

Handwritten signature/initials

**CITY OF NEWBERG
COUNCIL AGENDA
MONDAY, NOVEMBER 1, 1993
7:30 P.M.
NEWBERG PUBLIC LIBRARY**

I. CALL MEETING TO ORDER

The meeting was called to order by the Mayor.

II. ROLL CALL

Duly noted.

III. CONSENT CALENDAR:

1. Proclamation declaring November 21-28, 1993 as National Bible Week.

2. **Resolution No. 93-1815** recognizing and appropriating funds in the General Fund and Library Gift and Memorial Fund and transferring and re-appropriating funds in the Sewer Replacement Fund.

3. **Resolution No. 93-1816** supporting the Traffic Safety Grant for a Radar Reader Board.

4. **Resolution No. 93-1817** Fire Department's "Call for Bid" for a Sport Utility Vehicle.

5. **Resolution No. 93-1818** authorizing the implementation of the Cost of Living Adjustment (COLA) as budgeted.

6. Appointment by Mayor of Budget Committee members.

The Mayor reviewed and read the Consent Calendar.

MOTION: ES/RG - to approve with removal of COLA (item no. 5). Denied.

RG wished to abstain from Consent calendar vote. MM-2

MOTION: to approve the consent calendar.

1 - opposed ES
1 abstained RG

IV. PUBLIC HEARING:

1. Crater Lane/School District annexation.
Annexation of a 17.9 acre parcel to allow development of one or two new schools. (File ANX-2-93)
Ordinance No. 93-2368

Mayor opened the public hrg. Called for ex parte contacts, and abstentions. TMahr advised the Council that this was the time for declarations. He defined the fact that annexation was not merely a land use matter but a legislative issue also. TM called for any member of the audience to question Council members - objection to jurisdiction and questions to the Council members. TM asked Greg Scole if this matter was to be heard on the record or merely open to testimony. TM advised public that they may request that the record be open for 7 days. Close portion of _____

Tonight we envision that most of the evidence come in, TM said. The Council will decide the matter based on the evidence that they have received in writing.

Objections to jurisdiction was called for by TM.

RC - said declared that he had contact with the persons to the east of the property.

DM - Board member of the Park and Rec. Dist. Some contact with the project. She thinks she should be able to vote, however.

TM again called for public objections to jurisdictions.

Mayor called for the staff report. DRC reported that this is an annexation of a 7.2 acre parcel and advised the public that there has been much discussion over the past 90 days regarding this. This is the first step towards annexation for the school. There are many issues surrounding the development that are issued in the staff report. Clarification - p. 30 in the ordinance - we want to find out from the school reps whether or not the items for requirement have been met. This language may want to be looked at - that the goal is reached and there remain some flexible. Has the waiver of remonstrance been received? DRC said that he changed the language in the first sentence... _____

Page 31 - we would like to delete the first sentence. DRC consulted with the Engineering Dept. and there may be a 10' easement.

Greg Scoles added that the Commission had a hrg. on this item on the 21st. The waiver of remonstrance requirements that the staff has recommended are sufficient, in Greg's estimation.

RC - questioned p. 35 at the top - item F has concerns that this size of facility will pump into a over-crowded sewer system. His hope is that something else would be addressed other than doing it that way. He was addressing his concerns to Mr. Scoles.

Greg answered that this is not a firm decision at this point. They are still reviewing the best way to handle this.

RC said that he is concerned about the money allocations - the expense that will be incurred - maybe it should have been worked out ahead of time. Now talking 2 facilities - now adding senior center and park section into that - quite an increase to be concerned about.

Greg Scoles - legitimate issue, for sure. Will be considered.

Mayor called for proponents.

Marcia Garrick - 209 Sunnycrest. Spoke with a brief historical context of the project.

Mayor mentioned that Marcia acquired the project only about 5 weeks ago.

Marcia continued speaking. Said that the long range facilities task force has been implemented and in the past year there had been many conversations regarding this matter. On Sept 10 - Antonia Crater Day declared. Tonight plans will be presented - work of numerous parents, teachers, community members. Exciting - she's worked for so long on this project - now ready to go forward.

Kevin Johnson - Portland - Architects working on the site project development. Outlined the map - environmental factors views - solar access - access off of Foothills Dr. - roads will be developed. (County Road #62 - ?) The site was laid out so it would be best efficient for traffic, energy efficiency, children safety, etc. Initial layout - discussions were held with Don Clements of the Chehalem Park and Rec. Dist. Buses and pedestrians tried to keep separate lanes - car drop-off and children separate for Elem. and middle Schools. Foothills was extended to Chehalem - Fire Dist. requirements met for full fire service around the bldgs.

Kevin Johnson - said that the Senior Center is a component of the site > The Seniors will be able to use the facilities. The thought is that the Senior Center and the school will be able to work together with mtg. rooms, etc. after the school hours. The Senior Center will also use the facility during the days for lunch kitchen purposes. A lot of amenities can be combined. The parking lot facility will hold about 250 cars. Schools need about 100 cars but they have allotted for more so overflow can occur into their own parking lots, not the residential areas. Christmas programs and summer sports programs are two times when additional parking is needed.

RC - how efficient is it going to be to transport from middle to elem. to senior center.

DM said that the elem. and seniors use the same opening.

Marcia G. said that the initial cost and the continuing operation costs are much less in "satellite kitchen".

Kevin showed a project schedule graph. The projection covered the years 1993 through 1996. This scale showed the bids of various contractors. The bidding would be opened up to as many contractors as possible. Initial site work would begin in May - July of 1994. The projection is that they would be ready for school in Sept. 1995. Kevin noted that this is the site development only. The entire site would be graded at one time - about 36 acres.

Mayor asked how many students the middle school would hold - 650, Kevin said. The elem. would hold about 550 with the kindergarten program.

RC asked Paul (from _____) what about the Senior Center - attached to the school but not a part of the school - part of the school property however. How is this going to be dealt with tax wise?

Paul said that architects and civil engineering consultants would be shared. The costs would be established through inter-governmental agreements. The bids would be broken down into two costs - each agency responsible for their portion of the project.

RC - asked if the parcel of property that the Senior Center is on will be taxed less in the tax record, based on the county level.

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DM said to RC that the parcel belongs to the Park Dist. They will overlap but the taxation of one area will not be gotten into. That has no basis.

RC said that taxes would be reduced if this was not all built in the same area.

DM said that has no basis to the inter-governmental agreement. She stated that a bundle of money will be saved by the tax payers by sharing the facilities. The facility will be used to the ultimate for the seniors and the youth to work back and forth in several different arrangements. Will the Park and Rec. have separate bid (to Kevin)?

Kevin - yes. That is correct.

RG - the issue is the public hearing on the annexation.

Mayor called for any other comments.

Paul Frankenberger - 2525 Skyline Rd., Amity - said that they met today with WM Pacific (?) to discuss the specific requirements of the school. As a result of that meeting, they will get together with DRC and the civil engineers will meet with the technical people of the City to

discuss.

Mayor called for opponents.

Pat Haight - _____ E. Hancock St. - said that the main access to the school was refeed to several times. Chehalem Dr. is a very narrow street with ditches on both sides - dangerous road - kind of out in the country - a lot of speeding there - she lived there for a few years - not sure the County is going to broaden the street - what is the contact of the school with the county? Also - what contact has the Park and Rec. Dist. made with the Senior Center? Do the Seniors want their facilities clear out there instead of E. 2nd St.? What contact has been made with the planning of this facility?

DM - said that Park Dist. has been in contact with the Seniors.

Paul said that they talked to the county. There's two aspects to that - 1) Bus traffic will be limited to Chehalem Dr. so Foothills became the access. 2) Co., requirement is to do nothing with Chehalem Dr.

Mayor asked for any other comments and staff recommendation.

DRC - stated that the staff recommends

Wavier of remonstrance was not discussed with the school dist. This is a concern, as per DRC. What sort of a timeline needs to get this resolved?

Paul said that _____

DRC said that it would be about 30 days until this ord. would take effect.

RG said that he has heard no testimony from the Foothills Dr. neighborhood residents. He presumes that there is no one concerned about the major impact of bus traffic. Is this so?

SR - following up on RG's comment. Said that there was concern regarding the transportation plan. Concerns were raised.

Mayor asked if the people on Foothills Dr. were notified.

Greg Scioles said that the surrounding area neighbors were notified.

DRC - said that it was difficult to talk about the bus traffic input because of the unknown.

RG - has there been any contact with the people on Foothill Drive?

Paul - said that there has been some site plan finalization to the site plan held up because the Craters are not desirous of pushing this through quickly. The neighborhood, because of this, does not need to be "riled up".

Marci G. - said that the principles of the elem. and the midd. schools took, on Antonia Crater Day celeb., invitations to surrounding neighbors. The neighbors were involved in that way. Information was received by the neighbors.

SR - does the uncertainty, if there is any - prevent the staff from continuing. With all of the unknowns out there - are we going to proceed?

RG - can we annex this pc. of prop. recognizing that this site development still has to be approved. SA Site development plan still has to go through the approval process.

Greg Scoles said that he could not even begin to speculate on this issue. This could be coupled with other issues - infrastructures, etc. Not sure how this impacts their schedule.

SR - Sees no problem with a vote on the annexation. Concern is whether it's better to have this delayed for 30-60 days until waiver of remonstrance is received.

RC - agrees with SR - what is the intent of what will be placed on the property?

TDM - added to the discussion the fact that the annexation shows that the development has some specifics which aren't necessarily the topic of discussion tonight. This is a land use issue. There are many other issues that will be decided upon and faced. (???)

SR - concern is with the non-remonstrance of the structure.

TDM - The non-remonstrance needs to have a 30-60 wait period (to be held in escrow) for the fact that _____. He doesn't recommend reconsidering the annexation.

SR - is the time period right as far as the City is concerned. Where does this leave the City dollar-wise on the tax base?

There was a brief discussion concerning the non-remonstrance and waivers thereof between Councilors SR and RG.

MM - encouraged support of the ordinance.

RC - not against schools. The issue is the surrounding residents.

Paul defined the part to be annexed. The UGB is already defined. There was some additional clarifications discussed.

Mayor called for the hearing to be closed.

A member of the public requested that the hrg. be kept open for 7 days for written response.

ES/RG - adopt the ord. with the changes in the Council pkt. as read by the City Mgr. - p.30 and 31.

James Morrison - 717 E. Sheridan St. - stated that he would like the hrg. to be kept open for 7 days so the people along Foothills and Chehalem can have opportunity for written response.

RG asked if this can be kept open after teh Mayor has called for teh hrg. to be closed.

TDM stated that this is a procedural call on the Mayor and Council's part.

Mayor's decision wazx that the hrg. be kept open for an additional 7 days for public written comment.

There was some discussion and clarification reagarding this.

Mayor stated that this would be kept open until the Nov. 16 mtg.

MOTION - SR/ES That staff bring back an ord. with the non-remon. declaration signed - to be voted on at the Nov. 16 mtg.

Unanimous.

TDM advised that public oral testimony is now closed. Written testimonies should be addressed to the City and will be distributed to the Council.

Pat Haight - said taht she objects to the fact that everyone - all neighboring residents should have the chance to state their concerns.

Mayor stated that this will be in Saturday's Graphic so the public wiull be notified in that way.

HEIDI: Where is this on the agenda???????????

Mayor announced Alan Herschey, Exec. Director of the Mid Willamette Valley Council of Governments. Mr. Hirschey spoke on the potential benefits of a channel in the Willamette River. There will be an additional report available by mid-January. He asked for any questions from the Council.

RC - said that the only thing that he perceives as a potential problem being the fish and wildlife people north of us.

Mr. Hirschey said that the issue will be investigated with teh Fish and Wildlife COMmission and they are discussing the issue with them> Both sides of the issue will be looked at and discussed. They do anticipate various groups being in oppositoin to the activity.

RC - said that poeple need to be aware of the fact that barges used to go all the way up to

Sheridan.

SR - is this funded?

Hirschey - yes. Saidf that the \$500 was reduced to \$250 becuase of teh concerns that they had with the City funding which was reuested.

SR had some discussion with Alan Hirschey as to the funding and the allocation thereof.

RG - what is the projection on the phase 2 and 3 costs?

Alan Hirschey - tyhere is no projection at this point becuase they don't know what they're going to come up against at this point. There have been some past studies and all of the existing piueces nee to be gathered.

SR/RG - that the City of NEwberg participated in this by giving \$250 to support the project. Unanimous.

RG - addional question for Alan - what portion fo the river is under study?

Alan Hirschey - the mouth of the Santiam River to Portland.

One additional issue that mR. Hischey wished to discuss was the _____. An application was prepared for the _____ last week. Well heads - statistics were shared with the Council by Mr. Hirschey. The concept is to do something that is preservation of the area surrounding wellhead so the water is safe. Well heads will need to be identified, land uses in the cirritical area around the well-heads be identified, and managemnet strategies be defined and an ordinance be drafted and presented to governing bodies. Public information on education will be provided - public will be invited to participate in the study and the development of the management strategies.

SR - said that he brought this to DRC awhile back. DEQ said that they didn't have that many applications and legislature decided not to deal with the issue. This would be an oppportunity to provide a model. DRC and Alan Hirschey were commended for their efforts.

Alan Hirschey said the conversation he had with the DEQ was positive. There are several new projects being developed at this time.

V. COMMITTEE RECOMMENDATIONS:

VI. CONTINUED BUSINESS:

1. Vacation of alley between First and Second Streets in Newberg behind

Chehalem Valley Senior Citizen Center and Newberg Care Home.
Ordinance No. 93-2367 authorizing the vacation of City alley right-of-way between First Street and Second Streets; adjacent to tax lots 3220-BA-1800, 1900, 2000, 2100, 2200, 2300, 2500, 2601, 2700, 2800, 2900, 3000, 3100, 3200, 3300, 3400, 3401, 3500 and 3600.

Mayor reviewed the ordinance and sated that some input had been received.

Greg Scoles stated that some written input had been received and was included in the Council packet.

The Mayor opened the public hrg. Called for a staff report.

DRC - said that some additional info., was received. The information is in staff report on p. 41. The bneighborhood was met with and issues were discussed. The COuncil can choose to look at additional input which was received after teh deadline of written testimony, if they so wish.

There was no motionto receive additional testimony.

DRC - A recommendation that the alley be vacated is on the floor. There are some legal reasons for the alley vacation, in addition to the turning point for the NEwberg Care Home.

TDM - said the action for vacation is pursuant to state statute. If the prevailing property is vacated without consent of the prevailing property owner, the City may be faced with the problem that the market value of the prop. the City may become liable for damages. The issues surrounding the vacation were discussed with the Council at the Work Session. There is a concern that everyone's right are protected. There are three owners to present who have not given their consent - Jesse Johnson, Jr., Andrew Anderson and _____ (p. 77 of agenda).

TDM clarified the tax lots as listed on p. 77

SR asked waht effect this has on the individuals who have a potential legal right of access to the alleyway? Does anyone have a potential legal right of access to the alleyway>?

TDM - stated that he didn't know of anyone else other than Mr. Cogut and Mr. Johnson.

Greg Scoles said that there may be others in similar circumstances. He said that one of the two owners sent in his consent late.

SR - discussed additional clarifications - referred to p. 100 of the Council pkt. With the proposed vacation, does this allow MR. Johnson enough room to get in there?

DRC - yes, this is the staff recommendation.

RG - what impact does this make of the City if the full alley width is left and the portion south of tax lot 22 is not vacated.

Greg Scoles - there is probably no difference as far as the City is concerned.

MM - there is a valid argument that those property owners abutting the alley have not paid taxes for years. There is some offset there.

RC - the City will not stop any access to the six foot access he has to the property.

MM - concern is that, no matter what is done here, there will be some kind of damages done to someone - one of the property owners.

There was some discussion between MM and RC as to the Appeals Court decision and speculation thereof. MM stated that he thought this problem was initiated by the City some years ago and the City should be responsible to "fix" it, even if there are some damages involved.

SR - said that this is not the only issue - there are also proper setback issues, retaining walls, barriers, commercial property next to residential property, noise complaints, etc. are also concerns. There has always been an issue as to whether this is an issue that should come under the Police Dept. or the Community Development Dept.

TDM clarified that there are ordinances in place regarding noise issues and so forth. He also restated the State Statute and the fact that there could be potential damages paid by the City. TDM explained the potential issues which are concern for lawsuit.

(TERRY MAY WANT TO PHRASE EXACTLY WHAT HE SAID HERE.)

**MOTION: SR/RG - adopt the ordinance with everything being vacated except the portion behind Barry Cogut's tax lot no. 3220 BA 2200.
Passed.**

TDM read the ordinance by title only.

MM - opposed.

VII. NEW BUSINESS:

- 1. Urban Growth Boundary Amendment-Schneider/Wynooski Street for 10 acres on the southeast side of Newberg with related plan text amendments addressing land supply.**

Mayor requested a staff report on the above matter.

DRC read the staff report as indicated in the Council pkt. He said that there was a long discussion as to this at the NUAMC meeting. This issue is pretty thoroughly discussed in the pascket of information that the Council received. DRC advised that a public hearing is not necessary.

Greg Scoles said that correspondence was received in support of the UGB.

RG/SR - to direct staff to come back with an ordinance for approval.
Passed - unanimously.

TDM advised the Council and called for any objections to the jurisdiction of this body.

DRC said that staff would report back with this at the December 6, 1993 meeting.

2. Comprehensive Plan Amendment and Zone change from LDR/R-1 Low Density Residential to COM/C-2 Community Commercial (File CPA-2/Z-2-93) (Dairy Queen Comp Plan amendment.)
Ordinance No. 93-2369

Mayor called for teh hrg. to be opened.

TDM clarified that this is a hrg. on the record of the Planning Commission. TDM called for ex parte contact and objections to jurisdiction. TDM advised anyone who had an objection to speak now or he/she may not be able to raise the objection if this matter goes to an appeal..

Greg Scoles - gave staff report, referring to p. 186 of the Council packet. The Planning Commission has recommended approval of this application.

MOTION: RG/RC - to read the ordinance by title only.
Passed unanimously.

TDM - read the ordinance by title only.

VIII. REPORTS FROM OTHER AGENCIES AND CITY MANAGER

1. Report from Alan Hershey, Council of Government's Executive Director
RE: Study on Water Transport on the Willamette River.

City Manger was the only one who reported. He commended the Police Dept. for their excellent

Fire Dept. was also commended for their smoke detector

IX. COMMUNICATIONS FROM THE FLOOR:

Bobbie Carter - 804 _____ - stated her appreciation for keeping the school issue open for another 7 days. Other issue she wished to talk on was already closed.

Pat Haight - 114 E. Hancock St. - several months ago - a year ago -while working on the old-fashioned festival - came across the information that there was no brochure regarding our community as are present in other cities - reviewed City Council Minutes - found that there was an allocation of \$2,000 for a brochure to be printed up. Pat said that a local printer estimated \$2,000 to print up 10,000 copies of a brochure - 4 colors, glossy, folded. This idea was talked down. Pages have been added to the Chamber Business Guide but no brochure has been produced. Pat requested that the City ask for their \$2,000 back from the Chamber. This money was allocated and designated in the minutes as being for a brochure but no brochure has ever been produced. There is a lot of good positive information that should be shared with people about our City.

Willamina, The Dalles and Bend have brochures.

MOTION: RG/MM - City Mgr. to investigate and report back to the Council on this matter.

Dale Welcome - 119 W. Columbia Dr. - last two Council mtgs. he's sat through the Work Session and the Council mtg. - announcements were made that Gary Hay is/has moved to Alaska and that Scott Reinhardt has moved to McMinnville. A query of Dale's own residency was commented on as to his residency and involvement in the Finance Committee. Scott Reinhardt commented, at that time, that his philosopht is that an official of the City should live within the City that he/she is representing. Dale Weclome encouraged Scott that he resign his position and that the Council support this position. Another purpose opf Dale Welcome speaking out on this is that he wants the public to be aware of the issue and formulate their own opinions. He questioned as to what the Council's view of the issue is?

MM - questioned the Mayor

SR - stated that his situation is different. He has been on disability and is in a temporary move - has moved in with his parents in McMinnville and has acquired no property of his own outside of the City limits. This issue will be addressed at the first meeting in January. Scott said that he has a time limit to come back into the City or resign. He reiterated that he does feel that those individuals serving on committeed should be residnets of the City and, if he finds that by the deadline he has been given, that he cannot move back, he will be submitting his resignation. This is a decision fo the Council - Scott plans ot report back to the Council and respects the decision of the Council.

Dale Welcome - asked again what is the opinion of the Council?

SR - said that he feels that the Council is split on the decision but he respects the decision of the Council.

ES - said that she thought that the decision of the Council would be discussed this evening and voted on at the December meeting.

RC - said that information came out in the Friday packet and Terry Mahr invited Council comment in the memorandum that he put out to the Council which outlined the issue.

ES - agreed with Dale Welcome that it is hypocritical that the Council has double standards.

Mayor said that she thought, too, that the Council would be voting on the issue at the December meeting.

DM said that this puts the Council in a difficult position. Yes, Scott's situation is a little different. However, he has been given a time frame in which to comply.

RG - Mr. Welcome intended to move outside of the City and had no intent to move back into the City. Scott has a situation that will take him out of the City for a period of time only. If Scott is able to tell the Council that he is able to move back into town then he will be welcomed back. However, if Scott is unsure at that time, it is understood he will be resigning/

MM - additional information that Dale Welcome may not have is that requirements have been obtained from the Attorney General's office and the position of the Council is very strong. There is a basis of the decision of the Council to give Scott a timeline to comply.

Dale Welcome - said that the issue is not legal. Accountability to a particular philosophy is.

DRC - asked for clarification as to when the matter will be put on the agenda.

TDM - Said that the issue came up in the Work Session of the Council. The Council members have been discussing this issue amongst themselves as to what to do. It was discussed to bring the matter forward at tonight's meeting. However, the matter was not put on the agenda and it was the consensus that, if not on the agenda, it should not be discussed. This is a decision of the Council. The legal opinion is that the case law is not decisive as to what to do on this matter.

MOTION: RG/ES - Agendize this matter for the first mtg. of January - or, through this motion, give SR until the first of January to report back to the Council.

Passed.

Abstained - SR

RC - About DB Sumner (???) - Newberg Community Hospital was the lien holder, title was signed by Mrs. X on January 19th - before Mr. X died, with the understanding that this was okay with Mr. X. The worth of the boat and trailer was approx. \$2,000. Was sold in January. Title was not signed off until Feb. 25th, interestingly enough. Why was the boat repaired for sale and not just put up for public auction?

X. ADJOURNMENT TO NEXT MEETING

MOTION: RC/ES - to adjourn at 10:10 p.m.

INDEX OF RESOLUTIONS OR ORDINANCES ON THIS AGENDA FOR ACTION:

RESOLUTIONS:

- 1. Resolution No. 93-1815** recognizing and appropriating funds in the General Fund and Library Gift and Memorial Fund and transferring and re-appropriating funds in the Sewer Replacement Fund.
- 2. Resolution No. 93-1816** supporting the Traffic Safety Grant for a Radar Reader Board.
- 3. Resolution No. 93-1817** Fire Department's "Call for Bid" for a Sport Utility Vehicle.
- 4. Resolution No. 93-1818** authorizing the implementation of the Cost of Living Adjustment (COLA) as budgeted.

ORDINANCES:

- 1. Ordinance No. 93-2367** authorizing the vacation of City alley right-of-way between First Street and Second Streets; adjacent to tax lots 3220-BA-1800, 1900, 2000, 2100, 2200, 2300,

2500, 2601, 2700, 2800, 2900, 3000, 3100, 3200, 3300, 3400, 3401, 3500 and 3600.

2. **Ordinance No. 93-2368** authorizing the annexation of a 17.9 acre parcel to allow development of one or two new schools.

3. **Ordinance No. 93-2369** amending the Comprehensive Plan Amendment and Zone change from LDR/R-1 Low Density Residential to COM/C-2 Community Commercial

\AGENDA11.1

PEOPLE WHO ATTENDED TO SPEAK:

* - those who filled out a card but did not speak.

** - those who filled out cards.

* Jim Morrison

** **Bobbie Joe Carter**

* **Bill Campbell**

** **Pat Haight**

Marcia Garrick

Paul Frankenberger, Head of Custodians - School District

Kevin Johnson

** **Dale Welcome**

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ATTENDANCE SHEET

COMMITTEE: NEWBERG CITY COUNCIL MEETING

MEETING DATE: November 1, 1998

<u>Council Member</u>	<u>Committee Member</u>	<u>Present</u>	<u>Absent</u>
ADAMS, Corinne	[]	[]	[] ✓
CURRIER, Roger	[]	[] ✓	[]
GANO, Roger	[]	[] ✓	[]
HAY, Gary	[]	[] ✓	[]
McCAIN, Donna	[]	[] ✓	[]
McINTOSH, Martin	[]	[] ✓	[]
PROCTOR, Donna	[]	[] ✓	[]
REINHARDT, Scott E.	[]	[] ✓	[]
SMITH, Elaine	[]	[] ✓	[]
_____	[]	[]	[]
_____	[]	[]	[]

Submitted By: Heidi Blum

NOTE: Please complete an attendance sheet for all meetings involving City Council members and return to the Legal Department. If the regularly scheduled meeting is canceled for any reason, it should be noted on an attendance sheet and sent to the Legal Department.

Original minutes, signed by the secretary or chairman, should be prepared and sent to the Legal Department for filing as the official record of the meeting.

4/1/93

Staff Present:

- ~~Bob Tardiff~~
- ~~Richard Sherman~~

~~Kathy Tri~~

Marcia Garrick
Architect (PDX)

Dr. Stanley Kern

Spike Sumner, NCH
Warren Good, NCH

~~Josh's wife - videographer~~

~~Press ~~Mary Sumner~~ Amy Allen~~

~~Heidi Kern~~

~~Imah~~

~~DLA~~

~~Greg Scott~~

- Gary Renter } Newby-
- Lisa Johnson } Carr
 } Home

11/1/93

Allen

PASSED

VI

ATTENDANCE SHEET

COMMITTEE: NEWBERG CITY COUNCIL MEETING

MEETING DATE: Ord. No. 2367

<u>Council Member</u>	<u>Committee Member</u>	<u>Yes Present</u>	<u>No Absent</u>
ADAMS, Corinne	[]	[]	[x]
CURRIER, Roger	[]	[x]	[]
GANO, Roger	[]	[x]	[]
HAY, Gary	[]	[]	[]
McCAIN, Donna	[]	[x]	[]
McINTOSH, Martin	[]	[]	[x]
PROCTOR, Donna	[]	[]	[]
REINHARDT, Scott E.	[]	[x]	[]
SMITH, Elaine	[]	[x]	[]
_____	[]	[]	[]
_____	[]	[]	[]

Submitted By: _____

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TU

Crater Lane

ATTENDANCE SHEET

COMMITTEE: NEWBERG CITY COUNCIL MEETING

MEETING DATE: Ord. No. 2368

<u>Council Member</u>	<u>Committee Member</u>	<u>Yes Present</u>	<u>No Absent</u>
ADAMS, Corinne	[]	[]	[]
CURRIER, Roger	[]	[✓]	[]
GANO, Roger	[]	[]	[]
HAY, Gary	[]	[]	[]
McCAIN, Donna	[]	[]	[]
McINTOSH, Martin	[]	[]	[]
PROCTOR, Donna	[]	[]	[]
REINHARDT, Scott E.	[]	[]	[]
SMITH, Elaine	[]	[]	[]
_____	[]	[]	[]
_____	[]	[]	[]

Submitted By: _____

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Original minutes, signed by the secretary or chairman, should be prepared and sent to the Legal Department for filing as the official record of the meeting.

Forms\form1-09/30/93

Held open for 7 days for written testimonies.

Exec. Director of

D.Q.

Handwritten initials/signature

Passed under

ATTENDANCE SHEET

COMMITTEE: NEWBERG CITY COUNCIL MEETING

MEETING DATE:

Ord. No 2369

Council Member

Committee Member

Yes
Present

No
Absent

ADAMS, Corinne

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[]

CURRIER, Roger

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GANO, Roger

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~~HAY, Gary~~

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McCAIN, Donna

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McINTOSH, Martin

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~~PROCTOR, Donna~~

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REINHARDT, Scott E.

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SMITH, Elaine

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Submitted By: _____

NOTE: Please complete an attendance sheet for all meetings involving City Council members and return to the Legal Department. If the regularly scheduled meeting is canceled for any reason, it should be noted on an attendance sheet and sent to the Legal Department.

Original minutes, signed by the secretary or chairman, should be prepared and sent to the Legal Department for filing as the official record of the meeting.

ANSWER TO D.B. SUMNER

- ① There was no reason to worry about the family picking up the boat of MR. X

The Hospital was the Lien Holder on the Title
- ② The Title was signed by Mrs. X on Jan. 19th before MR. X died. The understanding was that this was okay.
→ MR. X PASSED AWAY ON FEB. ~~20th~~ 3rd
- ③ The Boat, ^{trailer} was taken, repaired and consigned for sale. As I understand they were worth approx. \$2000.
They were sold on Jan. 29th
After the Repair Bill - The Hospital netted \$1033-
- ④ Strangely enough the Title was not signed off by the Hospital till Feb. 25th
- ⑤ Two questions come to mind after all this.
 - ① Why was it repaired - not sold as is
 - ② IT should have ^{been} up for Public Auction like the schools and Cities do and why does the Hosp. have a claim to the public sale of prop.

**CITY OF NEWBERG
CITY COUNCIL WORK SESSION
MONDAY, NOVEMBER 1, 1993
6:00 P.M.
HORSELESS CARRIAGE RESTAURANT**

THE CITY COUNCIL OF THE CITY OF NEWBERG WILL HOLD A WORK SESSION TO REVIEW THE NOVEMBER 1, 1993 COUNCIL AGENDA ITEMS. THE COUNCIL WILL NOT MAKE ANY DECISIONS ON THE AGENDA ITEMS AT THE WORK SESSION. THE WORK SESSION WILL BE HELD AT THE HORSELESS CARRIAGE RESTAURANT.

THE WORK SESSION WILL BE FOLLOWED BY THE CITY COUNCIL MEETING TO BE HELD AT THE LIBRARY AT 7:30 P.M.

DATED THIS 18TH DAY OF OCTOBER, 1993.

**DUANE R. COLE
CITY MANAGER**

\WSNOTE

**CITY OF NEWBERG
COUNCIL AGENDA
MONDAY, NOVEMBER 1, 1993
7:30 P.M.
NEWBERG PUBLIC LIBRARY**

I. CALL MEETING TO ORDER

II. ROLL CALL

III. CONSENT CALENDAR:

1. Proclamation declaring November 21-28, 1993 as National Bible Week.
2. **Resolution No. 93-1815** recognizing and appropriating funds in the General Fund and Library Gift and Memorial Fund and transferring and re-appropriating funds in the Sewer Replacement Fund.
3. **Resolution No. 93-1816** supporting the Traffic Safety Grant for a Radar Reader Board.
4. **Resolution No. 93-1817** Fire Department's "Call for Bid" for a Sport Utility Vehicle.
5. **Resolution No. 93-1818** authorizing the implementation of the Cost of Living Adjustment (COLA) as budgeted.
6. Appointment by Mayor of Budget Committee members.

IV. PUBLIC HEARING:

1. Crater Lane/School District annexation.
Annexation of a 17.9 acre parcel to allow development of one or two new schools. (File ANX-2-93)
Ordinance No. 93-2368

V. COMMITTEE RECOMMENDATIONS:

VI. CONTINUED BUSINESS:

1. Vacation of alley between First and Second Streets in Newberg behind Chehalem Valley Senior Citizen Center and Newberg Care Home.

Ordinance No. 93-2367 authorizing the vacation of City alley right-of-way between First Street and Second Streets; adjacent to tax lots 3220-BA-1800, 1900, 2000, 2100, 2200, 2300, 2500, 2601, 2700, 2800, 2900, 3000, 3100, 3200, 3300, 3400, 3401, 3500 and 3600.

VII. NEW BUSINESS:

1. Urban Growth Boundary Amendment-Schneider/Wynooski Street for 10 acres on the southeast side of Newberg with related plan text amendments addressing land supply.
2. Comprehensive Plan Amendment and Zone change from LDR/R-1 Low Density Residential to COM/C-2 Community Commercial (File CPA-2/Z-2-93) (Dairy Queen Comp Plan amendment.)
Ordinance No. 93-2369

VIII. REPORTS FROM OTHER AGENCIES AND CITY MANAGER

1. Report from Alan Hershey, Council of Government's Executive Director
RE: Study on Water Transport on the Willamette River.

IX. COMMUNICATIONS FROM THE FLOOR:

X. ADJOURNMENT TO NEXT MEETING

INDEX OF RESOLUTIONS OR ORDINANCES ON THIS AGENDA FOR ACTION:

RESOLUTIONS:

1. **Resolution No. 93-1815** recognizing and appropriating funds in the General Fund and Library Gift and Memorial Fund and transferring and re-appropriating funds in the Sewer Replacement Fund.
2. **Resolution No. 93-1816** supporting the Traffic Safety Grant for a Radar Reader Board.
3. **Resolution No. 93-1817** Fire Department's "Call for Bid" for a Sport Utility Vehicle.
4. **Resolution No. 93-1818** authorizing the implementation of the Cost of Living Adjustment (COLA) as budgeted.

