

BEFORE 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 CONSIDERATION OF )  
Comprehensive Plan Amendments, including )  
Exceptions to Goals 3, 11 and 14, to Allow the ) **ORDINANCE 866**  
Alignment for the Newberg-Dundee Bypass and )  
East Dundee Interchange, and Declaring an )  
Emergency )

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) sat for the transaction of county business on May 12, 2011, Commissioners Mary P. Stern, Leslie Lewis and Kathy George being present.

IT APPEARING TO THE BOARD that this legislative matter is before the Yamhill County Board of Commissioners ("Board") upon application initiated by the Yamhill County Department of Planning and Development at the request of the Oregon Department of Transportation ("ODOT"). On September 30, 2004, the Board adopted three ordinances relating to the Newberg Dundee Bypass Project and amended the Yamhill County Comprehensive Plan and Transportation System Plan to include exceptions to Statewide Planning Goals 3, 11 and 14 that established a corridor for the bypass and interchanges and enacted new plan policies to support the bypass project, and

IT FURTHER APPEARING TO THE BOARD this matter proposes that the Board adopt amendments to the Yamhill County Comprehensive Plan and the Yamhill County Transportation System Plan and Yamhill County Zoning Ordinance to modify the 2004 goal exceptions for the Newberg Dundee Bypass corridor in several locations including the Dayton and East Newberg Interchanges and East Dundee Interchange and to take new goal exceptions for the realignment of the east crossing of Fulquartz Landing Road, the Oregon 219 interchange ramps and the realignments of Wyooski and Wilsonville Roads and to modify several of the comprehensive plan policies related to the bypass project, and

IT FURTHER APPEARING TO THE BOARD that following public notice, this matter came before the Yamhill County Planning Commission ("Planning Commission") and the Board at a joint public hearing on February 11, 2011. Testimony was taken and the record was closed. After the close of the hearing the Planning Commission voted to recommend the application be denied, and

IT FURTHER APPEARING TO THE BOARD that the Board continued the matter to March 31, 2011. Because it was unclear that the record before the Board had also been closed,

the Board accepted additional written testimony through March 31, 2011. The Board voted unanimously April 7, 2011 to approve this application, and an ordinance was adopted April 28, 2011, however, it was incorrectly given Ordinance number 864, which was already taken. Thus this Ordinance is re-adopted exactly as before, but given the new Ordinance number, 866. NOW THEREFORE

IT IS HEREBY ORDAINED BY THE BOARD, that the application is approved as detailed in Exhibit "A," the Findings for Approval, hereby incorporated into this Ordinance by this reference. 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 immediately.

DONE this 12th day of May, 2011, at McMinnville, Oregon.

ATTEST:

YAMHILL COUNTY BOARD OF COMMISSIONERS

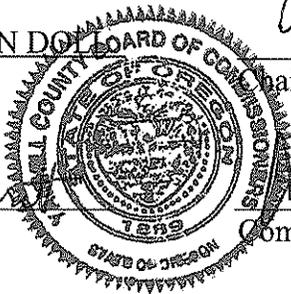
REBEKAH STERN DOUGLASS  
County Clerk

*Mary P. Stern*

Chair

MARY P. STERN

By: *Anne Britt*  
Deputy Anne Britt



*Leslie O. Lewis*  
Commissioner

LESLIE LEWIS

APPROVED AS TO FORM:

*Kathy George*  
Commissioner

KATHY GEORGE

*Rick Sanai*  
Rick Sanai, County Counsel

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Accepted by Yamhill County  
Board of Commissioners on 5/12/11 Page 2  
by Board Order  
# 11-265

## EXHIBIT "A" FINDINGS FOR APPROVAL

Having carefully considered the testimony and evidence that was offered into the record the Board makes and adopts the following findings of facts and conclusions of law to support its decision to approve the application.

