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FILED
YAMHILL COUNTY, OREGON

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

1993 NOV 26 PM 1:50

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 10 acres known as)
Tax Lot 3228-1800 to allow)
an expansion of the City of)
Newberg's Urban Growth Boundary;)
Applicant Marvin Schneider;)
and Declaring an Emergency.)

ORDINANCE 563

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON ("the Board"), sat for the transaction of county business in special session on November 24, 1993, Commissioners Dennis L. Goecks and Ted Lopuszynski being present.

THE BOARD MAKES THE FOLLOWING FINDINGS:

A. Marvin Schneider ("the applicant") has applied to the Department of Planning and Development for a Comprehensive Plan Map amendment from Very Low Density Residential to Future Urbanizable on Tax Lot 3228-1800 to allow an expansion of the urban growth boundary of the City of Newberg onto the property. 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 September 14, 1993 the Newberg Urban Area Management Commission ("NUMAC") held a public hearing on the application at the Newberg Waste Water Treatment Plant. NUMAC voted to recommend to the Newberg City Council and the Board of Commissioners that the application be granted.

C. On November 10, 1993 the Board held a public hearing on the application. The Board received testimony and evidence. The Board voted unanimously to approve the application and directed staff to prepare the implementing ordinance to adopt the decision. This ordinance is intended to be the county's final land use decision on the matter.

D. The findings and conclusions prepared by city and county staff attached hereto as Exhibit "A" is by this reference incorporated herein. Exhibit "A" includes justification provided by the

B.O. 93-848

applicant. The attached Exhibit "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 10 acre tract known as Tax Lot 3228-1800. The purpose of the amendment is to allow an expansion of the urban growth boundary of the City of Newberg onto the identified property.

Section 2. The findings attached as Exhibit "A" is incorporated herein by this reference and is adopted in support of this ordinance. Exhibit "B" contains a map showing the location of the subject tax lot.

Section 3. 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 24th day of November, 1993.

ATTEST

YAMHILL COUNTY BOARD OF COMMISSIONERS

CHARLES STERN
County Clerk

Not Available for Signature
Chairman DEBI OWENS

 By Carol Ann White
Deputy CAROL ANN WHITE

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

**EXHIBIT "A" - Ordinance 563
Findings for Approval**

DATE OF NUMAC HEARING: September 24, 1993

DATE OF BOARD HEARING: November 10, 1993

DATE OF FINAL ADOPTION: November 24, 1993

DOCKET: PA-2-93 (City of Newberg File No. UGB-2-93)

APPLICANT: Marvin Schneider

REQUEST: Amend the Newberg Urban Growth Boundary (UGB) to include an additional 10 acres.

LOCATION: 2808 Wynooski Road, Newberg; Tax Lot 3228-1800

EXISTING COMPREHENSIVE PLAN AND ZONING DESIGNATIONS:

Plan-designated County Very Low Density Residential and zoned VLDR-2½ Very Low Density Residential

PROPOSED COMPREHENSIVE PLAN AND ZONING DESIGNATIONS:

The proposed Newberg Comprehensive Plan designation is Industrial, and the proposed zone is M-3 Heavy Industrial. The property would be designated Future Urbanizable on the County Comprehensive Plan.

FINDINGS FOR APPROVAL:

A. Background Facts

1. The applicant wishes to build an organic composting facility in the Newberg vicinity. This parcel of land is currently in the county, outside the Urban Growth Boundary and zoned and planned for residential use. The applicant requests that the UGB be amended to include this 10 acre parcel to allow the development of this facility. The applicant notes that although 709 acres of industrial planned land is located within the UGB Section, only 36 acres are zoned M-3 under the Newberg Zoning Ordinance. This area is in a potential Urban Reserve Area, indicating the City's intent to urbanize the area in the future.

2. The Board adopts sections I through IV of the City of Newberg's "Findings for Approval of an Urban Growth Boundary Amendment and Comprehensive Plan Amendment" attached to these findings as appendix "1." Appendix "1" is incorporated into these findings as if fully set forth herein.
3. The Newberg Urban Area Management Commission conducted a public hearing on the request on September 14, 1993. Upon consideration of the staff report and recommendation and comments received in writing and orally at the hearing, the Commission voted unanimously to recommend approval of the request.
4. The Newberg City Council considered the request at a public hearing on November 1, 1993. The Council passed a motion to approve the request.

B. Urban Growth Boundary Amendment Criteria

1. Criteria to be addressed in UGB amendment requests include the *Newberg Urban Area Growth Management Agreement*, the statewide planning goals, and the city and county Comprehensive Plans. The review standards from the first three of these are detailed in section II of Appendix "1."
2. 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 policy in this section that staff has identified as relevant is Policy a under Goal 1, as follows:

Yamhill County will, in cooperation with the cities and special districts of the county, encourage urban growth to take the form of a series of compact, balanced communities, each with its own business and community center and each related to industrial areas and other centers of employment.