ORDINANCES:

1. **Ordinance No. 93-2367** authorizing the vacation of City alley right-of-way between First Street and Second Streets; adjacent to tax lots 3220-BA-1800, 1900, 2000, 2100, 2200, 2300, 2500, 2601, 2700, 2800, 2900, 3000, 3100, 3200, 3300, 3400, 3401, 3500 and 3600.
2. **Ordinance No. 93-2368** authorizing the annexation of a 17.9 acre parcel to allow development of one or two new schools.
3. **Ordinance No. 93-2369** amending the Comprehensive Plan Amendment and Zone change from LDR/R-1 Low Density Residential to COM/C-2 Community Commercial

\AGENDA11.1

PROCLAMATION

A PROCLAMATION DECLARING NOVEMBER 21 TO 28, 1993 AS NATIONAL BIBLE WEEK.

WHEREAS, the Bible has been a constant source of inspiration and moral and spiritual guidance for peoples and nations throughout the centuries; and

WHEREAS, the Bible has been a particular beacon for Americans as evidenced in its profound effect on the attitudes, beliefs, ideas and principals contained in our Declaration of Independence and the Constitution of the United States; and

WHEREAS, the Bible has greatly influenced our nation's art, literature, music, laws and sense of charity; and

WHEREAS, in this time of financial distress, with its attendant plights of joblessness and homelessness, many Americans turn directly to the Bible for comfort and guidance for themselves and their families; and

WHEREAS, it becomes necessary to educate all Americans, but especially our youth, to the values that distinguish a humane and caring society; and

WHEREAS, for fifty-three years business and professional people of all faiths have banded together in the Laymen's National Bible Association to sponsor National Bible Week as a time to remind all Americans, whatever their faith, of the Bible's unique place in American history; and

WHEREAS, this annual emphasis has helped to strengthen spiritual awareness in the past throughout America by encouraging personal reading and study of the Bible;

THEREFORE, I, Donna Proctor, Mayor of the City of Newberg, do hereby proclaim November 21 to 28, 1993 as **NATIONAL BIBLE WEEK** in the City of Newberg. I urge all my fellow citizens to participate in its observance by reading the Bible and discovering its importance in the life and culture of our nation.

DATED this 1st day of November, 1993.

Donna Proctor, Mayor

REQUEST FOR COUNCIL ACTION

DATE SUBMITTED: October 22, 1993 X Resolution

DATE ACTION REQUESTED: November 1, 1993

SUBJECT: Fire Department's "Call for Bids" for a sport utility vehicle.

RECOMMENDATION: Approve Resolution No. 93-1817.

BACKGROUND: The memorandum of Fire Chief and documents are attached.

FISCAL IMPACT: \$19,764.47 which is in the Budget.



Terrence D. Mahr, City Attorney

III-4

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RESOLUTION NO. 93- 1815

A RESOLUTION RECOGNIZING AND APPROPRIATING FUNDS IN THE GENERAL FUND AND LIBRARY GIFT AND MEMORIAL FUND AND TRANSFERRING AND RE-APPROPRIATING FUNDS IN THE SEWER REPLACEMENT FUND

WHEREAS, the 1993-94 City Budget was adopted by Resolution No. 93-1783 adopted by the City Council on June 7, 1993; and

WHEREAS, the City has received grant funds from the Land Conservation and Development Department and Western States Information Network; and

WHEREAS, the City has received a memorial gift from Henrietta Aho for purchase of capital equipment; and

WHEREAS, the City has encumbered the purchase of a sewer TV truck and additional funds are necessary to be budgeted;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Newberg, as follows:

Section 1. The following amounts are recognized and appropriated in the 1993-94 Budget, adopted by Resolution No. 93-1783:

<u>REVENUE</u>		<u>APPROPRIATION</u>	
<u>General Fund</u>		<u>General Fund</u>	
LCDC Grants	\$11,750	Planning	\$11,750
WSIN	10,000	Police	10,000
Total	\$21,750	Total	\$21,750
<u>Library Gift & Memorial Fund</u>		<u>Library Gift & Memorial Fund</u>	
Donations	\$ 2,500	Library	\$ 2,500

Section 2. The following amount is transferred and re-appropriated as follows:

<u>FROM</u>		<u>TO</u>	
<u>Sewer Replacement Fund</u>		<u>Sewer Replacement Fund</u>	
Nondepartmental	\$(59,500)	Public Works	\$59,500

ADOPTED by the City Council of the City of Newberg, Oregon, this first day of November, 1993.

2011

Duane R. Cole, City Recorder

REQUEST FOR COUNCIL ACTION

DATE SUBMITTED: October 15, 1993

DATE ACTION REQUESTED: November 1, 1993

SUBJECT: Budget Resolution

RECOMMENDATION: Adopted the Resolution recognizing grant revenues received by the General Fund and a gift received by the Library and transferring funds in the Sewer Fund

BACKGROUND: The City has received the proceeds of three grants (two planning and one Police), a gift to the Library for the purchase of capital items (shelves, tables and chairs), and needs to transfer funds for an encumbered purchase of the sewer TV truck.

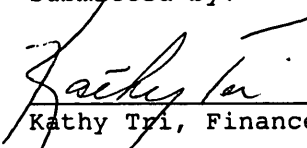
The staff anticipated that the grants the City received last fiscal year from LCDC would be closed out by the end of the fiscal year. Those planning grants were not completed by the end of the fiscal year, and grant money has been received to complete those projects (pedestrian access and urban reserve). The Police Department has received a grant of \$10,000 from Western States Information Network (WSIN) for a multi-jurisdictional investigation. These grants are being recognized in the General Fund. Finally, the Library received a memorial gift from Henrietta Aho and is asking the Council to recognize and appropriate this money in the Library Gift and Memorial Fund.

The last item is the sewer TV truck. This truck was budgeted and ordered last fiscal year but will not be delivered until later this fall. While the staff should have rebudgeted this capital purchase, it fell through the cracks. There are sufficient carryover funds (from the encumbrance) to pay for this truck. Therefore we are asking for a transfer from reserves to cover the purchase. The Finance Committee has approved this request.



Duane R. Cole, City Manager

Submitted by:



Kathy Tri, Finance Director

\\council.nov

III-2

REQUEST FOR COUNCIL ACTION

DATE SUBMITTED: October 18, 1993

X RESOLUTION

DATE ACTION REQUESTED: November 1, 1993

SUBJECT: Traffic Safety Grant for Radar Reader Board

RECOMMENDATION: The City Manager and Police Chief recommend that the Council approve Resolution No. 93-1816 supporting a Traffic Safety Grant to purchase a radar reader board.

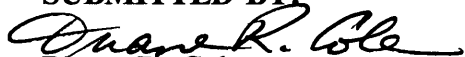
COMMITTEE RECOMMENDATION: The Traffic Safety Committee recommends that the Council approve Resolution No. 93-1816 supporting the purchase a radar reader board.

BACKGROUND: Traffic enforcement is a major part of the City of Newberg's efforts to protect property and life in the community. A radar reader board serves as a valuable reminder to motorists to slow down and watch their speed. In the past, the City has shared a radar reader board with the City of Tualatin and this relationship, while successful, does not provide the level of service that the City desires with the radar reader board.

The total cost of a radar reader board is \$9,715. The assumption in this grant is that the City can come up with \$7,215 in matching funds. These matching funds would need to be in cash. The matching funds should be available through donations and possible the use of some City funds to supplement the cash need for this grant.

FISCAL IMPACT: Seeking this grant may require the addition of some funds in the Police Department budget in order to complete the purchase.

SUBMITTED BY:



Duane R. Cole

City Manager

\\rcats.grt

III-3

RESOLUTION NO. 93-1816

A RESOLUTION SUPPORTING A TRAFFIC SAFETY GRANT
FOR A RADAR READER BOARD

- WHEREAS, on an average weekday the City of Newberg experiences traffic flows of approximately 50,000 cars on Highway 99W; and,
- WHEREAS, annually the Newberg Police Department issues approximately 1,300 citations and warnings for violating speed related crimes; and,
- WHEREAS, even with the issuance of approximately 1,300 citations and warnings for violating speed related crimes, speeding continues to be a serious problem; and,
- WHEREAS, the City Council of Newberg, Oregon believe the purchase of a Traffic Monitor Trailer, containing a radar reader board and traffic analysis equipment, would prove a valuable tool in combating the speeding problem; and,
- WHEREAS, twenty-five hundred dollar (\$2,500) traffic safety grants are available through the Oregon Department of Transportation,
- NOW THEREFORE, the Newberg City Council supports the Traffic Safety Commissions grant request for twenty-five hundred dollars (\$2,500) to partially pay for the purchase of a Traffic Monitor Trailer.

Passed this ____ day of November, 1993.

Duane Cole
City Recorder

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1994—GUIDELINES FOR PROPOSALS
COMMUNITY SMALL PROJECTS PROGRAM

PURPOSE:

To provide a small awards/*seed money* to help local traffic safety commissions (or committees) improve their effectiveness and solve local safety problems.

ELIGIBILITY REQUIREMENTS;

Applicants must be traffic safety commissions which have been established in a local jurisdiction (by resolution or ordinance). Jurisdictions which are concurrent recipients of a regular traffic safety grant must complete an Addendum form, available from Transportation Safety Section.

SIZE OF AWARDS:

Up to \$2,500 each. Total funding available for all grants: up to \$25,000.

ELIGIBLE USES:

The eligible uses have been left flexible to allow for response to local needs. **Use of funds must have a direct correlation to helping promote the effectiveness and/or goals of the local traffic safety commission.**

Examples of the types of assistance that may be requested: postage, office supplies, part-time staff, special training, and specific project costs including small equipment purchase consistent with program objectives. Engineering projects are not eligible. Examples of projects based on activities funded in the past include:

1. Promoting bicycle safety through a bicycle helmet and education effort that included subsidized bicycle helmets, bicycle rodeos, recognition/awards, and strong community involvement.
2. Promoting bicycle, pedestrian, and driver safety through educational videos. The videos were produced in the community, using local residents, street locations and actual safety problems.
3. Promoting compliance with speed laws and educating citizens on safe speeds through the use of a display board and radar operated by trained citizens and officers. One effort also included a speed watch program where citizens recorded drivers' license plate numbers and letters were sent to drivers informing them of their observed speed, and requesting future compliance.
4. Promoting traffic safety through the use of a traffic counter at locations identified by citizens and through the placement of *Buckle-Up Oregon* signs. The counter was used to identify high-risk locations and high-volume locations for sign placement.
5. Creating surveys, town halls and collecting data on crashes, citations, driver population and traffic volumes. Use the information to identify local traffic safety problems and construct a local Traffic Safety Plan. The plan included projects to be carried out by citizens, schools, non-profit groups and local government agencies.

TIMELINE:

Submissions of proposals by November 15, 1993. Awards by January 1, 1994.
All projects shall be completed by September 30, 1994.

ODOT • transportation safety section

APPLICATION:

Traffic safety commissions should submit the following information, not to exceed three typewritten pages (not including attachments):

1. Description of Project (Describe how the project reduces traffic accidents and/or injuries, or how it addresses an identified problem in your community. How is it innovative? How does it address rural populations and Transportation safety issues?)
2. Description of Traffic Safety Commission (Explain who is on it, how often it meets, what its goals and activities are; include a copy of the ordinance or resolution establishing the commission.)
3. Significance of Project /Support to the Local Traffic Safety Commission (Describe the role of the commission in the proposed project.)
4. Anticipated Costs and/or Budget (Include a description of other sources of support for project, both financial and in-kind.)
5. Indication of Governing Body's Support for Application (Attach a letter of support, or a resolution signed by the governing body or its authorized representative.)
7. Ongoing Efforts Directly Linked to Project Award (Describe any anticipated traffic safety activities or impact after the project ends.)
8. Evaluation: Describe the information you will collect to show whether the project was successful.

Applications which do not address all of the above topics may be disqualified from consideration.

SUBMIT PROPOSALS TO: KC Humphrey, Transportation Safety Section, ODOT
400 State Library Building, Salem OR 97310-1073

SELECTION COMMITTEE:

The selection committee will consist of four to five individuals, with representatives from a local traffic safety program (not applying for a grant), the ODOT Transportation Safety Section, the Oregon Transportation Safety Committee, and other traffic safety-related agencies. Helen Liere of the Community Traffic Safety Program will coordinate the selection process.

CRITERIA FOR SELECTION:

The selection criteria and their relative importance are as follows:

1. Project's impact on reducing traffic accidents/injuries—20%
2. Innovative problem solution or use of resources—15%
3. Project's focus on rural populations or issues—10%
4. Project's significance to the work of the local traffic safety commission—20%
5. Amount of other support for the project—20%
6. Project's lasting impact and related ongoing efforts—15%

AWARD ADMINISTRATION:

Administrative requirements will be kept to a minimum. Funds will be distributed on a cost-reimbursement basis. Monthly progress reports (not to exceed one page) and a final financial report are required.

QUESTIONS:	Call Helen Liere, Community Traffic Safety Program at 503-656-7207, or KC Humphrey, Transportation Safety Section (ODOT), at 503-378-3669 or in Oregon toll free, 1-800-922-2022.
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III-3

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**City of Newberg
1994 Community Small Projects Program
TRAFFIC SAFETY GRANT REQUEST**

III-3

8

**1994 Community Small Projects Program
TRAFFIC SAFETY GRANT REQUEST**

DESCRIPTION OF PROJECT:

The Newberg Traffic Safety Commission is requesting funding for a traffic monitor trailer. The Traffic Monitor Trailer contains a radar reader board, a sign indicating the speed limit for the area, and a traffic counter capable of counting vehicles and recording speeds by time of day. The purpose of this program is two fold. First, to educate motorists of their speed as it relates to the posted speeds of our community's roadways. We believe the heightened awareness of the speed laws will reduce traffic accidents. Secondly, to provide a means by which the police department may more effectively schedule its traffic enforcement officers.

If awarded this grant, the Traffic Safety Commission, along with the Newberg Police Department, would use the following methods to enhance the effectiveness of the radar reader board in educating our community: by providing public service articles to local newspapers, to cable television, to local radio stations, and in the city water bills.

A secondary, but perhaps equally important purpose, is obtaining the ability to identify locations and times when violations are most often occurring. The Newberg Police Department has two motorcycle officers assigned to work traffic. By combining a speed reader board with tracking equipment capable of recording vehicle speeds and time of day, we will be able to more effectively schedule these officers. With this information, traffic officers can concentrate their efforts at times and places where they are most needed and will have the greatest impact on violators.

DESCRIPTION OF TRAFFIC SAFETY COMMISSION:

The Traffic Safety Commission is comprised of nine (9) members of the public, with a representative of the police and planning departments serving as ex-official members. The meetings must be held at least quarterly, but traditionally have been held monthly. The Traffic Safety Commission is tasked with promoting traffic safety through investigation, study, and analysis of the traffic safety program; conducting educational efforts among the public on matters of traffic safety; considering all traffic safety programs which are referred to them for recommendation by the City Council and to make reports to the City Council on all matters of traffic safety and traffic safety programs. The Traffic Safety Commission also holds hearings and makes decisions on the location of parking, crosswalks, safety zones, traffic lanes, truck routes, and traffic control signs. (Refer to enclosed city ordinance.)

SIGNIFICANCE OF PROJECT/SUPPORT OF TRAFFIC SAFETY COMMISSION:

The significance of the radar reader board to the Traffic Safety Commission will be one of providing a needed tool to analyze the seriousness and validity of complaints about speed and requests for lower speed limits. It will also provide an invaluable tool in the Traffic Safety Commissions mission of providing education to the community on traffic safety issues.

The City of Newberg experiences high traffic flows through town each day via Highway 99W. Highway 99W is used extensively for commuting to and from the Portland Metro area. The traffic flow on Highway 99W is estimated at approximately 50,000 cars on an average weekday. To complicate our communities problem, a recently planned bypass for Highway 99W has been tabled due to state funding shortages.

The City of Newberg annually issues approximately 1,300 citations and warnings for violating speed related statutes. Even with these citations and warnings, Newberg police receive a high number of complaints from citizens regarding speeding motorists. Through the use of a radar reader board we hope to educate motorists, reduce traffic accidents, and better utilize our traffic enforcement officers.

ANTICIPATED COSTS / BUDGET:

The anticipated cost of a mobile traffic monitor trailer, which contains both the radar reader board and traffic analysis equipment, would be approximately nine thousand, seven hundred, fifteen dollars (\$9,715). In addition to the twenty-five hundred dollar (\$2,500) grant from the Oregon Department of Transportation, the City of Newberg would budget the balance of funds needed in its 1994-95 fiscal year budget.

\$2,500	Grant
<u>\$7,215</u>	Cash Matching Funds
\$9,715	

INDICATION OF GOVERNING BODY'S SUPPORT FOR APPLICATION:

(See enclosed Newberg Resolution No. ____.)


ONGOING EFFORTS LINKED TO PROJECT:

The radar reader board and traffic analysis program is one which provides continued effectiveness for the life of the equipment. Anticipated life of this equipment is estimated in excess of ten (10) years.

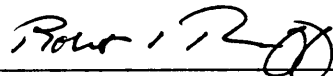
EVALUATION:

The effectiveness of the radar reader board and traffic analysis program would be evaluated by a reduction in the number of speeding complaints received and an anticipated reduction in traffic accidents.

Respectfully submitted this 2nd day of November 1993.



Doris Brandt, Chairperson
Newberg Traffic Safety Commission



Robert I. Tardiff, Chief of Police
Newberg Police Department

RESOLUTION NO. 93-1817

A RESOLUTION OF THE CITY COUNCIL OF NEWBERG SITTING AS THE CONTRACT REVIEW BOARD AND THE NEWBERG CITY COUNCIL APPROVING THE CLARIFICATION OF THE BID FOR A VEHICLE FOR THE NEWBERG FIRE DEPARTMENT AND APPROVING THE AWARD OF THE LOW BID FOR THE VEHICLE.

RECITALS:

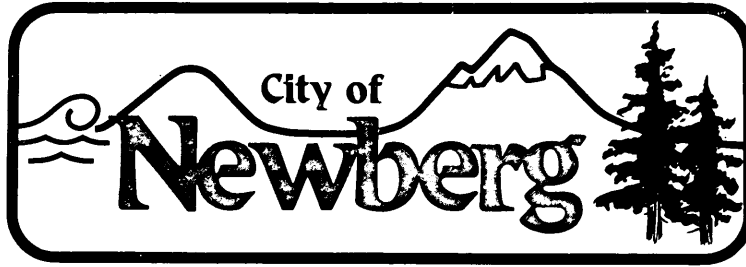
1. The Newberg Fire Department issued requests for bids concerning the purchase of a new vehicle for the use of the Fire Department.
2. Bids were received on October 19, 1993.
3. In accordance with the bids, the Fire Chief contacted a bidder which indicated that a demonstration vehicle might be available.
4. In the process of that contact, the bidder clarified the bid with the fact that there was a \$1,000.00 rebate available to the City under the bidder's bid.

NOW, THEREFORE, be it resolved by the City Council of the City of Newberg, as follows:

1. The City Council sitting as the Contract Review Board determined that, under the facts that the low bid is the Loren Berg Chevrolet bid, because the City can take into consideration the \$1,000.00 rebate which was in effect prior to the bid being entered and was not in addition to the bid but was a clarification of the bid.
2. The City Council approves the award of the low bid to Loren Berg Chevrolet because it is the low bid when the \$1,000.00 rebate is considered.
3. The Contract Review Board determines, by allowing the clarification of the bid, that public interest would best be served, favoritism would not be encouraged and competition undiminished because the rebate allows the public to save additional money and the rebate is not something that was specifically offered after the bids were opened but were in effect at the time the bids were submitted.
4. The bid total with the sheet showing the rebate is attached to this resolution and by this reference incorporated as facts that are considered in making the determination.

ADOPTED this ___ day of November, 1993.

Duane R. Cole, City Recorder



MEMORANDUM

October 22, 1993

TO: DUANE COLE, CITY MANAGER
FROM: MICHAEL B. SHERMAN, FIRE CHIEF *MBS*
SUBJECT: FIRE DEPARTMENT COMMAND VEHICLE BID

On October 19, 1993, the Fire Department received and opened 3 bids in accordance with the Fire Department's "Call for Bids" for a Sport Utility Vehicle.

During the opening of Bids, the Loren Berg Chevrolet bid was \$ 20,764.47. However, rebate information was not included in the bid packet, but was provided on request during the clarification of bids on October 21, 1993. This makes the net price for Loren Berg Chevrolet after rebate to be \$ 19,764.47.

After thoroughly reviewing all bids, the Loren Berg Chevrolet bid was the lowest net bid. The Fire Department recommends the awarding of the bid to Loren Berg Chevrolet for a net price of \$ 19,764.47, for the Fire Department Command Vehicle.

Attached are the bid pricing sheets, a copy of September 23, 1993, General Motors rebate information and a memo provided by Loren Berg Chevrolet.

If you have any other questions or concerns, please contact me.



Home of Old Fashioned Festival

III-4



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BID PRICING PAGE

A. VENDOR'S BASE BID: \$ 21,346

Receipt of this bid does not constitute acceptance. Acceptance or rejection of this bid and the Vendor's Base Bid amount will be determined after a thorough review to confirm all bid requirements have been met.

B. OPTIONS:

1. Option #1 _____ \$ _____

2. Option #2 _____ \$ _____

C. ALTERNATE BID:

1. Description _____ \$ _____

2. Description _____ \$ _____

ANY VARIANCES FROM BID SPECS FOR ANY ALTERNATIVE BIDS SHALL BE NOTED ON AN ATTACHED SHEET. The vendor certifies that this bid and the prices contained herein shall remain effective for forty-five (45) days after the date of the bid opening.

Signed: *Greg Wohl*

-* Title: SALES MANAGER

P Vendor Name: CHUCK COLVIN AUTO CENTER

L Address: 1925 N 99W / PO BOX 59

E MCMINNVILLE , OR 97128

T _____

Y Telephone: (503) 472-6124

P Date: 10-18-93

-* _____

By the signature of its authorized representative above, the vendor acknowledges acceptance of and its intention to abide by and be bound by the terms contained in the Cover Memorandum, the Instructions Concerning Bid Submission, all Specifications, and any Addenda included in the Call for Bids. Any exceptions have been clearly set forth in writing by an authorized representative and attached.

BID PRICING PAGE

A. VENDOR'S BASE BID: \$ 19,852⁻

Receipt of this bid does not constitute acceptance. Acceptance or rejection of this bid and the Vendor's Base Bid amount will be determined after a thorough review to confirm all bid requirements have been met.

B. OPTIONS:

1. Option #1 _____ \$ _____

2. Option #2 _____ \$ _____

C. ALTERNATE BID:

1. Description _____ \$ _____

2. Description _____ \$ _____

ANY VARIANCES FROM BID SPECS FOR ANY ALTERNATIVE BIDS SHALL BE NOTED ON AN ATTACHED SHEET. The vendor certifies that this bid and the prices contained herein shall remain effective for forty-five (45) days after the date of the bid opening.

Signed: Greg Wohl

-* Title: SALES MANAGER

P Vendor Name: CHUCK COLVIN AUTO CENTER

L Address: 1925 N 99W / PO BOX 59

E MCMINNVILLE OR 97128

S _____

T Telephone: (503) 472-6124

Y _____

P Date: 10-18-93

By the signature of its authorized representative above, the vendor acknowledges acceptance of and its intention to abide by and be bound by the terms contained in the Cover Memorandum, the Instructions Concerning Bid Submission, all Specifications, and any Addenda included in the Call for Bids. Any exceptions have been clearly set forth in writing by an authorized representative and attached.

BID PRICING PAGE

A. VENDOR'S BASE BID: \$ 20,764.47

Receipt of this bid does not constitute acceptance. Acceptance or rejection of this bid and the Vendor's Base Bid amount will be determined after a thorough review to confirm all bid requirements have been met.

B. OPTIONS:

1. Option #1 _____ \$ _____

2. Option #2 _____ \$ _____

C. ALTERNATE BID:

1. Description _____ \$ _____

2. Description _____ \$ _____

ANY VARIANCES FROM BID SPECS FOR ANY ALTERNATIVE BIDS SHALL BE NOTED ON AN ATTACHED SHEET. The vendor certifies that this bid and the prices contained herein shall remain effective for forty-five (45) days after the date of the bid opening.

Signed: 

-* Title: Sales Manager

P Vendor Name: Loren Berg Chevrolet-Oldsmobile-Geo

L Address: 411 E. First Street PO Box 49

E Newberg OR 97132

S _____

E Telephone: (503)538-3161

T Date: October 19, 1993

Y _____

P _____

E _____

-* _____

By the signature of its authorized representative above, the vendor acknowledges acceptance of and its intention to abide by and be bound by the terms contained in the Cover Memorandum, the Instructions Concerning Bid Submission, all Specifications, and any Addenda included in the Call for Bids. Any exceptions have been clearly set forth in writing by an authorized representative and attached.

"SET YOUR SIGHTS '94"
TRUCK INCENTIVES
SEPTEMBER 23, 1993 - JANUARY 23, 1994

----1993 MODELS----		-----1994 MODELS*-----	
	CONSUMER CASH OR APR	CONSUMER/APR	CALIF DLK CASH
S-10	\$750	NONE	NONE
S-BLAZER (2DR)	\$1500	\$1000	\$1000
S-BLAZER (4DR)	\$1000	\$1000	\$1000
TRACKER	\$1000	\$1000 (OR \$750 + ODYSSEY SOUND SYSTEM#)	-
LUMINA MINIVAN	\$1000	\$500	\$500
ASTRO (REG)	\$1000	\$500	\$500
ASTRO (YF7)	\$1000	\$500	\$500
G-VAN (REG)**	\$500	\$500	\$500
G-VAN (YF7)**	\$1000	\$500	\$500
**(EXCL. 32 MODELS)			
BLAZER	NONE	NONE	NONE
SUBURBAN	NONE	NONE	NONE
C/K	NONE	NONE	NONE

NOTE: DEALER CASH IN LIEU OF CONSUMER CASH OR APR ON 1994 VEHICLES (EXCEPT GEO) FOR DELIVERIES TO CUSTOMERS WHOSE PRIMARY USE AND REGISTRATION ARE IN THE STATE OF CALIFORNIA

GMAC APR ALTERNATIVE (UP TO 48 MOS): 5.9%
 APR ALTERNATIVE APPLIES ONLY TO VEHICLES WITH NATIONAL CONSUMER INCENTIVES

#REFER PROGRAM #94-35

#EXCLUDES THE FOLLOWING GM 1994 MODEL/OPTION COMBINATIONS:

MODEL	W/OPTION
CC10/03	R&L
CC10903	R&L
CS10603	R&L
CM11006	R&L
1UM06	R&L

ADDITIONALLY:

- S-BLAZER 2DR MODELS ORDERED BEFORE OCTOBER 31, 1993 ARE ELIGIBLE FOR \$500 DEALER CASH (REFER #93-53)

SET YOUR SIGHTS (94-29)

TCL-4

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Loren Berg Chevrolet Oldsmobile - Geo



October 22, 1993

CITY OF NEWBERG FIRE DEPARTMENT
414 E SECOND ST
NEWBERG OR 97132

To Whom It May Concern:

This letter is to clarify our bid price on the 1994 Sport Utility Vehicle for the Newberg Fire Department.

Our original bid price of \$20,764.47 did not include the \$1000.00 rebate available to the city. We thought that the rebate was included on the specification sheet, however, to our dismay it was not. This rebate is available from September 23, 1993 to January 23, 1994.

Our net bid price after rebate is \$19,764.47.

We apologize for any misunderstanding this may have caused. We hope that you will consider this new information.

Sincerely,

Mark Ellingford
Sales Manager

ME/11

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REQUEST FOR COUNCIL ACTION

DATE SUBMITTED: October 22, 1993 X Resolution

DATE ACTION REQUESTED: November 1, 1993

SUBJECT: Cost of Living Adjustment (COLA) for City Manager and City Attorney.

RECOMMENDATION:

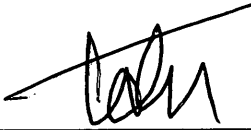
The COLA has been budgeted and approved by the Budget Committee and the City Council. This action implements this portion of the Budget. The COLA was 3.2% and effective on July 1, 1993.

BACKGROUND:

The COLA was given to all employees of the City. It is in the Budget.

FISCAL IMPACT:

Same as budgeted.



Terrence D. Mahr, City Attorney

III-5

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RESOLUTION NO. 93-1818

A RESOLUTION OF THE CITY COUNCIL OF NEWBERG AUTHORIZING THE IMPLEMENTATION OF THE COST OF LIVING ADJUSTMENT AS BUDGETED FOR CITY EMPLOYEES FOR THE CITY MANAGER AND THE CITY ATTORNEY.

RECITALS:

1. As of July 1, 1993 City employees were given a Cost of Living Adjustment (COLA).
2. The City Manager and the City Attorney are employees of the City of Newberg.
3. The COLA increase has been approved by the Budget Committee for the employees of the City.

NOW, THEREFORE, be it resolved by the City Council of the City of Newberg, as follows:

1. The COLA shall be implemented for the City Attorney and the City Manager positions in accordance with the COLA provided to all other City employees as of July 1, 1993.
2. The Finance Department is directed to adjust the employees compensation in accordance with the COLA.
3. The Mayor is authorized to execute the necessary documents.

ADOPTED this __ day of November, 1993.

Duane R. Cole, City Recorder

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SPECIAL COMMITTEES
BUDGET COMMITTEE MEMBERSHIP LIST
01/01/93

David P. James 1011 E. Fulton Newberg, Oregon 97132 (503) 538-1226 (H) (503) 639-8860 (W) or 620-8851 (PD)	Term: 3 Years Appointed: 01/91 Expires: 12/93
Brian Love 815 S. Chehalem Drive Newberg, Oregon 97132 (503) 538-8548 (H) (503) 538-7454 (W)	Term: 3 Years Appointed: 01/91 Expires: 12/93
Melinda Newland 3006 Crestview Drive Newberg, Oregon 97132 (503) 538-4965 (H) (503) 620-2185 (W)	Term: 3 Years Appointed: 12/91 Expires: 12/94
Tracy Pinder 604 Dolash Ct. Newberg, OR 97132 (503) 538-5372 (H)	Term: 3 Years Appointed: 01/92 Expires: 12/95
Barabara Secor 1225 Pennington Dr. N. Newberg, OR 97132 (503) 538-6870 (H) (503) 682-9138 (W)	Term: 3 Years Appointed: 01/93 Expires: 12/95
Andrew Poole 1113 E. Fourth Newberg, OR 97132 (503) 538-0198 (H)	Term: 3 Years Appointed: 05/93 Expires: 05/96

F:\SHARED\BUDGET.93

Boards\Budget.93

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CITY OF NEWBERG
APPLICATION
FOR POSITION ON
COMMITTEE COMMISSION-BOARD

Committee, Commission or Board Applying For: Budget

Name: BERT C. PENDOCK Home Phone: 538-1206

Address: 320 PEACOCK CT Work Phone: 624-7570
NEWBERG, OREG. 97132

Are you a registered voter? YES

Do you live within the city limits? YES

How long have you lived at the above address? 6 YRS

Previous Address: 115 E NORTH How long? 6 YRS

Occupation: SPEC. SVC. TECH Employer: G.T.C.

Spouse's Name: KATHY

Spouse's Occupation: Bus. Svc. Rep Employer: G.T.C.

Date: NOV. 18, 1992

Bert C. Pendock
(Signed)

Why do you want this position? (Continue on back or separate sheet if needed.) WAS PREVIOUSLY ON BUDGET COMM.

~~SERVED~~ SERVED AS PRESIDENT 1 YRS

I WANT TO SEE THE CITY GO FORWARD IN A POSITIVE WAY.

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REQUEST FOR COUNCIL ACTION

DATE SUBMITTED: October 22, 1993

 MOTION

 RESOLUTION

DATE ACTION REQUESTED: November 1, 1993

 X ORDINANCE

 INFORMATION

SUBJECT: Annexation of a 17.9 acre parcel to allow development of one or two new schools. (File ANX-2-93).

RECOMMENDATION: Adopt the ordinance based on the criteria, facts and conclusionary findings which are attached. Required conditions have been met to the satisfaction of the Development Director.

BACKGROUND:

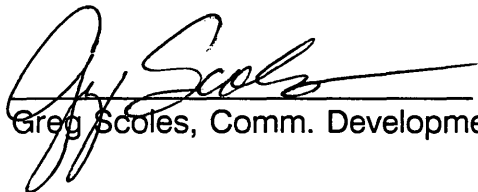
On October 21, 1993 the Planning Commission held a hearing to consider annexation of a 17.9 acre site west of Foothills Drive and north of Crater Lane. The Planning Commission, on a 5-3 vote, recommended approval of the annexation to the City and withdrawal of the site from the Newberg Rural Fire Protection District. Conditions, in the form of waivers of remonstrance to future street and utility improvements are required to be executed by the applicant prior to the effective date of the ordinance.


The Planning Commission also recommended that the site be zoned R-1. Schools are permitted uses in this zone.

