 60% of the VLDR 2 1/2 acre property

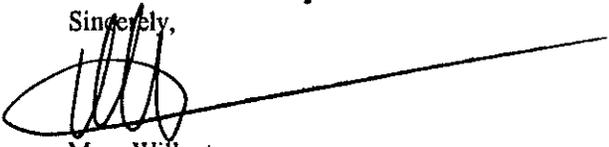
buyers are local Yamhill County residents. These people generally have smaller homes to sale during the move up process. Thus, the trickle down effect impacts more than just this type of zone. Currently the need for VLDR 2 1/2 acre zone far exceeds the supply.

The subject site is a near perfect fit for being zoned VLDR 2 1/2. It adjoins this zone already so it will have no negative impact on surrounding properties. The property has not been utilized for several years. It is not prime agriculture land, because of its size, location and soil type. This zone change will actually conform the property into the current neighborhood.

"We find that when a property is developed in a similar manner as the surrounding properties, it stabilizes value and can even increase value. Development generally creates new improvements to higher code levels and eliminates the unknown aspect of "what will happen in that field?"

Therefore, I believe this site meets the criteria for the proposed zone change and will have no negative effect on surrounding properties.

Sincerely,



Marc Willcuts
Broker

VLDR 2 1/2 acre zoned land in study area considered as available inventory

- 1) Tax lot 3313 - 2501: High water table, wetland vegetation, development potential.
- 2) Tax lot 3313 - 2502: High water table, wetland vegetation, development potential.
- 3) Tax lot 3313 - 2900: High water table, wetland vegetation, development potential.
- 4) Tax lot 3313 - 3601: High water table, wetland vegetation, development potential.
- 5) Tax lot 3313 - 3602: High water table, wetland vegetation, development potential.

- 6) Tax lot 3323 - 600: 14.96 acres divided with stream. Slopes, however this site is buildable.
- 7) Tax lot 3323 - 3100: Buildable site.

- 8) Tax lot 3324 - 1405: Buildable site, owned by neighbor and used for pasture.
- 9) Tax lot 3324AD - 1000: Buildable, owned by neighbor and used for pasture.

- 10) Tax lot 3325 - 591: Buildable 1.97 acre site,
- 11) Tax lot 3325 - 2200: Buildable, limited access.
- 12) Tax lot 3325 - 2600: Buildable, limited access.
- 13) Tax lot 3325 - 2601: Buildable, limited access.

VLDR 2 1/2 acre zoned land in study area which should not be considered as available inventory

- 1) Tax lot 3230CB - 4000: This lot is extremely steep, very small building pad if any. Not typical VLDR 2 1/2. Property has been for sale for 4 years.
- 2) Tax lot 3230CB - 4200: This lot is extremely steep, small building pad if any. Not typical VLDR 2 1/2. Property has been for sale for 4 years.
- 3) Tax lot 3230CB - 4500: Sold - construction starting.
- 4) Tax lot 3323 - 3301: Shop has been built, home construction to start soon.
- 5) Tax lot 3324 - 1401: Recently partitioned and purchased. Home to be built soon.
- 6) Tax lot 3324 - 4600: Recently developed.
- 7) Tax lot 3324 - 4602: Recently developed.
- 8) Tax lot 3324 - 7600: Recently partitioned and sold. Home to be built.
- 9) Tax lot 3324 - 7601: Recently partitioned and sold. Home to be built.
- 10) Tax lot 3219 - 800: This lot is steep with level area appearing to be in flood plain.

**HEAVY INDUSTRIAL ZONING PERMITTED USAGE
ANALYSIS**

HI -Zoned Property - 3324-7906**Site Assessment for General Industrial Use:****Highway Access** - egress and ingress from US Hwy 99W by easement.**Acreage:** 2.13 acres**Water Service:** On-site well, 35gpm**Sewer Service:** On-site standard system, installed under County Permit, located and authorized by lease.**Previous uses:** Auto wrecking yard; non-contained operations dating from the 1960's.**Present uses:** RV storage, Body Building Shop - exercise club.**Heavy Industrial Developmental Constraints:**

- **Adequate access at two points** to the transportation arterial, and ability to upgrade. Access to the site is by easement, additional truck traffic would result in significant costs in planning and implementation of elements for industrial related transport movements from the site onto the arterial.
- **Proximity to residential development** is too close for noxious or persistent plant emissions; proximity to Duck Pond Cellars precludes asphalt batch plants and size of property limits other rock resource activities, allowed in the zone by Similar Use provisions.
- **No rail access**, requires product, agricultural or otherwise to be handled too many time to be efficient in terms of cost or energy.
- **Wetlands and natural constraints** exist on-site. Water usage and wastewater discharge are issues of expansion for any change of use from the present use pattern of the property. The industrial site is isolated, accessed by shared easement (single point), limited access to the arterial, surrounded by property under separate and controlling ownership of the access and wastewater easement. Plan designation to Rural Residential in the County comprehensive plan speaks more broadly to the future use of the site as a local commercial zone, or suburban homesite and park location.
- **Area development is mixed** - a dominant niche is provided by Duck Pond Cellars, a successful Oregon Winery. A highway commercial development, generating truck traffic by bulk sales of yard materials is located at the westerly end of the one-way corridor. A light industrial area adjoins the parent tract to the east; it is presently in use as a small shop with storage for old equipment. Adjoining the LI zoned tract is the Someplace Else Tavern; the surrounding area is in rural residential and storage facilities within the additional area zoned LI. Economic use of the HI zoned property, in the future, would best be served by a fit within the present development pattern of the sub area of its location.
- **Socio-economics** - the communities of Newberg and Dundee have identified the need to retain "separate identities" and to utilize the Hwy 99W corridor between them as the vehicle for doing so. A major highway bypass is an identified need of the area. Major

99W improvements are under construction in Newberg to expand lanes for west bound highway traffic; not a matter of small concern to those that purchased commercial property on the margins of the Newberg Couplet, the preferred alternative to the areas traffic congestion problem. Its unlikely, given the level of modernization investment by ODOT, that a bypass, unless developed as a toll limited access road is feasible in this planning cycle. The communities share a mutual growth management issue, the area is developing an increasing awareness of its proximity to other areas of development interests; wineries continue to open and expand, the measure is how it is helping other efforts at local value added processing of agricultural products. Industrial sitings in the area have met with substantial community opposition. The county was not supportive of the use of the Strategic Investment Plan, a state sponsored program, in developing a site specific request and application for consideration. New heavy industrial development of any nature would, in all probability, be opposed by the communities invested in the area.

• **Conclusion:** A poor site to use for any heavy industrial application. Key issues for expansion or development to new uses will involve local, state and federal agencies in permitting, especially for a rural HI designated site adjoining an urbanized area. Local opposition, would in all likelihood be high. The best use of the site, may be in a local commercial designation, consistent with present operations.