There are, in addition, policies relevant to industrial development. The request is, however, for the UGB amendment only. Although the applicant has made his intentions known (heavy industrial use), this is immaterial to the decision required. Although the subject site is at the edge of the current UGB, the impact of the use will not be excessive "sprawl" because it will utilize the same roads as and is in the vicinity of existing heavy industrial users. The request does not appear to be in conflict with the above policy.

3. Regarding the review criteria addressed in the staff report to the NUAMC, the first issue is the need for the requested

amendment. The specific criteria are from the Urban Area Management Agreement, which states the decision to amend the UGB must be based on, among other things:

- (a) Demonstrated need to accommodate long-range urban population growth requirements consistent with LCDC goals.
- (b) Need for housing, employment opportunities, and livability.

City staff recommended denial because of a lack of justification of need, based on an inventory of 709 acres of undeveloped industrial land in the city. The applicant, however, pointed out a city Plan policy that heavy industrial land is encouraged to be located in the vicinity of the existing paper mill and that most of the vacant industrial land is zoned for medium industrial use and is not located near Smurfit Newsprint. NUAMC believed this to be a significant point, and found that there is a need for more heavy industrial land. County staff believes that NUAMC's findings on this point are reasonable.

- 4. The Board finds that the remaining NUMAC approval criteria stated in section II of Appendix "1" have been met. In support of the finding, the Board adopts the justification statements submitted by the applicant. The justification statements are attached as Appendix "2" to these findings, and are incorporated into these findings by this reference.
- 5. The Department of Land Conservation and Development commented on the proposal in a letter dated October 1, 1993. DLCD did not object to the request, but stated that the application must be shown to be consistent with the "reasons" exception requirements of the Oregon Administrative Rules (OARs), and that the use of the land must be limited to that use which is justified. The applicant has submitted information regarding this requirement (Appendix "2"). The request is currently for a UGB amendment only; the annexation and zone change request will come later. The OARs are properly considered at that time.

CONCLUSION and DECISION:

Based on the findings and analysis above, the Board concludes that the criteria for an urban growth boundary amendment have been met. The application is allowed.

**FINDINGS FOR APPROVAL OF AN URBAN GROWTH BOUNDARY AMENDMENT
AND A COMPREHENSIVE PLAN MAP AMENDMENT
September 14, 1993**

APPLICANT: Marvin Schneider

REQUEST: Urban Growth Boundary Amendment for 10 acres on the southeast side of Newberg with related plan text amendments addressing land supply.

COMP PLAN: VLDR to IND

LOCATION: 2409 Wynooski

TAX LOT: 3228-1800

FILE NO: UGB-2-93

CRITERIA: Newberg Urban Area Growth Management Agreement - Section VII;
Statewide Planning Goals; Newberg Ordinance 1967, Section 4

EXHIBITS:

1. Site Map (attached)
2. Wetlands Map (attached)
3. Application (attached)
4. Urban Reserve Area proposed boundaries (attached)
5. Floodplain Map (attached)

I. SUMMARY

The applicant wishes to build an organic composting facility in the Newberg vicinity. This parcel of land is currently in the county, outside the Urban Growth Boundary and zoned and planned for residential use. The applicant requests that the Newberg Urban Growth Boundary be amended to include this 10 acre parcel to allow the development of this facility. The applicant notes that all Comprehensive Plan policies are met and that, although 709 acres of industrial planned land in the Urban Growth Boundary (UGB), only 36 acres are currently zoned M-3, and very little of this planned land meets Comprehensive Plan policies for location of M-3 land. This area is in a potential Urban Reserve Area, indicating the City's intent to urbanize the area in the future.

Exh "A",
App. 1 - p. 1

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.

C. Comprehensive Plan Map Amendment Criteria

Ordinance 1967 sets forth the criteria for Plan Map Amendments. Section 4 of Ordinance 1967 states that the procedure for amending the Comprehensive Plan Map shall be the same as used for zoning district boundary changes. The zone change criteria are set forth in Section 600-606 of the Newberg Zoning Ordinance and read as follows:

1. The proposed change is consistent with and promotes the objectives of the Comprehensive Plan and of the Zoning Ordinance of the city;
2. There is a public need for a change of the kind in question;
3. The need will be best served by changing the classification of the particular piece of property in question as compared with other available property.

III. NEWBERG COMPREHENSIVE PLAN GOALS AND POLICIES

The following goals, policies, and sections from the Newberg Comprehensive Plan are relevant to the request:

Exh "A"
APP 1 - P. 2

A. Comprehensive Plan Descriptions

The Plan Classification section of the Comprehensive Plan Description describes the Industrial Plan designation:

Industrial Use Areas (IND)

The objective of this designation is to provide land for a variety of light industrial, heavy industrial and industrial park areas.

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

B. Air, Water, and Land Resource Quality Policy 3

As public sanitary sewer systems become available, all development shall connect to the public system. To encourage economic development, the City may permit subsurface sewerage disposal where the system meets State and County requirements and where unique circumstances exist.

