

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

FILED  
YAMHILL COUNTY, OREGON

1993 DEC 10 AM 9:44

93-870

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS  
CHARLES STERN  
COUNTY CLERK

In the Matter of an Ordinance )  
Amending the Yamhill County )  
Comprehensive Plan Map to change )  
the plan map designation from )  
"Very Low Density Residential" to )  
"Future Urbanizable" on )  
approximately 46.3 acres )  
Comprised of Tax Lots 3207-3700, )  
-3701, -3702, -3703; 3218AB-900 )  
(in initial application) and Tax )  
Lots 3207-3400, -3500, -3600 )  
(added to application in course )  
of proceedings) to allow )  
an expansion of the City of )  
Newberg's Urban Growth Boundary; )  
Applicants Bakke, Anzalone, )  
Manning and Sessions; Planning )  
Docket PA-1-93; and Declaring )  
an Emergency. )

ORDINANCE 559

DEPUTY

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON ("the Board"), sat for the transaction of county business in special session on December 8, 1993, Commissioners Debi Owens, Dennis L. Goecks and Ted Lopuszynski being present.

THE BOARD MAKES THE FOLLOWING FINDINGS:

A. P. Bakke, F. & C. Anzalone, R. & K. Manning and A. & V. Sessions ("Applicants") have applied to the Department of Planning and Development for a Comprehensive Plan Map amendment from Very Low Density Residential to Future Urbanizable on Tax Lots 3207-3700, 3207-3701, 3207-3702, 3207-3703 and 3218AB-900 to allow an expansion of the urban growth boundary of the City of Newberg onto the named properties. The application was filed simultaneously with the City of Newberg under the provisions of the Newberg Urban Area Growth Management Agreement, September 25, 1979.

B. On June 15, 1993 the Newberg Urban Area Management Commission ("NUMAC") held a public hearing on the application at the Newberg Public Library. At the meeting, the Newberg Planning Director proposed on behalf of the City of Newberg that Tax Lots 3207-1000, 3207-3400, 3207-3500 and 3207-3600 be added the this docket item for consideration of a similar change in plan map designation to allow the City of Newberg's UGB to be expanded to also include those properties. NUMAC voted to recommend to the Newberg City Council and the Board of Commissioners that the application as extended not be granted.

B.O. 93-870

C. On September 8, 1993 the Board held a public hearing on the application as extended. The Board received testimony and evidence but did not reach a decision. The matter was continued until September 29, 1993 prior to close of hearing.

D. On September 29, 1993 the Board re-opened the public hearing on the application as extended. Commissioner Lopuszynski was not present. After the hearing was closed, Commissioner Goecks voted to deny the application as extended. The motion failed with Commissioner Goecks voting aye and Commissioner Owens voting no. Ordinance 353 governs the Procedure for the Conduct of Board Meetings and the Transaction of County Business. Sections 4.01 and 4.03 of Ordinance 353 provide, in material part, as follows:

"4.01 Decisions of the Board shall be made by vote on a motion of a member. . . .

"4.03 If a tie vote results, the item voted upon shall be continued to the next regularly scheduled meeting of the same type. . . . The continuance provided for in this section shall be only for the purpose of discussion and vote by the Board and the presentation of further evidence or public comment shall not be allowed."

E. On October 6, 1993, the Board met in regular session. Commissioner Lopuszynski stated that he had reviewed the record of the proceedings and was prepared to vote on the application as extended. A vote on the motion to grant the application as extended then took place, with Commissioners Owens and Lopuszynski voting for the motion and Commissioner Goecks voting against the motion. Staff was directed to prepare an ordinance to implement the Board's preliminary oral decision.

F. On December 6, 1993 the city adopted its ordinance implementing its decision to allow the application for the UGB amendment, as extended, less the inclusion of Tax Lot 3207-1000, a 17.9 acre parcel identified in the proceedings as the "park district property." The city directed that the NUAMC reconsider whether to include Tax Lot 3207-1000 within the UGB. The Board takes official notice of the adoption of the city's ordinance and elects to delete Tax Lot 3207-1000 from this plan amendment in order to adopt an ordinance consistent with the decision of the city. This county ordinance constitutes the county's final decision on the application as extended.

G. The findings and conclusions attached hereto as Exhibit "A" is by this reference incorporated herein. The attached Exhibits "A" demonstrates that the proposed amendments to the Yamhill County Comprehensive Plan Map are in the best interests of the citizens of Yamhill County. NOW THEREFORE,

THE YAMHILL COUNTY BOARD OF COMMISSIONERS ORDAINS as follows:

Section 1. The Yamhill County Comprehensive Plan Map is hereby amended to reflect a plan map designation of "Future Urbanizable" for the approximate 33.6 acres identified as Tax Lots 3207-3700, 3207-3701, 3207-3702, 3207-3703 and 3218AB-900. The purpose of the amendment is to allow an expansion of the urban growth boundary of the City of Newberg onto the identified properties.