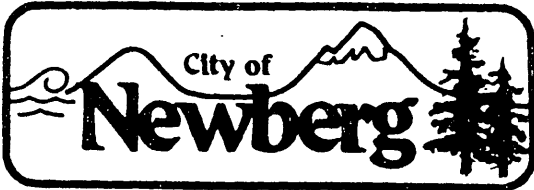
COST: None

ATTACHMENTS:

- A. Planning Commission Minutes
- B. Application
- C. Ordinance with Exhibit A (Findings of Fact) and Exhibit B (Legal Description)


Greg Scoles, Comm. Development Director


Duane Cole, City Manager



414 E. First St.

Newberg, Oregon 97132

APPLICATION FOR:
 _____ ZONE CHANGE
 _____ PLAN AMENDMENT
X ANNEXATION
 FILE: ANX-2-93
 DATE: 8-31-93
 FEE: N/A
 RECEIPT NO: _____

APPLICANT: NEWBERG SCHOOL DISTRICT 29 JT PHONE: 538-8361
 ADDRESS: 714 East 6th Street
 OWNER(S): _____ PHONE: _____
 (If different from above)
 ADDRESS: _____
 ENGINEER SURVEYOR: R.W. Mursell & Associates PHONE: 538-2955
 ADDRESS: P.O. Box 451 Newberg, OR 97132
 OTHER PROFESSIONAL: _____ PHONE: _____
 ADDRESS: _____

GENERAL INFORMATION:

LOCATION: See legal description attached.
 TAX LOT NO: 3207-1000
 CURRENT ZONE: AF10 PROPOSED ZONE: R-1
 CURRENT PLAN DESIGNATION: AFSH PROPOSED PLAN DESIGNATION: LDR
 CURRENT USE/STRUCTURES: Hay Field
 NUMBER OF EXISTING DWELLING UNITS: N/A POPULATION (ANNEXATION REQUESTS): 0
 PROPOSED USE/IMPROVEMENTS: Public School
 TOPOGRAPHY: Gently sloping - S.W.
 SURROUNDING USES: NORTH: Farm/Orchard SOUTH: Residential/Orchard
 EAST: REsidential WEST: Farm
 SQUARE FOOTAGE OF SITE: _____ ACREAGE: M/L 18
 IDENTIFY ROAD ACCESS: Foothills Drive North Chehalem, Crater Lane

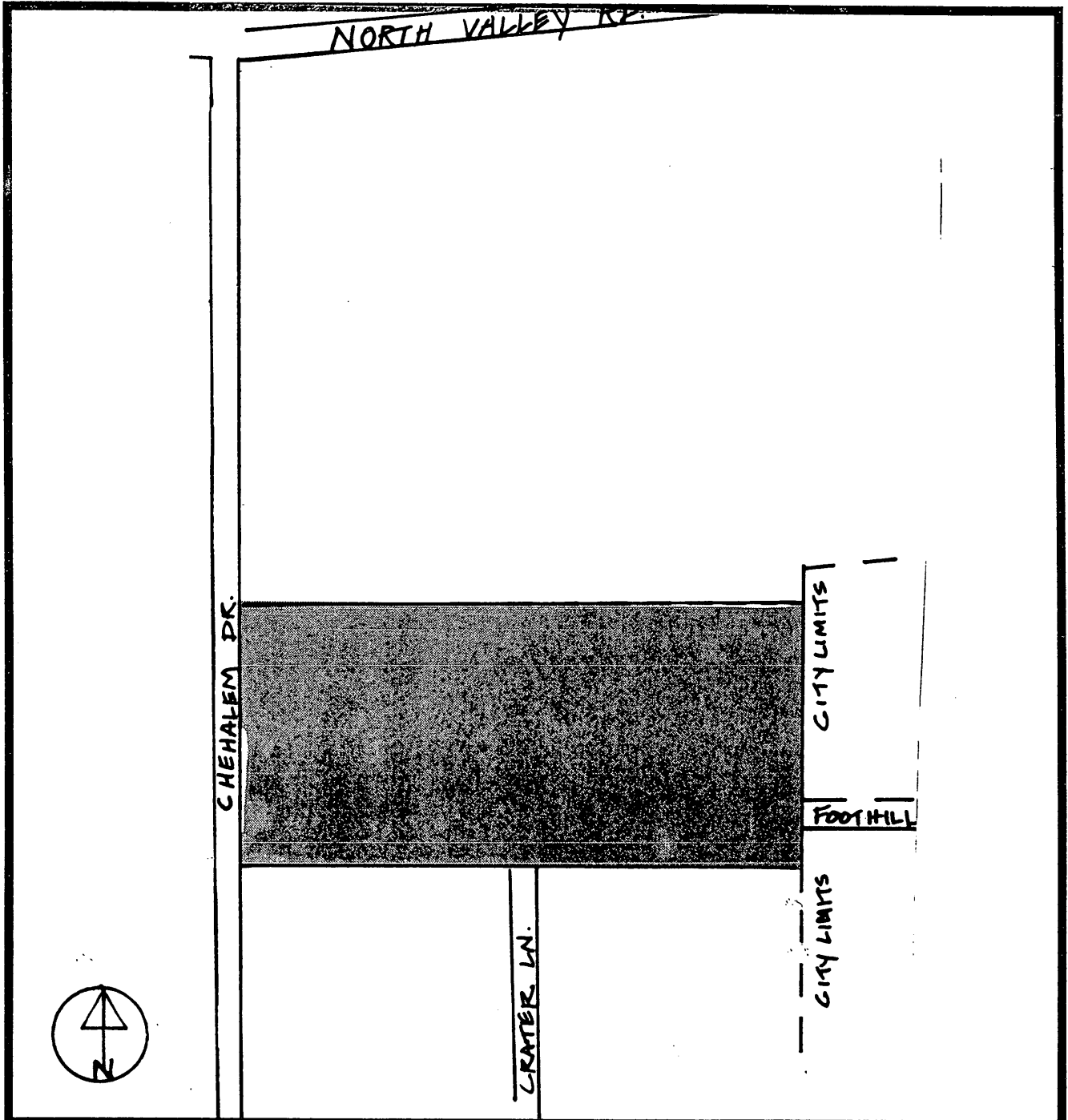
COMPREHENSIVE PLAN AMENDMENT/ZONE CHANGE CRITERIA:

On an attached sheet of paper identify how your request complies with the following criteria:

1. The proposed change is consistent with and promotes the objectives of the Comprehensive Plan and of the Zoning Ordinance of the City. (Identify specific goal and policy statements contained within the Comprehensive Plan which apply to your request.)
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.

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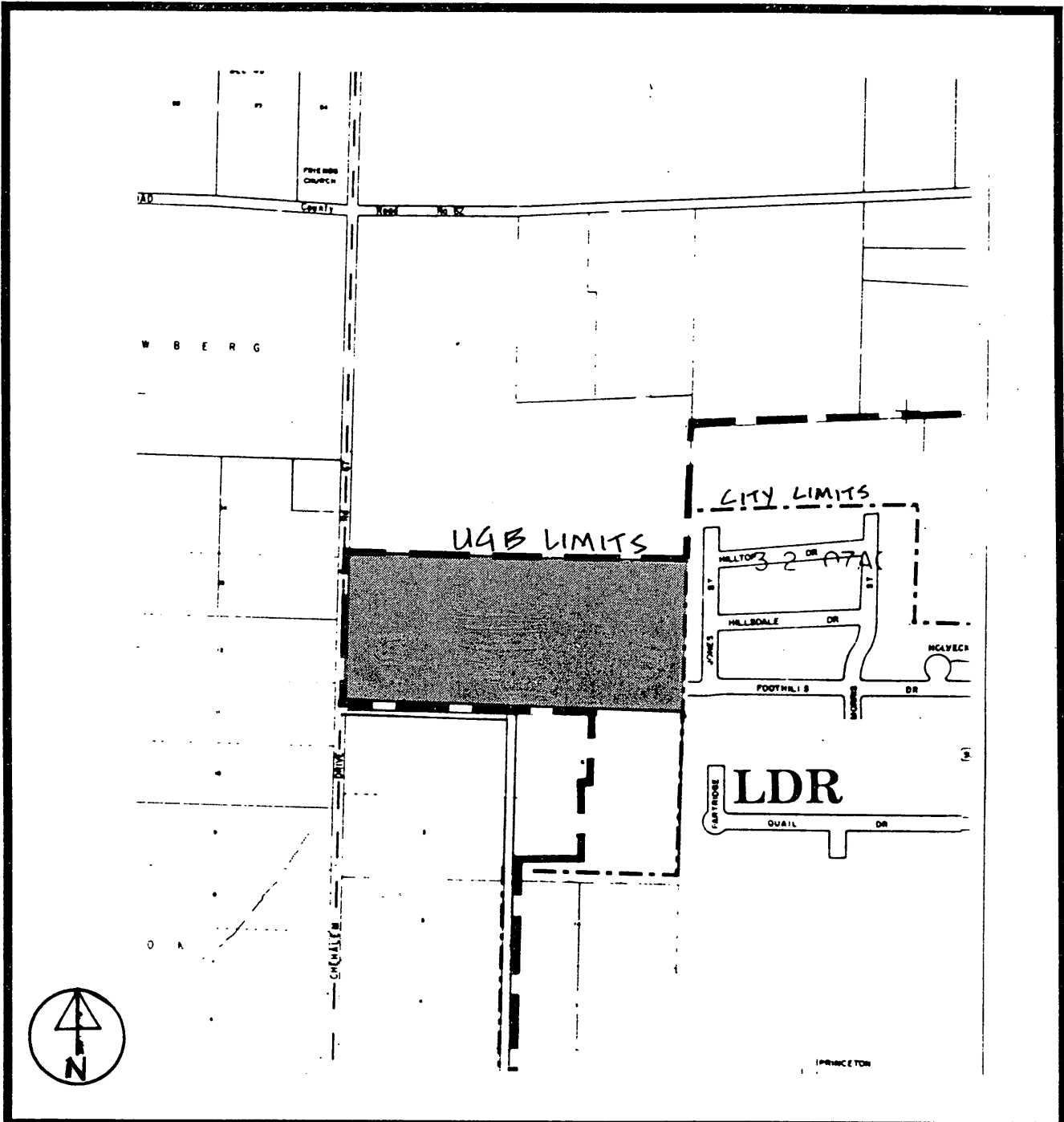


Description:
 17.9 Acre Annexation

File: ANX-2-93
Date: 10-21-93

SITE MAP
EXHIBIT 1

Tax Lot: 3207-1000
 Location: N. of Crater Lane, between Chehalem Dr. and Foothills Dr.
 Application By:
 Newberg School District



Description:
 17.9 Acre Annexation

File: ANX-2-93
Date: 10-21-93

**COMPREHENSIVE PLAN
 MAP**

EXHIBIT 2

Tax Lot: 3207-1000
Location: N. of Crater Lane, between Chehalem Dr. and Foothills Dr.
Application By:
 Newberg School District

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ORDINANCE NO. 93-2368

AN ORDINANCE DECLARING THAT CERTAIN TERRITORY BE ANNEXED INTO THE CITY OF NEWBERG AND WITHDRAWN FROM THE NEWBERG RURAL FIRE PROTECTION DISTRICT TOGETHER WITH A ZONE CHANGE FROM A COUNTY ZONING DESIGNATION TO A CITY R-1 ZONING DESIGNATION. THE SITE IS LOCATED AT THE EAST END OF FOOTHILLS DRIVE.

WHEREAS, A notice of this proposed annexation/zone change and withdrawal from the Newberg Rural Fire Protection District was sent to the owner of record as identified in Yamhill County Assessor's Office, and all adjoining property owners within a distance of 250 feet; and

WHEREAS, Notice of this action was placed as a public notice within the Newberg Graphic Newspaper and was posted on or near the subject property in compliance with state statutes; and

WHEREAS, Requirements of the City of Newberg Comprehensive Plan and Ordinance No. 2012 regarding annexations have been met; and

WHEREAS, The Community Development Director, in his staff memorandum to the Planning Commission at their October 21st meeting, did recommend that the territory be annexed into the City with conditions to be completed prior to Council approval; and

WHEREAS, On October 21st, the Newberg Planning Commission held a public hearing to consider the land use issues involving the annexation of said territory and recommends that said territory be annexed, with conditions to be completed prior to Council approval, based upon the findings of fact which are attached hereto as Exhibit A; and

WHEREAS, On November 1st at the hour of 7:30 PM in the Newberg Public Library Meeting Room, which was heretofore set as the time and place for a public hearing, and the City Council, through the Recorder of the City, did cause notice of this hearing to be published in accordance with ORS 222.120 and in accordance with Ordinance No. 2012 of the City of Newberg, and the hearing was held;

NOW, THEREFORE, THE CITY OF NEWBERG ORDAINS AS FOLLOWS:

Section 1. The City Council adopts the findings of fact which are attached hereto as Exhibit A and incorporated herein by reference.

Section 2. It is hereby ordered and declared that the property described in Exhibit B is annexed and withdrawn from the Newberg Rural Fire Protection District.

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The annexation is subject to the following conditions which have been completed to the satisfaction of the Community Development Director:

- A. A waiver of remonstrance for street improvements to Chehalem Drive, Main Street, Foothills Drive and Crater Lane has been signed by the applicant.
- B. A waiver of remonstrance to participate in a sewer system Local Improvement District to construct a pump system and gravity sewer has been signed by the applicant.

Section 3. The territory described in Exhibit B is hereby changed from a County zoning designation to a City of Newberg R-1 zoning designation. Section 900 of the Newberg Zoning Ordinance No. 1968 entitled "Newberg, Oregon Zoning Map" shall be amended to indicate this change.

Section 4. The Recorder of the City of Newberg is hereby authorized and directed to make and submit to the Secretary of State, the Department of Revenue, the Yamhill County Elections Officer, and the Assessor of Yamhill County, a certified copy of the following documents:

- A. A copy of this ordinance.
- B. A map identifying the location of said territory.

PASSED by the City Council of the City of Newberg this 1st day of November 1993, by the following votes:

AYES:

NAYS:

ABSTAIN:

Duane Cole - City Manager

APPROVED by the Mayor this ___ day of _____, 19 .

Donna Proctor - Mayor

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**EXHIBIT A
FINDINGS OF FACT**

HEARING DATE: Planning Commission - October 21, 1993
City Council - November 1, 1993

APPLICANT: Newberg School District

CONTACT: Paul Frankenberger

REQUEST: Annexation of a 17.9 acre parcel to allow development of a new elementary and middle school.

LOCATION: North of Crater Lane, between Chehalem Drive and Foothills Dr.

TAX LOT: 3207-1000

FILE NO: ANX-2-93

ZONE: AF10-R-1 Low Density Residential

**PLAN
DESIGNATION:** LDR

I. SUMMARY

The annexation includes a portion of Chehalem Drive in addition to the tax lot 3207-1000. The parcel is adjacent to Foothills Drive, Crater Lane, and Chehalem Drive. The site is anticipated to be developed as one or two schools.

II. CRITERIA AND ORDINANCE REQUIREMENTS

The Newberg City Council has the authority to make the final decision on this matter. The Planning Commission may recommend that the Council approve or deny the application, or may request further information relating to the annexation. The Planning Commission and City Council must base their decisions on findings which relate to the criteria listed in the appropriate City ordinances.

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A. Section 2 - Annexation Ordinance No. 2012 - General Annexation Policies

1. Annexations shall be considered on a case-by-case basis, taking into account such issues as the goal and policy statements found within the Newberg Comprehensive Plan, long range costs and benefits, statewide planning goals, and other ordinances, policies, or regulations of affected agencies, jurisdictions and special districts.
2. It shall be the City's policy to encourage annexation where:
 - a. The annexation complies with the provisions of the Newberg Comprehensive Plan.
 - b. The annexation would straighten out boundaries and provide a clear identification of the City.
 - c. The annexation would benefit the City by addition to its revenues an amount that would at least be equal to the cost of providing services to the area.
 - d. It would be clearly to the City's advantage to control the growth and development plans for the area.
3. It shall be the City's policy to discourage annexation where:
 - a. The annexation is not consistent with the provisions of the Newberg Comprehensive Plan.
 - b. The annexation would cause an unreasonable disruption in the current City boundary.
 - c. The annexation would severely decrease the ability of the City to provide services to an area or to the rest of the City.
 - d. Full urban services cannot be made available within a reasonable time.

B. Section 4 of the Newberg Annexation Ordinance No. 2012 - Annexation Criteria

1. Consistency of the annexation in relation to the Newberg Comprehensive Plan and other applicable regulations set forth by the City of Newberg, the State, and affected jurisdictions and agencies.
2. The availability of basic public services which include but are not limited to sewer, water and electricity to the site in adequate quantities to serve the

potential users without adversely affecting the availability of these services to existing users.

3. The impact upon public services which include but are not limited to police and fire protection, schools, hospitals and public transportation to the extent that they shall not be unduly compromised.
4. The need for housing, employment opportunities, and livability in the City of Newberg and surrounding areas.
5. The location of the site as to provide for the efficiency in land use in relation to public facilities and services, transportation, energy conservation, urbanization and social impacts.

C. Zone Change Criteria - Section 600, Newberg Zoning Ordinance

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. APPLICABLE COMPREHENSIVE PLAN GOALS AND POLICIES

Goals and Policies found within the Newberg Comprehensive Plan which are relevant to this request include the following:

A. Recreation Policy F

The continued multiple use of public facilities for recreational and other purposes shall be encouraged. In particular, schools and parks shall be located on adjacent sites wherever possible.

B. Automobile Transportation Policy D

Although cul-de-sacs shall be permitted, local streets should interconnect to improve access for residents, emergency service vehicles and others.

C. Public Facilities and Services - Policy No. 1.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 Policy No. 2.c

Developments with urban densities should be encouraged to locate within areas which can be served by Newberg's present sanitary sewer system.

E. Urbanization - Goal No. 1

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

F. Public Facilities and Services Policy No. 5.a

Elementary schools should be centrally located with reference to their service areas.

G. Public Facilities and Services Policy No. 5.c

Elementary schools should not be located on arterial streets.

H. Public Facilities and Services Policy No. 5.g

New schools shall be located in such a manner as to provide adequate and safe pedestrian, bicycle and automobile access. Streets shall be fully improved and major intersections shall provide signalization where necessary.

IV. FACTS

A. The subject property contains approximately 17.9 acres in the northwest part of the Newberg Urban Growth Boundary.

B. Surrounding land uses are as follows:

East:	Residential urban development; zoned R-1
South:	Vacant and developed residential urban and rural development; zoned R-1 and AF10, respectively
West:	Agricultural land; zoned AF20
North:	Agricultural land; zoned AF20

C. The property is currently vacant with fairly flat topography.

D. The subject property adjoins the current city limits on its eastern boundary.

E. The property is adjacent to and takes access from Chehalem Drive and Crater Lane, county roads with rights-of-way of 40' and Foothills Drive, a local city street with a right-of-way of 60'. Foothills will be upgraded to collector to handle anticipated school bus traffic.

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- F. Public water is available to the site via Foothills Drive. Public sewer is unavailable to this site. The Main St. sewer system that runs along the east boundary of the property was not designed to include this parcel. During peak wet weather, the Main St. sewer is at capacity and sometimes surcharges. The City has plans to build a sewer from 6th St. to foothills Drive along College St. Until that happens, the School will pump into the Main St. system. A future sewer pump station will be located on Crater Lane approximately 1000 ft south of the school site.
- G. Future proposed uses on this and an adjacent site to the north and south include a regional park and a senior center.
- H. Notice of this request was provided to owners of the subject property and all the adjoining property owners within a distance of 100 feet. Notice was also provided within the Newberg Graphic Newspaper and was posted on or adjoining the subject property.

V. REFERRALS

The request was referred to all City departments, the Yamhill County Planning Department, the Division of State Lands, Chehalem Park and Recreation District, , the Rural Fire District, and utility agencies. The following comments have been received:

- A. Streets: The applicants will sign a waiver of remonstrance for street improvements to Chehalem Drive and Crater Lane. Foothills Drive and the stub of North Main Street will be constructed with the development of the school. The applicant will file a petition to create a Local Improvement District to improve Crater Lane.

Until North Main Street is extended through development, the primary access to the school site will be from College Street (219). Because of the increase in pedestrian and bicycle traffic on highway 219, the applicant's traffic analysis will make recommendations for improvements to 219 to accommodate the traffic. At a minimum, the applicant will convert Foothills Drive to a collector street with bike lanes and a structural overlay. Depending on the results of the traffic analysis, a left turn lane, bike lanes lighting, crosswalks and signage could be required on College Street. Because road dedication and improvements are required by the zoning ordinance for all schools locating in an R-1 zone, these improvements will be required at the site review phase and not at the annexation phase.

- B. Sewer: A future pump station will be located on Crater Lane approximately 1000 ft south of the school site. The pump station will be paid for through an assessment district made up of the properties in its drainage basin. The School District will sign a waiver of

remonstrance to participate in a sewer system Local Improvement District to construct the pump system and gravity sewer.

The schools will construct an interim pump station.

- C. Water: Water mains are available on Foothills Drive and the north Main St stub.

VI. CONCLUSIONARY FINDINGS

A. General Annexation Policies

This application follows the Annexation Policies by complying with provisions of the Newberg Comprehensive Plan as demonstrated below and by providing orderly development of land in the UGB.

B. Annexation Criterion

1. Criterion 1

Consistency of the annexation in relation to the Newberg Comprehensive Plan and other applicable regulations set forth by the City of Newberg, the State, and affected jurisdictions and agencies.

Regarding Criterion 1, the annexation of the subject property and proposed use conforms to the goals and policies found within the Newberg Comprehensive Plan as follows:

- a. The applicant addresses the public facilities and services policies in that water service is available to the property and sewer service can be extended to the property. Waivers of remonstrance and the initiation of Local Improvement Districts for utility and street improvements are required at this time to ensure that all public facilities can support the proposed school. There is a network of streets which will be improved to serve the site. The school will not be sited on an arterial street. Street dedication and improvements related directly from the school will be required at the site review phase and not the annexation phase.
- b. Urbanization policies are satisfied in that the property will be annexed to the City prior to development.
- c. Urban design policies are satisfied in that development on the property will be subject to the design review procedures of the Zoning Ordinance.

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- d. Recreation policies are satisfied in that recreational facilities will be planned with the school facility for economies of scale and conservation of materials.

2. Criterion 2

The availability of basic public services which include but are not limited to sewer, water and electricity to the site in adequate quantities to serve the potential users without adversely affecting the availability of these services to existing users.

Regarding Criterion 2,

Services can be provided to the site without adversely affecting the service delivery to existing users, although some interim systems must be used until complete systems are developed by the City. The annexation and development of this site will make urban services available to more sites within the present ugb. Local improvement districts will be the mechanism for providing these services, which is why waivers of remonstrance and LID initiations are required of the applicant prior to annexation approval by the City Council.

Final service design will be reviewed by City staff through the Design Review process.

3. Criterion 3

The impact upon public services which include but are not limited to police and fire protection, schools, hospitals and public transportation to the extent that they shall not be unduly compromised.

Regarding Criterion 3,

The site is proposed to be built as a school. Traffic will increase in the area because of the school, but a network of streets keeps the traffic diffused. Main Street, Foothills Drive, Crater Lane and Chehalem Drive will be improved to handle the traffic generated by the proposed school, park, and senior center. The applicant will provide the City with a traffic impact analysis in order to determine the level of improvements required on surrounding streets. Busses will travel on Foothills. Bike lanes will probably be developed on Foothills and Main St. Traffic control mechanism may be required on 219. Main St will be built as vacant land southwest of the school site develops.

4. Criterion 4

The need for housing, employment opportunities, and livability in the City of Newberg and surrounding areas.

Regarding Criterion 4,

Schools are needed in the area. Recreational needs are great in Newberg. The comprehensive Plan indicates a deficiency of 55 acres for recreational use by the year 2010.

5. Criterion 5

The location of the site as to provide for the efficiency in land use in relation to public facilities and services, transportation, energy conservation, urbanization and social impacts.

Regarding Criterion 5,

This school site is in the middle of the school's service district. This school will serve students from Newberg, Dundee, and parts of Yamhill County. The school is proposed to be built with a senior center, park, and eventually, an additional school. By clustering development, these institutions will enjoy economies of scale and conservation of resources. These institutions will also be within walking and biking distance of present and future urban residential development.

C. Zone Change Criteria

1. Criterion 1

The proposed change is consistent with and promotes the objectives of the Comprehensive Plan and of the Zoning Ordinance of the city.

Regarding Criterion 1,

Schools and parks are allowed outright in the R-1 zone. Schools must dedicate and improve roads and dedicate utility easements in order to locate in the R-1 zone. The site is planned Low Density Residential (LDR) in the Newberg Comprehensive Plan. Comprehensive Plan policy compliance is addressed in the annexation findings above.

2. Criterion 2

There is a public need for a change of the kind in question.

Regarding Criterion 2,

This site has been planned for R-1 zoning at the time it was brought into the Urban Growth Boundary and designated on the Newberg Comprehensive Plan. Therefore need was shown at that time and is not applicable now.

3. Criterion 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.

Regarding Criterion 3,

No need must be shown at this time because the site was planned and zoned for low density residential use at the time it was included in the UGB.

VII. CONCLUSION:

Based on the criteria and the conclusionary findings, the request satisfies the criteria for annexation and rezoning to R-1 with the conditions listed below to be completed prior to City Council approval. With annexation, the site will be withdrawn from the Newberg Rural Fire Protection District.

1. The applicants will sign a waiver of remonstrance for street improvements to Chehalem Drive, Main Street, Foothills Drive and Crater Lane.
2. The applicant will sign a waiver of remonstrance to participate in a sewer system Local Improvement District to construct a pump system and gravity sewer.

EXHIBIT B
ANX-2-93 LEGAL DESCRIPTION

A tract of land in Section 7, Township 3 South, Range 2 West of the Willamette Meridian, Yamhill County, Oregon, being part of the James Morris Donation Land Claim and part of that tract of land described in Judgment, Antonia Crater vs. Ovy D. Pratt, et ux., et al., in Circuit Court, Yamhill County, Oregon, Case No. 82-1390, which Judgment was rendered October 31, 1983, said part being described as follows:

Commencing at a point in the West line of said Morris Donation Land Claim that is South 4.79 feet from a one inch iron pipe set in County Survey No. P-4769 for the True Quarter corner of the Donation Land Claim; thence South 89°11' East 16.50 feet to an iron rod at the West end of a fence and the TRUE point of beginning of the tract herein described; thence North 613.91 feet parallel with and 16.5 feet East from the West line of said Claim to an iron rod; thence South 89°57'50" East 1308.62 feet to an iron rod in the West line of Anne's Addition; thence South 00°01'50" West 627.22 feet to an iron rod at the Southwest corner of said Anne's Addition and the Southeast corner of that certain tract of land described in Quit Claim Deed to Pratt, recorded in Film Volume 181, Page 1242, Yamhill County Deed and Mortgage Records; thence North 89°34'20" West 662.29 feet along the South line of said Quit Claim Deed tract and the South line of said Judgment description to an iron rod that is South 5.00 feet from a 3/4 inch iron pipe at the Northwest corner of Tract 16 of County Survey No. 147C as set in County Survey No. P-4769; thence North 89°11' West 646.17 feet along a fence now there (July 1982) and along the South line of said Judgment description to the point of beginning.

EXCEPTING THEREFROM the following described tract of land, being that tract of land described in Quitclaim Deed to Pratt, recorded in Film Volume 181, Page 1242, Yamhill County Deed and Mortgage Records:

Beginning at an iron pipe that is South 2666.55 feet and East 662.52 feet from the Northwest corner of the James Morris Donation Land Claim, said iron pipe being at the Northwest corner of Lot 16 of County Survey No. 147C as re-established by Norris Jones in County Survey No. P-4769; thence South 89°33' East 662.29 feet parallel with a chain link fence now there (January 1983) to an iron rod at the West line of Anne's Addition; thence South 00°01'50" West 4.73 feet to an iron rod at the Southwest corner of Anne's Addition; thence North 89°34'20" West 662.29 feet to the West line of said Lot 16; thence North 5.00 feet to the point of beginning.

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Bar.

REQUEST FOR COUNCIL ACTION

DATE SUBMITTED: September 22, 1993

 MOTION

 RESOLUTION

DATE ACTION REQUESTED: November 1, 1993

 X ORDINANCE

 INFORMATION

SUBJECT: Vacation of alley between First and Second Streets
File No. VAC-3-93

RECOMMENDATION: The City Manager recommends that the Council adopt Ordinance 93- , authorizing the vacation of a portion of the City alley right-of-way between First Street and Second Street adjacent to tax lots 3220BA-1800, -1900, -2000, -2100, -2300, -2500, -2601, -2700, -2800, -2900, -3000, -3100, -3200, -3300, -3400, -3401, -3500, and -3600. This vacation would eliminate the alley in its entirety with the exception of the portion of the alley behind Tax Lot No. 3220-BA-2200 owned by Barry Cogut.

BACKGROUND:

On October 4, 1993, the City Council held a public hearing to consider the vacation of the above mentioned alley. At the conclusion of the hearing the Council moved to close the public portion of the hearing and continue consideration of the request to the November 1, 1993, meeting.

During the hearing there was considerable discussion regarding the Newberg Care Home and its impact on the surrounding neighborhood. In light of this discussion and the obvious neighborhood concerns, the Council raised a number of compromise items which may relate to the alley vacation. In an attempt to solve this problem, Staff held a neighborhood meeting on October 20, 1993, where the issues raised by the Council as possible compromise items were considered. These included the following:

1. Removal of all illegal structures and give all parties equal access to the alley.
2. Restrict deliveries to the Care Home to a specific period of time (e.g. 7:00 am to 7:00 pm).
3. Partial vacation of the alley.
4. Require loading for the Care Home to directly from First Street.
5. Require the construction of a sight and sound obscuring fence on the back of the property.

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6. Restrict the size of truck that is allowed to access the rear of the property to small vans and small trucks, not eighteen wheelers.
7. Remove all buildings from the existing right-of-way, specifically those which are placed in violation of the zoning and building ordinances.


During this neighborhood meeting it was clear that nothing short of vacation of the alley would be acceptable. While the compromise items raised by the Council might eliminate some of the concerns of the neighborhood, many of them could not be imposed as part of an alley vacation process. The City has taken steps to have the illegal structures removed from the alley at the rear of the Care Home (see letter dated Oct. 6, 1993, attached).

In the previous Request for Council Action, Staff outlined the issues surrounding the Lawsuits between Mr. Barry Cogut and the Care Home owner, Mr. Johnson. These concerns remain unchanged and in order to reduce the potential for the City to be drawn into this case, the Staff's recommendation is to vacate all of the alley except that portion adjacent to Mr. Cogut's property (T.L. 3220-BA-2200). Once the Lawsuits are completed our recommendation will be to eliminate all public ownership of the property behind Mr. Cogut's property. This may entail the retention of an access easement for the adjacent Care Home, depending on the outcome of the lawsuit.

ATTACHMENTS: Request For Council Action (Oct. 4, 1993)
Letter dated October 6, 1993
Draft Ordinance
Findings for Approval (Nov. 1, 1993)



Greg Scoles, Comm. Development Director



Duane R. Cole, City Manager

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REQUEST FOR COUNCIL ACTION

DATE SUBMITTED: September 22, 1993

X ORDINANCE

DATE ACTION REQUESTED: October 4, 1993

SUBJECT: Vacation of Alley between First and Second Streets

RECOMMENDATION: The City Manager recommends that the Council adopt Ordinance 93- authorizing the vacation of City alley right-of-way between First Street and Second Street adjacent to tax lot 3220-BA-1800, 1900, 2000, 2100, 2200, 2300, 2500, 2601, 2700, 2800, 2900, 3000, 3100, 3200, 3300, 3400, 3401, 3500 and 3600.

BACKGROUND:

1. History. Letters in the record from Mr. Vorisek and Richard Johnson provide an historical perspective of this issue. Mr. Vorisek outlines the development of the alley with the placement of a cement wall. This was done a number of years ago and Mr. Vorisek represents that he talked to Mr. George Layman at the time and was advised that there was no alley and that everything was legal with the development of the alley. Mr. Vorisek also outlines the problems he has had with employees intruding onto his property.

Mr. Johnson outlines that the alley was formed approximately fifty years ago by the City through the amended plat block A of Hobsons Addition. The alley apparently served a public purpose now long forgotten. He indicates that the alley serves a public purpose by allowing access to the rear of the nursing home property. He says that this provides an unloading and loading area for freight and shipments which is essential to support the facility.

2. Lawsuits. Mr. Barry Cogut, owner of the property adjacent to the Newberg Care Home (the location of the Chehalem Valley Senior Citizen Center) erected a fence in order to stop access by the Newberg Care Home across his parking lot. This resulted in a lawsuit by Mr. Johnson against Mr. Cogut in which Mr. Johnson prevailed by winning a prescriptive easement across Cogut's parking lot to the rear of the care home. Mr. Cogut has subsequently appealed this decision and the fence remains in place. The Newberg Care Home has not had vehicular access to the rear of the property for the past two years while the lawsuits continue.

3. State Law. The request to vacate the property is not a unanimous request of the property owners. ORS 271.080(2) provides that "consent of the owners of all abutting property and of not less than two-thirds in the area of the real property affected thereby" must be provided as a basis for granting the vacation. All of the property owners have not consented to the vacation, therefore the Council has the option to provide for vacation on the Council's own motion. ORS 271.131(1) provides that the City governing body may initiate vacation proceedings and make such vacation without a petition or consent of property owners. It also states that any street area vacated without the consent of the owners of the abutting property shall not be granted if the vacation substantially effects the market value of the abutting property owners unless the City governing body provides for paying damages.

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This vacation would be on the Council's own motion and has been noticed as such. The question that the City will need to answer is whether there is a "substantial effect" on the value of the abutting property.

Exhibit __ attached to the staff report indicates that should the vacation occur and Mr. Johnson retains his prescriptive right to access the care home across the Cogut property, then Mr. Johnson will need to retain a triangular piece of property behind the Cogut property in order to provide for the vehicular access. This triangular piece of property would be the damage Mr. Johnson might seek from the City. It is likely that Mr. Johnson would need to show that not having access would be a substantial loss of value to his property. Of course the City's argument would be that the property has not had access for the past two years and has managed to stay in business and operate. The City Attorney will need to explore this issue and advise the Council regarding the payment of damages, should damages be assessed.