C. Public Facilities and Services - All Facilities and Services Policy a

The provision of public facilities and services shall be used as tools to implement the land use plan and encourage an orderly and efficient development pattern.

D. Public Facilities and Services - Sewers and Water Policy a

All existing development within the City limits will connect to public sewer and water systems as soon as they become available.

E. Urbanization Goal 1

To provide for the orderly and efficient transition from rural to urban land uses.

F. Urbanization - Urban Growth Boundary Policy 1

In expanding or otherwise altering the Urban Growth Boundary, the Boundary shall follow road rights-of-way, lot lines, or natural features.

G. Urbanization - Annexation Policy c

Property outside the Urban Growth Boundary may be annexed only upon inclusion of such property into the Urban Growth Boundary.

IV. FACTS

- A. The applicant's property consists of 1 tax lot totalling approximately 10 acres. The property is located on TL 3228-1800. It is currently planned VLDR and zoned VLDR2 1/2 in the county. Its proposed City plan designation is IND.
- B. The natural features of this site include a drainageway with a Nationally Inventoried Wetland which bisects the site east-west, numerous mature tree stands, and gently sloping terrain. The applicant indicates that only 6 of the 10 acres are suitable for development.
- C. The parcel is accessible from Wynooski Rd., a county road with a collector designation in the Newberg Transportation System Plan.
- D. The surrounding conditions are as follows:

North: City residential and agricultural land; zoned M2
South: County agricultural land; zoned AFLH (Agriculture Forestry Large Holding)
East: County agricultural land; zoned AFLH and VLDR
West: County land; Newberg Transfer & Recycling Station; zoned VLDR

The City's Waste Water Transfer Plant and Smurfit pulp mill are in the vicinity of this parcel.

- E. The Comprehensive Plan includes the following land use requirements:

Industrial land available within the Urban Growth Boundary in 1991 is 709 acres. The need for industrial land in 1990 is estimated to be 490 acres; the need for land in 2000 is 730 acres; and the need for land in 2010 is 1087 acres. An economic development analysis and employment forecast developed for the City in 1991 by a consultant indicated that the need for industrial land would be 721 and 775 acres for years 2000 and 2010 respectively.

- F. The availability of utilities is as follows:

Sewer: Sewer is not presently available to the property. A sewer pump station is needed to serve industrial properties in the southeast section of the present UGB. This pump station is estimated to be developed in 2-3 years. A septic system will need to serve this property until the station is developed.

Water: Water service can be extended to this site. There is a water main on Wynooski.

Exh A
App 1 - P. 4

Storm Sewer: There is no storm system presently in this area except for ditches on the side of the road.

- G. The site consists primarily of WuB Woodburn silt loam soils with Ah Aloha soils on the east end of the property. Woodburn and Aloha soils are identified as Class II soils by the SCS;
- H. The subject site is included in a urban reserve area (URA) study area. The urban reserve area project is in process and a hearing on the urban reserve area is scheduled for the City Council this winter. This site is in proposed area E (see Exhibit 4).
- I. The proposed use is allowed in the City's M-3 zone with a conditional use permit.

Exh A
App 1 - P. 5

Newberg Urban Growth Boundary Amendment
Applicant: Marvin Schneider
Subject Property: Tax Lot #3228-1800

JUSTIFICATION STATEMENT:

The following material is presented as justification of the proposed Urban Growth Boundary (UGB) amendment. The justification is segregated into three parts in response to the UGB Amendment Criteria.

Part 1 - Urbanization Factors:

- a. The City of Newberg has been studying the potential inclusion of lands on the periphery of the present UGB and city limits for designation as Urban Reserve. The subject property is included within study area E of the Urban Reserve Area Study.

The applicant, Mr. Schneider, has tendered a purchase offer to the present owner of the property contingent upon obtaining the necessary land use approvals to utilize the subject property as a heavy industrial processing site. The proposed activity is related to waste reduction, fuel processing and the preparation of materials for agricultural composting.

The City of Newberg has a single Industrial comprehensive plan designation. The city zoning ordinance regulates three industrial zones M-1, M-2 and M-3 which authorizes a range of industrial uses. The code requires approval of conditional use permits for specific industrial activities within each zoning district.

The 1990 census data reflected a July 1, 1990 city population of 13,020, constituting a growth of 25.26% from 1980 to 1990. The comprehensive plan projects a population of 27,000 by the year 2010, an anticipated growth of 207% over the next 17 years. Growth of this magnitude will require a substantive increase in industrial development to maintain balanced growth and consistency with economic plan policies during the planning term. The city comprehensive plan encourages the diversification of the local economy through the development of new industries and the retention and expansion of existing industries.

The plan, Table IV-1 indicates that there are presently 709 acres of designated industrial lands within the UGB and city limits to meet the cities needs until the year 2010. The plan states that "Heavy industrial uses should be located near Smurfit Newsprint, an existing pulp and paper mill. Other designated areas should be developed to light industrial or industrial park type uses."