Section 2. The Yamhill County Comprehensive Plan Map is hereby amended to reflect a plan map designation of "Future Urbanizable" for the approximate 12.7 acres identified as Tax Lots 3207-3400, 3207-3500 and 3207-3600. The purpose of the amendment is to allow an expansion of the urban growth boundary of the City of Newberg onto the identified properties.

Section 3. The findings attached as Exhibit "A" is incorporated herein by this reference and is adopted in support of this ordinance. Exhibit "B" is a map showing the location of the tax lots identified in Sections 1 and 2.

Section 4. All sections, subsections and paragraphs of this ordinance are severable. If any section, subsection or paragraph is ruled invalid for any reason by the court of last resort, the other portions of this ordinance shall be unaffected.

Section 5. This ordinance being necessary for the health, safety, and welfare of the citizens of Yamhill County, and an emergency having been declared to exist, is effective upon passage.

DONE at McMinnville, Oregon this 8th day of December, 1993.

ATTEST

YAMHILL COUNTY BOARD OF COMMISSIONERS



CHARLES STERN  
County Clerk

*Debi Owens*  
Chairman DEBI OWENS

By: *Jaynie Mitchell*  
Deputy JAYNIE MITCHELL

*Dennis L. Goecks*  
Commissioner DENNIS L. GOECKS

FORM APPROVED BY:  
*John M. Gray, Jr.*  
JOHN M. GRAY, JR.  
Yamhill County Counsel

*Ted Lopuszynski*  
Commissioner TED LOPUSZYNSKI

Accepted by Yamhill County Board of Commissioners on  
12-8-93 by Board Order # 93-870.  
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EXHIBIT "A" - Findings for Approval  
ORDINANCE 559

DATE OF BOARD HEARING: October 6, 1993

DATE OF FINAL ADOPTION: December 8, 1993

COUNTY PLANNING DOCKET: PA-1-93

REQUEST: Request to expand the urban growth boundary to include 33.5 acres on the northwest side of Newberg with related plan text amendments addressing land supply. In addition, the applicant has requested a policy amendment to allow use of on-site sewage disposal for residential use in the City. City staff proposed inclusion of an additional 30.6 acres north of the proposed area adjacent to the Crater Lane School site. About 17.9 acres (Tax Lot 3207-1000) was deleted from city staff's recommendation when the City adopted its implementing ordinance on December 6, 1993.

TAX LOT: APPLICANT: 3207-3700, -3701, -3702, -3703; 3218AB-900  
STAFF ADDITION FOR REVIEW: 3207-1000, -3400, -3500, -3600  
CITY AND COUNTY DELETION FROM FINAL ORDINANCE: 3207-1000

CRITERIA: Newberg Urban Area Growth Management Agreement - Section VII; Statewide Planning Goals; Yamhill County Comprehensive Plan

APPLICANT: F. & C. Anzalone, R. & K. Manning, P. Bakke, A. & V. Sessions

YAMHILL COUNTY COMP PLAN: "Very Low Density Residential" to "Future Urbanizable"

LOCATION: 3201 Crater Lane, 2408 Chehalem Drive, 2310 Chehalem Drive, Newberg, Oregon

BACKGROUND:

On June 10, 1993, the Newberg Urban Area Management Commission recommended denial of a request to amend the urban growth boundary on the northwest portion of Newberg. The amendment would place about 64 acres of residential land inside the urban growth boundary. The proposed urban growth boundary amendment was initiated by residents in order to receive city water service. Because the proposed amendment creates an irregular UGB, and to facilitate the provision of sewer to the subject site and the proposed Crater Lane School site, the tax lots between the school site and the subject site have also been included in this request.

Current City policy does not allow development of new single-family homes on septic systems. All new residential development in the City is required to hook to City services. The applicants are requesting that a City policy be developed to allow septic systems on existing lots of record. To accomplish this policy change, a new public facilities policy would need to be adopted by the city.

The Newberg Urban Area Management Commission (NUAMC) denied this request at their June 15, 1993 meeting by a 5-0 vote. Gnomonic voiced concerns about allowing new single-family homes to have septic systems and did not feel that a need for LDR land was adequately shown. On October 6, 1993 a majority of the

Board voted to approved the amendment. On December 6, 1993 the City Council adopted its enabling ordinance. The city's ordinance approved the amendment except for Tax Lot 3207-1000, a 17.9 acre parcel referred to throughout the proceedings as the "park district property". Consideration of the inclusion of Tax Lot 3207-1000 was remanded by the City to the NUMAC. On December 8, 1993 the county adopted its ordinance. The county's ordinance also deleted Tax Lot 3207-1000 from the request and remanded the consideration of that tax lot to NUMAC. The total amount of acres affected by this ordinance thus was reduced from about 64.2 to about 46.3.