1. The Board concur with the facts and reasoning set out in the February 2011 application entitled *Application to Amend the Yamhill County Comprehensive Plan and Transportation System Plan and Adopt New and Modified Exceptions to Goals 3, 11 and 14, with Supporting Findings of Fact and Statement of Reasons*, and supporting documentation including the Newberg Dundee Bypass Tier 2 Draft Environmental Impact Statement and supporting technical reports issued in 2010. We adopt the Application Document and incorporate that document into our finding of facts and conclusions of law and reasons in its entirety to support our decision.

2. The Board finds that Cities of Dayton, Dundee and Newberg have amended their respective plans to accommodate the proposed changes to the bypass alignment, interchange design and local road circulation consistent with the amendments proposed in the Application and that the respective Cities have adopted plan policy amendments that are consistent with those proposed in the Application.

3. The Board finds that these amendments provide for a corridor within which ODOT will use to design the alignment of the bypass and interchanges. This corridor is generally wider than required for the alignment of the right-of-way needed to construct the improvements. ODOT is currently preparing a Tier 2 Design Level Environmental Impact Statement that will identify the precise alignment for the bypass and interchanges within the corridor. Upon issuance of the Record of Decision for the Tier 2 Design EIS, the width of the bypass corridor will be automatically narrowed to a smaller alignment –specific width as designated in the Final Design EIS (FEIS).

4. During the hearing several members of the public made observations and asked questions regarding the project. We find that these questions do not relate to the approval criteria for these proposed amendments but they are important questions to which we make the following additional findings and responses:

a. Does the rerouting of Kreder Road under Oregon 18 require a goal exception?

The project proposes to close the Kreder Road connection at Oregon 18 and route Kreder Road under Oregon 18 within the existing right-of-way. We find that this type of an improvement is characterized as a reconstruction of an existing road and is an allowed use on rural lands pursuant to ORS 215.213(1)(k) and OAR 660-012-065(3)(b). A goal exception is not required.

b. Did ODOT consider other locations for the bridge into Dayton?

The purpose of the bridge connection into Dayton is to link the small section of the Dayton UGB located on the north east side of the Yamhill River to the Dayton city center. Access to this north side of Dayton is currently from the Oregon 18 and Kreder Road intersections. The road connections from Kreder Road to Oregon 18 will be closed when the Dayton Interchange is constructed. When considering a location for a bridge connection, ODOT only considered locations between the waste water treatment plant and Oregon 18 that were inside the Dayton UGB. ODOT worked with Dayton city officials in selecting an alignment for the location of the bridge. The proposed bridge alignment was selected because it is upon the alignment of the former Ferry Street Bridge and connects to the existing street network in the City of Dayton.

c. At the location of Fulquartz Landing Road, will it still be possible for southbound traffic to make a U-turn and enter Fulquartz Landing Road?

Preliminary engineering for the new location of Fulquartz Landing Road continues to allow U-turns at the southern median cross over. The northern median cross over will be closed as part of the Fulquartz Landing improvements.

d. What are the projected traffic volumes on Haugen Road after Old Parrett Mountain Road is relocated?

Traffic volumes were not projected on Haugen Road after Old Parrett Mountain Road is re-aligned. It is anticipated that the change in traffic volumes will be small. Projections will be performed as part of the Interchange Area Management Plan (IAMP) development, before construction of this section of the bypass.

e. Did ODOT consider relocating the Quarry Road structure to Haugen Road?

ODOT did not consider extending the Quarry Road structure to Haugen Road because the new road would displace three residential homes. Also the location of the Willamette and Pacific Railroad made it very difficult to build a structure over Oregon 99W and WPRR. The natural slope of the terrain and existing grade differences at the proposed over-crossing location was also most conducive to constructing an over-crossing that provides for a more compact structure that does not conflict with the WPRR and requires less cut and fill.

f. Merilyn Reeves of Friends of Yamhill County asked if the posted speed for the bypass was slower would it be more cost effective.

While some of the proposed amendments that shift the alignment from the approved corridor were necessary to address design speeds, the shift has little bearing on the total estimated right-of-way and construction costs for the project.

g. Columbia Empire Farms asked whether the goal exceptions adopted by Yamhill County in 2004 that authorized the bypass corridor are still valid since the Tier 2 alignment will displace additional agricultural land.