There are currently two sites within the city zoned M-3 for heavy industrial uses, representing approximately 36.15 acres, 5% of the total industrial lands designation. A supplemental report of industrial lands may be developed indicating

industrial lands occupied, vacant, and available within the existing marketplace. However, it is assumed that only lands in proximity to the Smurfit Newsprint Mill are deemed suitable for heavy industrial development and useage. The site proposed for inclusion into the UGB is 10 acres in area; with approximately 6 acres suitable for development. Inclusion of the subject property would increase heavy industrial zoning and useage by approximately 17%. An estimated 27-32 new jobs will be created in conjunction with the proposed development. The majority of the jobs will be compensated at family-wage rates, capable of supporting a family within the local economy.

- b. The proposed amendment responds to the need for local employment opportunities and community livability. Local employment is stable but reflects an unemployment rate between 7-8%, with seasonal fluctuations. Income levels in Yamhill County are typically 8-12% less than other areas within the Portland Metropolitan Statistical Area (PMSA).

The amendment proposed will provide a basis for annexing and rezoning the subject property to accommodate a heavy industrial development that would like to be operational as soon as possible. The processing facility will employ between 27 and 32 full time skilled and semi-skilled workers. The comprehensive plan encourages economic diversity to "lessen the percentage of persons who live in Newberg but must work elsewhere. . ." To sustain the projected growth in population and housing the city will need to realize a concurrent growth in the industrial and commercial sectors to create the new jobs to sustain community growth and balance.

The plan suggests that "new industry should be located in areas which minimize impacts upon the air, water, and local resource base, as well as upon surrounding land uses. The site is bordered on the north by lands within the UGB designated for industrial use under city and Smurfit ownership; the Newberg Transfer and Recycle Center to the east, a heavy industrial use in a Public Works Safety zone; Hess Creek lays to the south, a 100 year floodplain; and Smurfit properties planned and zoned for heavy industrial use to the west. The proposed use will process selected waste materials for processing into a bulk industrial fuel and agricultural composting. The processes will be regulated by the Department of Environmental Quality and all environmental quality standards, attendant to the proposed use, shall be observed. The use will not result in excessive noise, or impact the air or water quality of the area. The city, indicates in the plan, that it will "continue to encourage and support the three R's of recycling (re-use, reduction and recycling)". The plan provides that "the city will encourage the creation of a diversified employment base, the strengthening of trade centers, and the attraction of

both capital and labor intensive enterprises".

- c. The proposed development site is adjacent to the city wastewater treatment plant (WWTP); derives vehicular access from Wyooski Road, which was improved for industrial traffic by Yamhill County in 1989/90. The site may be easily served by municipal sewer and water, all other utilities are present at the site boundary. The use of the subject property is consistent with other industrial urban uses in the area.
- d. The city is presently considering adoption of an Urban Reserve to serve long term community development needs. The site, part of sub-area E is under consideration and recommendation for eventual urbanization. The area is partially industrialized and will continue to be industrialized over time, which is recognized in the urban reserve study. The comprehensive plan encourages the location and development of heavy industrial uses in the area. Approval of the request represents a logical and efficient expansion of the UGB. "Industrial expansion shall be located and designed to minimize impacts upon surrounding land uses", which the proposed development will do. "The city shall encourage industrial development, preferring firms that: meet or exceed state or local environmental standards; utilize the existing labor force and help to reduce seasonal unemployment fluctuations; and are efficient users of energy", which the proposed development will do.
- e. The proposed industrial development will not adversely impact the environment and will be developed in accordance with Department of Environmental Quality (DEQ) and City of Newberg standards and requirements. The facility will process between 300 & 450 tons of material per day, generate up to 30 truck trips per day, and generate between 27 and 32 full-time family-wage jobs. The facility requires DEQ licensing as a compost facility. Material received will be processed and shipped within 24 hours. The proposed industrial development will contribute to the diversification of the local economy, utilize the local labor force, and contribute to the reduction of seasonal employment fluctuations.
- f. Presently zoned for rural residential use, the subject property was excepted from agricultural preservation and conservation through a county-wide exceptions process conducted and approved in the mid 1980's. However, the further change in land use from rural residential to industrial will require additional findings in support of an exception to the proposed intensification of use. The exception criteria is addressed under part 2 of this justification statement.
- g. Adjacent agricultural uses consist of orcharding and the Fresh Egg Farm. The proposed use will not adversely impact either of these operations, which have not been hampered by either the development or operation of the municipal WWTP or

the transfer and recycling center.

2. Part 2 - Statewide Planning Goals - Exceptions

A separate Exceptions statement will be provided as a supplement to this application. The supplement will include a survey of designated and zoned industrial lands within the City of Newberg.