PROCESS:

The Newberg Urban Area Growth Management Agreement sets forth the criteria and process for urban growth boundary amendments. Section VII-1 of the agreement reads as follows:

*Following the public hearing, the NUAMC shall make and forward its findings and decision directly to the governing body of each jurisdiction which shall then make a determination based upon the facts and record presented at the NUAMC hearing and shall not be required to hold a public hearing thereon.*

*Nothing included in this process requires or prohibits the City or County from referring the application to its respective Planning Commissions for information.*

*If the governing bodies do not concur in their final decision within sixty days of referral of the matter to them by the NUAMC, a joint meeting shall be held to resolve differences. If agreement cannot be reached, procedures for resolution of conflict provided within ORS 197.300 may be invoked.*

FINDINGS FOR APPROVAL:

**I. SUMMARY**

Four property owners requested expansion of the existing urban growth boundary to include their properties. The acreage is located north of Columbia Dr. between Crater Lane and Chehalem Drive and abuts the existing urban growth boundary. Most of the acreage also abuts the current City limits along Crater Lane. The application notes that projected housing needs for the City are not being met due to the unavailability of the Austin and Werth properties. The application also notes that public facilities and services can be provided when development of Prospect Park II occurs. Prospect Park II, a subdivision within the City adjacent to the subject site, has received preliminary plat approval and construction is scheduled for later this year.

Following analysis of the request, staff proposed inclusion of an additional 30.6 acres to the north of the proposed UGB amendment (see Site Map - Reference 1). The additional property is adjacent to the Crater Lane School site and includes property identified by the Park District for future park use. The City has directed that the NUAMC reconsider whether to add this 17.9 acre parcel (Tax Lot 3207-1000) to the UGB. The implementing ordinance adopted by the county does not change the plan designation of Tax Lot 3207-1000, so this action will not allow a UGB expansion onto Tax Lot 3207-1000.

**II. URBAN GROWTH BOUNDARY AND COMPREHENSIVE PLAN AMENDMENT CRITERIA**

**A. Urban Area Growth Management Agreement Criteria**

The Newberg Urban Area Growth Management Agreement (UGMA) sets forth the procedure and criteria for UGB amendments. Section VII of the agreement

states that decisions shall be based on the following factors:

1. Demonstrated need to accommodate long-range urban population growth requirements consistent with LCDC goals.
2. Need for housing, employment opportunities, and livability.
3. Orderly and economic provision for public facilities and service.
4. Maximum efficiency of land uses within and on the fringe of the existing urban area.
5. Environmental, energy, economic and social consequences.
6. Retention of agricultural land as defined, with Class I being the highest priority for retention and Class VI the lowest priority.
7. Compatibility of the proposed urban uses with nearby agricultural activities.

**B. Statewide Planning Goals**

The proposal must be consistent with the Statewide Planning Goal 14 - Urbanization, other LCDC Statewide Planning goals, and address exception criteria of OAR 660, Division 4, if appropriate.

**III. FACTS**

- A. The applicant's property consists of 5 tax lots (7 lots of record) totalling approximately 33.6 acres. These 5 tax lots are described further below:

Tax Lot	Acreage	Use	Owner
3218AB-900	4.3	single family residence, filbert	Manning, R. & K.
3207-3700	9.8	orchard	Bakke, P.
3207-3701	4.9	filbert orchard	Sessions, A. & V.
3207-3702	4.9	filbert orchard	Anzalone, F. & C.
3207-3703	9.9	filbert orchard	Bakke, P.

- B. The applicants propose inclusion into the urban growth boundary to allow for annexation to the City of Newberg in order to obtain City water service. In addition, the Manning property is expected to be subdivided following annexation. The 4.3 acre Manning property, tax lot 3218AB-900 and the southern portion of tax lot -3703 (approx. 5.2 acres) are proposed for MDR designation. The properties are located adjacent to the proposed extension of Mountainview Drive west to Chehalem Drive.
- C. The owners of three tax lots, 3207-3400, -3500 and -3600, did not join with the other applicants in this application for an urban growth boundary amendment. These tax lots are located between the subject site and the school site to the north. In addition, the owner of tax lot -1000 to the north of the school site was approached but chose not to apply for inclusion in the urban growth boundary at this time. Tax lot -1000 is currently being studied by the Chehalem Park and Recreation District for development as a district park providing adult ballfields and a senior center. Development of the senior center will require inclusion in the urban growth boundary. These four tax lots are described further below:

Tax Lot	Acreage	Use	Owner
3207-1000	17.9	crop land	Crater, A.
3207-3400	9.0	single family residence	Reid, R. & R.
3207-3500	1.9	single family residence	Pratt, D. & C.
3207-3600	1.9	single family residence, orchard, barn	Crater, A.