The 2004 goal exceptions and amendments to the TSP included the bypass corridor alignment. That corridor alignment was acknowledged after the Court of Appeals affirmed our land use decision pursuant to ORS 197.625. Applying state law, we conclude that once the amendment is acknowledged “it is insulated from scrutiny for goal compliance by [the courts].” *Foland v Jackson County*, 311 Or 167, 179 (1991).

The proposed project will not displace more agricultural land than originally anticipated. The Tier 1 FEIS estimated that the bypass and interchanges would require 200 acres of EFU land. The Tier 2 DEIS estimates that the bypass and interchanges will require 190 acres of EFU land.

h. Columbia Empire Farms asks whether the changes in the corridor alignment result in an intensification of the transportation use and is therefore outside the reasons exception approved by Yamhill County in 2004.

ODOT is proposing to shift the bypass alignment outside the authorized corridor in several locations to meet highway design and engineering standards and to avoid certain community resources. We find that the bypass will continue to operate as a limited access expressway and that this slight shift in location of the alignment outside the corridor does not change, intensify or add additional uses to the bypass. No new reasons exception is required.

i. Columbia Empire Farms asks whether the changes to the corridor alignment affect the validity of the Tier 1 NEPA document.

FHWA and ODOT re-evaluated the Tier 1 corridor and concluded that no supplemental document was required. This re-evaluation is documented in the Newberg Dundee Bypass Tier 1 Re-Evaluation, May 2009.

j. Columbia Empire Farms requests that because the Tier 2 NEPA document discloses that the environmental impacts associated with slope stability, stream crossings and the amount of impervious surfaces are different from what was identified in the Tier 1 document, that the corridor now be reconsidered.

FHWA and ODOT conducted a reevaluation of the Tier 1 corridor in 2009 and concluded that no supplemental document was required. This re-evaluation is documented in the Newberg Dundee Bypass Tier 1 Re-Evaluation, May 2009. This project was developed as a Tiered NEPA process. The Tier 1 study addressed the “big picture” issues and the more refined Tier 2 study contains more information and detail than the earlier Tier 1 document. The Tier 2 document identifies several locations along the corridor with unstable slopes. None of these areas are identified by Yamhill County as a Goal 7 Natural Hazard Area. The preferred alternative was selected, in part, to minimize

the impacts to those areas with potentially unstable slopes. ODOT will design the roadway and bridge structures with measures to stabilize slopes.

The preferred alternative will cross 22 streams. As mitigation, ODOT has committed to constructing bridge crossings over all major streams. Bridges will span the width of the stream and floodplain.

The preferred alternative will increase the impervious surface within the watershed. However, stormwater runoff will be treated by bioswales, thus reducing pollutant loads. Currently, Oregon 99W has very little stormwater treatment. Rerouting traffic onto the bypass where the water from run off will be treated should reduce pollutant loading in the nearby streams.

k. Columbia Empire Farms asks whether maintenance costs associated with the preferred alternative should be evaluated.

Maintenance costs are always a consideration. We find that long-term maintenance costs were considered when ODOT selected the preferred alternative. Costs of dewatering systems in the evaluation of the below grade options in the segments in Dundee and in Newberg was specifically considered and rejected for those design options that did not require such continuous long-term maintenance. Dundee Interchange Option 4.1 was selected to avoid more difficult long term maintenance issues associated with the soil types and slopes affected by other design options.

l. Columbia Empire Farms asserts that archeological artifacts have not been discussed with particularity in the Tier 2 DEIS.

Archeological surveys have occurred in the project area. The information is sealed and withheld from public disclosure to protect the location of potential sites consistent with federal and state laws.

m. Columbia Empire Farms asserts the proposed overcrossing to reconnect a private road on the farm does not minimize disruptions to the farm.

The proposed overcrossing is currently sited to be relocated upon the existing private road. We find that ODOT coordinated this location with the CEF President, Floyd Aylor during project design.

n. Columbia Empire Farms asks why the existing house on the Dundee Farm has not been included in any analysis of residential visual or noise impacts

Evaluation of the visual and noise impacts are part of the evaluation of the environmental impacts associated with the development of the Tier 2 NEPA planning process. ODOT reports that a noise receptor was not placed at the Dundee Farms residence for the DEIS noise modeling because it was unaware that the house was used for residential purposes.