The State Law also provides for paying such damages by a local assessment or in such other manner as the City Charter may provide.

Despite the vacation being on the Council's own motion, the City has sought the concurrence of the property owners to give the Council an idea of the importance of this vacation to the local neighbors. Almost all of the neighbors have agreed to the vacation and want to see the public property vacated in that area.

3. Other issues:

a. Fire access. The staff report includes an attachment from the Uniform Fire Code suggesting that fire access is not a requirement to the rear of the property. The fire code provides that the Fire Department must be able to reach with 150 feet of hose from where they park the truck. The Fire Department has testified in court and the Fire Chief has confirmed that the Fire Code does not require access to the rear of the Newberg Care Home.

b. Substandard structures. The care home has located a "trailer" behind the care home and it extends into the alley way easement. The Building Official and Community Development Director are reviewing the status of this structure since it appears to be a potential dangerous structure. While it has been there for a few years, it certainly does not appear to meet the Uniform Building Code requirements and the City may take action to have it removed regardless of the outcome of this vacation proceedings.

FISCAL IMPACT: There is no fiscal impact apparent from this vacation process. The City of Newberg may be challenged regarding the effect this vacation may have on the value of the Newberg Care Home. Preliminary indications are, however, that there is no value to this access especially since the care home has not used the access for over two years at this time.

PREPARED BY:


Duane R. Cole, City Manager

CONCURRENCE BY:


Greg Scoles, Community Development Director

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3220BA-01800
Cherrie A. Dunn
1552 E. First
Newberg OR 97132

3220BA-01900
Leonard & Christy Lilley
1550 E. First
Newberg OR 97132

3220BA-02000
Lula Webster
1548 E. First
Newberg OR 97132

3220BA-02100
Lean Schatz Life Estate
1544 E. First
Newberg OR 97132

3220BA-02200
Barry Cogut
POB 91091
Portland OR 91091

3220BA-02300
Jesse Johnson Jr.
126 NW Walnut Ave.
Dundee OR 97115

3220BA-02500
Irwin & Patricia Boehr
10470 SW View Terrace
Tigard OR 97224

3220BA-02601
David & Sandra Maurer
110 Church St.
Newberg OR 97132

3220BA-02700
Trustees for
William & Dolores Vorisek
1509 E. Second
Newberg OR 97132

3220BA-02800
Francis Swartz
1517 E. Second
Newberg OR 97132

3220BA-02900
Andrew Anderson
1519 E. Second
Newberg OR 97132

3220BA-03000
Sharon Bensmiller
1521 E. Second
Newberg OR 97132

3220BA-03100
Cheryl Zick
1523 E. Second
Newberg OR 97132

3220BA-03200
Robert Johnstone
1215 N. Adams
Newberg OR 97132

3220BA-03300
David Charlton
13905 NE Quarry Rd.
Newberg OR 97132

3220BA-03400
Steven & Lisa Erb
1545 E. Second
Newberg OR 97132

3220BA-03401
Valorie Andrews
1549 E. Second
Newberg OR 97132

3220BA-03500
James & L. Jane Glynn
1553 E. Second
Newberg OR 97132

3220BA-03600
Gustav & Jessie Bliesner
1555 E. Second
Newberg OR 97132

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EXHIBIT A

FINDINGS FOR APPROVAL
OF A STREET VACATION

October 4, 1993

APPLICANT: City of Newberg

REQUEST: Vacation of the existing alley right-of-way within Block A of Hobsons Addition Subdivision, located between First and Second Streets, east of Church Street in the City of Newberg.

ZONING: R-2 (Medium Density Residential) and R-P (Residential-Professional)

LOCATION: Located within Block A of Hobsons Addition Subdivision between First and Second Streets, east of Church St.

TAX LOT: The alley is adjacent to tax lots 3220BA-1800, -1900, -2000, -2100, -2200, -2300, -2500, -2601, -2700, -2800, -2900, -3000, -3100, -3200, -3300, -3400, -3401, -3500, and -3600.

FILE NO: VAC-3-93

CRITERIA: ORS NO. 271.130

I. CRITERIA AND ORDINANCE REQUIREMENTS

A. Criteria

City ordinances do not include procedures or criteria for street vacations. In lieu of City criteria, State procedures and criteria apply. ORS 271.130 lists the criteria for vacations which are initiated on the Council's own motion. The section states that approval must include affirmative findings that:

1. Notice has been given as provided by ORS 271.110;
2. The owners of a majority of the area affected do not object in writing; and
3. Where owner consent has not been provided, the vacation will not significantly affect the value of the abutting properties, unless the city provides for paying damages.

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B. Notice Requirements

ORS 271.130 states the notice requirements:

1. A notice must be published once a week for two consecutive weeks. The notice shall describe the ground covered in the petition, give the date of the public hearing, give the name of the petitioner, and the date when any objection or remonstrance may be filed with the City recording officer prior to the time of the hearing; and
2. Within five days after the first day of publication of the notice the City recording officer shall post at or near the end of the proposed vacation a copy of the proposed vacation.

II. FACTS

- A. The proposed vacation will result in the transfer of the existing right-of-way to the adjoining tax lots.
- B. The owners, zoning, and use of the abutting properties to the east and west are as follows:

<u>Tax Lot</u>	<u>Owners</u>	<u>Zoning</u>	<u>Use</u>
3220BA-01800	Cherrie A. Dunn	R-2	Residence
3220BA-01900	Leonard & Christy Lilley	R-2	Residence
3220BA-02000	Lula Webster	R-2	Residence
3220BA-02100	Lean Schatz Life Estate	R-2	Residence
3220BA-02200	Barry Cogut	R-P	Office
3220BA-02300	Jesse Johnson Jr.	R-2	Care Home ← <i>repeal</i>
3220BA-02500	Irwin & Patricia Boehr	R-2	Residence
3220BA-02601	David & Sandra Maurer	R-2	Residence
3220BA-02700	Trustees for W. & D. Vorisek	R-2	Residence
3220BA-02800	Francis Swartz	R-2	Residence
3220BA-02900	Andrew Anderson	R-2	Residence ← <i>Did not respond</i>
3220BA-03000	Sharon Bensmiller	R-2	Residence
3220BA-03100	Cheryl Zick	R-2	Residence
3220BA-03200	Robert Johnstone	R-2	Residence
3220BA-03300	David Charlton	R-2	Residence
3220BA-03400	Steven & Lisa Erb	R-2	Residence
3220BA-03401	Valorie Andrews	R-2	Residence
3220BA-03500	James & L. Jane Glynn	R-2	Residence
3220BA-03600	Gustav & Jessie Bliesner	R-2	Residence

- C. A consent to vacate form has been signed by all abutting property owners except the following: Jesse Johnson, Jr., Andrew Anderson and David Charlton.

- D. The land locked right-of-way is unimproved and appears to serve no public purpose. There is a structure (building) located in the alley (without permits) which

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will need to be removed. This structure is adjacent to TL 3220BA-2300 (care home).

The owner of the care facility (TL 2300) indicates that access is necessary to the rear of the facility. This access is gained across TL 2200 to the east. The validity of this access is the subject of a law suit which is on appeal. If access across TL 2200 is upheld by the court, and the alley vacation is approved, it does not appear that continued access to the rear of the care facility will be affected. Access rights to the care home across TL 2200, either as it exists today, or with the additional property provided to TL 2200 by the vacation, appears to be a civil issue which does not involve the City.

E. Surrounding conditions are as follows:

East:	Single family residential, zoned R-2
South:	Single family residential, zoned R-2
West:	Single family residential, zoned R-2
North:	Commercial, zoned C-2

F. Notice was published in the Newberg Graphic on September 22 and 29, 1993. A public notice was posted on or near the subject right-of-way within five days of the first notice publication. Property owners within 100 feet of the subject alley and street have also been notified by mail.

III. REFERRALS

Referrals were sent to all City departments and local utility companies. No comments have been received as of September 23, 1993.

IV. CONCLUSIONARY FINDINGS

The request satisfies the criteria of ORS 271.130 as follows:

- A. Notice has been provided in accordance with ORS 271.110. Notice was published in the Newberg Graphic for two consecutive weeks beginning September 22, 1993. In addition, notice has been posted near the site and mailed to property owners within 100 feet of the subject alley and street.
- B. The abutting property owners are not affected by the proposed vacation. Written consent from a majority of the owners of abutting property have been received.
- C. The proposed vacation will not limit access to abutting properties or have a detrimental effect on their market value.

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V. CONCLUSION

Based on the criteria, facts, and conclusionary findings, the proposed vacation satisfies City standards and approval criteria.

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HWY

1ST STREET / HWY 219

CHURCH STREET

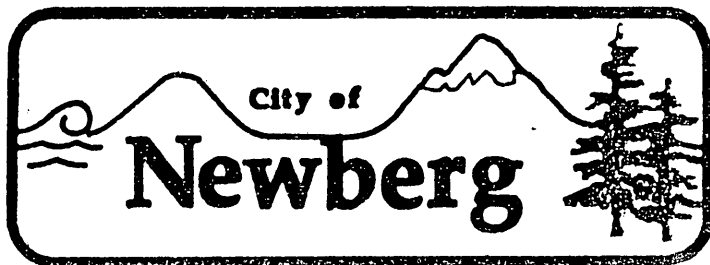
T.L. 2300

T.L. 2200

EVEREST STREET

2ND STREET

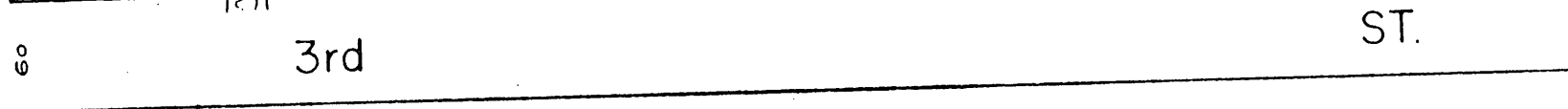
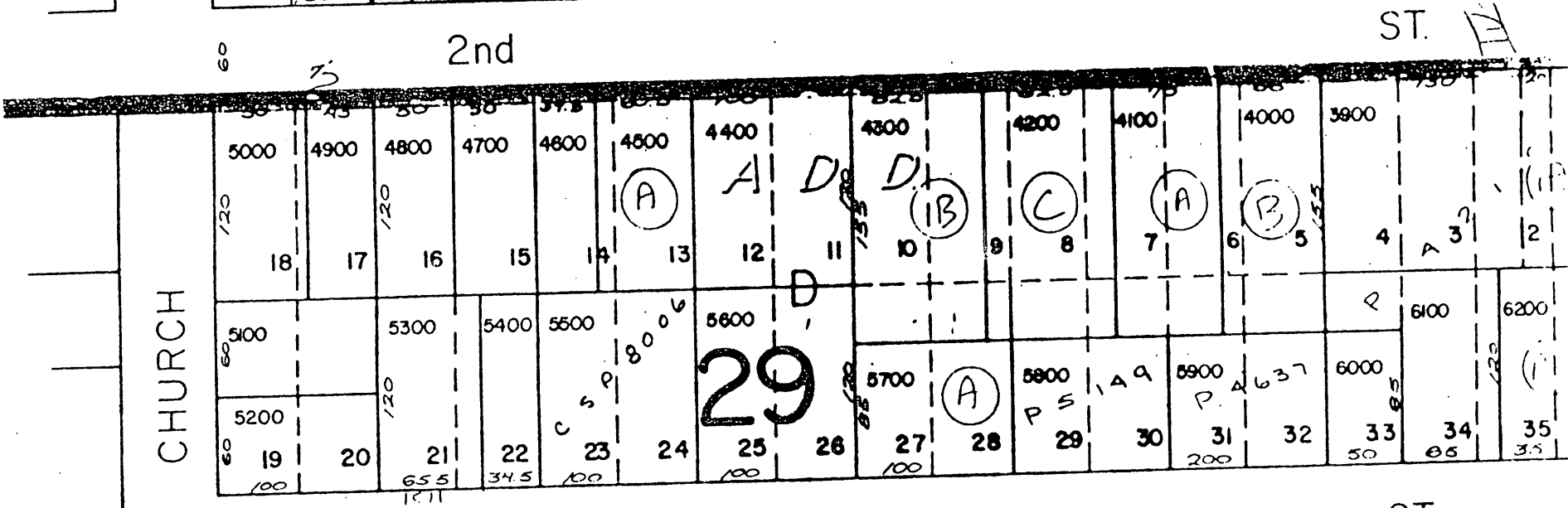
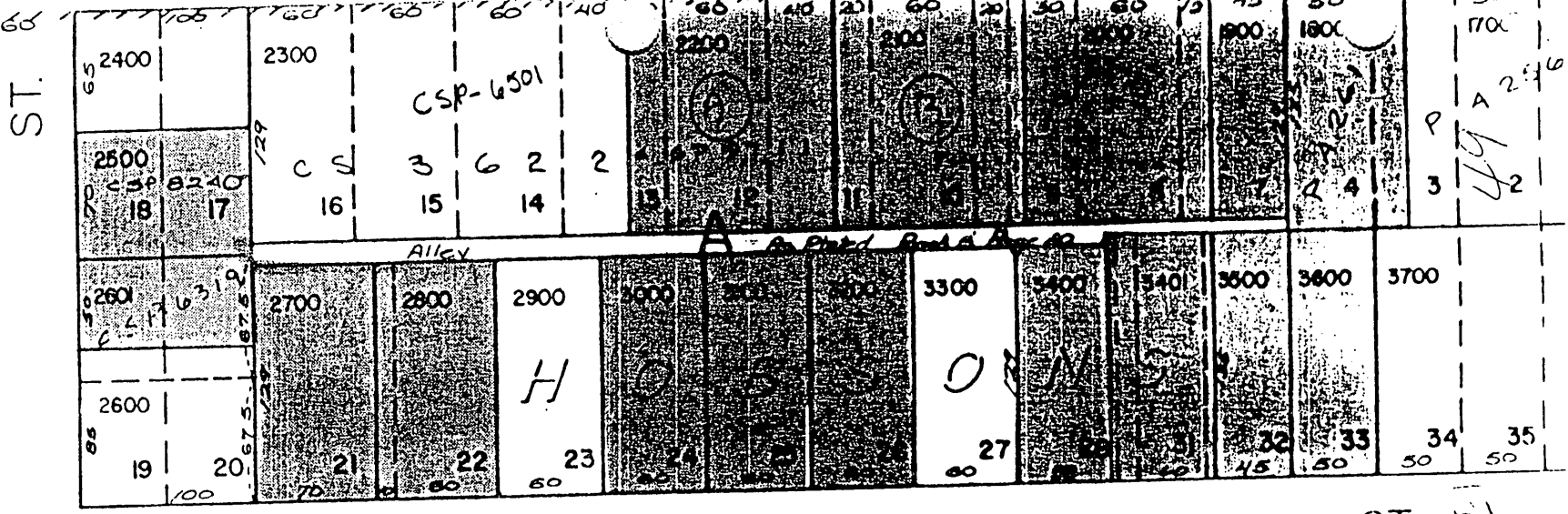
SCALE 1" = 100'



SITE MAP
ALLEY RIGHT-OF-WAY
FILE: VAC-3-93
EXHIBIT B

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SEE MAP 3 2 20BD

This sketch is furnished to help you locate the property. It is not a survey and the company assumes no liability for errors.

Northwest Title Company.
472-4627 538-7361



I-II

ES

July 19, 1993

Terrence D. Mahr
Attorney at Law
City of Newberg
414 E. First St.
Newberg, OR 97132

Dear Mr. Mahr,

I spoke with a city building official last week regarding an ongoing problem which is affecting a property which I own in Newberg and the properties of a number of my neighbors. I was told that necessary authority to correct this problem was spread out between a number of city departments. It was suggested that the best way to deal with my concern was to write you and to copy other departments with potential responsibility.

My property, as you may be aware, is located at 1530 E. First Street and is adjacent to the Newberg Care Home. This business is owned and operated by Jesse Johnson. Mr. Johnson recently won a court decision to gain access to his building through my parking area. We are going to appeal this decision, however, this situation has no bearing on my complaints to you today. There are four issues which I want to bring to your attention.

1. There is a deadlocked public alley behind my property and Mr. Johnson's property. At the suggestion of the city planners, two years ago, I attempted to have the alley vacated. Everyone bordering the alley that I approached about the vacation agreed with the idea, except Mr. Johnson. He preferred to keep it public. However, he has several trailers and structures attached to his building which entirely block the alley and prevent anyone other than his business from utilizing this public space. It is obvious that he objects to the vacation so that he may continue to use more of the alley than he would obtain if it were vacated.

I believe that this either has to be a public alley with everyone's rights respected or it has to be vacated. It is now being used by one individual with blatant disregard for the rights of all other property owners and the law. These trailers and structures were all erected without city

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permits and by the city overlooking this situation it is condoning this action. Mr. Johnson has a commercial business in a residential zone (it is a permitted use) and should at least try to be a good neighbor to the surrounding residences.

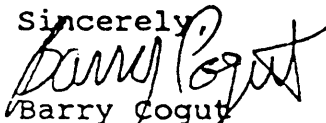
2. The Newberg Care Home does not have the proper setback to my property line and I believe that this presents a fire hazard both to my property and to the residents of his facility. A particularly outstanding feature is a work shed which was erected without city permits and comes within inches of my property line.

3. The roof on the Newberg Care Home is another issue. When I remodeled my building I had to conform to all city codes and pass inspection. I was told by my roofer that the care home's roof had more layers of roof than was code two years ago. Since then I was told by Stan Nations, the former maintenance man at the Newberg Care Home that they have added an additional roof to the existing ones. This certainly violates code and may in fact represent a safety hazard to the workers and residents at the facility and should be subject to city inspection.

4. My neighbors to the rear have all complained to me about the former noise and damage done by delivery trucks when it was a common practice. Even if Mr. Johnson's trucks are permitted to use my driveway for deliveries and access to the rear entry of his building, is there some way that the city planners or other city agency could regulate their size, frequency, or areas that these trucks would be permitted to access. It seems inappropriate for a city alley in a residential zone to be used by the only business in the area for commercial purposes to the detriment of all of the residences.

Thank you for your consideration in all of these matters.

Sincerely


Barry Cogut

cc: Mike Hailey
Dennis Egner, Sara King
Phil Picard
Larry Anderson
Duane Cole
Donna Proctor

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1509 East Second Street
Newberg, Oregon 97132
Bus: 538-5470

7/2/83

Mayor, Donna Proctor
City Attorney, Terrence D. Mahr

As per our discussion and personal inspection of the property. Property 1509 E. 2nd st. lot 21 space 2700 and 1517 E. 2nd lot 22 Space 2800 have a cement wall through the middle of the alley, starting at 28 inches on the west side of lot 21 to 8 inches high on the East end of lot 22. The property of the Newberg Care Home is that distance higher than the property of lot 21 or 22. The wall was constructed by contractor Jim Leard Sr. building inspector for the city at that time was Oscar Bakken. At this time I consulted George Layman and Herb Swift as to legal aspects as to making the property over two feet above mine. Was told by both, at that time that "since the construction of the wall was done by the other party without our permission, that the alley was not useable and that I should use the property and consider it closed". Since the first part of 1960 we have planted and kept it up as you both saw when you inspected the property.

Recently this alley has become a no mans land. The owner of the nursing home has told his employees that he has a six foot easement across my property. The back of the property has become a garbage and cigarette butt dump, plus over the fence intrusion through my property to gain entrance to second street for persons who take a short cut. The owner has told them he has a legal easment through the city and county because of the alley.

Since the wall was built there has been a fence. The up rights (4x4) were supplied by the nursing home. After years the fence rotted. I was without a fence for about six months, at this time Stat Farm refused to re-insure me for home owners policy due to the liability factor the wall and the fact the nursing home was over 2 feet above my property, and disabled or weak people falling off the wall on the nursing home side would and could be seriously by falling on to my property, leaving them open for liability suits. Farmers Insurance also refused to insure. We were forced to have a cyclone constructed on my side of the cement wall (this is not attached to the wall) before I could get any home owners insurance or any type of liability insurance.

In a meeting with the EX mayor Hall, Mr Johnson made it clear in front of witnesses) that he owned all 12 foot of the alley way. On his portion of the alley he has a trailer attached to the main building and a cement pad with a smoking room on the pad. He told the EX mayor that the city made him move the smoking room from the East side of the building to the rear and that he had gotten permits for the smoking room and the trailer from the city, and that the trailer was moveable and on wheels. You saw your self what the situation is at the present time..

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WILLIAM H. JOHNSON, Agent
1509 East Second Street
Newberg, Oregon 97132
Bus: 538-5470

Page 2

When I was talking to Mayor Proctor on the phone she heard the noise from the smoking room that we have to contend with at all hours of the night and day. With this alley way not being closed or open-I can not say anything to the noise makers for they tell me they are in the alley on public property authorized by the City of Newberg. This to me is discrimination and a violation of my rights as a home owner...

I would like either the City to close this no mans land or have the nursing home take out the cement wall, level their property to the level of mine so that the alley is usable to the West end of my property. so that I have complete access to my back yard.

There is a law suit pending Johnson VS Barry Cogut, where Mr. Johnson is trying to get an easment across Mr Cogut's parking lot. If Mr Johnson wins, this means that we all can take advantage of the parking lot entrance. Please note the inclosed paper from the County which states that the alley is deeded to the public use forever.... It is now an ~~xxx~~ alley with no exit or no entrance. Is the city of Newberg going to allow only One person to use the alley when there are more people involved?????????????

The property at I5I7 is the only other property effected by the wall, and he is in favor with this letter.

Property I5I9 E. 2nd is in litigation due to divorce and it is also involved in the law suit, for Mr Johnson wants to use their alley, in order to get delivery trucks in all hours of the night.

Property I52I Rental property. Same reason as the above property.

All the rest of the property from I5I9 to I555 East 2nd are all level, no cement walls or back filling....

Enclosed is all the information from Yamhill County, also, I was told by the county that there was a problem with the survey stakes on the West side of my property (I509 E 2nd) as to the alley way. ~~I~~

Exactly what the problem is or was I do not know. I know for a fact that the wall was never surveyed when the cement wall was built. So this wall in the middle of the alley could be any where, any body's guess, the city should have the construction permits.

Any thing you can do would be appreciated. Some thing has to be done.

Thank YOU

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Newberg Care Home

1500 EAST FIRST STREET • NEWBERG, OREGON 97132 • (503) 538-9436 / PORTLAND (503) 638-9424

August 11, 1993

V/TDD: (503) 538-9436

Mr. Duane Cole
City Manager
414 E. First Street
Newberg, OR 97132

RE: Alley vacation, Amended Plat, Block A, Hobsons Addition to City of Newberg.

Dear Duane:

This is a response on behalf of the Newberg Care Home, to the recent proposal by the City of Newberg to vacate the alley adjacent to the Facility, since it is "landlocked and appears to serve no public purpose."

The alley, as it exists in its landlocked form, was established about fifty years ago by the City through the Amended Plat of Block A of Hobsons Addition. This apparently to serve a public purpose now forgotten.

We believe that Newberg Care Home since its inception nearly thirty years ago has served and continues to serve a essential public purpose by reason of its provision of skilled 24 hour nursing and medical service to the public on a non-discriminatory basis. Post-hospital Medicare funded services are provided routinely, as well as Medicaid, V.A. Contract, Good Health Plan, PACC, Yamhill County Mental Health and private pay funded residents.

Throughout this time period, a motor vehicle accessible rear service area has fulfilled a necessary requirement for the careful and efficient operation of this Facility that serves the nursing needs of up to 61 residents, and currently employs about seventy persons with a local payroll substantially exceeding one million dollars annually. Motor vehicle access to the alley adjacent to the rear boundary of Tax Lots 2200 and 2300 has continuously been obtained across Tax Lot 2200 as planned and established by the Facility founder, who was also the common owner of both Tax Lots, until termination of access by a later purchaser of Tax Lot 2200 in 1991.

In short, service access across the alley has been and continues to be an essential element of the present use. An alley serving an essential support function for a facility serving a public purpose would appear to serve the public interest as well.

since all of the public requiring vehicle access in order to serve that facility may use the access and the facility had no responsibility in limiting public access.


As you are aware, litigation is in progress concerning access across Tax Lot 2200 to the alley, in order to allow motor vehicle access to the Facility service area. Yamhill County Circuit Court Judge Hitchcock has recently decided that an easement by implication, and an easement by prescription across Tax Lot 2200 both exist.

If upheld on appeal, the right of access to the alley would appear to be defeated if the alley is eliminated along with necessary space to maneuver the large vehicles requiring access. Loss of the essential motor vehicle access by means of vacation proceedings will clearly compromise the efficiency of continuing operations. For that reason the loss will also substantially impair the market value of the Facility, unless adequate means of access is otherwise found. No other equivalent means of access yet appears.

For these reasons, we respectfully oppose the proposed initiation of vacation proceedings.

Thank you for your assistance and attention to this matter. Please call me if you have additional questions or comments.

Sincerely yours,



Jesse H. Johnson, Jr.
Administrator

~~VI-1~~ VI-1

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William A. Verbock
1509 E. Second St.
Newberg, OR 97132

TOPIC; Vacation of alley between
2nd St and 1st St.

September 6, 1993

To Newberg City Officials and City Council Members;

I will be unable to attend the council meeting in October, so I have been advised to submit a written statement or deposition concerning the alley.

The big question that is brought to mind when some of you people have come out to view the situation is; why did the city of Newberg permit an individual to put a 28 inch wall down the middle of city property? Also, the city of Newberg issued permits to back fill the wall making the nursing home property over 2 feet above all existing property. Permits were also given to pour cement slab in the middle of the alley and also to block the alley with a trailer 8x20 ft. With all this in mind and being available to see in person, just exactly where is this alley that is suppose to be here and to be vacated?

Mr. George Layman was the acting legal person for the nursing home (Re: Johnson vs Cogut) and there should be records and permits available. If not, it seems as is the City of Newberg is the cause of all the problems, since there is no usable alley behing my property. When the cement wall was being poured, the contractor was Jim LeardSr. and the building inspector was Oscar Bakken. The contractor installed 4x4's every eight feet and told the neighbors to put up a fence. I talked to Mr. Layman at that time, due to the fact that they back-filled the wall and all the water filled behind the wall and ran over onto my property. I was told by Mr. Layman that there was no alley and everything was legal. I showed the people that came to view my property the marks where water came over onto my property. This wall was put in the middle of the alley within the existing pipes put in the ground; no survey was ever made.

The ownership of this wall has to be established. Regardless if it is the City of Newberg or nursing home problem; this wall is deteriorating very badly and it will not be too long before the wall gives way and all the back fill will end up on my property.

This so called alley has made my property a garbage pit. Everytime I say anything about things coming over the fence, I am told that it is city property. Before I could get homeowners insurance, I had to put a metal fence next to the cement wall (Not attached). The wall being above my property made the liability factor. The under-writers said being that the wall is on city property, that a person could stagger and fall onto my property and they would be at fault. My property has been fenced constantly except for a period of about 6 months. A certified letter was written to the nursing home when the old wood fence needed replacing, asking them to keep the patients and employees off the wall and out of our flowers. I installed a \$425.00 metal fence so that I could get insurance. In the certified letter, we also asked them to consider putting up a new fence to protect their own patients, but had no responce.

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I brought up this subject of the wall and harrassment to Mayor Hall numerous times with no responce. He said all was legal and that this was a case of property owners living with big business --- I was not aware this was zoned as big business.

Since the property of Barry Cogut has been fenced, we have had very little problems. Before the fence went up, we had card games, beer parties, and pickups driving behind the ketchen area of nursing home with radios on and loud shouting and noises. I tried to stop it and they tell me they are on city property. When the trucks were coming in to unload (before the fencing), the trucks were in all hours of day and night with their refrigeration units going. Is the city of Newberg going to allow one person to use the alley and reject all the rest of us from using it. I think not! If one can use it, all can use it. This is on the County map of this area.

During a period of harrassment where my property was being used as a garbage dump, I contacted the police. I told the officer three times that I wanted to sign a complaint and showed him the box of filth and rocks thrown on my property. He refused, saying that he belonged to a club of some sort with the nursing home man and that he would talk to him because he was a good guy. We feel that had a complaint been filed when we wanted it done, we wouldn't have had further problems, since we had all the evidence.

The matter was taken up with the City of Newberg's new police chief and discussed at great length. Also the trespassing of my property. It seems that the nursing home has told its employees that he has a right away and access through my property. In the past, changing of the night shift meant that when I opened my back door, I was liable to run into persons cutting thru my property to go to work. I put up a gate and they tore it off numerous times, til I finally put it on a wheel. I installed security lights and motion detectors. It has slowed traffic through my property. If it was not a no mans land (with this so called alley) I could put extension arms on my fance. I discussed all the possibilities with the police chief. I was very pleased with his cooperation and information.

I urge all the council members and all interested parties to please come and see the conditions that we have had to put up with this alley, due to the lack of cooperation of our ex-mayor and officials.

Also, as to any other information on the alley, back filling, and the damage it has caused us financially; I will be glad to get legal material from Swift and Swift.

Sincerely,

William A. Vorisek

William A. Vorisek

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HAUGEBERG, RUETER, STONE, GOWELL & FREDRICKS, P.C.

FORMERLY
MARSH, MARSH, HAUGEBERG & RUETER, P.C.
EST 1860

9/7/93

DAVID C HAUGEBERG
GARY A RUETER
RONALD W. STONE
WALTER R. GOWELL
DOUGLAS S. FREDRICKS
ROBERT G. HIGGINS

ATTORNEYS AT LAW
620 EAST FIFTH STREET
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MAILING ADDRESS
POST OFFICE BOX 480
McMINNVILLE, OREGON 97126
TELEPHONE: (503) 472-5141
FAX: (503) 472-4713

September 3, 1993

Mr. Terrance Mahr
City Attorney
City of Newberg
414 E. 1st Street
Newberg, OR 97132

Re: Vacation of Public Alley
adjacent to Newberg Care Home

Dear Terry:

The purpose of this letter is to formally object on behalf of Jesse H. Johnson, Jr., owner of the business and property occupied by the Newberg Care Home, Tax Lot 3220 BA 2300, to the vacation proceedings proposed to be initiated by the City of Newberg for the existing public alleyway which abuts the South boundary of his property.

As you know, I have for some time been representing Mr. Johnson in his efforts to restore the access to that alleyway. We recently completed trial, and the Court entered a ruling that access for pickup and delivery to the rear of his building is essential to the operation of his business. At trial the evidence was overwhelming that the building was designed with this access in mind, and that the public alley had been used for that purpose since the early 1960's.

After receiving an unfavorable ruling from the Court, Mr. Cogut wrote the letter to you dated July 19, 1993, in which he called for a vacation of the public alley. In response, Mr. Johnson received the enclosed letter dated August 9, 1993, from Duane Cole proposing to vacate the alley. Please be aware that if the City does vacate the alley, this would completely frustrate the Court's order regarding access through the alley to the rear of Newberg Care Home.

As I mentioned above, the overwhelming evidence at trial was that such access is indispensable to the Care Home business. One expert witness, the president of the Oregon Health Care Association, who himself has purchased, built and operated over 40 of such facilities in more than 30 years experience in the industry, testified that such access is so important that the business is valueless

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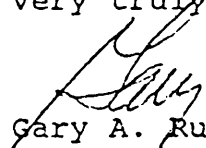
~~VI-1~~ 61

Mr. Terrance Mahr
Re: Newberg Care Home
September 3, 1993, Page 2

without it, or that the value of the business is diminished by whatever cost is necessary to obtain such access, which in this case would be the cost of the purchase of Mr. Cogut's property.

If and when the City vacates the public alley over the objection of my client, it will be our position, which we are prepared to litigate, that the City should address the issue of the compensation due my client as a result.

Very truly yours,


Gary A. Rueter

GAR:cmp

Enclosure

cc: Client

~~VI-1~~ VI-1

02

Division II

FIRE APPARATUS ACCESS ROADS

General

Sec. 10.201. Fire apparatus access roads shall be provided and maintained in accordance with this division.

Plans

Sec. 10.202. Plans for fire apparatus access roads shall be submitted to the fire department for review and approval prior to construction.

Required Access

Sec. 10.203. Fire apparatus access roads shall be provided for every facility, building or portion of a building hereafter constructed or moved into or within the jurisdiction when any portion of the facility or any portion of an exterior wall of the first story of the building is located more than 150 feet from fire apparatus access as measured by an approved route around the exterior of the building or facility.

EXCEPTIONS: 1. When buildings are completely protected with an approved automatic fire sprinkler system, the provisions of this section may be modified by the chief.

2. When access roads cannot be installed due to topography, waterways, non-negotiable grades or other similar conditions, the chief is authorized to require additional fire protection as specified in Section 10.501 (b).

3. When there are not more than two Group R, Division 3, or Group M Occupancies, the requirements of this section may be modified, provided, in the opinion of the chief, firefighting or rescue operations would not be impaired.

More than one fire apparatus road shall be provided when it is determined by the chief that access by a single road may be impaired by vehicle congestion, condition of terrain, climatic conditions or other factors that could limit access.

For high-piled combustible storage, see Section 81.109 (a).

For open yard storage, see Section 30.102.

For hazardous materials, see Article 80.

For fire safety during construction, alteration or demolition of a building, see Section 87.103 (b).

Specifications

Sec. 10.204. (a) **Dimensions.** Fire apparatus access roads shall have an unobstructed width and a uniform surface of not less than 20 feet and an unobstructed vertical clearance of not less than 13 feet 6 inches.

EXCEPTION: Upon approval by the chief, vertical clearance may be reduced, provided such reduction does not impair access by fire apparatus and approved signs are installed and maintained indicating the established vertical clearance.