D. The parcels abut Chehalem Drive on the west and Crater Lane on the east. Chehalem Drive is designated as a county arterial and Crater Lane is a local road under County jurisdiction. Both Chehalem Drive and Crater Lane have 40 ft. rights-of-way.

E. The surrounding conditions are as follows:

North: Rural residential VLDR land in agricultural use.  
 South: Single family rural residential designated VLDR.  
 East: LDR single family residential and vacant land, primarily within the City limits.  
 West: Single family rural residential and agricultural use.

F. In May of 1993, the Newberg Planning Commission granted an extension for the approval of Prospect Park II, a 15 lot subdivision between Main and Chehalem. Prospect Park II will be located south of an extension of Mountainview Drive on Tax Lot 3218AB-500 (see site map). With the development of Prospect Park II in the summer of 1993, water and sewer services shall be extended to Crater Lane adjacent to a portion of the site.

G. The Comprehensive Plan includes the following future mix of housing types in the City:

Single Family	45%
Multiple Family	35%
Manufactured Housing	20%

H. Need.

A. Facts.

1. Land in the City of Newberg is building out at lower than planned densities in the R-2 and R-3 zones. The buildout densities planned for in the Transportation System Plan are 4.4 du/acre for R-1; 6.5 du/acre for R-2 and 15.6 du/acre for R-3 zones. The Comprehensive Plan needs analysis uses the maximum densities of 4.4 du/acres, 8.8 du/acre and 21.8 du/acre for R-1, R-2 and R-3 zones, respectively. This revised needs analysis is based on the densities used in the Transportation System Plan. Because densities are lower, more land will be needed than anticipated in the R-2 and R-3 zones.
2. There are several public and quasi-public institutions which own buildable R-1 land. This land will not be available for housing. Thus, vacant R-1 land held by public and quasi-public institutions has been eliminated from the buildable land pool.
3. Since the inventory of buildable land was updated in February of 1992, 17 acres of that land have been built upon. Hence, this can be eliminated from the buildable land pool.
4. The buildable land calculation has been reexamined and a more realistic calculation has been conducted. The calculation in the Comprehensive Plan was based on an assumption that additional units will be provided on lots over 15,000 sq. ft. in all three zones. In

most cases, the placement of existing structures makes it impossible for many 15,000 sq. ft. lots to partition. Newberg has a history of large lots with homes built in the middle of them, preventing the lots from being partitioned without demolishing the house. Hence, the assumption has been changed, to assume that lots 20,000+ sq. ft. have enough room to partition, but lots under 20,000 sq. ft. will probably remain in large parcels. Therefore, all lots under 20,000 sq. ft. were not considered buildable lots for calculations in all three residential zones.

B. Calculation of need for R-1/LDR

1.	A revised buildable lands calculation yields buildable land in lots over 20,000 sq. ft	715 acres
2.	Subtract the calculated need for R-1/LDR land, based on a density of 4.4 du/acres:	- 626 acres
3.	The surplus R-1/LDR acreage in the UGB:	89 acres
4.	Subtract the land in public/quasi-public ownership:	- 53 acres
5.	The surplus R-1/LDR acreage in the UGB:	36 acres
6.	Subtract the R-1/LDR land which has been built upon since the Comprehensive Plan inventory was calculated (February 1992):	- 17 acres
7.	The surplus R-1/LDR acreage in the UGB:	19 acres
8.	The deficit of R-2/MDR and R-3/HDR land based on densities used in the Transportation Systems Plan:	101 acres

C. Conclusion on need.

There is a deficit of 101 acres of R-2/MDR and R-3/HDR land in the UGB. The 19 acres of R-1/LDR land are not enough to providing rezonings which will meet the deficit of higher density land. It is imperative that the City provide enough R-2/MDR and R-3/HDR land to meet the need calculated in the Comprehensive Plan. A surplus of R-1/LDR land provides opportunities for rezoning.

I. In the City of Newberg, two property owners (the Werth family and Austin Industries) control 314 of buildable R-1 land and 134 acres of buildable R-2 land as identified in the Newberg Lands Inventory June 1, 1993.

J. The availability of utilities is as follows:

Sewer: Sewer is not presently available to the properties at this time. A sewer line is planned to come up Lynn Drive and Crater Lane at the time of the development of the Garden Grove Subdivision on tax lot 3218AB-700. This line will serve tax lots 3218AB-900 and 3207-3703. A sewer pump station can be provided in a location near the southwest corner of tax lot 3218AB-3202 to serve land north of tax lot -3703.