3. Part 3 - City Comprehensive Plan

The comprehensive plan encourages the siting of heavy industrial uses adjacent to the Smurfit Mill. The Urban Reserve Study recognizes the validity of the subject area for heavy industrial use and deems the site suitable for urbanization. The proposed amendment responds to city plan policies that call for diversification of the economy, that seeks to reduce unemployment, that minimizes impacts upon air, water and land resources, that utilizes existing infrastructure to the greatest extent possible, and provides for an efficient and logical extension of municipal services. The proposed amendment is consistent with the applicable policies set forth in the plan and will not impact areas within the UGB and city limits designated for limited and light industrial development.

The following plan goals and policies are supportive of the proposal:

B. Land Use Planning

GOAL - To maintain an on-going land use planning program to implement statewide and local goals. The program shall be consistent with natural and cultural resource needs.

Policies 3 and 4 are applicable to the proposal.

E. Air, Water, and Land Resource Quality

GOAL - To maintain and, where feasible, enhance the air, water and land resource qualities within the community.

Policies 1-8 and 11 are applicable to the proposal.

H. The Economy

GOAL - To develop a diverse and stable economic base.

Policies 1 (a-e, f and g), 2 (a-f) are applicable to the proposal.

J. Urban Design

GOAL - To maintain and improve the natural beauty and visual character of the city.

Policies 1 (a-d, g, h, n, o, and s), 2 (a-c) are applicable to the proposal.

K. Transportation

GOAL - 1. To encourage development of a safe, convenient and economic transportation system through a variety of transportation means.
3. To develop and implement an area transportation plan consistent with local needs and the comprehensive plan.

Policies 1 (a-c and e-g), and 2 (e, f, and g) are applicable to the proposal.

L. Public Facilities and Services

GOAL - To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban development.

Policies 1 (a-d, and g), 2 (a-c), and 4 (a) are applicable to the proposal.

M. Energy

GOAL - To conserve energy through efficient land use patterns and energy-related policies and ordinances.

Policies 1 and 3 are applicable to the proposal.

N. Urbanization

GOAL - 1. To provide for the orderly and efficient transition from rural to urban land uses.

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- (D) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.

OAR 660-04-020 provides in subsection "(1) If a jurisdiction determines there are reasons consistent with OAR 660-04-022 to use resource lands for uses not allowed by the applicable Goal, the justification shall be set forth in the comprehensive plan as an exception."

OAR 660-04-022 provides "An exception Under Goal 2, Part II (c) can be taken for any use not allowed by the applicable goal(s). The types of reasons that may or may not be used to justify certain types of uses used on resource lands are set forth in the following sections of this rule:

(1) For uses not specifically provided for in subsequent sections of this rule or OAR 660, Division 14, the reasons shall justify why the state policy embodied in the applicable goals should not apply. Such reasons include but are not limited to the following:

(a) There is a demonstrated need for the proposed use or activity, based on one or more of the requirements of Statewide Goals 3 to 19; and either

(b) A resource upon which the proposed use or activity is dependent can be reasonably obtained only at the proposed exception site and the use or activity requires a location near the resource. An exception based on this subsection must include an analysis of the market area to be served by the proposed use or activity. That analysis must demonstrate that the proposed exception site is the only one within that market area at which the resource depended upon can be reasonably be obtained; or

(c) The proposed use or activity has special features or qualities that necessitate its location on or near the proposed exception site.

NATURE OF USE:

The subject site was recently in rural residential use by the previous property owner. The site was part of an earlier area excepted from "resource use", agriculture and forest production, through a county-wide exceptions process. The present Yamhill County Comprehensive Plan and Zoning District designation implements the exception taken on the subject from "resource use" to rural residential use.

The proposed use of the site, industrial materials processing, is inconsistent with the present plan and zoning designations and is contrary to the rural residential uses provided for in the county plan and Goal 10, the Housing Goal, embodied in the Statewide Planning Goals. Approximately 1/4 acre of the 10 acre tract is developed to residential use. An additional area, ranging

E-2 Ex A
App 2-p.8

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from 2 1/2 to 3 1/2 acres is within the 100 year floodplain of Hess Creek. The proposed industrial activity would employ between 6 and 7 acres of the site area for the location of processing facilities and the on-site movement of vehicles transporting the industrial resources to and from the site. The site is not considered to be "built upon" or "irrevocably committed" to industrial use and an exception to the Housing Goal is necessary to allow the proposed use.