Receptors are not placed at every single residence for a highway noise analysis, but the analysis needs to consider the impacts at all residences in a project area. For houses that are not included in the noise

modeling, the sound results from receptors with similar configurations of distance between the roadway and house are used to predict sound levels for other houses in the area. The sound levels at nearby receptors can be used to predict the sound level at Dundee Farms and those results can be incorporated into the Final EIS document. If additional noise modeling occurs, ODOT will add a noise receptor to the house at Dundee Farms.

o. Donald Alexander asked that the bypass alignment not be shifted to the east to accommodate the hospital.

We find that Providence Hospital is a regional hospital that serves the medical needs for the larger Yamhill County. Its adopted master plan was developed at the time it relocated to this site and calls for expansion of medical facilities to the east of the currently constructed facilities. Location of the bypass as provided in Option 7.4C would prevent expansion of the facility as planned and relied upon by the hospital and would compromise the ability to provide health services to the community. The preferred alternative which includes Option 7.5C accommodates the long term needs of the hospital. Chehalem Golf Course is a public golf course and a community recreational resource. Its master plan also calls for relocating certain holes to improve the play of the course. The preferred alternative which includes Option 7.5C accommodates the long term needs of the golf course consistent with its master plan.

p. Marilyn Reeves of Friends of Yamhill County submitted a letter asking several questions regarding the funding of the project. Specifically she asks why the current FEIS does not evaluate a phase of the project.

A Design Final EIS (FEIS) has not been issued for the preferred alignment of the bypass project. ODOT and FHWA issued a Draft Design EIS (DEIS) in May 2010 that addressed the environmental impacts of the preferred alignment of the 11-mile bypass. The Board is to consider and take action upon the preferred alignment of the full 11-mile bypass and four supporting interchanges of the Newberg Dundee Bypass Project as identified in that DEIS.

The Jobs and Transportation Act commits funds to the construction of a first phase of the bypass project. Any impacts associated with construction of a first phase will be reviewed and disclosed through the concurrent NEPA planning process prior to construction.

q. Jon Mangis asked if there was funding to construct the bridge connection into Dayton.

To date funding has not been established for the construction of the full bypass project. Segment 1 includes the construction of the Dayton Interchange. The bridge connection to Dayton is part of the interchange improvement and will be funded and constructed as a single project when the Dayton Interchange is funded and constructed.

## CONCLUSIONS

For all the reasons stated above, the Board concludes that the proposed amendments and goal exceptions comply with all applicable land use review standards and **are approved**.

## DECISION

Based on its determination that the proposed amendments and goal exceptions comply with all applicable standards, the Board hereby:

1. Amends the Yamhill County Comprehensive Plan to include modifications the Goal 3, 11 and 14 exceptions for the Bypass Corridor including those modifications to the Dayton Interchange, East Newberg Interchange and East Dundee Interchange.
2. Amends the Yamhill County Comprehensive Plan to include the exceptions to Goals 3, 11 and 14 for the realignment of Fulquartz Landing Road (East Crossing), Oregon 219 Interchange ramps and the realignments of Wynooski Road and Wilsonville Road.
3. Amends the Yamhill County Transportation System Plan and Yamhill County Comprehensive Plan to identify bypass corridor and interchanges as modified and those changes to the local road system including Kreder Road, Riverwood Road, Crawford Lane, Fulquartz Landing Road, Fox Farm Road, Harmony Road, Klimek Road, Corral Creek Road, Old Parrett Mountain Road, Haugen Road and Quarry Road and the addition of new frontage roads along various sections of the Project on the transportation facility plan map.
4. Amends the Yamhill County Comprehensive Plan policies relating to the Newberg Dundee Bypass Project and Yamhill County Zoning Ordinance Section 908.00 *et seq.* relating to the Interchange Overlay District to accommodate the bypass and address these modifications.