Water: Water service is planned to be available on Crater Lane by the fall of 1993 through construction of the Prospect Park II subdivision. Water service can be provided to the subject properties as part of a local improvement

district to construct a water line on Crater Lane across the frontage of the properties.

Storm Sewer: A drainage ditch crosses tax lot -3700 from east to west. Storm systems will be channelled to the ditch.

- K. The site generally slopes toward a drainage ditch which bisects tax lot -3700 in an east-west direction. No identified wetlands exist on the site (see Reference 2).
- L. The site consists primarily of WuB Woodburn silt loam soils with Wc Wapato silty clay soils in the vicinity of the drainage ditch. Woodburn soils are identified as Class II soils by the SCS; Wapato soils are identified as Class III.
- M. Tax Lot 3207-1001 is an 18.6 acre site owned by the School District. This site is intended to be developed as an elementary school site. With passage of the school bond measure in May, plans are being developed for construction of the school. Two options are available for the provision of sewer to the school site. An individual pump providing service solely to the school can be constructed so that waste water is pumped from the school site to the trunk line that extends north from Main Street to Foothills Drive. As an alternative, a public pump station can be constructed near the southwest corner of tax lot -3702 so that the subject site, in addition to the school site, can be served by sewer. This pump station will be financed through a local improvement district affecting all the properties in the subject area.

Water service can be provided to the school site from Foothills Drive. A second connection from Crater Lane will allow the system to be looped.

#### IV. ANALYSIS

The proposed urban growth boundary amendment was primarily initiated by Charlotte Anzalone in order to receive City water service for construction of a single family home on a 5 acre tract. Ms. Anzalone worked with the other applicants to compile the urban growth boundary application. Ms. Antonia Crater, the owner of property to the north of the site adjacent to the school site, was approached by Don Clements of the Park District regarding participation in the proposed application. Ms. Crater chose not to participate at this time although the Park District has an active proposal to purchase the Crater property north of the school site for development of a district park accommodating adult ballfields and a senior center.

The proposed amendment creates an irregular UGB, especially in the vicinity of the school site. The school site abuts Chehalem Drive and the proposed amendment would abut Chehalem Drive, but intervening properties would also leave a gap of rural land between the school site and the subject site. To provide a more logical boundary that would facilitate the provision of sewer to the subject site and school, the tax lots in between the school and subject site should be included in the UGB amendment. Additionally, the 17.9 acre parcel north of the school which is being planned by the Park District for park use should not be included in the UGB without a reconsideration by NUAMC. With these changes, an additional 12.7 acres is to be included in the request. This expanded UGB amendment proposal better satisfies UGB policy F by better utilizing road rights-of-way as a UGB boundary.

Currently, City policy does not allow development of new single family homes on septic systems. All new residential development is required to hook to City services. Ms. Anzalone is requesting that a City policy be developed to allow septic systems on existing lots of record such as the subject properties. To accomplish this policy change, a new urbanization policy would need to be adopted by the City. To protect future urbanization of land where interim rural

levels of development, new policies should be enacted by the City. The City Development Team has drafted policies that would protect development potential. These policies were adopted by ordinance by the City on December 6, 1993.

**VI. CONCLUSIONARY FINDINGS - PLAN AMENDMENT TO ALLOW EXPANSION TO UGB**

**A. Urban Area Growth Management Agreement Criteria**

Criteria 1 *Demonstrated need to accommodate long-range urban population growth requirements consistent with LCDC goals.*

Criteria 2 *Need for housing, employment opportunities, and livability.*

Factors 1 and 2 state that a need for the amendment must be demonstrated. As amended by staff, the UGB amendment results in the addition of 64.2 acres of land being added to the UGB. Approximately 17.9 acres are proposed as park land adjacent to the proposed Crater Lane school site. The Park District intends to use this property for adult ball fields. The remaining 46.3 acres are proposed for residential use with 36.8 acres proposed for LDR and 9.5 acres proposed for MDR. The need to accommodate long-range urban population growth requirements are addressed through the comprehensive plan and identified in Tables IV-4 and IV-5 of the projected housing needs; however, these needs are not being met due to the unavailability of the Austin and Werth property. This creates a shortage of available land. The supply and demand analysis indicates 981 acres of buildable land will be needed within the UGB through the year 2000. With the unavailability of the Austin and Werth land, 314.2 acres of LDR land and 134 acres of MDR land are unavailable. This creates a shortage of 193 acres of buildable LDR land and a shortage of 125 acres of MDR land within the UGB. The proposed UGB amendment helps address this shortage.