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DEFINITIONS

271.005 Definitions. As used in ORS 271.005 to 271.540:

(1) "Governing body" means the board or body in which the general legislative power of a political subdivision is vested.

(2) "Governmental body" means the State of Oregon, a political subdivision, the United States of America or an agency thereof.

(3) "Political subdivision" means any local government unit, including, but not limited to, a county, city, town, port, dock commission or district, that exists under the laws of Oregon and has power to levy and collect taxes. [1981 c.787 §2]

VACATION

271.010 [Amended by 1965 c.25 §1; 1971 c.287 §1; repealed by 1981 c.153 §79]

271.020 [Amended by 1953 c.283 §3; 1977 c.275 §1; repealed by 1981 c.153 §79]

271.030 [Amended by 1953 c.283 §3; repealed by 1981 c.153 §79]

271.040 [Repealed by 1981 c.153 §79]

271.050 [Repealed by 1981 c.153 §79]

271.060 [Repealed by 1981 c.153 §79]

271.070 [Repealed by 1981 c.153 §79]

271.080 Vacation in incorporated cities; petition; consent of property owners. (1) Whenever any person interested in any real property in an incorporated city in this state desires to vacate all or part of any street, avenue, boulevard, alley, plat, public square or other public place, such person may file a petition therefor setting forth a description of the ground proposed to be vacated, the purpose for which the ground is proposed to be used and the reason for such vacation.

(2) There shall be appended to such petition, as a part thereof and as a basis for granting the same, the consent of the owners of all abutting property and of not less than two-thirds in area of the real property affected thereby. The real property affected thereby shall be deemed to be the land lying on either side of the street or portion thereof proposed to be vacated and extending laterally to the next street that serves as a parallel street, but in any case not to exceed 200 feet, and the land for a like lateral distance on either side of the street for 400 feet along its course beyond each terminus of the part proposed to be vacated. Where a street is proposed to be vacated to its termini, the land embraced in an extension of the street for a distance of 400 feet beyond each terminus shall also be counted. In the vacation of any plat or part thereof the consent of the owner or owners of two-thirds in area of the property embraced within such plat or part thereof proposed to be vacated shall be

sufficient, except where such vacation embraces street area, when, as to such street area the above requirements shall also apply. The consent of the owners of the required amount of property shall be in writing and duly acknowledged before an officer authorized to take acknowledgments of deeds.

271.090 Filing of petition; notice. The petition shall be presented to the city recorder or other recording officer of the city. If found by the recorder to be sufficient, the recorder shall file it and inform at least one of the petitioners when the petition will come before the city governing body. A failure to give such information shall not be in any respect a lack of jurisdiction for the governing body to proceed on the petition.

271.100 Action by council. The city governing body may deny the petition after notice to the petitioners of such proposed action, but if there appears to be no reason why the petition should not be allowed in whole or in part, the governing body shall fix a time for a formal hearing upon the petition.

271.110 Notice of hearing. (1) The city recorder or other recording officer of the city shall give notice of the petition and hearing by publishing a notice in the city official newspaper once each week for two consecutive weeks prior to the hearing. If no newspaper is published in such city, written notice of the petition and hearing shall be posted in three of the most public places in the city. The notices shall describe the ground covered by the petition, give the date it was filed, the name of at least one of the petitioners and the date when the petition, and any objection or remonstrance, which may be made in writing and filed with the recording officer of the city prior to the time of hearing, will be heard and considered.

(2) Within five days after the first day of publication of the notice the city recording officer shall cause to be posted at or near each end of the proposed vacation a copy of the notice which shall be headed, "Notice of Street Vacation," "Notice of Plat Vacation" or "Notice of Plat and Street Vacation," as the case may be; the notice shall be posted in at least two conspicuous places in the proposed vacation area. The posting and first day of publication of such notice shall be not less than 14 days before the hearing.

(3) The city recording officer shall, before publishing such notice, obtain from the petitioners a sum sufficient to cover the cost of publication, posting and other anticipated expenses. The city recording officer shall hold the sum so obtained until the actual cost has been ascertained, when the amount of the cost shall be paid into the city treas-

ry and any surplus refunded to the depositor. [Amended by 1991 c.629 §1]

271.120 Hearing; determination. At the time fixed by the governing body for hearing the petition and any objections filed thereto or at any postponement or continuance of such matter, the governing body shall hear the petition and objections and shall determine whether the consent of the owners of the requisite area has been obtained, whether notice has been duly given and whether the public interest will be prejudiced by the vacation of such plat or street or parts thereof. If such matters are determined in favor of the petition the governing body shall by ordinance make such determination a matter of record and vacate such plat or street; otherwise it shall deny the petition. The governing body may, upon hearing, grant the petition in part and deny it in part, and make such reservations, or either, as appear to be for the public interest.

271.130 Vacation on council's own motion; appeal. (1) The city governing body may initiate vacation proceedings authorized by ORS 271.080 and make such vacation without a petition or consent of property owners. Notice shall be given as provided by ORS 271.110, but such vacation shall not be made before the date set for hearing, nor if the owners of a majority of the area affected, computed on the basis provided in ORS 271.080, object in writing thereto, nor shall any street area be vacated without the consent of the owners of the abutting property if the vacation will substantially affect the market value of such property, unless the city governing body provides for paying damages. Provision for paying such damages may be made by a local assessment, or in such other manner as the city charter may provide.

(2) Two or more streets, alleys, avenues and boulevards, or parts thereof, may be joined in one proceeding, provided they intersect or are adjacent and parallel to each other.

(3) No ordinance for the vacation of all or part of a plat shall be passed by the governing body until the city recording officer has filed in the office of the city recording officer or indorsed on the petition for such vacation a certificate showing that all city liens and all taxes have been paid on the lands covered by the plat or portion thereof to be vacated.

(4) Any property owner affected by the order of vacation or the order awarding damages or benefits in such vacation proceedings may appeal to the circuit court of the county where such city is situated in the manner provided by the city charter. If the

charter does not provide for such appeal, the appeal shall be taken within the time and in substantially the manner provided for taking an appeal from justice or district court in civil cases.

271.140 Title to vacated areas. The title to the street or other public area vacated shall attach to the lands bordering on such area in equal portions; except that where the area has been originally dedicated by different persons and the fee title to such area has not been otherwise disposed of, original boundary lines shall be adhered to and the street area which lies on each side of such boundary line shall attach to the abutting property on such side. If a public square is vacated the title thereto shall vest in the city. [Amended by 1981 c.153 §58]

271.150 Vacation records to be filed; costs. A certified copy of the ordinance vacating any street or plat area and any map, plat or other record in regard thereto which may be required or provided for by law, shall be filed for record with the county clerk. The petitioner for such vacation shall bear the recording cost and the cost of preparing and filing the certified copy of the ordinance and map. A certified copy of any such ordinance shall be filed with the county assessor and county surveyor.

271.160 Vacations for purposes of rededication. No street shall be vacated upon the petition of any person when it is proposed to replat or rededicate all or part of any street in lieu of the original unless such petition is accompanied by a plat showing the proposed manner of replatting or rededicating. If the proposed manner of replatting or rededicating or any modification thereof which may subsequently be made meets with the approval of the city governing body, it shall require a suitable guarantee to be given for the carrying out of such replatting or rededication or may make any vacation conditional or to take effect only upon the consummation of such replatting or rededication.

271.170 Nature and operation of statutes. The provisions of ORS 271.080 to 271.160 are alternative to the provisions of the charter of any incorporated city and nothing contained in those statutes shall in anywise affect or impair the charter or other provisions of such cities for the preservation of public access to and from transportation terminals and navigable waters.

271.180 Vacations in municipalities included in port districts; petition; power of common council; vacating street along railroad easement. To the end that adequate facilities for terminal trackage, structures and the instrumentalities of commerce

and transportation may be provided in cities and towns located within or forming a part of any port district organized as a municipal corporation in this state, the governing body of such cities and towns, upon the petition of any such port, or corporation empowered to own or operate a railroad, steamship or other transportation terminal, or railroad company entering or operating within such city or town, or owner of property abutting any such terminal, may:

(1) Authorize any port commission, dock commission, common carrier, railroad company or terminal company to occupy, by any structure, trackage or machinery facilitating or necessary to travel, transportation or distribution, any street or public property, or parts thereof, within such city or town, upon such reasonable terms and conditions as the city or town may impose.

(2) Vacate the whole or any part of any street, alley, common or public place, with such restrictions and upon such conditions as the city governing body may deem reasonable and for the public good.

(3) If any railroad company owns or has an exclusive easement upon a definite strip within or along any public street, alley, common or public place, and if the city governing body determines such action to be to the advantage of the public, vacate the street area between the strip so occupied by the railroad company and one property line opposite thereto, condition that the railroad company dedicates for street purposes such portion of such exclusive strip occupied by it as the city governing body may determine upon, and moves its tracks and facilities therefrom onto the street area so vacated. The right and title of the railroad company in the vacated area shall be of the same character as previously owned by it in the exclusive strip which it is required by the city governing body to surrender and dedicate to street purposes.

271.190 Consent of owners of adjoining property; other required approval. No vacation of all or part of a street, alley, common or public place shall take place under ORS 271.180 unless the consent of the persons owning the property immediately adjoining that part of the street or alley to be vacated is obtained thereto in writing and filed with the auditor or clerk of the city or town. No vacation shall be made of any street, alley, public place or part thereof, if within 5,000 feet of the harbor or pierhead line of the port, unless the port commission, or other bodies having jurisdiction over docks and wharves in the port district involved, approves the proposed vacation in writing.

271.200 Petition; notice. (1) Before any street, alley, common or public place or any part thereof is vacated, or other right granted by any city governing body under ORS 271.180 to 271.210 the applicant must petition the governing body of the city or town involved, setting forth the particular circumstances of the case, giving a definite description of the property sought to be vacated, or of the right, use or occupancy sought to be obtained, and the names of the persons to be particularly affected thereby. The petition shall be filed with the auditor or clerk of the city or town involved 30 days previous to the taking of any action thereon by the city governing body.

(2) Notice of the pendency of the petition, containing a description of the area sought to be vacated or right, use or occupancy sought to be obtained, shall be published at least once each week for three successive weeks prior to expiration of such 30-day period in a newspaper of general circulation in the county wherein the city or town is located.

271.210 Hearing; grant of petition. Hearing upon the petition shall be had by the city governing body at its next regular meeting following the expiration of 30 days from the filing of the petition. At that time objections to the granting of the whole or any part of the petition shall be duly heard and considered by the governing body, which shall thereupon, or at any later time to which the hearing is postponed or adjourned, pass by a majority vote an ordinance setting forth the property to be vacated, or other rights, occupancy or use to be thereby granted. Upon the expiration of 30 days from the passage of the ordinance and the approval thereof by the mayor of the city or town, the ordinance shall be in full force and effect.

271.220 Filing of objections; waiver. All objections to the petition shall be filed with the clerk or auditor of the city or town within 30 days from the filing of the petition, and if not so filed shall be conclusively presumed to have been waived. The regularity, validity and correctness of the proceedings of the city governing body pursuant to ORS 271.180 to 271.210, shall be conclusive in all things on all parties, and cannot in any manner be contested in any proceeding whatsoever by any person not filing written objections within the time provided in this section.

271.230 Records of vacations; fees. (1) If any town or plat of any city or town is vacated by a county court or municipal authority of any city or town, the vacation order or ordinance shall be recorded in the deed records of the county and shall be in-

dexed under the letter "V," title "Vacations." Whenever a vacation order or ordinance is so recorded, the county surveyor of such county shall, upon the original plat and any copy thereof certified by the county clerk, trace or shade with permanent ink in such manner as to denote that portion so vacated, and shall make the notation "Vacated" upon such original plat or copy thereof, giving the book and page of the deed record in which the order or ordinance is recorded.

(2) For recording in the county deed records, the county clerk shall collect the same fee as for recording a deed. For the services of the county surveyor for marking the record upon the original plat, the county clerk shall collect a fee as set by ordinance of the county governing body to be paid by the county clerk to the county surveyor. [Amended by 1971 c.621 §31; 1975 c.607 §31; 1977 c.488 §2; 1979 c.833 §30]

MISCELLANEOUS PROVISIONS RELATING TO THE TRANSFER, LEASE, DONATION OR USE OF PUBLIC LANDS

271.300 Application and administration of ORS 271.300 to 271.360. (1) The power granted by ORS 271.300 to 271.360 is vested in each political subdivision of the State of Oregon. The power is self-operating, without the necessity of further legislation.

(2) In carrying ORS 271.300 to 271.360 into effect, a political subdivision shall act through its duly constituted governing body. Each political subdivision through its governing body may provide rules necessary in carrying out ORS 271.300 to 271.360. [Amended by 1981 c.787 §26; 1985 c.443 §4]

271.310 Transfer or lease of real property owned or controlled by political subdivision; procedure in case of qualified title. (1) Except as provided in subsection (2) of this section, whenever any political subdivision possesses or controls real property not needed for public use, or whenever the public interest may be furthered, a political subdivision may sell, exchange, convey or lease for any period not exceeding 99 years all or any part of their interest in the property to a governmental body or private individual or corporation. The consideration for the transfer or lease may be cash or real property, or both.

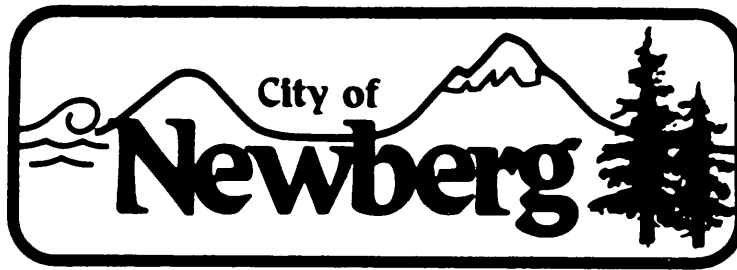
(2) If the ownership, right or title of the political subdivision to any real property set apart by deed, will or otherwise for a burial ground or cemetery, or for the purpose of interring the remains of deceased persons, is limited or qualified or the use of such real property is restricted, whether by dedication

or otherwise, the political subdivision may, after the county court or governing body thereof has first declared by resolution that such real property is not needed for public use, or that the sale, exchange, conveyance or lease thereof will further the public interest, file a complaint in the circuit court for the county in which such real property is located against all persons claiming any right, title or interest in such real property, whether the interest be contingent, conditional or otherwise, for authority to sell, exchange, convey or lease all or any part of such real property. The resolution is prima facie evidence that such real property is not needed for public use, or that the sale, exchange, conveyance or lease will further the public interest. The action shall be commenced and prosecuted to final determination in the same manner as an action not triable by right to a jury. The complaint shall contain a description of such real property, a statement of the nature of the restriction, qualification or limitations, and a statement that the defendants claim some interest therein. The court shall make such judgment as it shall deem proper, taking into consideration the limitation, qualifications or restrictions, the resolution, and all other matters pertinent thereto. Neither costs nor disbursements may be recovered against any defendant.

(3) Real property needed for public use by any political subdivision owning or controlling the property shall not be sold, exchanged, leased or conveyed under the authority of ORS 271.300 to 271.360, except that it may be exchanged for property which is of equal or superior useful value for public use. Any such property not immediately needed for public use may be leased if, in the discretion of the governing body having control of the property, it will not be needed for public use within the period of the lease.

(4) The authority to lease property granted by this section includes authority to lease property not owned or controlled by the political subdivision at the time of entering into the lease. Such lease shall be conditioned upon the subsequent acquisition of the interest covered by the lease. [Amended by 1955 c.755 §1; 1961 c.136 §1; 1979 c.284 §127; 1981 c.787 §27; 1985 c.443 §5]

271.320 Exchange of trust fund assets. If any property owned by a political subdivision is held as an asset of any special trust fund securing the payment of bonds, it may be exchanged, under the authority granted in ORS 271.310, for other property of equal or superior value, and property so received in exchange shall be an asset of the fund in lieu of the property previously held. [Amended by 1981 c.787 §26]



City Manager
(503) 538-9421

City Attorney
(503) 537-1208

414 E. First St.
Newberg, Oregon 97132

City FAX
(503) 538-5393

**NOTICE TO PROPERTY OWNERS
BETWEEN FIRST AND SECOND STREET**

**SUBJECT: VACATION OF ALLEY BETWEEN FIRST AND SECOND
STREETS**

The City Council met on October 4, 1993 and discussed the vacation of the alley between First and Second Streets. All of the property owners except for two are in favor of the vacation of this area. Newberg Care Home presented several options and opinions regarding the vacation of the alley at the meeting. They were generally in support of keeping the designated alley open.

During the meeting, the Council asked many questions regarding some type of compromise that would meet the needs of the Care Home as well as the neighborhood. In order to facilitate a fair settlement of the issue for all concerned, City staff has set up a neighborhood meeting to discuss the issues.

**NEIGHBORHOOD MEETING
OCTOBER 20, 1993
NEWBERG PUBLIC LIBRARY
7:00 P.M.**

Please plan on attending this meeting so that you may participate in the resolution of this community problem. Provided we can reach an agreement of what should be done, the stipulations would be included in the staff report to Council for the meeting on November 1, 1993.

Sincerely,

A handwritten signature in cursive script that reads "Duane R. Cole".

Duane R. Cole
City Manager

notice

Building: 537-1240 • Community Development: 537-1210 • Finance: 537-1201 • Fire: 538-7441
Library: 538-7323 • Municipal Court: 537-1203 • Police: 538-8321 • Public Works: 537-1214 • Utilities: 537-1205

"Working Together For A Better Community—Serious About Service"

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Duane -
FYI
Greg

Newberg Care Home

1500 EAST FIRST STREET • NEWBERG, OREGON 97132 • (503) 538-9436 / PORTLAND (503) 638-9424

October 6, 1993.

V/TDD (503) 538-9436

City of Newberg
Building Department
414 E. First Street
Newberg, OR 97132

RE: Correction Notice, 10/05/93

Dear Mike:

As indicated to you in our conversation yesterday, it is the intent of Newberg Care Home to comply with the referenced Correction Notice. The Facility Architect, John Burlingham, will be retained in the immediate future to provide necessary services for compliance.

You indicated the Correction Notice includes the mobile office building adjacent to the laundry area, that is used for a linen folding area 18 hours daily, seven days a week. This is our point of greatest concern, due to the ongoing need for linen processing. Loss of use of this structure would prevent in-house linen processing and result in the loss of employment for several laundry employees. We discussed possible approaches for a plan of correction of this area, including a possible upgrade to the existing mobile structure, as well as a comprehensive remodel of the Facility laundry-dietary service area that would expand the building and eliminate the need for the existing mobile structure.

As you know, we are awaiting future decisions to be taken by the Courts and by the City Council with respect to the alley access way and the continued existence of the alley, that would impact each option for correction.

Your concern and assistance with this matter has been very much appreciated.

Sincerely yours,



Jesse H. Johnson, Jr.
Administrator

VI-1

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Oct. 4, 1993

RECEIVED OCT 0 5 1993

Mr. Duane Cole
City of Newberg
414 East First Street
Newberg, OR 97132

File - Vacation File

Dear Mr. Cole,

We are writing in regards to the proposed vacation of the existing alley right-of-way within Block A of Hobsons Addition, located between First and Second Streets, east of Church Street.

We completely support the vacation of this, supposedly, existing alley. It serves absolutely no public purpose that we can see. The only opponent to this proposal, the Newberg Care Home, has acknowledged this by blocking the alley way with a retaining wall and two out buildings. There is no access to our property through the alley because of the structures that block the alley. If we wanted access to my property, which we don't, there would be no way to pass a vehicle through because of these obstructions. We contend that the Newberg Care Home wants the alley blocked to the public, as evidenced by these three structures. But when it comes to their personal income, they wouldn't hesitate to inconvenience their neighbors by allowing traffic to come through this supposedly public area.

There are many inconveniences caused by the Care Home.

- We live right next to the Psychiatric wing of the facility. Many of the patients there are very loud, crying and moaning at all hours of the day and night, waking our family.
- The nurses take their smoke breaks very close to our back fence. We can't count how many times we have been awoken in the middle of the night with NCH staff members talking and laughing loudly.
- The laundry folding facility, which is located in one of the out buildings that encroach on the alley, is often the source of many loud conversations.
- When the Care Home holds their CNA training session at 102 Church Street, there are cars parked up and down both sides of the block. We have come home from work to find them parking in our driveway.

We are fed up with the Care Home. Their attempt to keep this alley open, which they have partially blocked with their facility anyway, is just the icing on the cake. We do not want the added inconvenience of loud delivery trucks at all hours of the day and night.

Please expedite the vacation and closure of the alley, and encourage the operators of the Newberg Care Home facility to think about their immediate impact on the neighbors that surround them.

Sincerely,

David Maurer *Sandy K. Maurer*
Dave & Sandy Maurer
110 Church Street
Newberg, OR 97132

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October 6, 1993

Duane R. Cole
City Manager
414 E. First Street
Newberg, Oregon 97132

RECEIVED OCT 09 1993

RE: Objection To Partial Street Vacation

Dear Sir:

We own tax lot 3100 on Second Street. On Wednesday October 6, 1993 we viewed the city council meeting on television. We have several concerns regarding the proposed partial vacation of the alley right-of-way within Block A of Hobsons Addition Subdivision, located between First and Second Streets, East of Church Street in the City of Newberg.

My grandfather, Mr. Lester Bonar purchased Tax Lot 3100 in May 1968. He lodged written and verbal complaints with the City of Newberg in 1970 when the owner of Tax Lot 2500 on Church Street built a garage over the alley exit onto Church Street. This action cut off the main entrance to the alley, and people began using Tax Lot 2200 on First Street for access. As a young girl growing up I used the Church Street entrance to visit my grandfathers house which I now own.

Tax Lot 2200 on First Street was never maintained by anyone for years! No one repaired the parking lot or filled in the large "moon-crater" sized pot holes which the delivery trucks made.

We have several concerns and objections to the partial opening of this alley for the following reasons:

- A. NOISE! Delivery trucks are very loud, i.e., air brakes, tooting horns when in reverse, DIESEL FUMES, SMOKE and SOOT. The smell runs you out of your own backyard. Banging of truck doors during loading and unloading.
- B. Dumpster location at Southeast corner of Nursing Home. NOISE! Employees dump trash all night long at various times and bang the dumpster lid, they bang the garbage cans into the dumpster and each other. Employees usually talk and make other noises while emptying the trash at night. THE GARBAGE TRUCK IS NOT A QUIET VEHICLE! Repeated complaints to the Night Shift Staff in the past NEVER resolved this problem.
- C. Nursing Home employees and neighborhood residents used to park their cars and trucks all along the alley and around the back of the building located on Tax Lot 2200 on First Street. Employees also parked their vehicles in our backyard. Repeated requests to employees of the Nursing Home to stay off our property were ignored. We had to put up a chain link fence to stop this practice. All these parked vehicles made it very difficult for the delivery trucks to maneuver. One truck struck the Southeast corner of the building on Tax Lot 2200 years ago because he couldn't get around the parked vehicles.

- D. This alley is NOT level! Our property flooded for years every time it rained because the previous owners of Tax Lot 2200 would not maintain the property and once the pot holes were full of water in drained down on us. Mr. Barry Cogut was very responsive to our request to correct this problem. He repaired the parking lot and had it graded so the water now runs off to the First Street drainage ditch. The new parking lot is built up 2 to 3 feet above the alley now along the Southeast line of Tax Lot 2200. Trucks cannot back into the alley corner as they did for years to clear the building now. If the grade is removed, what is the City of Newberg going to do about the flooding problem to my property?
- E. This alley contains an illegal dump which runs along our Southwest lot line. You will find burried iron bedrails, large chunks of cement, chemicals (?), etc., just underneath the surface grass. It has taken the grass two years to cover this mess. My concern regarding this hazard is who will clean up the mess once the trucks wear the grass down and expose this hazard again.

If the alley is to be opened, we want assurances that the City of Newberg will maintain their property, i.e., mow the grass, fill in the ruts which the trucks will make in the dirt and the Nursing Home will not use the alley for any other activities such as parking vehicles, employee fire extinguisher training as they did in 1989, 1990 and flooded our backyard and house with smoke until we asked them to stop or hold the training somewhere else.

We would appreciate your prompt consideration for the vacation, not partial vacation of this alley.

Sincerely,



Cheryl J. Zick

Janet J. Zick
Janet J. Zick
1523 East Second Street
Newberg, Oregon 538-9534
Tax Lot 3100

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ORDINANCE NO. 93-

AN ORDINANCE VACATING THE EAST-WEST RIGHT-OF-WAY BETWEEN YAMHILL COUNTY TAX LOTS 3220BA-1800, -1900, -2000, -2100, -2300, -2500, -2601, -2700, -2800, -2900, -3000, -3100, -3200, -3300, -3400, -3401, -3500, and -3600 LYING WITHIN BLOCK A OF HOBSONS ADDITION SUBDIVISION WITHIN THE CORPORATE CITY LIMITS OF NEWBERG, OREGON.

WHEREAS, The City Council of Newberg has initiated a vacation proceeding as authorized by ORS 271.130;

WHEREAS, Notice was published in the Newberg Graphic Newspaper once a week for two consecutive weeks prior to the final public hearing of the City Council;

WHEREAS, The Newberg City Council conducted a public hearing on October 4, 1993 to consider the vacation and any written objections or remonstrances;

WHEREAS, A majority of the abutting property owners have signed consent to annex forms.

NOW, THEREFORE, THE CITY OF NEWBERG ORDAINS AS FOLLOWS:

Section 1. The following described public right-of-way within the City of Newberg, County of Yamhill, State of Oregon, is hereby vacated:

EAST-WEST RIGHT-OF-WAY BETWEEN AND ADJACENT TO YAMHILL COUNTY TAX LOTS 3220BA-1800, -1900, -2000, -2100, -2300, -2500, -2601, -2700, -2800, -2900, -3000, -3100, -3200, -3300, -3400, -3401, -3500, and -3600 LYING WITHIN BLOCK A OF HOBSONS ADDITION SUBDIVISION WITHIN THE CORPORATE CITY LIMITS OF NEWBERG, OREGON. THIS VACATION DOES NOT INCLUDE THAT PORTION OF THE RIGHT-OF-WAY ADJACENT TO TAX LOT 3220BA-2200.

Section 2. The Findings of Fact for approval, marked as Exhibit A and attached to this ordinance, are hereby adopted and by this reference incorporated.

Section 3. Subject to the above provisions, the Recorder of the City of Newberg is hereby directed to file for recording with the County Clerk and Ex-Officio Recorder of Conveyances of the County of Yamhill, State of Oregon, a certified copy of this ordinance and a map of said public right-of-way (Exhibit B) so vacated, and the Recorder is further directed to file a copy of this ordinance and a map with the Surveyor and the Assessor of said Yamhill County, Oregon, respectively.

Section 4. Title to the real property included within said rights-of-way hereby vacated shall attach to the property abutting said right-of-way, in accordance with the provisions of ORS 271.140.

PASSED by the Council of the City of Newberg this 1st day of November, 1993 by the following votes:

AYES:

NAYS:

ABSENT:

Duane Cole, City Recorder

APPROVED by the Mayor this ____ of November, 1993

Donna Proctor, Mayor

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EXHIBIT A

**FINDINGS FOR APPROVAL
OF A STREET VACATION**

November 1, 1993

APPLICANT: City of Newberg

REQUEST: Vacation of the existing alley right-of-way within Block A of Hobsons Addition Subdivision, located between First and Second Streets, east of Church Street in the City of Newberg.

ZONING: R-2 (Medium Density Residential) and R-P (Residential-Professional)

LOCATION: Located within Block A of Hobsons Addition Subdivision between First and Second Streets, east of Church St.

TAX LOT: The alley is adjacent to tax lots 3220BA-1800, -1900, -2000, -2100, -2200, -2300, -2500, -2601, -2700, -2800, -2900, -3000, -3100, -3200, -3300, -3400, -3401, -3500, and -3600.

FILE NO: VAC-3-93

CRITERIA: ORS NO. 271.130

I. CRITERIA AND ORDINANCE REQUIREMENTS

A. Criteria

City ordinances do not include procedures or criteria for street vacations. In lieu of City criteria, State procedures and criteria apply. ORS 271.130 lists the criteria for vacations which are initiated on the Council's own motion. The section states that approval must include affirmative findings that:

1. Notice has been given as provided by ORS 271.110;
2. The owners of a majority of the area affected do not object in writing; and
3. Where owner consent has not been provided, the vacation will not significantly affect the value of the abutting properties, unless the city provides for paying damages.

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B. Notice Requirements

ORS 271.130 states the notice requirements:

1. A notice must be published once a week for two consecutive weeks. The notice shall describe the ground covered in the petition, give the date of the public hearing, give the name of the petitioner, and the date when any objection or remonstrance may be filed with the City recording officer prior to the time of the hearing; and
2. Within five days after the first day of publication of the notice the City recording officer shall post at or near the end of the proposed vacation a copy of the proposed vacation.

II. FACTS

- A. The proposed vacation will result in the transfer of the existing right-of-way to the adjoining tax lots.
- B. The owners, zoning, and use of the abutting properties to the east and west are as follows:

<u>Tax Lot</u>	<u>Owners</u>	<u>Zoning</u>	<u>Use</u>
3220BA-01800	Cherrie A. Dunn	R-2	Residence
3220BA-01900	Leonard & Christy Lilley	R-2	Residence
3220BA-02000	Lula Webster	R-2	Residence
3220BA-02100	Lean Schatz Life Estate	R-2	Residence
3220BA-02200	Barry Cogut	R-P	Office
3220BA-02300	Jesse Johnson Jr.	R-2	Care Home
3220BA-02500	Irwin & Patricia Boehr	R-2	Residence
3220BA-02601	David & Sandra Maurer	R-2	Residence
3220BA-02700	Trustees for W. & D. Vorisek	R-2	Residence
3220BA-02800	Francis Swartz	R-2	Residence
3220BA-02900	Andrew Anderson	R-2	Residence
3220BA-03000	Sharon Bensmiller	R-2	Residence
3220BA-03100	Cheryl Zick	R-2	Residence
3220BA-03200	Robert Johnstone	R-2	Residence
3220BA-03300	David Charlton	R-2	Residence
3220BA-03400	Steven & Lisa Erb	R-2	Residence
3220BA-03401	Valorie Andrews	R-2	Residence
3220BA-03500	James & L. Jane Glynn	R-2	Residence
3220BA-03600	Gustav & Jessie Bliesner	R-2	Residence

- C. A consent to vacate form has been signed by all abutting property owners except the following: Jesse Johnson, Jr., Andrew Anderson and David Charlton.
- D. The land locked right-of-way is unimproved and appears to serve no public purpose. There is a structure (building) located in the alley (without permits) which will need to be

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removed. This structure is adjacent to TL 3220BA-2300 (care home).

The owner of the care facility (TL 2300) indicates that access is necessary to the rear of the facility. This access is gained across TL 2200 to the east. The validity of this access is the subject of a lawsuit. If access across TL 2200 is upheld by the court, and the alley vacation is approved, it does not appear that continued access to the rear of the care facility will be affected. Access rights to the care home across TL 2200, either as it exists today, or with the additional property provided to TL 2200 by the vacation, appears to be a civil issue which does not involve the City. However, in order to avoid complicating this particular issue prior to the completion of the lawsuit, the area directly behind TL 2200 should not be vacated at this time.

E. Surrounding conditions are as follows:

East:	Single family residential, zoned R-2
South:	Single family residential, zoned R-2
West:	Single family residential, zoned R-2
North:	Commercial, zoned C-2

F. Notice was published in the Newberg Graphic on September 22 and 29, 1993. A public notice was posted on or near the subject right-of-way within five days of the first notice publication. Property owners within 100 feet of the subject alley and street have also been notified by mail.

III. REFERRALS

Referrals were sent to all City departments and local utility companies. No comments have been received as of September 23, 1993.

IV. CONCLUSIONARY FINDINGS

The request satisfies the criteria of ORS 271.130 as follows:

- A. Notice has been provided in accordance with ORS 271.110. Notice was published in the Newberg Graphic for two consecutive weeks beginning September 22, 1993. In addition, notice has been posted near the site and mailed to property owners within 100 feet of the subject alley and street.
- B. The abutting property owners are not affected by the proposed vacation. Written consent from a majority of the owners of abutting property have been received.
- C. The proposed vacation will not limit access to abutting properties, if the alley is not vacated behind TL 2200, at this time, or have a detrimental effect on their market value.

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V. CONCLUSION

Based on the criteria, facts, and conclusionary findings, the proposed vacation satisfies City standards and approval criteria.