A. REASONS

1. The site is in an area that has been in transition from rural residential to industrial use since 1984. In the early 1980's a series of county land use approvals amended the plan and zoning designations on adjacent and adjoining lands to allow heavy industrial uses. An application by Publishers Paper (presently Smurfit Newsprint) to rezone TL #3229-600 from Rural Residential, VLDR 2 1/2, to Industrial, Heavy Industrial, was approved. A rezoning of TL #3228-1700 from Rural Residential, VLDR 2 1/2, to Public Facilities, Public Works Safety, was approved for the operation of the Newberg Garbage Service and Newberg Transfer and Recycling Center franchised solid waste collection, disposal and recycling operations. A county conditional use approval authorized the siting and construction of the City of Newberg Wastewater Treatment Plant (WWTP) in the mid-1980's. By the end of the decade lands adjoining the WWTP were included within the UGB and designated for industrial uses. Tax Lots 3228-1500 and 3229-200 were annexed into the city following their inclusion within the UGB and zoned M-2 for light industrial use by the property owners.
2. Early in 1990 Yamhill County realigned and reconstructed Wynooski Road to accommodate heavy industrial traffic to the Smurfit pulp and paper mill, the Newberg Transfer & Recycling Center and other potential heavy industrial uses anticipated in the area. The improvements were partially financed with federal assistance funds for roadway improvements. Wynooski Road is considered to be the primary heavy industrial access into the city, with the exception of the primary and secondary state arterials, highways 99W and 219, serving the community. The area, and site have direct access to State Highway 219 and State Highway 99W. The highway network provides the site with access to Interstate 5 and markets to the north, south, east and west of the subject site.
3. The Newberg Comprehensive Plan deems properties in proximity to the Smurfit Mill as suitable for heavy industrial development. Plan policies clearly indicate that the City of Newberg will strenuously object to the conversion of any lands outside the city UGB to commercial or industrial uses.

E-3 Ex A
App 2-p.9

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4. There are two residences within exceptions code area 1.10 that are directly affected or potentially impacted by this request. The residence on TL #3228-1800 has been sold to the applicant, is no longer occupied and would be converted from residential use if this request is approved. The domicile on TL #3229-300 is unoccupied and is for sale by the estate of the previous owner. The residences indicated on TL's # 3229-400, 500 & 600 were owned by Smurfit and were razed over the past five years. Residences in the area have recognized that the emergence and growth of industrial activity in the immediate vicinity is not conducive to rural or urban residential occupancies. Private ownerships are being marketed as potential industrial property. In addition, the city is studying the area for potential designation as future industrial development lands through its Urban Reserve Area (URA) analysis.
5. The Department of Environmental Quality (DEQ), through its Solid Waste Management Program, has embraced the concept of waste reduction as a top statewide solid waste management priority. The industrial activity proposed for the subject site will enhance waste reduction through the processing of waste materials for use as industrial fuels and as agricultural compost. The proposal is consistent with provisions of the draft Statewide Solid Waste Management Plan, and embraces the waste reduction policies contained within the Yamhill County Solid Waste Management Plan. Site operation will initially be subject to a DEQ permit process and review, when approved the permitted operations will be subject to periodic inspection and review.
- B. Areas within the existing UGB that are designated for Industrial use within the City Comprehensive Plan and in proximity to the Smurfit Newsprint Mill that would not require a new exception have been evaluated for the proposed use. Alternate sites were generally deemed inappropriate due to size limitations, industrial access limitations, proximity to residential or other incompatible land uses, existing industrial occupancy, or regulatory limitations upon use. Industrially designated sites in Sections 19, 20, 29, and 30 were the subjects of the alternative sites evaluation, see Exhibit 1 attached.
- c. The long term Economic, Social, Environmental and Energy consequences that could result from the proposed use are pronounced and quite exciting. The following Statewide Land Use Goals are satisfied by the proposed use: Goal 9 - Economic Development "To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens."; Goal 6 - Air, Water and Land Resource Quality (Environmental) "To maintain and improve the quality of the air, water and land resources of the state."; Goal 13 - Energy Conservation "To conserve energy."; and provide affirmative "social consequences" as defined in the Goals document, "The tangible and intangible effects upon people and their relationships with the community in which they live resulting from a

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particular action or decision."

ECONOMIC

The immediate economic returns derived from the proposed use would be the retention of site development dollars and construction payroll within the community as the site is improved for operations.

The proposed use will provide an estimated 32 full-time jobs when full operational capacity is realized. An initial payroll in excess of \$250,000 is anticipated during start-up of the facility, when fully operational the annual payroll could exceed \$750,000. The proposed activity will increase and diversify the local job market and provide employment opportunity that does not require highly specialize training.

One of the proposed products, industrial fuel, could make a substantial contribution to the operations of Smurfit Newsprint by replacing fuels lost to a decline in the availability of natural fibers. Jobs that may be placed at risk due to the declining fibers market could be retained as a result of the fuels developed at the site.

As the materials recovery and processing system is improved the proposed use could result in substantial savings to the community through the substantial reduction of solid waste collection and disposal costs due to a substantial decrease in the volume of material landfilled. A reduction of landfilled material relieves the community from long term environmental liability and self insurance costs to assure that present and future landfill sites utilized by the community remain environmentally sound. It is also reasonable to assume that as waste disposal costs are reduced to system users, over the long term, private industry would have more funds to utilize in the development of new products, plant expansion and business growth within the community. The proposed use contemplates the conversion of municipal waste materials into desirable industrial and agricultural commodities.