Criteria 3 *Orderly and economic provision for public facilities and service.*

Orderly and economic provision of public facilities and services is accomplished with the development of Prospect Park II this summer and the future development of the Crater Lane school site. Water services will be brought to Crater Lane with the development of Prospect Park II. Water can then be extended to the subject properties. The site drains to the west and only the southern portion can be served by gravity sewer along Crater Lane. Development of the school creates the opportunity for construction of a sewage pump station to serve the northern portion of the site.

Criteria 4 *Maximum efficiency of land uses within and on the fringe of the existing urban area.*

Development within the UGB provides for maximum efficiency of land uses rather than allowing this area to develop in a rural residential pattern in the county. The more intense urban pattern of development will better utilize costly streets and utilities that must be improved to serve the Crater Lane school site.

Criteria 5 *Environmental, energy, economic and social consequences.*

The site consists primarily of a filbert orchard with no unique features. The trees are old and are in need of

replacement for a continued harvest.

Inclusion in the UGB benefits the local economy by adding to the inventory of available buildable land within the City.

There are no inventoried historical sites on the property and no social impacts from the UGB amendment.

Criteria 6 *Retention of agricultural land as defined, with Class I being the highest priority for retention and Class VI the lowest priority.*

Although the site consists of Class II and III soils, the issue of agricultural preservation does not apply because this area is classified as VLDR on the county comprehensive plan and allows rural residential development. With adoption of the county plan, an exception was granted to state wide

planning goals 3 and 4. If the land remains outside the UGB, agricultural land is not protected.

Criteria 7 *Compatibility of the proposed urban uses with nearby agricultural activities.*

This surrounding area cannot be classified as strictly agricultural. It is rural residential due to the many VLDR lots and homes on Chehalem Drive. Chehalem Drive also creates a buffer from agricultural use further to the west.

**B. Statewide Planning Goals/Exceptions**

*The proposal must be consistent with the Statewide Planning Goal 14 - Urbanization, other LCDC Statewide Planning goals, and address exception criteria of OAR 660, Division 4, if appropriate.*

Goal 2

Exceptions to statewide planning goals are not required by this request because the site was granted an exception to agricultural and resource goals at the time the County comprehensive plan was acknowledged. As noted previously, the area is designated for very low density residential VLDR use on the County comprehensive plan. This designation by the county required the exception to agricultural goals.

Goal 10

Goal 10, the housing goal, is satisfied by the request in that additional land is available for housing opportunities in the community. Currently the land supply is constrained by the fact that over 400 acres of land are not available for development and are being held by two separate property owners. With the addition of 46.3 acres of residential property, more land will be available for development.

Goal 11

Goal 11 is satisfied through the ability to serve the property with public facilities. Water service is available from Crater Lane and a sewer pump station will need to be provided in the area to serve the school site and the subject site.

Goal 12

Goal 12 is currently being addressed by the City through the adoption of the City's transportation system plan. This area of the City is well served by collector streets and Chehalem Drive, which is a county arterial. The area is served by extensions of Mountainview and Foothills. Both are identified as collector streets in the City's transportation plan.

#### Goal 14

Statewide Planning Goal 14 is satisfied through the request by compliance with the UGB amendment criteria outlined in A above. The criteria set forth in the urban growth management agreement with the county includes the same 7 factors that must be addressed to satisfy goal 14.

### **C. YAMHILL COUNTY COMPREHENSIVE PLAN POLICIES**

1. The Yamhill County Comprehensive Plan Goals and Policies, Section I.A, "Urban Area Development," contains policies regarding urban growth that are aspirational, but none that provide review criteria. The Plan policies in this section that staff has identified as relevant are under Goal 3, and include the following:

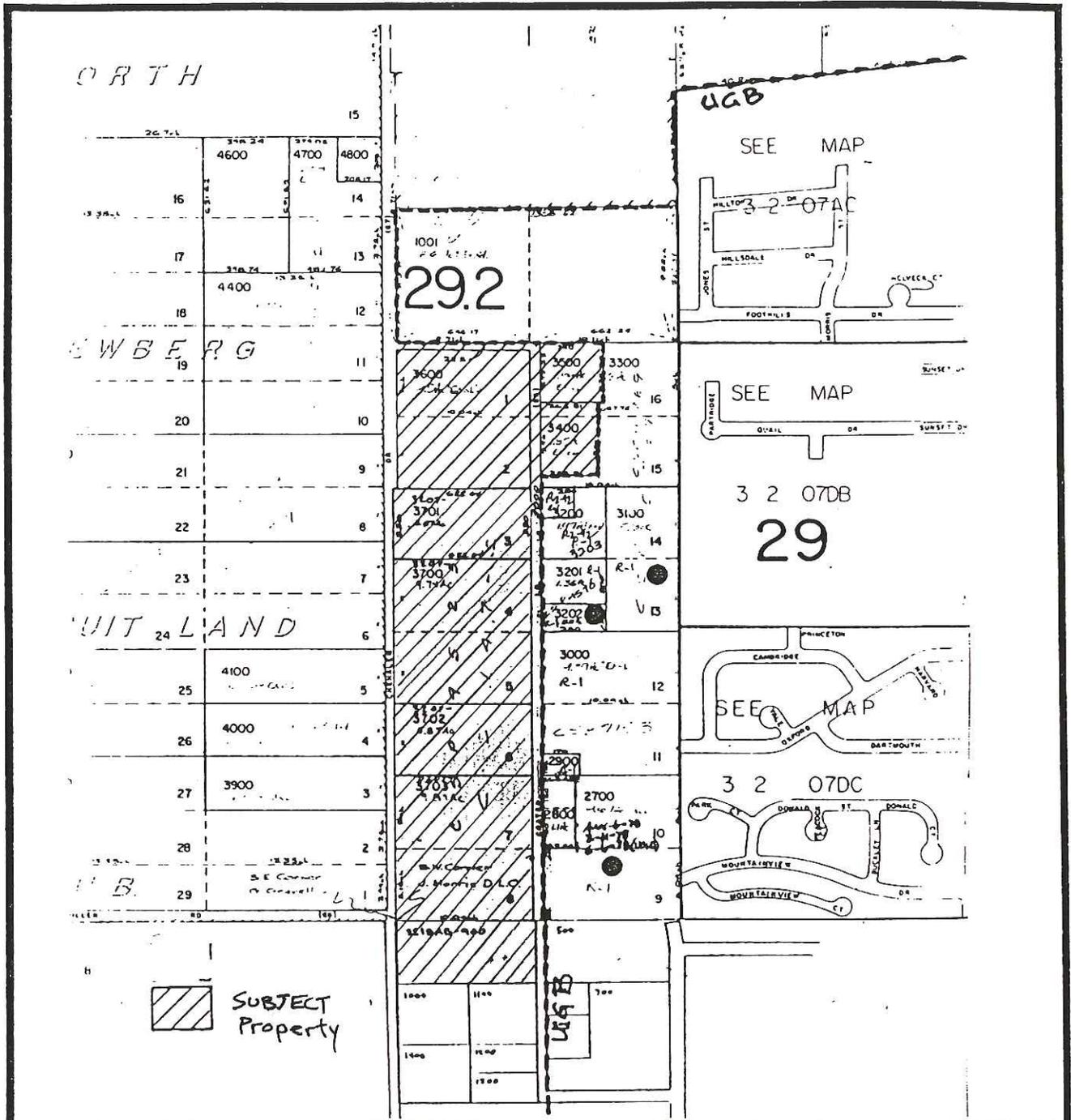
- (a) Yamhill County will continue to recognize that the appropriate location of medium-density residential development is in areas having a full range of urban services and amenities within or immediately adjacent to central business districts; immediately adjacent to public traffic generators, such as schools, parks, hospitals, and regional or neighborhood shopping centers; or in selected small areas having unique scenic qualities and a location where community water supply and sewage-disposal systems, adequate access by way of a road of collector or higher status and other urban services necessary to meet the needs of the intended residents can and will be provided.
- (b) Yamhill County will continue to recognize the appropriate location of low-density residential development is in areas where adequate access and services to satisfy the scale of ultimate development can and will be provided. Such areas would generally be within, or contiguous with, existing urban centers, but may also be in selected small areas having unique scenic qualities or, where the need may be demonstrated, in selected outlying areas of varying size having appropriate site qualities and other supporting services.

2. Regarding Policy (a) above, a portion of the request includes land to be designated medium-density residential. The property is not adjacent to the central business district or other traffic generators, and although it is not far from a proposed school, there is low-density designation proposed for land between. The proposed MDR land is adjacent to a planned extension of Mountainview Drive, which is shown as a collector on the Newberg Transportation System Plan. Regarding the element of the policy that requires urban services be provided, the issue in this case is a matter of timing. Sewer service apparently can be provided to the area at some unspecified future time, but it is not available now.

3. Staff has not identified any issues relating to Policy (b) above that would indicate a problem with the request except the same one identified above regarding the timing of public sewer service.

### **VIII. CONCLUSION**

Based on the criteria, facts, and conclusionary findings, the Board concludes that the application, as extended, should be approved.