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HWY 99

1ST STREET / HWY 219

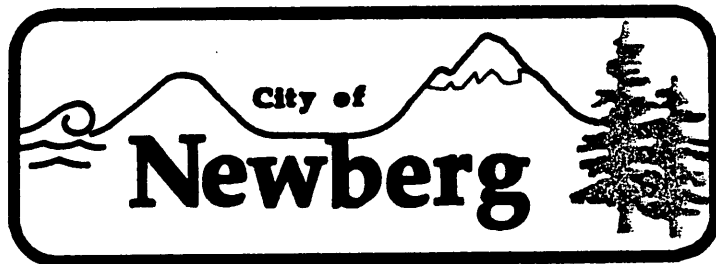
CHURCH STREET

EVEREST STREET

2ND STREET

1-II

SCALE 1" = 100'

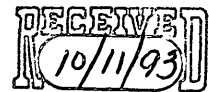


SITE MAP
ALLEY RIGHT-OF-WAY
FILE: VAC-3-93
EXHIBIT B

BB



O'DONNELL, RAMIS, CREW & CORRIGAN



JEFF H. BACHRACH
MARK L. BUSCH
CHARLESE. CORRIGAN*
STEPHEN F. CREW
G. FRANKHAMMOND*
BARBARA A. JACOBSON*
KARENE. JONES**
WILLIAMA. MONAHAN
NANCY B. MURRAY
MARK P. O'DONNELL
TIMOTHY V. RAMIS
WILLIAM J. STALNAKER
TY K. WYMAN

ATTORNEYS AT LAW
BALLOU & WRIGHT BUILDING
1727 N.W. Hoyt Street
Portland, Oregon 97209

TELEPHONE: (503) 222-4402
FAX: (503) 243-2944

PLEASE REPLY TO PORTLAND OFFICE

CLACKAMAS COUNTY OFFICE
181 N. Grant, Suite 202
Canby, Oregon 97013
(503) 266-1149

JAMES M. COLEMAN
Special Counsel

October 11, 1993

*ALSO ADMITTED TO PRACTICE IN WASHINGTON
**ALSO ADMITTED TO PRACTICE IN WASHINGTON AND TEXAS

Mayor Donna Proctor
414 E. First Street
Newberg, Oregon 97132

RE: Vacation of Alley Between First and Second Streets

Dear Mayor Proctor:

Our office represents Barry Cogut, an owner of real property bordering on the public alley located between First and Second Streets in Newberg that the City Council is now proposing to vacate.

Mr. Cogut and I had an opportunity to review the materials prepared by the staff for the Council to consider at its hearing on October 4th. Because of scheduling difficulties, and because Mr. Cogut and I (wrongly) assumed that the presentation to the Council would be basically consistent with the materials already before it, neither Mr. Cogut nor I attended the meeting on October 4th. We have reviewed a videotape of that hearing, and it is apparent that for the Council to get a full and fair understanding of this situation the record must be supplemented. I am writing to clarify a couple of issues concerning the status of the lawsuit brought by Jesse Johnson against Mr. Cogut. Mr. Cogut will be submitting his own comments and observations separately.

Regarding the lawsuit, Yamhill County Circuit Court Judge John Hitchcock has indeed issued an oral ruling finding that Mr. Johnson's carehome has an easement across Mr. Cogut's property for deliveries to the back of the nursing home. As Gary Reuter, Mr. Johnson's attorney, told the Council on October 4th, a hearing is now scheduled before Judge Hitchcock for November 1st, at which time he will be asked by each side to further define some of the particulars of his ruling for the purposes of preparing a final written judgment.

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Mayor Donna Proctor
October 11, 1993
Page 2

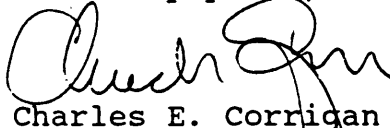
Because legitimate questions exist concerning Judge Hitchcock's analysis, Mr. Cogut does plan on appealing the final judgment after it has been entered. As we have also explained to Mr. Reuter, we intend to ask for a "stay" of Judge Hitchcock's ruling while the case is on appeal. It might have been a slip of the tongue, but during the hearing on October 4th, there appeared to be a suggestion that an appeal was no more than a formality and that it was a foregone conclusion that Judge Hitchcock's ruling would be upheld. Mr. Cogut and I can only submit that if we agreed with that interpretation we certainly would not be planning to file an appeal.

A couple of other points that might need clarification are as follows:

- (1) Judge Hitchcock's ruling applies solely to the easement rights of the care-home -- no other entity or individual has established such rights across Mr. Cogut's property;
- (2) Although from the papers he has submitted to the Judge, it appears that Mr. Reuter will ask the Judge to consider the City's alley in conjunction with his ruling on the easement across Mr. Cogut's property, that issue was neither briefed nor presented at trial and was not within the oral ruling issued by Judge Hitchcock at the end of the trial.

All of the above being said, Mr. Cogut and I are both aware that the Council's goal in this situation is not to become experts on the litigation filed by Mr. Johnson against Mr. Cogut, but, rather, to find some resolution that is as acceptable to all involved, especially Mr. Johnson's neighbors. Mr. Cogut and I appreciate the Council's efforts and hope that our setting the record straight on some of these points is helpful.

Sincerely yours,



Charles E. Corrigan

CEC/lhs

cc: Mr. Barry Cogut (via fax transmission)
Terry Mahr, Esq.
Duane R. Cole, City Manager

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October 9, 1993

Mayor Donna Proctor
Newberg City Council
Planning Department
City of Newberg
414 E. First St.
Newberg, OR 97132

RE: Vacation of Landlocked Public Alley Between East First
Second Streets

To all concerned:

As you know I own the property at 1530 East First Street. Due to a prior engagement I was unable to attend the city council meeting on October 4, 1993 for public testimony regarding the vacation of the alley behind my property.

After reviewing the staff report I felt that it was probably not essential to be represented at that meeting. I did, however, have an opportunity to review the videotape of the meeting and was surprised at much of the information presented and insinuated by Mr. Johnson and his attorney Mr. Reuter. I am, therefore, submitting the following comments for the record. I hope that the staff and council members will take the time to review this in order to have a more equitable view of the situation.

1. A comment was made during the meeting regarding my pending appeal of Judge Hitchcocks decision upholding Mr. Johnson's easement, "we all know what the outcome will be". This insinuated that it would be upheld and that it was a formality. In my opinion, Judge Hitchcocks opinion was seriously flawed and I would not spend any money for an appeal if I did not believe that it would be overturned.

2. When I bought this building, there were no recorded easements by Mr. Johnson or anyone else. It was only through legal wrangling that Mr. Johnson, who is an attorney, has come up with this approach to use my property.

3. It was insinuated that I am an unethical developer or someone who takes advantage of having bought a bargain. The facts are that I purchased the building in very poor

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condition for \$35,000. I have since invested approximately \$59,000 in rehabilitating the building and putting in a new parking lot.

When I approached the council for a zone change the council was anxious to see improvements at the site due to the deteriorated condition of the building and the landscaping. I have also allowed my current tenants, the Chehalem Valley Senior Citizens Council to remain at the site rent free for four months since their funding for the rent dissappeared.

4. Mr. Reuter stated that Mr. Johnson had always contributed to the maintenance of the parking area at my site. This was true for only a very brief portion of time before my ownership. The truth is that when Mr. Johnson first told me about the easement which he felt that he deserved, I asked him if he had the easement, would he be willing to contribute to the maintenance of the parking area? His reply was, exactly, "I don't have any money for you for that". That was when I decided to put up the fence and deny him access. For almost all of the time he has used my parking lot for access he has not contributed to it's upkeep.

5. When I worked with the planning department to have plans approved for the new parking lot, it was conditional upon the lot draining North to the street. This required building up the rear of the lot (adjacent to the alley) with approximately three feet of fill. This means that it is essentially impossible for a vehicle to cross from much of my lot to the alley to turn around. A vehicle would have to go off a three foot drop off to turn in the alley (especially on the East side).

If a partial vacation was established, and if trucks were to use the alley for backing and turning the city would have to add three feet of fill in the alley, pave it and erect a retaining wall along the South border to contain the fill from the adjoining residences.

6. Mark Willcutts a broker at Coldwell Banker in Newberg, and a qualified appraiser, testified at our hearing that my building is essentially unsalable with the easement across it. By making it possible to access the alley, it would only add to the undesirability of my property.

7. My property is listed for sale for \$129,000. Mr. Reuter repeatedly said that I had asked Mr. Johnson for \$140,000 for the property. The truth is that when we first discussed it, before I had done any improvements I offered it to him for \$40,000.

8. Mr. Reuter stated that they had tried to negotiate. The truth is that they refused to negotiate. I offered Mr.

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Johnson the strip of land between our buildings for \$10,000 so that he could access the alley without going through my lot. He outright refused to consider this approach. Since then his litigation has probably cost him in excess of \$20,000 if his bills are similar to mine.

9. Mr. Johnson has access to his building through his other house which he owns on Church street.

10. Mr. Johnson said that he had a good relationship with the neighbors. The ones which I have spoken with have all stated that his trucks were an annoyance at best. That they knocked down their fences, made tracks in their grass and gardens, and that all attempts to talk with Mr. Johnson were unsatisfactory. Please see the signatures which I collected from neighbors requesting a full vacation of the alley. Most neighbors are very hostile toward Mr. Johnson and the Care Home.

11. The Newberg Care Home has operated successfully for two years without rear access and has all of its beds full at this time. This should be good enough evidence that rear access is not necessary for the successful operation of the home.

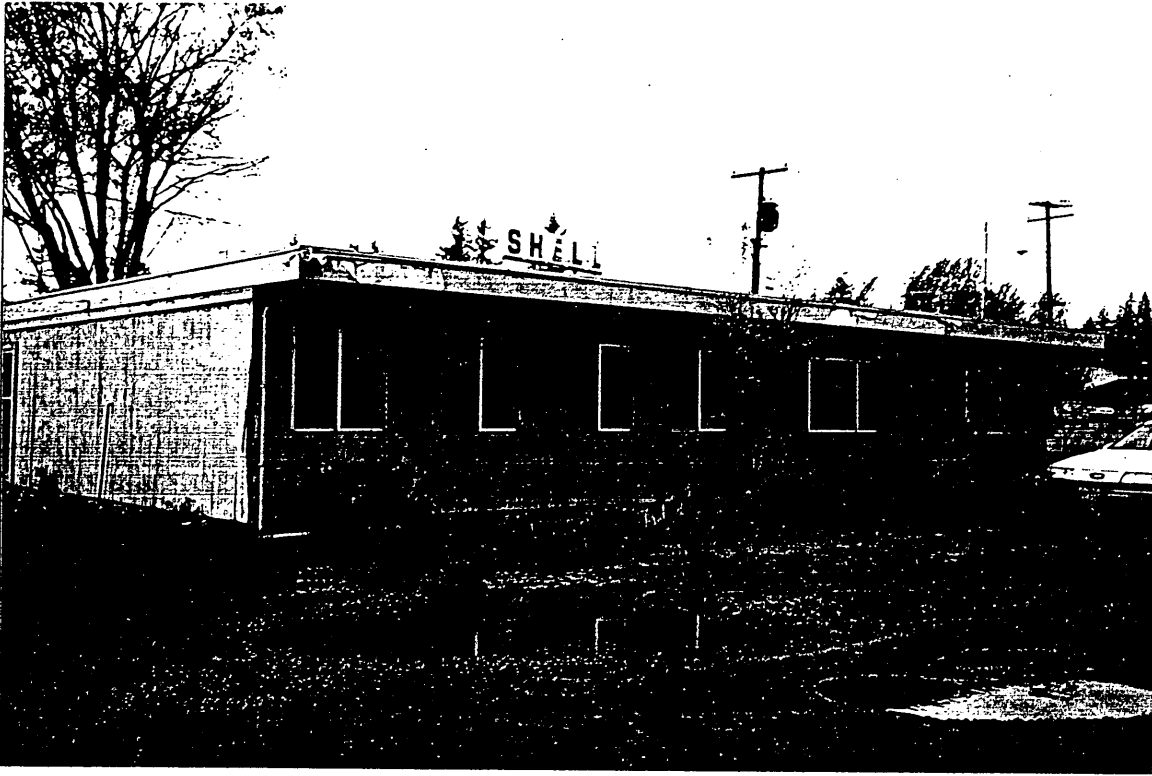
Please vote for a full vacation of this alley. It is the best outcome for all property owners except Mr. Johnson who has continually ignored and abused everyone else's rights for his own betterment. Thank you for your consideration in this matter.

Sincerely,


Barry Cogut

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PARKING LOT AS MAINTAINED BY MR JOHNSON

PLEASE NOTE BUILDING DAMAGE FROM TRUCKS



BUILDING AFTER REMODELING AND NEW LOT

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ACCESS OFFERED TO MR JOHNSON BY BARRY COGUT



POTENTIAL ACCESS TO CARE HOME
FROM CHURCH STREET
ON PROPERTY OWNED BY MR JOHNSON

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OFFICE PARKING LOT WITH THREE FOOT ELEVATION

AT THE ALLEY

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REQUEST FOR FULL VACATION OF THE ALLEY BETWEEN
EAST FIRST AND SECOND STREETS, NEWBERG OREGON

THE UNDERSIGNED ARE RESIDENTS AND PROPERTY OWNERS OF PARCELS BORDERING THE LANDLOCKED ALLEY BETWEEN EAST FIRST AND SECOND STREETS IN NEWBERG. WE UNDERSTAND THAT AT THE OCTOBER 4, 1993 CITY COUNCIL MEETING THE IDEA WAS PRESENTED BY SOME MEMBERS OF THE COUNCIL THAT ONLY A PARTIAL VACATION BE UNDERTAKEN BY THE CITY. THIS WOULD STILL PERMIT TRUCK TRAFFIC IN THE ALLEYWAY.

THIS VEHICULAR TRAFFIC WOULD BENEFIT ONLY THE NEWBERG CARE HOME AND BE TO THE DETRIMENT OF ALL OTHER RESIDENTS AND LANDOWNERS. WE HEREBY REQUEST THAT THE COUNCIL PERFORM A FULL VACATION OF THE ALLEY TO ELIMINATE VEHICULAR TRAFFIC AND THE ASSOCIATED NOISE AND DISTURBANCE.

OCTOBER 11, 1993

NAME	ADDRESS
<i>Rich Quitt</i>	<i>104 S. Church</i>
<i>Barry Coyle</i>	<i>1538 E First St.</i>
<i>Francis B. Swartz</i>	<i>1517 E 2ND</i>
<i>Jeanette Summers</i>	<i>1517 E 2nd st</i>
<i>Mica Anderson</i>	<i>1519 E 2nd St</i>
<i>Jennifer Bateman</i>	<i>1519 E 2nd St.</i>
<i>Carol</i>	<i>1523 E 2ND ST.</i>
<i>Janet J. Zick</i>	<i>1523 E 2ND ST.</i>
<i>Sharon Bensmiller</i>	<i>1521 E 2nd St</i>
<i>Joseph [unclear]</i>	<i>1523 E 2ND ST</i>
<i>Glenn [unclear]</i>	<i>114 S. Church</i>

Oct. 4, 1993

RECEIVED OCT 06 1993

Mr. Duane Cole
City of Newberg
414 East First Street
Newberg, OR 97132

Dear Mr. Cole,

We are writing in regards to the proposed vacation of the existing alley right-of-way within Block A of Hobsons Addition, located between First and Second Streets, east of Church Street.

We completely support the vacation of this, supposedly, existing alley. It serves absolutely no public purpose that we can see. The only opponent to this proposal, the Newberg Care Home, has acknowledged this by blocking the alley way with a retaining wall and two out buildings. There is no access to our property through the alley because of the structures that block the alley. If we wanted access to my property, which we don't, there would be no way to pass a vehicle through because of these obstructions. We contend that the Newberg Care Home wants the alley blocked to the public, as evidenced by these three structures. But when it comes to their personal income, they wouldn't hesitate to inconvenience their neighbors by allowing traffic to come through this supposedly public area.

There are many inconveniences caused by the Care Home.

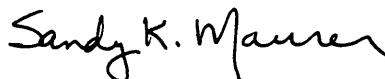
- We live right next to the Psychiatric wing of the facility. Many of the patients there are very loud, crying and moaning at all hours of the day and night, waking our family.
- The nurses take their smoke breaks very close to our back fence. We can't count how many times we have been awoken in the middle of the night with NCH staff members talking and laughing loudly.
- The laundry folding facility, which is located in one of the out buildings that encroach on the alley, is often the source of many loud conversations.
- When the Care Home holds their CNA training session at 102 Church Street, there are cars parked up and down both sides of the block. We have come home from work to find them parking in our driveway.

We are fed up with the Care Home. Their attempt to keep this alley open, which they have partially blocked with their facility anyway, is just the icing on the cake. We do not want the added inconvenience of loud delivery trucks at all hours of the day and night.

Please expedite the vacation and closure of the alley, and encourage the operators of the Newberg Care Home facility to think about their immediate impact on the neighbors that surround them.

Sincerely,


Dave & Sandy Maurer
110 Church Street
Newberg, OR 97132



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October 6, 1993

Duane R. Cole
City Manager
414 E. First Street
Newberg, Oregon 97132

RECEIVED OCT 09 1993

RE: Objection To Partial Street Vacation

Dear Sir:

We own tax lot 3100 on Second Street. On Wednesday October 6, 1993 we viewed the city council meeting on television. We have several concerns regarding the proposed partial vacation of the alley right-of-way within Block A of Hobsons Addition Subdivision, located between First and Second Streets, East of Church Street in the City of Newberg.

My grandfather, Mr. Lester Bonar purchased Tax Lot 3100 in May 1968. He lodged written and verbal complaints with the City of Newberg in 1970 when the owner of Tax Lot 2500 on Church Street built a garage over the alley exit onto Church Street. This action cut off the main entrance to the alley, and people began using Tax Lot 2200 on First Street for access. As a young girl growing up I used the Church Street entrance to visit my grandfathers house which I now own.

Tax Lot 2200 on First Street was never maintained by anyone for years! No one repaired the parking lot or filled in the large "moon-crater" sized pot holes which the delivery trucks made.

We have several concerns and objections to the partial opening of this alley for the following reasons:

- A. NOISE! Delivery trucks are very loud, i.e., air brakes, tooting horns when in reverse, DIESEL FUMES, SMOKE and SOOT. The smell runs you out of your own backyard. Banging of truck doors during loading and unloading.
- B. Dumpster location at Southeast corner of Nursing Home. NOISE! Employees dump trash all night long at various times and bang the dumpster lid, they bang the garbage cans into the dumpster and each other. Employees usually talk and make other noises while emptying the trash at night. THE GARBAGE TRUCK IS NOT A QUIET VEHICLE! Repeated complaints to the Night Shift Staff in the past NEVER resolved this problem.
- C. Nursing Home employees and neighborhood residents used to park their cars and trucks all along the alley and around the back of the building located on Tax Lot 2200 on First Street. Employees also parked their vehicles in our backyard. Repeated requests to employees of the Nursing Home to stay off our property were ignored. We had to put up a chain link fence to stop this practice. All these parked vehicles made it very difficult for the delivery trucks to maneuver. One truck struck the Southeast corner of the building on Tax Lot 2200 years ago because he couldn't get around the parked vehicles.

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- D. This alley is NOT level! Our property flooded for years every time it rained because the previous owners of Tax Lot 2200 would not maintain the property and once the pot holes were full of water in drained down on us. Mr. Barry Cogut was very responsive to our request to correct this problem. He repaired the parking lot and had it graded so the water now runs off to the First Street drainage ditch. The new parking lot is built up 2 to 3 feet above the alley now along the Southeast line of Tax Lot 2200. Trucks cannot back into the alley corner as they did for years to clear the building now. If the grade is removed, what is the City of Newberg going to do about the flooding problem to my property?
- E. This alley contains an illegal dump which runs along our Southwest lot line. You will find burried iron bedrails, large chunks of cement, chemicals (?), etc., just underneath the surface grass. It has taken the grass two years to cover this mess. My concern regarding this hazard is who will clean up the mess once the trucks wear the grass down and expose this hazard again.

If the alley is to be opened, we want assurances that the City of Newberg will maintain their property, i.e., mow the grass, fill in the ruts which the trucks will make in the dirt and the Nursing Home will not use the alley for any other activities such as parking vehicles, employee fire extinguisher training as they did in 1989, 1990 and flooded our backyard and house with smoke until we asked them to stop or hold the training somewhere else.

We would appreciate your prompt consideration for the vacation, not partial vacation of this alley.

Sincerely,



Cheryl J. Zick



Janet J. Zick
1523 East Second Street
Newberg, Oregon 538-9534
Tax Lot 3100

Duane -
FYI
Grey
Council File
10/11/93
Council Mtg.
11/1/93

Newberg Care Home

1500 EAST FIRST STREET • NEWBERG, OREGON 97132 • (503) 538-9436 / PORTLAND (503) 638-9424

October 6, 1993

V/TDD (503) 538-9436

City of Newberg
Building Department
414 E. First Street
Newberg, OR 97132

RE: Correction Notice, 10/05/93

Dear Mike:

As indicated to you in our conversation yesterday, it is the intent of Newberg Care Home to comply with the referenced Correction Notice. The Facility Architect, John Burlingham, will be retained in the immediate future to provide necessary services for compliance.

You indicated the Correction Notice includes the mobile office building adjacent to the laundry area, that is used for a linen folding area 18 hours daily, seven days a week. This is our point of greatest concern, due to the ongoing need for linen processing. Loss of use of this structure would prevent in-house linen processing and result in the loss of employment for several laundry employees. We discussed possible approaches for a plan of correction of this area, including a possible upgrade to the existing mobile structure, as well as a comprehensive remodel of the Facility laundry-dietary service area that would expand the building and eliminate the need for the existing mobile structure.

As you know, we are awaiting future decisions to be taken by the Courts and by the City Council with respect to the alley access way and the continued existence of the alley, that would impact each option for correction.

Your concern and assistance with this matter has been very much appreciated.

Sincerely yours,



Jesse H. Johnson, Jr.
Administrator

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Newberg Care Home

1500 EAST FIRST STREET • NEWBERG, OREGON 97132 • (503) 538-9436 / PORTLAND (503) 638-9424

October 4, 1993

(503) 538-9436

City Recorder
City of Newberg
414 E. First Street
Newberg, OR 97132

RE: Vacation of existing alley right-of-way within Block A of Hobson's Addition

Honorable Mayor and Council Members:

I wish to present the following comments regarding vacation of the alley right-of-way, on behalf of Newberg Care Home.

Newberg Care Home objects to vacation as proposed, for the following reasons:

1) Motor vehicle access to the rear service entry is an essential operational requirement for safe and efficient nursing facility operations, because of the large quantity of supplies that are required to support operations. For example, about \$90,000 per year of food and supplies are delivered through this service entry. Delivery of supplies in these quantities by another entrance is not appropriate.

2) From establishment of the Newberg Care Home in 1964 until 1991, when access was blocked by the new owner of TL 2200, motor vehicle access to the service entry was by means of passage across TL 2200 to the Alley, then over the Alley to an off-loading point directly adjacent to the service entry. All of the public that served Newberg Care Home via this service entrance had free access via this means.

For this reason, we believe the Alley has served a public purpose, since it has provided a means of access to the service entrance of a business that serves a public purpose.

3) A recent court ruling has ordered the owner of TL 2200 to refrain from interference with the described means of access, but the ruling is based upon the facts and circumstances as they have existed from 1964 to present.

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HAUGEBERG, RUETER, STONE, GOWELL & FREDRICKS, P.C.

FORMERLY
MARSH, MARSH, HAUGEBERG & RUETER, P.C.
EST. 1860

DAVID C. HAUGEBERG
GARY A. RUETER
RONALD W. STONE
WALTER R. GOWELL
DOUGLAS S. FREDRICKS
ROBERT G. HIGGINS

ATTORNEYS AT LAW
620 EAST FIFTH STREET
McMINNVILLE, OREGON

MAILING ADDRESS
POST OFFICE BOX 480
McMINNVILLE, OREGON 97128
TELEPHONE: (503) 472-5141
FAX: (503) 472-4713

October 4, 1993

The Honorable Mayor of the
City of Newberg, Oregon and
Members of the City Council

City Council Meeting
Date: October 4, 1993
Re: Vacation between 1st + 2nd
No.: 2

Re: Vacation of Existing Alley Right-of-Way Within Block A
of Hobons's Addition, City of Newberg, Oregon
File No.: VAC-3-93

Dear Mayor and Members of the Newberg City Council:

This memorandum is submitted as part of the presentation of Jesse H. Johnson, Jr., in opposition to the proposal to vacate the above-described alleyway.

FACTS

Jesse H. Johnson, Jr., is the owner of the Newberg Care Home, which is located at 1500 East 1st Street, Newberg, Oregon. Newberg Care Home is a duly licensed nursing home facility with a 61 bed capacity. The Care Home has been operating at full capacity, and in addition to its elderly patient population it includes a section for 14 psychiatric patients, the only such service available in Yamhill County.

The elderly patient, and especially the psychiatric patient, population poses unique challenges for the Care Home because of the need for security to prevent "walk-aways" (i.e. unplanned departures) from the premises, as well as the usual panoply of concerns for the safety and welfare of its aged patients.

The parcel adjacent to the Care Home on the east, located at 1530 East 1st Street, Newberg, Oregon, is owned by Barry Cogut. For many years it housed a chiropractic clinic, but it is currently devoted to office space occupied by the Chehalem Valley Senior Citizen's Council.

The public alleyway in issue in these proceedings runs behind both parcels. Since the time of construction of both buildings, completed in December, 1963, the only access to that alleyway and to the rear service and delivery area of the Care Home has been through the parking lot of the clinic/office building premises.

On June 12, 1991, Mr. Cogut erected a fence which closed off all access to the alley, and eventually necessitated legal action to reopen such access. Trial was held in May, 1993, and the court ordered the reopening of access to the alley. In so doing the court expressly found that such access for the various deliveries made to the Care Home was essential to the proper operation of the business and for the safety of its patients.

Historically, both of the parcels of property at issue in this case were at one time owned and operated by Dr. Roger L. Johansen. In 1962, Dr. Johansen purchased both parcels from a common owner, one Perry N. Waide. The Care Home property was actually purchased first. The deed for that property is dated April 26, 1962, and the deed for the clinic property is dated May 8, 1962. Although there are a few days difference in when title was taken, Dr. Johansen has testified in a pre-trial perpetuation deposition that both parcels were acquired as part of a single transaction. A chart showing the comparative chains of titles on the two properties is attached hereto as Appendix A.

Dr. Johansen testified that he planned to construct a chiropractic clinic on the smaller parcel and a nursing home facility on the other, which he intended to operate in conjunction with each other. At trial the evidence established that originally Dr. Johansen planned to have a covered walkway from his Clinic to the nursing home to facilitate the joint operation.

The Clinic building was started first and completed on August 28, 1962. As the attached diagram of the two properties (Appendix B) shows, it was built virtually against the property line separating the clinic property from the Care Home property. The Care Home was started several months later and was completed on December 11, 1963, and literally fills the entire parcel on which it sits.

The Care Home facility was designed by an architect named Ralph Panhorst, who had designed ten or twelve nursing homes prior to the Newberg facility. At trial, Mr. Panhorst testified that the Care Home was designed with the kitchen, laundry and mechanical areas in the rear, adjacent to the alley, and that the service and delivery entrance contemplated use of the alley for access. The parking area was deliberately designed small, to accommodate only a few automobiles, and not to handle the large delivery load of the facility. A diagram of the floor plan of the Care Home is also attached for illustrative purposes as Appendix C. Use of the Clinic parking lot for access to the public alley was planned, and was discussed and approved by Dr. Johansen at the time the Care Home Facility was designed and built.

The unique design of the interior of the Care Home makes deliveries other than at the rear of the building extremely cumbersome and dangerous for the patients. The entrance hall, reception area, patient day room (called the "solarium") and common dining area are all located in the very area where deliveries through the front must travel. There is a high congestion of patients in this area, and a considerable risk of patient injury from collision with delivery men or unplanned departures by patients through the open doors when deliveries are made.

At trial the evidence established that from the beginning, all deliveries, maintenance and repair service, fire access, and garbage collection were accomplished through the alley at the rear service and delivery area of the Care Home, as designed and planned by Mr. Panhorst.

All subsequent owner/operators of the Care Home to the present testified that the Clinic parking lot access to the alley was consistently and continuously used for their deliveries and service needs until the time of its closure by Mr. Cogut, and all considered a service and delivery entrance separate from the main front door entrance to the facility essential to the proper operation of the Care Home.

The trial court also received the testimony of Mr. Robert Decker, President of the Oregon Health Care Association. Mr. Decker has been in the nursing home business for more than 30 years, and is currently operating 40 nursing homes. In his experience he has evaluated and purchased 40 to 50 such homes (some of which were later re-sold).

Mr. Decker testified that a separate access to the service and delivery area of a nursing home is absolutely essential. There are both patient safety issues as well as operational efficiency issues. This was so vital that in Mr. Decker's opinion a nursing home without such access was virtually valueless, or its value was reduced by whatever the cost to achieve access. Mr. Decker has prepared a separate letter containing his thoughts which is also submitted for your consideration.

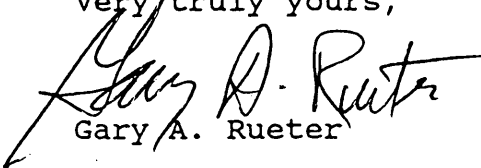
The current proposal to vacate this alleyway was instituted by Mr. Cogut as a result of and in response to the adverse ruling of the trial court which ordered access re-opened. Vacation of the entire alleyway may well have disastrous consequences for the Newberg Care Home, and is really unnecessary for any public

The Honorable Mayor and Members of the City Council
Re: File No. VAC-3-93
October 4, 1993, Page 4

purpose. If vacation is seen as desirable for some portions of the alley, we suggest the City Council consider a partial vacation which leaves Mr. Johnson's hard fought access intact.

If the Council is determined to vacate the entire alleyway, we request you give consideration to the compensation which would then be due Mr. Johnson pursuant to ORS 271.130(1).