ENVIRONMENTAL

The proposed industrial development will not adversely impact the local environment. The on-site operations will be subject to review and permit procedures by DEQ and the City of Newberg and will be developed and maintained in accordance with the standards of those permits. The site will be subject to an environmental assessment, similar in scope to that previously required of the adjoining Newberg Transfer & Recycle Center which has been operated in compliance with environmental standards over the past nine years.

At full capacity the proposed facility could eliminate between 300 and 450 tons of solid waste from landfilling on a daily basis. The

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reduction of solid waste on such a scale would substantially prolong present landfill life and reduce environmental risk attendant to current solid waste management practices.

Processed materials will not be permanently stored on-site. Processing products will be transported to end users on a regular basis for use or additional processing as industrial fuel, soil additives, or compost materials for agricultural use. Materials will typically be processed on the day its received and shipped within 24 hours of the completion of the processing operation. Materials received will typically be pre-sorted through DEQ permitted transfer and recycling operations. On-site and off-site operations and the materials stream will be periodically inspected by DEQ, in accordance with permit standards, to ensure full compliance with environmental protection standards.

ENERGY

Initial reductions in the use and cost of energy to manage solid waste will be realized through the allowance of the proposed use. County landfill rates, recently raised, cost over \$27.00 per ton and require the transport of material to the landfill, the use of heavy equipment to bury and cover received wastes. The proposed activity could, at a minimum, reduce materials directed to the landfill by 108,000 tons per year and result in a reduction of 21,000 truck trips to the landfill annually. The potential volume reduction would result in a potential savings in excess of \$2,000,000 per year in solid waste operations costs.

The use of approved processed materials as industrial fuels will provide a relatively low cost and stabile material for use in industrial boilers. Companies such as Smurfit Newsprint, which rely upon solid fuels to fire its boilers, could realize substantial savings in fuel costs. The proximity of the proposed site to the Smurfit Mill site, approximately 1/4 mile, will also provide substantial energy savings through reduced transportation costs. Fuels derived through processing can provide a consistent supply of low cost fuels for use in the co-generation industry and be utilized to manufacture steam for use by symbiotic ventures and to generate electrical power for use by local industry and for sales back to the power grid. There are presently at least three co-generation facilities under consideration in the State of Oregon, a major issue with each is the development of a long term, reliable, and low cost source of fuel.

SOCIAL CONSEQUENCES

The proposed use will provide tangible benefits to the citizenry and community of Newberg. It will, given an opportunity, provide family-wage jobs for residents of the community. Contribute to the overall

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economic welfare of the community through a reduced reliance upon the landfilling of solid waste, and potentially generate a reduction of costs and fees attendant to solid waste management in the community. The jobs and payroll provided through the industrial venture will turn over many times to the collective benefit of the local economy. Persons realizing full-time, non-seasonal, employment will derive the benefits of enhanced self-esteem through gainful employment and full participation within their community.

The opportunities and potential benefits enumerated in this narrative may only be realized through the granting of a reasons exception and approval of the urban growth boundary amendment requested.

OAR 660-04-022(1)(a) requires a demonstration of need for the proposed use or activity, based upon one or more statewide goals. The uses involved are industrial uses in conjunction with solid waste management, the goals at issue are Goal 6 - Air, Water and Land Resources Quality and Goal 9 - Economic Development.

- (a) Both the Yamhill County and City of Newberg Comprehensive Plans articulate policies to maintain and improve the "environmental" quality of the community. Solid Waste Management, waste reduction, and waste recovery are public policy issues. Yamhill County and the City of Newberg rely upon private industry, franchised under local authority, to manage its operations consistent with statewide environmental goals, policies and standards. The Yamhill County Solid Waste Management Plan and the draft statewide solid waste management goals and policies encourage environmental protection through the reduction of solid waste and view waste recovery and alternative uses for appropriate materials as a viable means of attaining legislatively mandated waste reduction and recycling goals.

A review of the city and county comprehensive plans clearly indicate that the city and county desire an increase in economic growth and diversity. Goal 9 defines "diversify" as "increasing the variety, type, scale, and location of business, industrial and commercial activities". The proposed use, at the proposed location, would expand the ability of private industry to respond to the statewide waste reduction and recycling goals through the development of private industry that will also serve to diversify and enhance the local economy.