**Description:**  
 UGB Amendment/Comp.  
 Plan Text and Map  
 Amendment  
**File:** UGB-1-93  
**Date:** 6-6-93

**EXHIBIT B  
 SITE MAP**

Tax Lots: 3207-3700,  
 -3701,-3702,- 3703;  
 3218AB-900; 3207-  
 -3400,-3500, -3600  
 Location: Between Crater  
 Lane and Chehalem Drive  
 Application By:  
 Anzalone, Manning  
 Bakke, Sessions

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of an Order Terminating )  
Proceedings to Reconsider a Prior )  
Decision to Authorize an Amendment )  
to the City of Newberg's Urban Growth ) BOARD ORDER 96- 606  
Boundary; Ordinance 559; Roth v. )  
Yamhill County and City of Newberg, )  
LUBA Nos. 93-222 and 93-223. )

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON ("the Board") sat for the transaction of county business on September 11, 1996, commissioners Robert Johnstone, Thomas E. E. Bunn and Dennis L. Goecks being present.

THE BOARD MAKES THE FOLLOWING FINDINGS:

- A. On December 8, 1993 the Board adopted Ordinance 559, two days after the City of Newberg adopted its Ordinance 93-2365 on December 6, 1993. The ordinances were adopted under the procedure required by the Newberg Urban Area Management Agreement to allow an expansion of the urban growth boundary (UGB) of the City of Newberg. Under the ordinances, the following tax lots were included within the expanded UGB: 3207-3700, 3207-3701, 3207-3703, 3207-3400, 3207-3500, 3207-3600 and 3218AB.
- B. Yamhill County Ordinance 559 and City of Newberg Ordinance 93-2365 were thereafter appealed to the Land Use Board Of Appeals (LUBA) by William Roth, an owner of property adjoining the parcels affected by the two ordinances. The appeals, identified as LUBA Nos. 93-222 (Ordinance 559) and 93-223 (Ordinance 93-2365), were later consolidated by LUBA into a single land use proceeding.
- C. Following a stipulated delay to allow the parties to attempt to resolve the matter short of a final LUBA decision, the appeal was reactivated in 1996 and petitioner was directed to submit a brief in anticipation of oral argument. Both the city and the county declined to participate further in the appeal. Notice of the resurrection of the appeal was provided to owners of property affected by the UGB amendment. Although at least one party retained legal counsel, no responsive brief was filed to petitioner's brief.
- D. On May 20, 1996, LUBA issued a Final Opinion and Order invalidating Ordinances 559 and 93-2365 and remanding the matter to the city and county for further proceedings.
- E. On August 5, 1996 the City of Newberg held a public hearing to consider whether to take further action on the proposed UGB expansion after LUBA's invalidation of the two ordinances.

By resolution 96-1986, the city made the following determination:

"1. After review of the record, the City Council finds that there is not enough evidence in the record to support a finding that there is a need to include these parcels in the Urban Growth Boundary (UGB) in order to meet the need for residential development for the City of Newberg. When considering the entire record, there has not been substantial evidence presented to the support the need for these parcels to be included within the UGB.

"2. Based upon the evidence and record, the request for the amendment to the UGB as proposed is hereby denied."

F. In order for the county to effectively take action to expand the city of Newberg's UGB, the city must first take independent action to authorize the expansion. Based on LUBA's Final Opinion and Order in LUBA Nos. 93-222 and 93-223, and based on the city's determination in its Resolution 96-1986, a further determination by the county to allow expansion of the city's UGB would be irrelevant and inoperable. NOW, THEREFORE,

IT IS HEREBY ORDERED BY THE BOARD AS FOLLOWS:

1. All proceedings to reconsider Ordinance 559 are hereby terminated based on the May 20, 1996 Final Opinion and Order in LUBA Nos. 93-222 and 93-223 and the August 5, 1996 Resolution 96-1986 of the City of Newberg.
2. Based on the Final Opinion and Order in LUBA Nos. 93-222 and 93-223, Ordinance 559 shall be given no further force or effect.

DONE at McMinnville, Oregon on September 11, 1996.

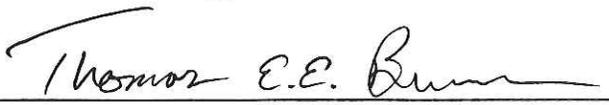
ATTEST

The seal of the Yamhill County Board of Commissioners is circular with a scalloped edge. It features a central emblem with a plow and a sheaf of wheat, surrounded by the text "YAMHILL COUNTY BOARD OF COMMISSIONERS" and "STATE OF OREGON".  
~~CHARLES SEERN~~  
County Clerk

By:   
Deputy JAYNIE MITCHELL

YAMHILL COUNTY BOARD OF COMMISSIONERS

  
ROBERT JOHNSTONE, Chairman

  
THOMAS E. E. BUNN, Commissioner

FORM APPROVED BY:

  
JOHN M. GRAY, JR.  
Yamhill County Counsel

  
DENNIS L. GOECKS, Commissioner