Very truly yours,


Gary A. Rueter

GAR:cmp

Enclosures

cc: Client

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COMPARATIVE NS OF TITLE

C.A. Bump to Perry H. Waide, et ux - May 7, 1958 - \$1,275

"West 20 ft. of Lot 9 and all of Lots 10, 11, 12, 13, 14, 15 and 16
Of Block A, Hobson's Addition to City of Newberg, Oregon"

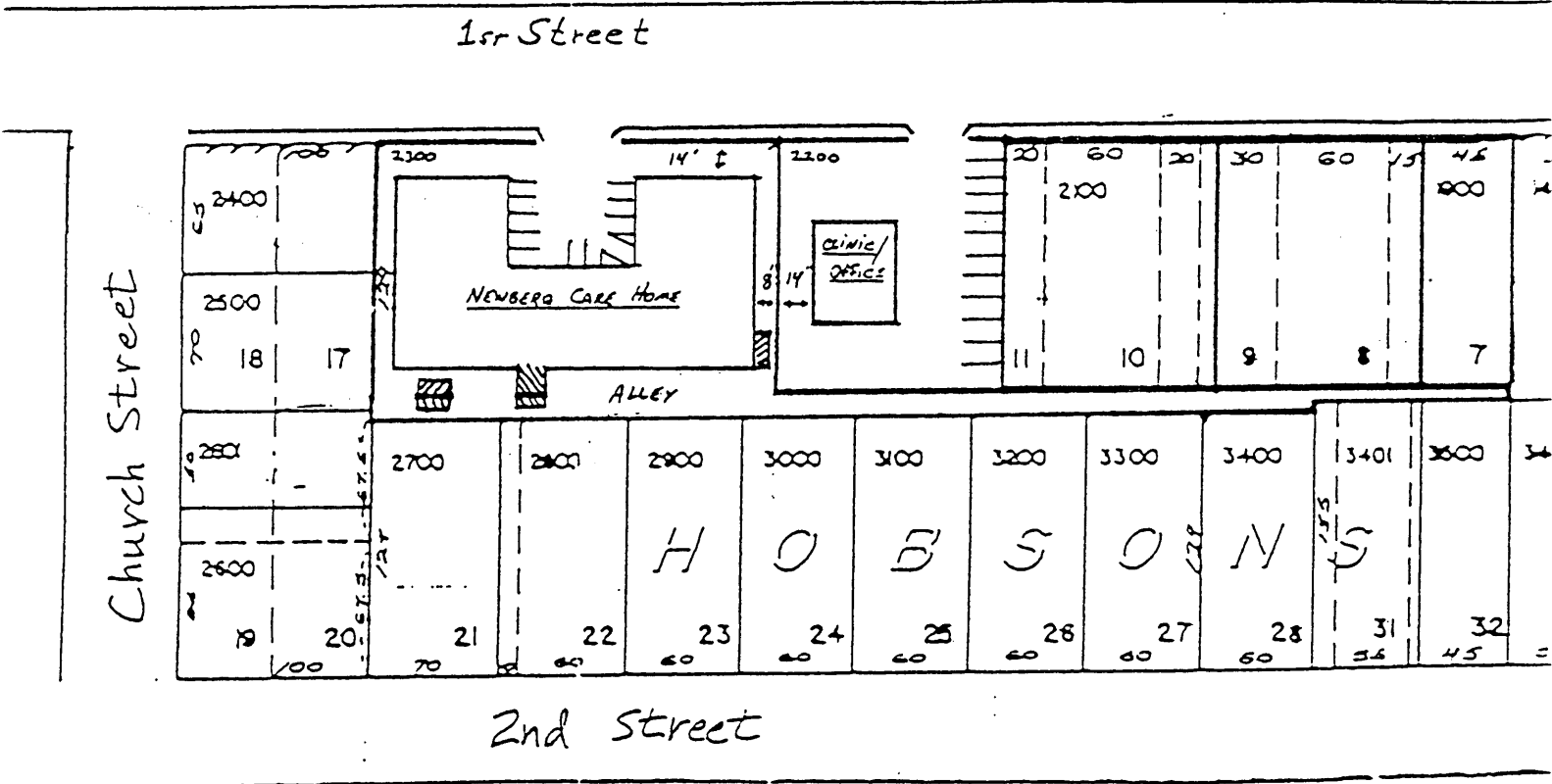
<u>Newberg Care Home</u> (Tax Lot 2300)			
<u>Date</u>	<u>Instrument</u>	<u>Parties</u>	<u>Consideration</u>
4-26-62	Warranty Deed	Waide to Roger L. Johansen	\$ 10
4-29-63	Trust Deed	Johansen to Associated Thrift and Securities	140,000
9-12-63	Warranty Deed	Johansen to Herbert Rothschild, Trustee	10
9-12-63	Quitclaim Deed	Melvin Potts dba Potts Construction to Rothschild, Trustee	1
9-12-63	Trust Agmt.	Rothschild, Johansen, et al.	
9-19-63	Bargain and Sale Deed	Rothschild, Trustee to 1500 Front, Inc.	10
12-11-63	Completion Notice by	Associated Thrift and Securities for Nursing Home	
1-9-65	Bargain and Sale Deed	1500 Front, Inc. to AMC Corp.	10
12-24-65	Warranty Deed	AMC to William L. Treadwell	10
12-29-65	Trustee's Deed Reconveyance	Associated Thrift to Johansen	
5-23-69	Bargain and Sale Deed	Treadwell to John Burke	41,615
2-8-72	Warranty Deed	Burke to Roderick and Lindgren	295,000
5-2-79	Contract	Roderick to Jesse H. Johnson	201,500
7-24-79	Warranty Deed	Lindgren to Roderick	113,000
12-31-90	Warranty Deed	Roderick to Jesse H. Johnson	201,500

<u>Chiropractic Clinic</u> (Tax Lot 2200)			
<u>Date</u>	<u>Instrument</u>	<u>Parties</u>	<u>Consideration</u>
5-8-62	Warranty Deed	Waide to Roger L. Johansen	\$ 10
5-10-62	Trust Deed	Johansen to Mortgage Finance	33,000
8-28-62	Completion Notice	By Mortgage Finance Corp. Clinic	
4-29-63	Trust Deed	Johansen to Associated Thrift and Securities	140,000
12-29-65	Trustee's Deed Reconveyance	Associated Thrift to Johansen	
10-31-80	Exchange Agreement	Johansen to Exchange Partners	129,999
11-12-80	Warranty Deed	Johansen to Exchange Partners	130,000
12-19-80	Warranty Deed	Exchange Partners to Terry Stellflug	130,000
9-8-83	Trust Deed	Dotson to Citizens Savings & Loan	120,000
9-12-83	Quit Claim Deed	Johansen to Stellflug	none
9-12-83	Warranty Deed	Stellflug to Alvin H. Dotson	160,000
7-24-90	Trustee's Deed	Cannady as Trustee for Citizens Savings and Loan to FDIC	Foreclosure
4-18-91	Bargain and Sale Deed	FDIC to Western American Exchange Corp.	35,000
4-24-91	Bargain and Sale Deed	Western American Exchange Corp. to Barry Cogut	35,000

Appendix A

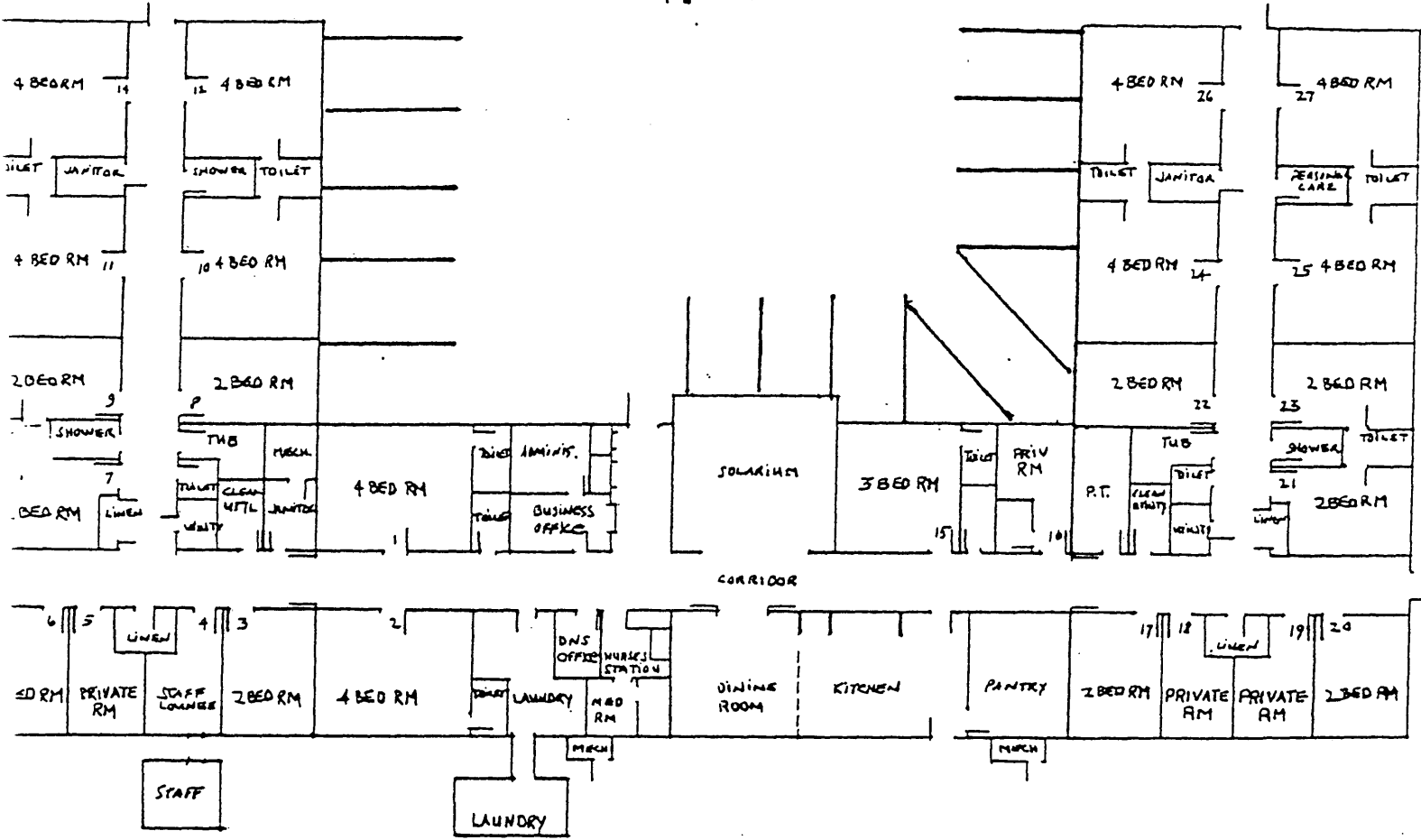
APPENDIX B

DIAGRAM



APPENDIX C

FLOOR PLAN



Westcare

October 4, 1993

Mr. Jesse Johnson
C/O Gary A. Rueter
Attorney at Law
620 East Fifth Street
McMinnville, OR 97128

City Council Meeting

Date: October 4, 1993

Re: Location between 1st + 2nd

No.: 3

Dear Mr. Johnson:

I am sorry that I am unable to attend the hearing scheduled for today, however, I have committed my thoughts and concerns to writing and am hopeful that this will help the City Council understand your dilemma.

I have enclosed my resume. As you can see, I have been in Health Care for over 25 years and have operated nursing homes in many states over the last 15 years. For a number of years, I served as the Executive Vice President of Chartham Management, which operated 41 nursing homes in 7 states, including Oregon. The last two years, I have served as the President of the Oregon Health Care Association which represents the majority of nursing homes in the state. My other qualifications are enclosed on my resume.

The basic problem of having no commercial vehicle access to the service area may not appear to be a significant one to those who do not understand the nature of the nursing home business. If one was to compare it to a hotel operation, you can begin to understand the impact on customer relations and the marketability of the facility. The Hyatt Hotels do not have food or any commercial deliveries through their main lobby, nor are any deliveries made to their desks because of the safety and health hazards presented to their customers.

Nursing homes, because of the many federal and state rules and regulations, are required to be extremely "health hazard" conscious. The use of the main entry creates increased risk to the residents by collision with freight deliveries. It also causes the doors to be propped open, which puts them in violation of fire safety standards and increases the opportunity for confused patients to wander from the building.

In addition, many of the deliveries, especially food and chemicals, may drip onto the floor leaving water or residue upon which the residents, staff and visitors may slip and injure themselves. During the colder months, it creates an uncomfortable environment for the residents of the facility. Most resident of nursing homes enjoy temperatures which are slightly higher than what we would consider an average. The continuous opening of the main door deprives them of that comfort.

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Page Two

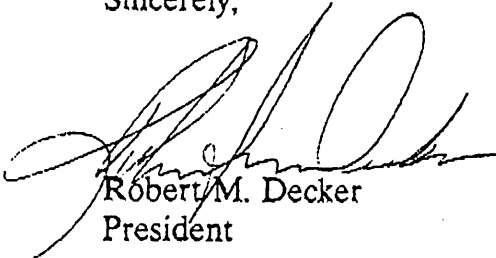
There is also a loss of operational efficiency, which is caused by the congestion of deliveries being brought to the nurses stations instead of the loading dock or service area. This, once again disrupts patient care, as nurses are forced to deal with delivery personnel instead of resident and their families.

The large commercial delivery vehicles create confusion in the parking lot because of the turn space which they require.

There is also an adverse impact on the fair market value of the facility. As an individual who has purchased many nursing homes over the past few years, I would see a service access problem as something I would need to correct. I would, in fact, deduct the cost of providing such an access from the market value of the facility. I would also deduct for the impact that this would have on my ability to market the facility to private pay clientele. In Oregon, the private pay patient is one key to survival and would be an important consideration.

If you have any questions, please do not hesitate to call.

Sincerely,



Robert M. Decker
President

Enclosure

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Cont.
Res.

REQUEST FOR COUNCIL ACTION

DATE SUBMITTED: October 22, 1993 X **MOTION**

DATE ACTION REQUESTED: November 1, 1993 — **RESOLUTION**

 — **ORDINANCE**

 — **INFORMATION**

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

RECOMMENDATION:

The Newberg Urban Area Management Commission recommends approval of this request. City staff recommends approval of this request. The City Council should direct staff to return with either an ordinance for approval or a resolution for denial.

BACKGROUND:

On September 14, 1993, the Newberg Urban Area Management Commission recommended approval of a request to amend the urban growth boundary on the southeast portion of Newberg. The amendment would place about 10 acres of industrial land inside the urban growth boundary. The proposed urban growth boundary amendment was initiated the applicant in order to receive city water service.

The Newberg Urban Area Management Commission (NUAMC) approved this request this request by a 4-0 vote (see attached minutes). In approving the request NUAMC adopted the findings presented by the applicant. These findings and the supplemental findings submitted on September 7, 1993 are attached for the Council's consideration. Also, the original Staff Report is attached. It is important to note, this is not a public hearing and consideration of the request is to be based on the facts and evidence presented at the NUAMC hearing.

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

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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.

Based on the agreement, the Council is not required to hold a public hearing on the urban growth boundary amendment. It should be noted that the County Commissioners are scheduled to hear this request on November 10, 1993.

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. Section 606 of the Zoning Ordinance sets forth the process by which the Council shall take action on Zone Changes and Plan Amendments. The section states that Council shall consider the proposal based on the following:

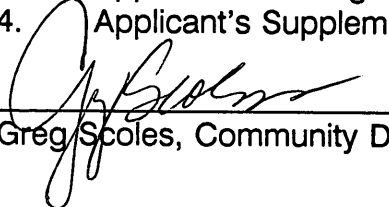
- The decision of the Newberg Urban Area Management Commission;
- The report of the Planner;
- The record of the Newberg Urban Area Management Commission proceedings; and
- Any report or written statement of a party determined to have standing.

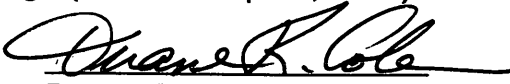
If the proposal satisfies the criteria for a zone change the Council shall direct staff to prepare an ordinance approving the request (see the attached Findings for the criteria). If the Council finds that the criteria are not satisfied, it shall reject the proposal and request staff to prepare a resolution to deny the request. In addition, the Council may choose to: 1) remand this request to NUAMC; 2) refer the matter to the Planning Commission; or 3) elect to hold a public hearing on the item (requires a unanimous vote of the Council).

COST: None

ATTACHMENTS:

1. NUAMC Minutes dated Sept. 14, 1993
2. Staff Report Dated Sept. 14, 1993
3. Applicant's Findings (received July 26, 1993)
4. Applicant's Supplemental Findings (received Sept. 7, 1993)


Greg Scoles, Community Dev. Dir.


Duane Cole, City Manager

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MINUTES OF THE NEWBERG URBAN AREA MANAGEMENT COMMISSION
Newberg Waste Water Treatment Plant
Tuesday, 7:00 PM

Newberg, OR 97132
September 14, 1993

I. CONVENE MEETING

The meeting was called to order by Chairman Jack Kriz.

Members Present:

Jack Kriz
Don Halbrook
Alan Halstead
Leslie Lewis
Dennis Goecks

Members Absent:

Marty McIntosh
Bill Jackson

Staff Present:

Greg Scoles, Community Development Director
Sara King, Associate Planner
Rob Hallyburton, Yamhill County Planning Director
Duane Cole, City Manager

Others Present:

Marvin Schneider
Bill Campbell

Citizens Present: 2

II. NUAMC APPROVAL OF MINUTES

Motion: Halstead-Halbrook to approve minutes of the August 10, 1993 meeting without changes. Approved unanimously.

III. PUBLIC HEARING: URBAN GROWTH BOUNDARY AMENDMENT

Applicant: Marvin Schneider
Request: An Urban Growth Boundary amendment to include a 10 acre parcel within the City of Newberg UGB.
Comp Plan: VLDR to IND
Location: 2409 Wynooski
Tax Lot: 3228-1800

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File No.: UGB-2-93
Criteria: Newberg Urban Area Growth Management Agreement - Section VII;
Statewide Planning Goals; Newberg Ordinance 1967, Section 4

NUAMC Chair Kriz opened the hearing. He then requested staff to read ORS 197 relating to public hearings. Associate Planner King recommended showing the ORS on the overhead instead of reading from it.

Chair Kriz then asked for abstentions, ex-parte contact or objections to jurisdiction. Commissioner Halstead stated he has known the applicant for years, has had many business dealings (other than garbage) for a number of years, his brothers own property across the street. Chair Kriz asked for any objections to the abstention. There was no objections and Mr. Halstead was excused.

Staff Report: Associate Planner King explained the request for the UGB amendment of 10 acres. She explained that the packet states, in the heading, "Findings for Approval..." which should read "Findings for Denial...".

Ms. King reviewed the findings and the criteria that needs to be addressed. She stated the commission needed to keep in mind the request is for a UGB amendment and not a zone change for this particular proposed use.

Ms. King showed a map and explained the location of this proposed UGB amendment. She pointed out that this is in the proposed Urban Reserve Area.

Commissioner Goecks stated that he has inspected the site, but he did not see or speak to anyone.

Ms. King explained that sewer is not presently available, water service can be extended to this site, and there is no storm sewer system in this area.

Conclusion to Findings: Ms. King stated the applicant indicated they doubted a zone change would be allowed for another property. There has not been an application for any zone changes. Staff feels the applicant has not looked at other lands for locating this facility without amending the UGB. The preliminary recommendation by staff is to deny this request to amend the UGB.

Proponent:

Bill Campbell 911 E. Third Mr. Campbell stated he was here to speak on behalf of Marvin Schneider.

Mr. Campbell indicated that the applicant has looked at all of the available lands in Newberg

and the sites will not work. He indicated most of the available land is in areas that this type of use would not be allowed. He described the various locations that they looked at and listed the reasons each site could not be used for this type of facility.

Commissioner Lewis asked about the property north of site. It is zoned M-2, how many acres is it?

Mr. Campbell guessed it is around 10-12 acres and single ownership.

Commissioner Halbrook indicated it has 3 different owners.

Commissioner Lewis asked if the applicant had given any thought to having a zone change there since surrounding properties are M-3.

City Manager Duane Cole stopped the discussion and asked Chair Kriz to keep the questions until after the proponent finishes speaking.

Mr. Campbell continued with a discussion about the available lands. Wynooski Street has been developed for industrial use. The best location for this type of facility having heavy truck traffic would be off of this road. The lots available on this road are not for sale or are for sale for a high price and the process to purchase these lots is very time consuming. Timing is an important factor when purchasing.

Mr. Campbell further stated the applicant has spent time in researching other lands and doesn't feel he should spend anymore time researching lots that are set aside for light or medium industrial facilities.

Mr. Campbell discussed how appropriate this location is for the truck traffic. This is a location that trucks can reach off of Highway 219 through the I-5 corridor and they won't impact the rest of the City of Newberg.

Mr. Campbell reviewed what will be stored on this site. It is to be used for cardboards, waste paper and other materials not suitable for recycling. He stated this type of facility will create approximately 20-30 new jobs.

Motion: Goecks-Lewis to change the process to allowing questions to be asked at the time of each persons testimony instead of waiting until the close of the entire proponents testimony.

Commissioner Lewis asked whether the applicant had researched the purchase of the property across the street since it could be an easy process to have the M-2 zone changed to M-3.

Marvin Schneider stated he has looked at purchasing many different lots but felt the best location

for this facility is next to the existing transfer station so that the sites could be somewhat connected. This area is already handling solid waste products and it wouldn't be necessary to gain approval for this type of use in this area.

Commissioner Lewis again asked if he had looked at this specific site across the street.

Marvin Schneider indicated no this particular site had not been researched.

There was then some discussion on the type of facility the applicant proposed at this location. Commissioner Goecks then asked for clarification from staff as the whether or not it mattered what was proposed there. His thought was the application is for a UGB amendment not a zone change to allow this particular use. After additional discussion, staff confirmed this thought and instructed the commission to limit the discussion to the UGB amendment and not the use if this amendment was approved.

Opponent:

Ron Halstead - property owner across the road. Mr. Halstead first stated that he didn't know whether he was an opponent or proponent but he just wanted to make some comments. He agrees that Newberg needs more industrial property. He stated he was not contacted about his parcel of land that could be used for this facility. He understands his parcel may not be large enough, and that the Schneiders would like to belt waste from one site to the other. He feels the applicant has researched the community and has selected a good site for this facility.

Bob Botts: 8640 NE Dogridge Road. Mr. Botts had some concerns about materials that might be dumped into Hess Creek. He indicated there are several drainage systems that lead into this creek and felt the applicant could not guarantee that material would not be dumped into these and cause some type of contamination.

Mr. Campbell questioned if Mr. Botts' primary concern was that this proposed use could cause contamination to the drinking water or if he had some concern for this industrial property coming into the City. Mr. Botts indicated he was only concerned about contamination of the water.

Public Agencies: None

Other Letters: None

Staff Recommendation: Mr. Scoles indicated that staff's recommendation will remain unchanged. The issue is not one of the activity but it is the matter of if land is available for this type of activity. There is no need to move the UGB to accommodate this type of facility.

Hearing Closed.

NUAMC Discussion:

Commissioner Goecks felt that although there may be some amount of acreage that is zoned for this facility, it is locked up in one way or another. He asked Mr. Scoles what the difference is between this UGB amendment and other UGB amendments that we have approved.

Mr. Scoles indicated he could not answer about what has happened in the past as he is new to the City. He stated that quite possibly the available land may not be suitable for the applicants purpose, but he felt the applicant should be required to research it further.

Commissioner Lewis felt the commission should be looking at the proposed use for this site and understand that although there is more land available, that this land is the most suitable. She felt it was important that this facility would provide more jobs for the community.

Commissioner Halbrook felt the City is short M-3 property. He felt that even though there is land zoned industrial and is vacant, quite a bit of it is not available for different reasons. He discussed the availability of utilities in the area of this amendment and felt sewer should be extended to this area in the near future.

Commissioner Goecks stated his concerns about the criteria. He stated this particular type of development could have much opposition in the different areas that are currently available. This location does seem to be most suited as far as transportation issues, the business adjacent to it, access off of Highway 219. This request should be approved.

Chair Kriz felt this should be a joint application for zone change as well as an amendment to the UGB.

There was some discussion about bringing the zone change and amendment to the UGB before City Council. City Manager Cole indicated this committee should make the recommendation that is currently in front of them, for the UGB amendment and staff will bring the zone change to them at a later date and both requests will go to City Council at the same time.

Motion: Goecks-Lewis to recommend to the City Council and Planning Commission the approval of the request for an Urban Growth Boundary amendment for a 10 acre parcel on the south side of Newberg based on the findings for approval as submitted in the supplement by the applicant and supporting comments made earlier by Commissioner Goecks. Motion passed unanimously with one abstention (Halstead).

IV. PUBLIC HEARING: NW NEWBERG SPECIFIC PLAN

Applicant: City of Newberg
Request: Adopt the NW Newberg Specific Plan as an element of the Comprehensive Plan and enact related ordinance amendments
File No: Newberg Planning File GR-3-92
Criteria: Newberg Urban Area Management Agreement - Section VII; Statewide Planning Goals (Goal 14); Newberg Ordinance 1967, Section 4 (Newberg Zoning Ordinance Sections 600-606 and Section 800)

Mr. Scoles informed the committee that this would be on hold until staff could further research this plan. This will be scheduled for the next NUAMC meeting.

V. NEXT MEETING DATE

No meeting date was scheduled.

VI. ADJOURNMENT

Halbrook-Goecks to adjourn meeting. Motion carried. 9:40 p.m.

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**NUAMC
STAFF REPORT**

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.

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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:

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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 f

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.

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.

V. REFERRALS

Referrals for the zone change and Comprehensive Plan Amendment were sent to all City Departments, utility agencies, Yamhill County, Newberg School District, Parks and Rec and DLCDC. Comments were received relating to the availability of utilities on the site. No comments were yet received from DLCDC.

VI. ANALYSIS

The proposed urban growth boundary amendment was initiated by the applicant in order to build the composting facility. The applicant is interested in building the facility as soon as possible. This kind of facility is allowed in the County in an industrial zone. The site is currently zoned residential and a Comprehensive Plan Amendment/Zone Change is required in order to build this facility in the County. However, zone changes are frozen around Newberg until the Urban Reserve Area process is completed. This is anticipated to be completed by April of 1994. It is unclear at this time whether proposed interim development measures which are a part of the URA process will allow a zone change to industrial land until this parcel is brought into the UGB.

VII. CONCLUSIONARY FINDINGS - UGB AMENDMENT

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.*

The Comprehensive Plan indicates that there are currently 709 acres of vacant land planned for industrial use. An industrial park developed in 1992 has reduced this number by 24 acres, leaving 685

acres of land available. Both the Comprehensive Plan and the economic analysis indicates a shortage of industrial land by the year 2010.

This area is in a proposed Urban Reserve Area, indicating the desire of the City to urbanize this land in 10-30 years.

According to the applicant, there are 36 acres of vacant M-3 land in the present UGB. The applicant did not indicate why these sites are not suitable, nor has the applicant attempted to rezone any industrially planned/zoned land in the UGB. The applicant indicated in his application that a supplemental report may be provided which indicates which lands in the UGB are vacant but not suitable for use. No indication has been given that the applicant has exhausted all options for obtaining industrial land in the UGB, therefore, no need has been shown.

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

There is a water main in the vicinity of this site which can provide water. Sewer is not available nor will it be available to this area in 2-3 years. Comprehensive Plan Air, Water and Land Resource Quality Policy 3 allows septic for industries until sewer is available.

The applicant is planning to develop the facility on the six acres of developable land on this site. There is a need for good transportation access to accommodate the 30 daily truck trips which will be anticipated for this use. This access is provided by Wynooski, a county road with collector designation in the City's Transportation Systems Plan and by state highway 219.

It is concluded that adequate facilities are available to serve the site now.

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

The applicant states that this site could be designated industrial land in the future, because this area is in a proposed urban reserve area. However, inclusion of this area in the urban growth boundary at this time would be premature.

Currently, there is a significant amount of vacant and/or underutilized land planned and zoned for industrial use in the present urban growth boundary. This land should be considered for development prior to expansion of the urban growth boundary. By allowing

industrial growth outside the UGB would be promoting "leapfrog" development and would not be an efficient use of land with and on the fringe of the existing UGB.

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

There is an inventoried wetland on this site; however, City general hazard ordinance would prevent any building near this wetland. Department of State Land requirements would also protect this resource.

The applicant indicates that inclusion in the UGB benefits the local economy by adding between 27-30 family-wage jobs.

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 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 area is currently agricultural and residential land, planned and zoned for low density rural residential development. Therefore, agricultural uses may not continue into the future. Also, the area is in a potential Urban Reserve Area, indicating a future expectation for urban development.

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 use on the County comprehensive plan. This designation by the county required the exception to agricultural goals.

Goal 9

Goal 9, the economic development goal, is satisfied because additional land will be available for economic development. This proposed use will contribute to the diverse local economy and is anticipated to create 27-30 new jobs.

Goal 11

Goal 11 is satisfied through the ability to serve the property with water. Sewer will be provided when the City develops a new pump station for the southeast section of the current urban growth boundary. Until then, on site subsurface sewer system can serve the property.

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 served by collector and arterial streets, Wynooski and 219, respectively. The Newberg-Dundee bypass is planned for the vicinity with possible local access at the Wilsonville/Springbrook intersection. Therefore, the site will have adequate access for the anticipated truck traffic.

Goal 14

Statewide Planning Goal 14 is not satisfied because the request does not comply with all the UGB amendment criteria outlined 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. Comprehensive Plan Amendment Criteria

Criteria 1 *The proposed change is consistent with and promotes the objectives of the Comprehensive Plan and of the Zoning Ordinance of the city.*

The proposal is consistent with the City Comprehensive Plan as follows:

Air, Water and Land Resource Quality Policy 3 and Public Facilities and Services policies are satisfied in that the property can be served

by public facilities with extension of a water line from Wynooski Rd. and with the development of a future sewage pump station in the southeast part of the present UGB. Interim sewage can be handled by a sub-surface mechanism until the station is built.

Transportation facilities are in place to handle the truck traffic generated by this use. The property is served by Wynooski and a few hundred feet from the Wynooski/219 intersection.

Economic policies are satisfied in that this use will create jobs and contribute to the local economy.

Urbanization policies are not satisfied because the expansion of the UGB could contribute to leapfrog development due to the large amount of vacant industrial land within the present UGB. As proposed, this use only requires six acres for development. The applicant has not pursued development of this facility on land currently within the UGB.

Criteria 2 *There is a public need for a change of the kind in question;*

The public need is not satisfied for the same reasons as outlined above. There is significant vacant land within the UGB which is planned for industrial use. There are suitable parcels in the vicinity of Smurfit.

Criteria 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.*

The applicant indicates that there are 36 acres of M-3 in the City. As of the time of this report, no analysis of these sites has been provided. Therefore, the applicant has not indicated why these sites or any other sites within the UGB are inadequate or unacceptable. The applicant has not indicated why this parcel is necessary or that the needs of the use will be best served by including this parcel in the UGB.

VIII. CONCLUSION

Based on the criteria, facts, and conclusionary findings, it is recommended that NUMAC recommend denial of the request to amend the UGB to include a 10 acre parcel of land south of Wynooski Rd.

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SECTION 28
T35 R2W

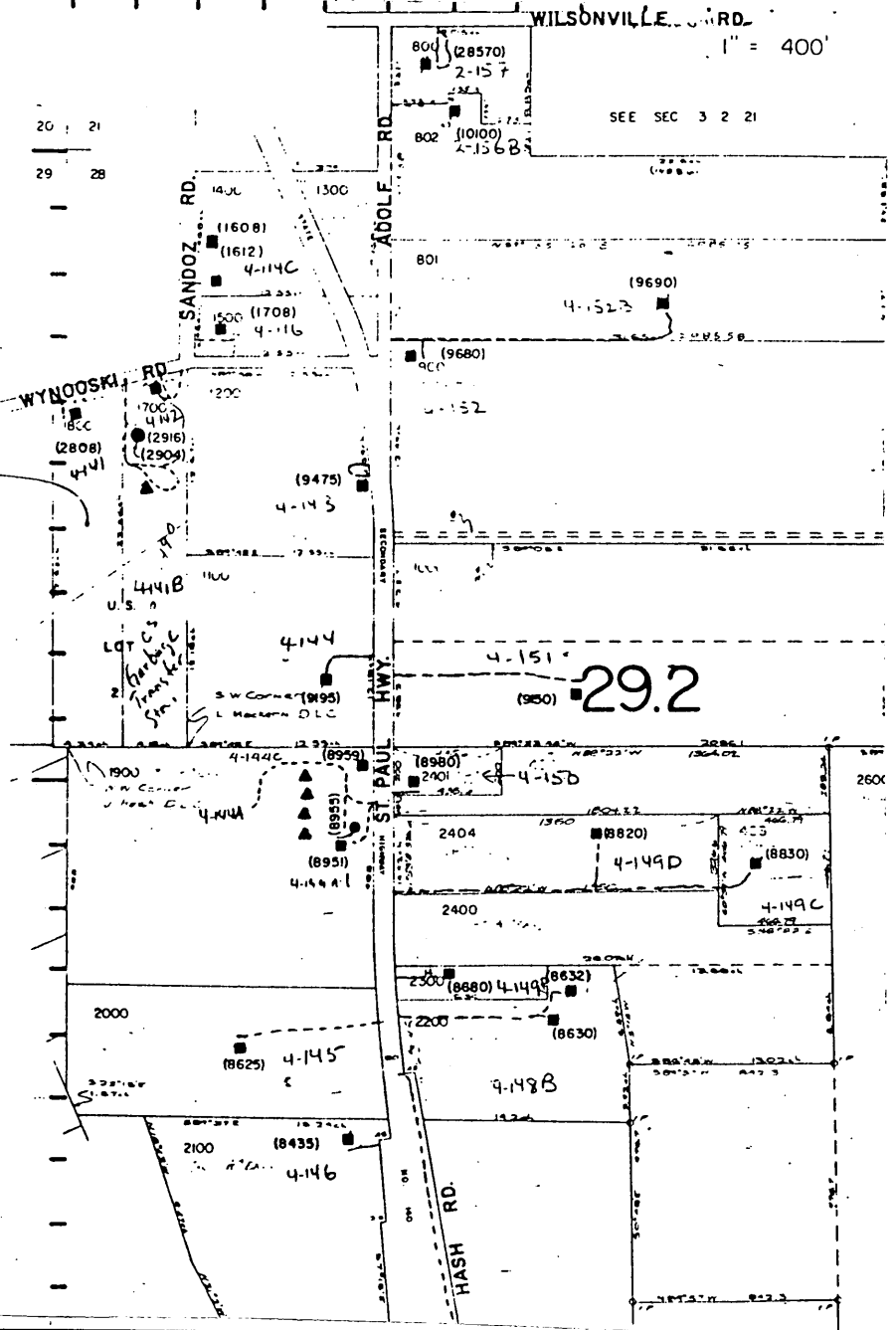
WILSONVILLE RD. 1" = 400'

SEE SEC 3 2 21

20 21
29 28

Subject
PROPERTY

SEE SEC. 3 2 29



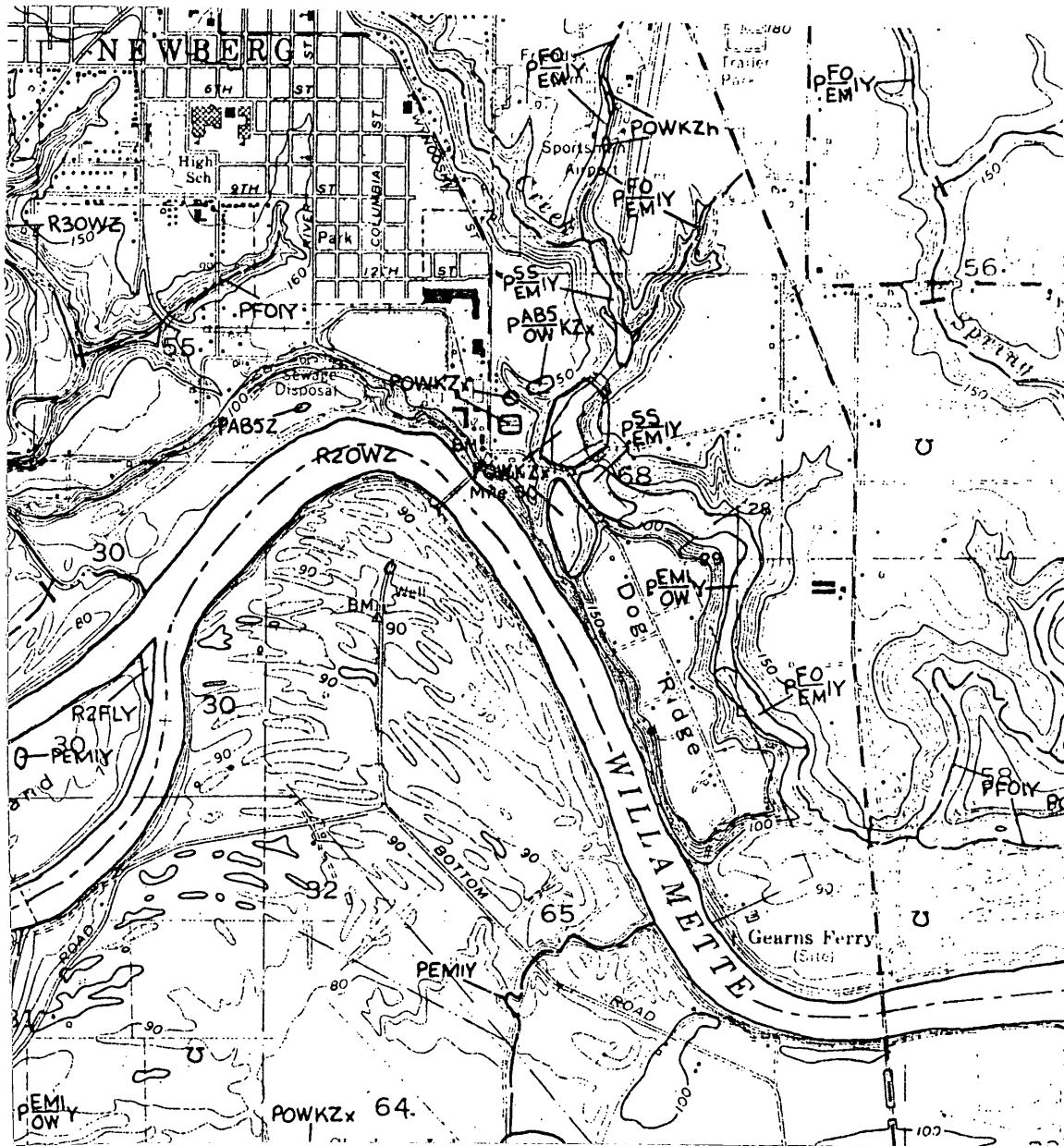
Description:
Urban Growth Boundary
Amendment
File: UGB-2-93
Date: 9-7-93

**EXHIBIT 1
SITE MAP**

Tax Lot: 3228-1800
Location: 2409 Wynooski
Application By:
Marvin Schneider

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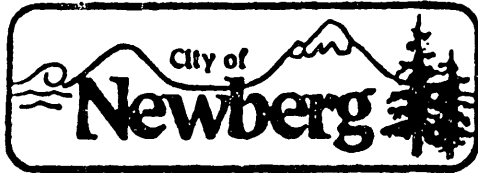
122



Description:
 Urban Growth Boundary
 Amendment
File: UGB-2-93
Date: 9-7-93

EXHIBIT 2
WETLANDS MAP

Tax Lot: 3228-1800
Location: 2409 Wynooski
Application By:
 Marvin Schneider



UGB AMENDMENT
APPLICATION
FILE: UGB-2-93
DATE: _____
FEE: _____
RECEIPT NO: _____

APPLICANT: MARVIN SCHNEIDER PHONE: 538-1388
ADDRESS: 2409 S. WYNOSKI RD. POB 990, Newberg, OR 97132
OWNER(S): Bob Gardner PHONE: 538-4263
(if different from above)
ADDRESS: Purchase Pending Issuance of Title Insurance
PLANNER/ATTORNEY: Paul Campbell PHONE: 538-7675 / 378-3732 x344
ADDRESS: _____
ENGINEER/SURVEYOR: _____ PHONE: _____
ADDRESS: _____

GENERAL INFORMATION:

LOCATION: 2808 S. WYNOSKI RD., Newberg
TAX LOT NO: 3228-1800
CURRENT ZONE: VLDR 2 1/2 PROPOSED ZONE: M-3
CURRENT PLAN DESIGNATION: VLDR PROPOSED PLAN DESIGNATION: IND
CURRENT USE/STRUCTURES: Residential, dwelling unit & out buildings
PROPOSED USE/IMPROVEMENTS: Waste Reduction & Fuel Processing Plant
TOPOGRAPHY: FLAT upper terrace, escarpment, Flood plain
SURROUNDING USES: NORTH: City WWP/IND SOUTH: Flood plain/Agriculture
EAST: Public Works/IND WEST: Heavy Ind.
SQUARE FOOTAGE OF SITE: N/A ACREAGE: 10 ACRES
IDENTIFY ROAD ACCESS: Access to WYNOSKI Road at two west and east edges of the property.