- (b) The proposed use is not based upon the "resource base" typified within Statewide Planning Goals 3 & 4 or the agricultural and forest "resource uses" typified by the county plan and recognized by the city plan. The proposed use is based upon the "resource" embodied in the statewide need to reduce solid waste through waste reduction and waste recovery opportunities. The proposed site offers a unique opportunity in

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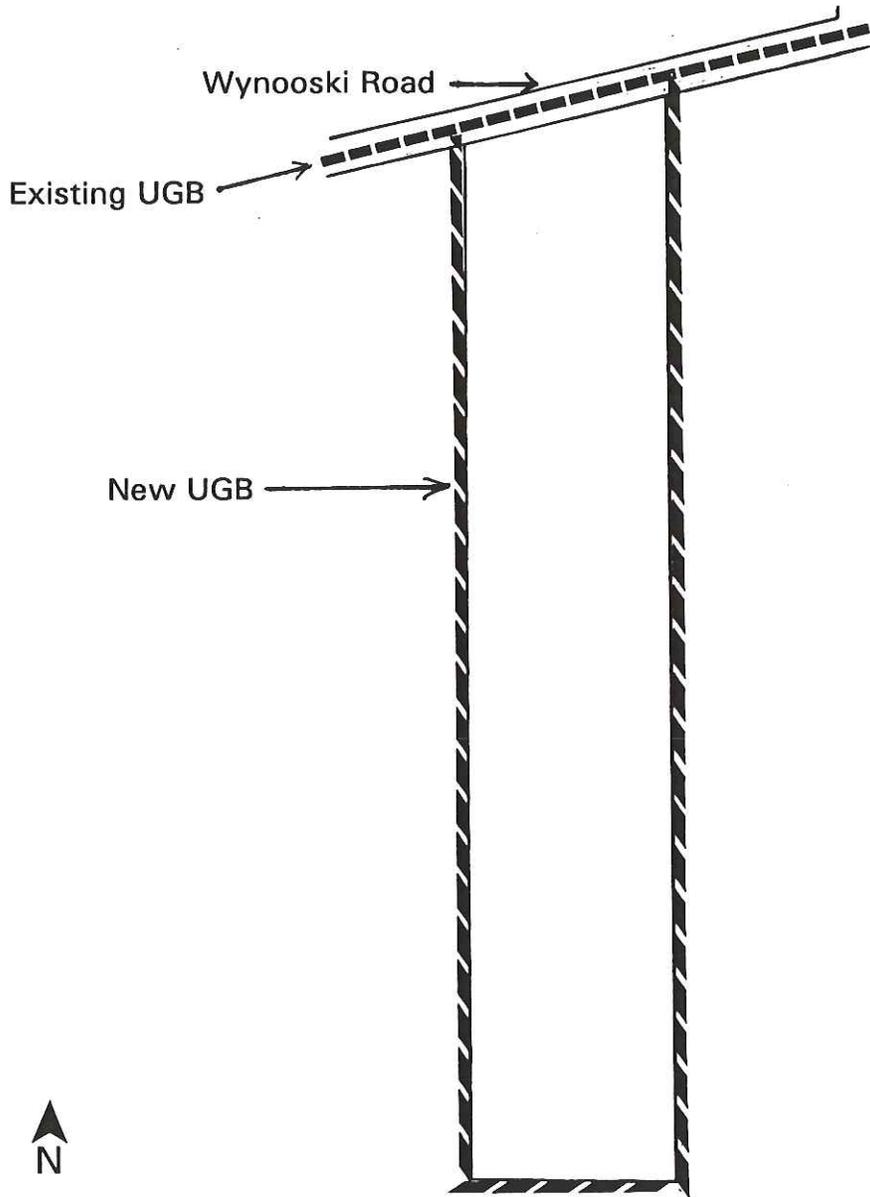
conjunction with a permitted and franchised waste disposal facility. The location of a waste recovery facility at this site provides a supply of "resource" materials adjoining the site, precludes the containment and movement of collected and received materials to another site, reduces the need for highway transportation, and places the facility adjacent to a typical user of the materials to be produced. There is no better site within close proximity of the Newberg Smurfit Mill, which is deemed as the appropriate location for heavy industrial uses in the city. The receipt of selected wastes at the proposed facility precludes the need to transport appropriate materials to a separate site. It consolidates waste related industries into a small area of the community that possesses heavy industrial access, complies with the goals and objectives of the city plan attendant to heavy industry, and is in close proximity to the anticipated outlet markets for finished product.

- (c) The proposed use is related to solid waste and is dependent upon the presence of fiber within the solid waste stream that can be efficiently segregated from non-suitable materials for use as industrial fuel or agricultural compost and soil additive. The co-owner of the Newberg Garbage Service and Newberg Transfer & Recycling Center is the principal in this venture and represents a substantial extension of his community leadership in waste reduction and recycling. The proximity of the proposed site facilitates his management of this operation and co-management of the NGS and NTRC facilities. On a more practical level the proximity of one site to the other may result in equipment savings, the utilization of trucking equipment and roll-off equipment, which can reduce initial start-up costs. However, the salient reasons for the location of the proposed facility at the proposed site is its proximity to the waste stream, the ease and adequacy of truck access, and its proximity to a primary user of the fuel product.

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EXHIBIT "B" TO ORDINANCE 563

**NEWBERG URBAN GROWTH BOUNDARY (UGB) AMENDMENT
TAX LOT 3228-1800**



Scale - 1" \approx 300'

Map prepared by Yamhill County Dept. of Planning and Development