URBAN GROWTH BOUNDARY AMENDMENT CRITERIA

The UGB amendment application must include a written narrative which addresses the following criteria.

1. The proposal must address the urbanization factors of Statewide Planning Goal 14. The factors include:
 - a. Demonstrated need to accommodate long-range urban population growth requirements consistent with LCDC goals.
 - b. Need for housing, employment opportunities and livability.
 - c. Orderly and economic provision for public facilities and services.
 - d. Maximum efficiency of land uses within and on the fringe of the existing urban area.
 - e. Environmental, energy, economic and social consequences.
 - f. Retention of agricultural land as defined, with Class I being the highest priority for retention and Class VI the lowest priority.
 - g. Compatibility of the proposed urban uses with nearby agricultural activities.
2. Explain how the change is consistent with the other LCDC Statewide Planning goals. Address exception criteria of OAR 660, Division 4 if appropriate.
3. Explain how the proposed amendment is consistent with the City's Comprehensive Plan.
 - a. Address the Goals and Policies of the Comprehensive Plan.
 - b. Explain how the change will affect the population growth needs identified in the Newberg Comprehensive Plan.
 - c. Identify exactly what modifications to the Comprehensive Plan and the City of Newberg Inventory of Natural and Cultural Resources would be necessary in order that the Comprehensive Plan and related documents remain consistent with the Statewide planning goals.

This application must be completed and returned to the Community Development Office together with a site plan. Twenty-five (25) copies must be provided. A current title report must accompany the application.

Check with the Planning Staff regarding additional requirements for your project. A pre-application conference with staff can be arranged.

NOTE: ALL OWNERS MUST SIGN THIS APPLICATION OR SUBMIT LETTERS OF CONSENT. INCOMPLETE OR MISSING INFORMATION MAY DELAY THE APPROVAL PROCESS.

<u>7-26-93</u>	<u>Marvin Schneider</u>
Date	Applicant
_____	_____
Date	Applicant

YAMHILL COUNTY LAND USE APPLICATION

Yamhill County Department of
Planning and Development
Courthouse, Room 17
McMinnville, Oregon 97128
(503) 472-9371, Ext. 450

Docket No.: _____

Date Received: _____

Received by: _____

Fee: \$500.00

Receipt #: _____

FOR OFFICE USE ONLY

TYPE OF APPLICATION: UGB amendment

PLAN DESIGNATION: VLDR

ZONE DISTRICT: VLDR-2 1/2

TAX LOT NO.: 3228-1800 PARCEL SIZE: 10 Acres

GENERAL LOCATION: S. Side of WYNOOSKI Rd. Adjacent to City U.C.B.
NW 1/4 of Section 28 T 3 R 2

APPLICANT'S NAME: MARVIN Schneider

ADDRESS: 2409 S. WYNOOSKI Rd. Newburg Ok 97132
Street City State Zip

TELEPHONE: _____ Home 538-1388 Office

OWNER'S NAME (if different from above): Bob Gardner - Purchase Pending

1. What is requested? Amendment to the Newburg U.C.B. to include the subject property and provide a basis for Annexation and industrial development.

2. JUSTIFICATION FOR REQUEST * (Attach separate sheet addressing Zoning Ordinance Criteria as provided in Section _____):

SEE Attached.

* Note: Maps, photos, plans, other statements, etc., which would help clarify your request may also be submitted.

PROPERTY DESCRIPTION

3. PRESENT USE OF PROPERTY: Residential

4. DATE OF PURCHASE OF PROPERTY: _____

5. DOES A SEPTIC SYSTEM PRESENTLY EXIST ON THE PROPERTY? Yes No _____

6. WATER SUPPLY: Well City _____ Water Association _____ Other _____

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7. HOW IS THE PROPERTY ACCESSED? County Road Public Road _____
Private Road _____

8. ARE THERE PRESENTLY ANY BUILDINGS AND/OR MOBILE HOMES ON THE PROPERTY?
Yes No _____

If yes, list present use of each building: Residence, small
home and outbuildings.

9. ADDITIONAL COMMENTS OR JUSTIFICATION FOR REQUEST AS APPROPRIATE:

SEE Attached.

I hereby certify that the above information and justification submitted are in all respects true and correct to the best of my knowledge and belief.

I understand that issuance of a permit based on this application will not excuse me from complying with effective ordinances and resolutions of Yamhill County and Oregon Revised Statutes despite any errors on the part of the issuing authority in checking this application.

I hereby grant permission for and consent to Yamhill County, its officers, agents and employees, coming upon the above-described property to gather information and inspect the property whenever it is reasonably necessary for the purpose of processing this application or preparing a staff report.

Marvin Schneider
Applicant's Signature

7-26-93
Date

Owner's Signature

Date

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

Applicants'
 Findings
 (Adopted by NUAMC 9.14.93)

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

Newberg Urban Growth Boundary Amendment

Applicant: Marvin Schneider

Subject Property: Tax Lot #3228-1800

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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

Newberg Urban Growth Boundary Amendment

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both capital and labor intensive enterprises".

- c. The proposed development site is adjacent to the city wastewater treatment plant (WWTP); derives vehicular access from Wynooski 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.

Newberg Urban Growth Boundary Amendment
Applicant: Marvin Schneider
Subject Property: Tax Lot #3228-1800
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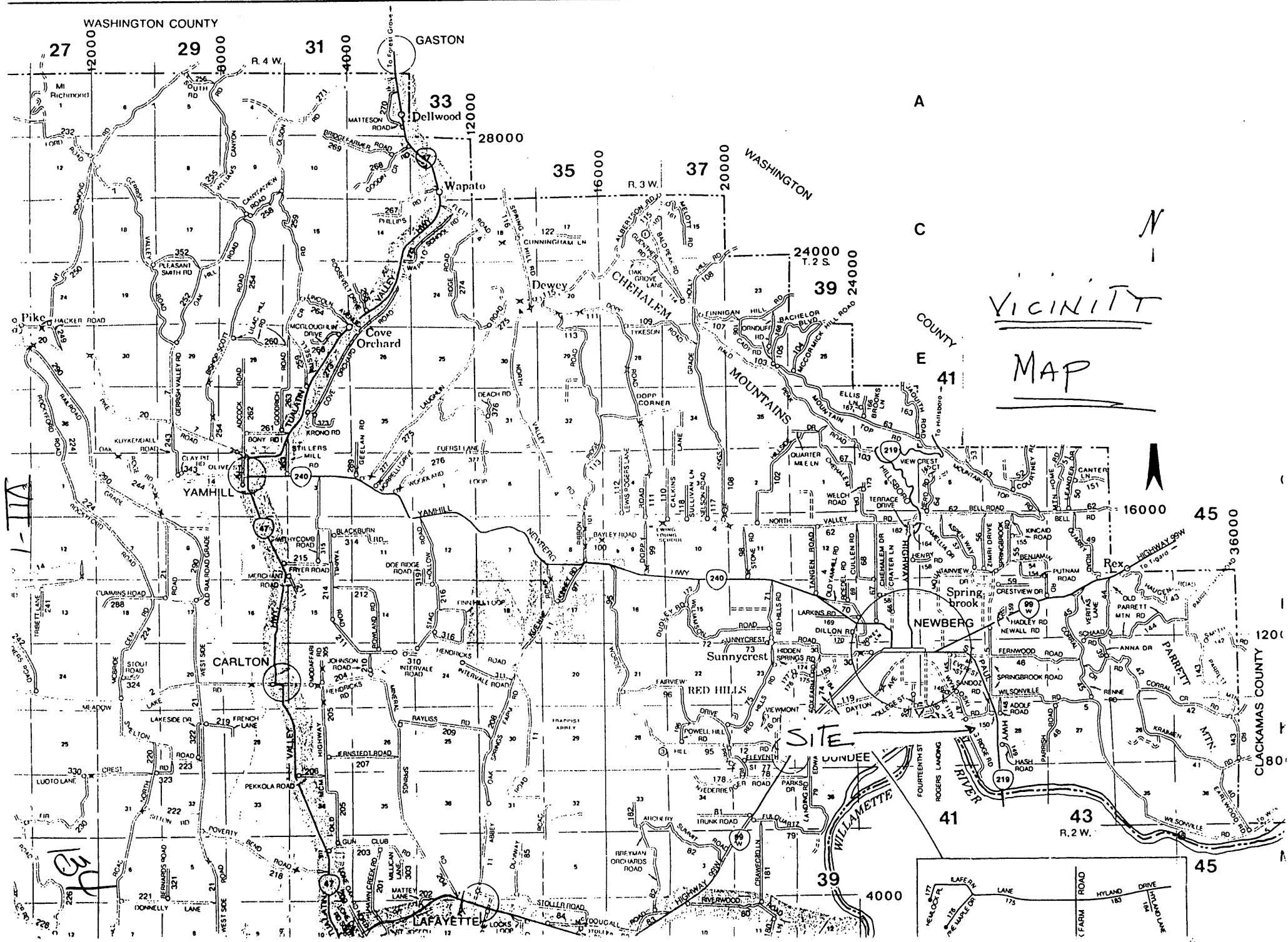
2. To maintain Newberg's identity as a community which is separate from the Portland Metropolitan area.
3. To create a quality living environment through a balanced growth of urban and cultural activities.

Policies 1 and 3, inclusive, are applicable to the proposal.

The proposed UGB amendment is consistent with the above indicated Newberg Comprehensive Plan Goals and Policies.

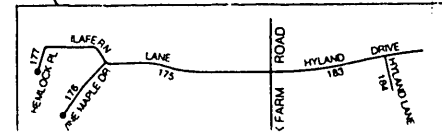
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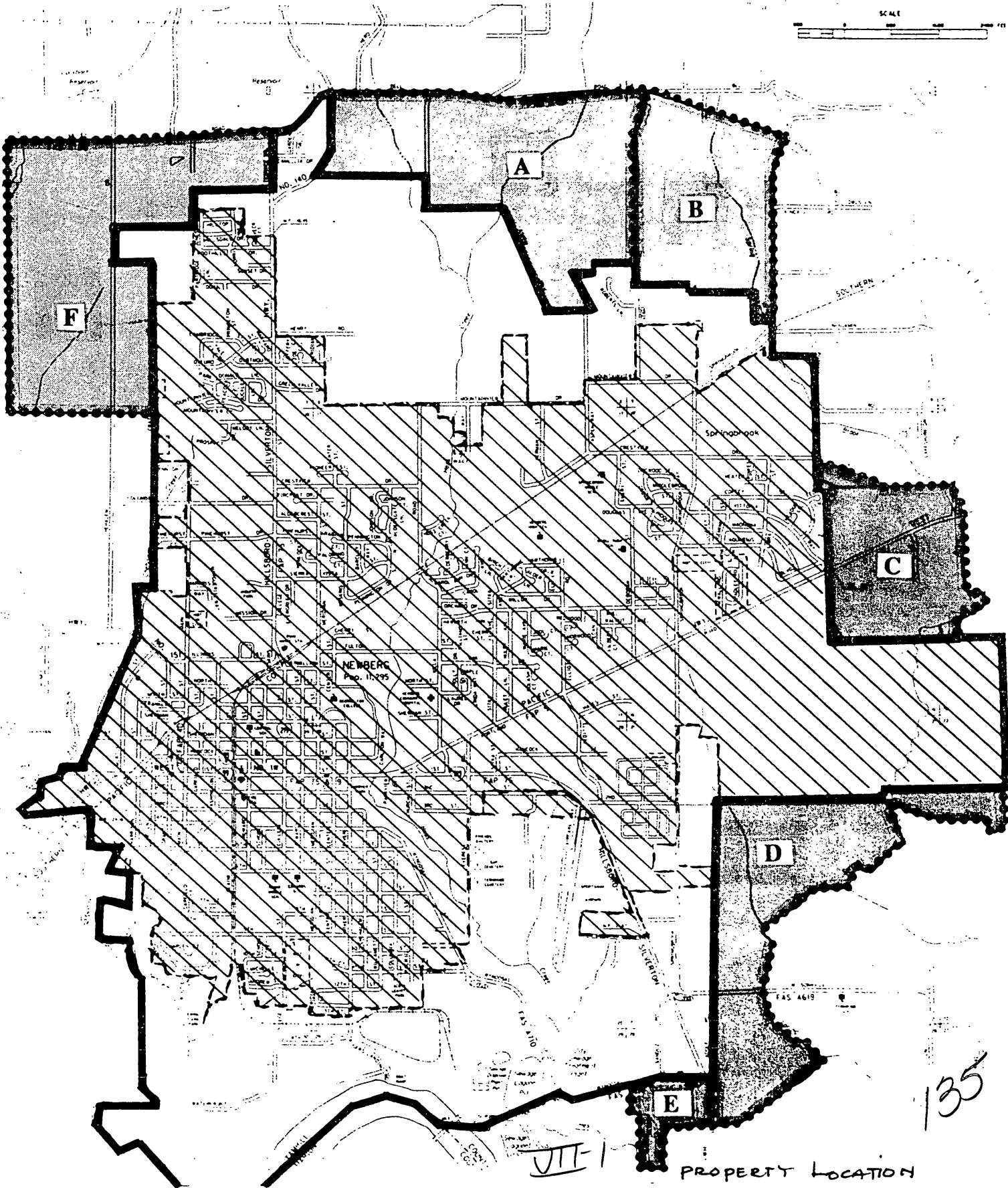


URBAN RESERVE AREA STUDY

UGB
CITY LIMITS
URA STUDY AREA



N



PROPERTY LOCATION

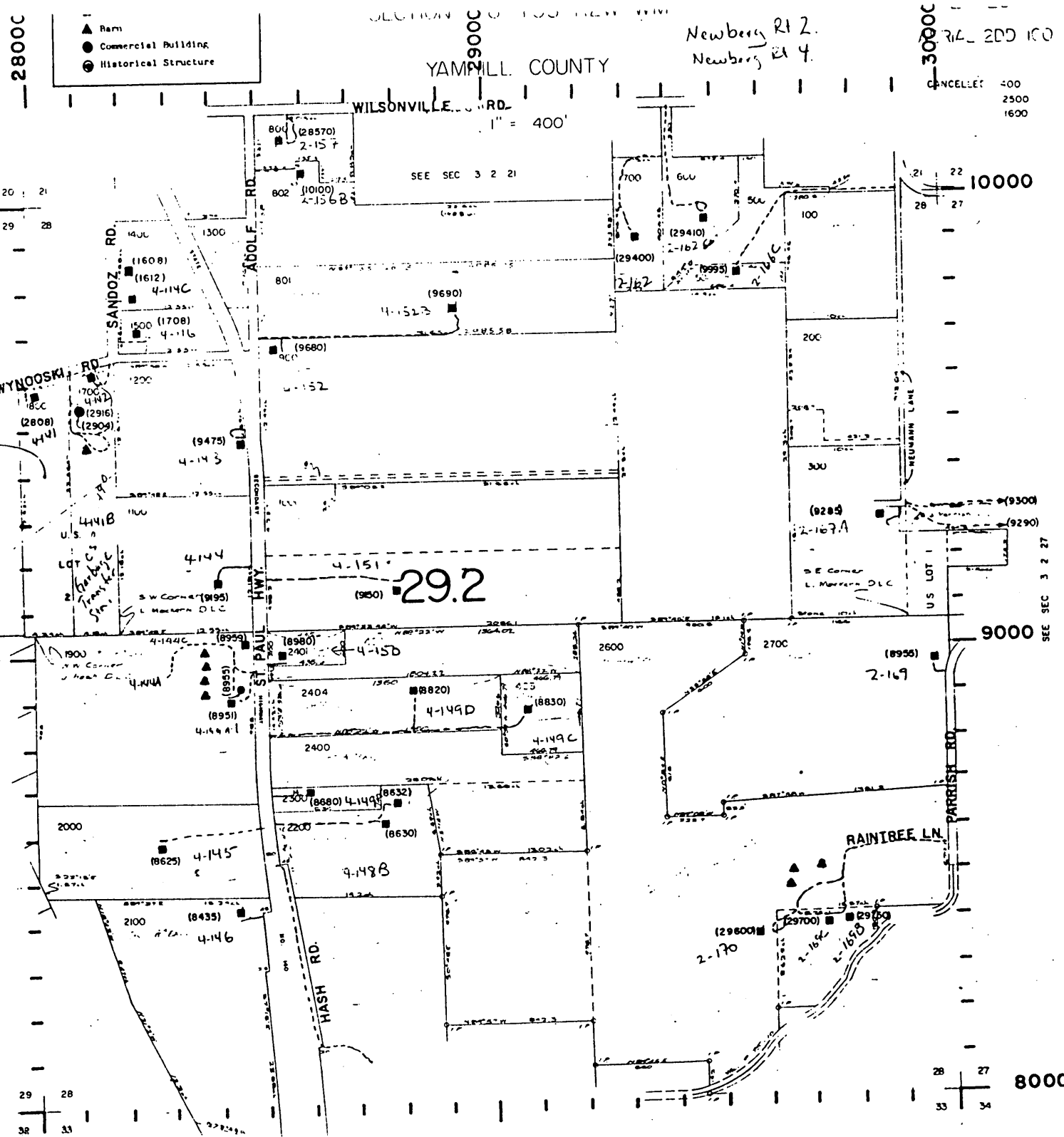
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SEE SEC 3 2 27

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SEP 7 1993

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

Approved by NUAMC 9.14.93

The following information is a supplement to information provided in the basic application:

THE PROPOSED FACILITY & OPERATIONS:

The proposed industrial activity involves resource recovery from selected municipal waste streams. A high percentage of municipal solid waste consists of fibrous materials suitable for use as a fuel or for composting. The proposed facility would purchase pre-sorted materials from solid waste transfer and recycling facilities for processing into a fuel or diversion to an off-site agricultural composting facility.

The facility, at maximum operational capacity, will generate 30 truck trips per day. Materials received will be processed and shipped within 24 hours. Initial operations anticipate two shifts of 8-10 hours each, with the addition of a third shift as the market demand and dependability for product is realized. On-site processing will consist of receiving the material, screening the material to eliminate undesirable particles (glass and metal), grinding the material, and shipping for use as a fuel or as material for agricultural compost and soil additive. As the fuel market is developed a pelletizing machine may be added to the processing system.

The processing operations will all be within an enclosed building at the southerly edge of the property. The site operation will be subject to licensing and permitting by the Department of Environmental Quality (DEQ). The DEQ permit is subject to a full environmental assessment of the site and vicinity to ascertain environmental compatibility. The northerly edge will be landscaped to provide site screening consistent with the landscaping at the adjoining Newberg Transfer and Recycle Center.

INDUSTRIAL LANDS ANALYSIS:

The Newberg Comprehensive Plan (NCP) has identified a total of 709 acres, within the UGB, as suitable for industrial development. These lands, for the most part, are neither suitable nor available for heavy industrial uses. The NCP Industrial Areas Policies provides as follows:

- a. Industrial expansion shall be located and designed to minimize impacts on surrounding land uses.
- b. 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 consumers of energy.

- c. Newberg shall actively pursue the inclusion of large industrial sites within the UGB.
- d. The City shall reserve land for industrial development prior to demand and attract new industries in accordance with future community needs.
- e. Established industrial areas may be extended and new industrial areas designated by plan amendment where development trends warrant such extension or designation. Full urban services will be extended into the area if appropriate, if the extension of land use and services is consistent with all other goals and policies of the plan.
- f. Concerted community efforts should be made to see that industrial development expands outward from existing areas rather than occurring in haphazard patterns.

The NCP provides the following adopted urbanization guidelines and policies:

GOALS:

1. To provide for the orderly and efficient transition from rural to urban land uses.
2. To maintain Newberg's identity as a community which is separate from the Portland Metropolitan area.
3. To create a quality living environment through a balanced growth of urban and cultural activities.

POLICIES:

1. Urban Growth Boundary Policies
 - a. The conversion of lands from rural to urban uses within the UGB will be based on a specific plan for the extension of urban services.
 - b. The City shall oppose urban development outside the City Limits but within the Newberg Area of Influence.
 - c. The City shall encourage urban development within the City Limits.
 - d. The UGB shall designate urbanizable lands.

- e. The City will support development within the areas outside the City Limits but within the Newberg UGB based on the following standards and restrictions:
- Residential development will be allowed on the basis of one house per 10 acres, or any lot of record created prior to January 1, 1989.
 - Commercial and industrial uses will generally be discouraged.
 - Agricultural uses will be allowed in accordance with the Yamhill County Comprehensive Plan.

Development not meeting the standards may be opposed by the City.

- f. In expanding or otherwise altering the UGB, the Boundary shall follow road rights-of-way, lot lines, or natural features.
- g. The City and County shall coordinate action regarding partitions and subdivisions of land within the UGB. The City shall seek revisions to the Urban Growth Boundary Management Agreement to require City consent for such partitions and subdivisions.

The City Vacant Land Inventory indicates that "commercial and industrial land needs were based upon projected economic growth rates as related to employees per acre", and finds the present acreage adequate to implement the City's long range policy of encouraging industrial growth and economic independence. Unfortunately the NCP does not articulate the methodology utilized to determine the projected economic growth rates or the number of employees per acre needed to maintain a balanced area economy. The NCP indicates that "additional lands are intended to be transferred from residential areas as needs for specific sites become apparent.

The Plan Concept, page 41 of the NCP, does not make reference to industrial development, either in the present or future tense. The Industrial Plan Classification stipulates that "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 area should be developed to light industrial or industrial park type uses."

The proposed land use constitutes a heavy industrial use. Which, in accordance with the plan classification should be located "in the area near Smurfit Newsprint". A review of the City Comprehensive Plan map indicates

that lands in the vicinity of the Smurfit Newberg Mill are designated for industrial uses; however, lands in the area, according to the Newberg Zoning Map, zoned M-3 are developed to heavy industrial uses. There are no vacant M-3 zoned lands in the vicinity of the Smurfit Mill, nor in the balance of the City limits. The NCP does not encourage the development of heavy industrial uses on lands presently within the UGB designated for Industrial uses, if the plan classification statement that "other designated areas should be developed to light industrial or industrial park type uses" represents an accurate statement.

INDUSTRIAL LANDS SURVEY:

Designated industrial lands were surveyed to determine suitability for the proposed use, suitability for M-3 zoning, and availability within the market place. Industrial lands within the Newberg UGB, for discussion purposes, are identified as Adec Industrial, Werth Industrial, Highway 219 Industrial, Wyooski Industrial, Waterfront Industrial, and Railway industrial areas. The Adec, Werth, Highway 219, Railway, and Wyooski industrial areas with two exceptions are zoned for M-1 or M-2 industrial development. Two sites are zoned M-3, both are developed. The larger of the two is owned by the City and houses the wastewater treatment facility, the other is owned by Smurfit and houses the mills recycling warehouse and de-inking process. Lands along Waterfront Avenue are designated industrial, are within the Newberg UGB, are owned by the Smurfit Newsprint Corporation and are not available.

The survey indicates that industrial lands along Highway 219 are both for sale and available for lease or rent; however, these properties are zoned M-2, precluding the applicants proposed heavy industrial use without a zone change. The 219 site is not in the vicinity of the Smurfit Mill and it is doubtful, given the guidance of the comprehensive plan, that a zone change to M-3 within a developing M-2 zone would be successful.

The applicant, in the late Spring of 1993 approached Yamhill County regarding the purchase or lease of the old Newberg Landfill site as an operational site for the proposed use. The County Commissioners clearly indicated that the site was not available for lease or sale.

The site being purchased by the applicant adjoins the Newberg Transfer and Recycling Center (NTRC) site, a heavy industrial use operated under authority, and in conformance with the Yamhill County Public Works Safety zone. The proposed industrial activity is similar in nature and scale to the existing NTRC operations, with the exception of route collections.

URBANIZATION FACTORS:

Goal 14 sets forth seven factors to guide the size and location of the urban growth boundary. Elements of other statewide goals are reflected within these seven factors, which must be considered by cities in the establishment and change of urban growth boundaries. The Goal 14 Urbanization factors are typically divided into two categories; the "need" factors (1 and 2) and the

locational factors (3 through 7). Generally, to establish or expand an urban growth boundary, it must be demonstrated that there is insufficient land within the boundary to meet the "need" identified under factors 1 and 2. The purpose of this policy is to reduce urban sprawl by providing only as much land within the boundary as is "needed" to serve anticipated growth.

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

Findings:

The City of Newberg has experienced a growth in population of 25.26% from 1980-1990. The NCP projects an anticipated growth of 207% over the next 17 years. The city has designated a total of 709 acres for industrial development within the planning period. The city comprehensive plan indicates that approximately 4,034 acres may be required for urban uses by the year 2010, an increase of 82 acres to the present acreage within the urban growth boundary. The plan indicates that industrial land needs were based primarily upon projected economic growth rates as related to employees per acre; however, the plan does not articulate the anticipated rate of growth or provide a calculation of employees per acre to substantiate the acres represented as sufficient for industrial growth within the planning period. The NCP is focused upon providing lands for light industrial or industrial park development. Lands deemed suitable for heavy industrial development are adjacent to the Newberg Smurfit Mill, generally under Smurfit's ownership and unavailable to other development interests. The proposed amendment will provide additional lands for heavy industrial development and result in the creation of jobs to enhance the local economy, lend stability to the area, and improve the quality of life through gainful employment and the diversification of the local economic base.

2. Need for housing, employment opportunities and livability;

Findings:

The application is seeking an amendment to the UGB to site a heavy industrial facility that will result in the creation of jobs within the community. The site is under consideration by the city as an Urban Reserve Area (Area E) for future industrial development. The request for inclusion of the subject property is consistent with the projection of future city needs to diversify its industrial land base to accommodate a wider range of employment opportunities within the community. The proposed industrial development is consistent with plan policies supporting the utilization of the existing labor force and assist in the reduction of seasonal employment fluctuations.

3. Orderly and economic provision for public facilities and services;

Findings:

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The site abuts Wyooski Road, a County Road designated for industrial access into the City of Newberg. A 12" water main is located within the right-of-way of Wyooski Road and is readily available to the site.

The municipal wastewater treatment facility is within several hundred feet of the subject site; however, a collection line serving the area does not presently exist. Wyooski Road industrial properties are generally served by on-site waste water disposal systems, subject to service connection when the area is served by a waste water collection system. The city has authorized, on a case by case basis, previous industrial development to utilize on-site waste water disposal systems until such time as the municipal system is available to the respective properties. The site can be served with public facilities commensurate with its needs and requirements.

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

Findings:

The subject site is within the Urban Reserve study area (Area E) and is deemed suitable for future industrial development. The site is in proximity to the Smurfit Newberg Mill (>1/4 mile), which is deemed as the appropriate, if not preferred, location for heavy industrial uses. The site adjoins an existing heavy industrial use, NTRC, and is immediately adjacent to lands excepted and zoned for future heavy industrial use within the Yamhill County Comprehensive Plan and Zoning Ordinance. The proposed amendment is consistent with City of Newberg comprehensive plan policies that stipulate industrial development as an urban activity. The city plan calls for the opposition of industrial development proposed outside of the UGB and city limits. The application is consistent with these plan policies.

5. Environmental, energy, economic and social consequences;

Findings:

The proposed activity will not adversely impact the environment or impair the air, land or water quality in the area. The southerly 1/3 of the site lies within the 100 year floodplain of Hess Creek, under the influence of Willamette River flooding. This area will be maintained in a natural state and will not be employed in the use of the site by the facility. The site will rely upon city water and sewer as required by city ordinance, dependent upon its availability to the site. DEQ permitting of the proposed activities will be dependent upon an environmental assessment to ensure compliance with applicable environmental requirements at the city, state and federal level of government.

The proposed activity proposes to site a facility to recover fibrous material from municipal solid waste and process it for use as an industrial fuel and agricultural compost. The proposed activity is consistent with operations throughout the United States conducted under permit and authority of other state and local governments. The resource recovery activity will derive fuel from materials that would otherwise be buried or burned in a municipal landfill or waste burner. The fuel will augment diminishing supplies of natural resource fiber and provide badly needed fuel supplies and reserves to industrial users. The resource recovery activity will reduce societal dependency upon landfills and other solid waste repositories and disposal systems. The proposed composting activity will provide enriched materials, high in fiber and mineral content, as a soil additive for commercial farming and household gardening.

The proposed activity will create family-wage jobs within the community that are available to the local work force. A variety of skills and positions will be created with the facility. The product of the operation, fuel and compost, will be marketed upon a local, regional, and statewide basis. The added industrial activity and payroll will lend diversity and stability to the local economic base.

The facility is proposed in an area deemed suitable for heavy industrial use, there will be no adverse social consequences as a result of the approval of this facility.

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

Findings:

The site was excepted from agricultural preservation and conservation policies through the county-wide exceptions process in 1979 and 1982, Yamhill County Exceptions Statements I & II; see code area 1.10.

A separate exceptions statement is required for rural lands at the time of urbanization and in conjunction with an intensification of use. A separate Exceptions Statement for the subject property follows this presentation on the Urbanization Issues of Goal 14.

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

Findings:

The proposed activity is compatible with adjacent agricultural activities in the area. The site is insulated from agricultural activities by a number of natural and man-made features; South - Hess Creek, East - NTRC; West - Smurfit heavy industrial uses and a single family residence that is currently for sale upon a 1 1/2 acre site,

North - the City of Newberg Wastewater Treatment Facility and M-2 industrial lands.

Agricultural activities in the vicinity consist of filbert orchards, small grain operations and an egg production farm. The egg farm is susceptible to noise and noxious fumes. The NTRC facility has been operational since the early 1980's and processes a broader range of materials than will the proposed facility. The NTRC facilities have not posed any problems with adjacent agricultural activities or nearby operations. The proposed use is not incompatible with agricultural activities.

EXCEPTIONS STATEMENT:

The subject site was excepted from the statewide agricultural goals through a county-wide exceptions process, Exceptions Statements I & II, approved by Yamhill County in 1979 and 1982. The site was within the Wynoski Study Area, Code #1.10 (see Attachment #1), and was deemed committed to rural residential use. The County action in 1979, which was later acknowledged by the State Land Conservation & Development Commission (LCDC), was to maintain the existing plan-designation for the entire study area.

Pursuant to Goal 2, OAR 660-04-000, and ORS 197.732 (1) (c), a local government may adopt an exception to a particular goal or goals, for land not "built upon" or "irrevocably committed" to uses not allowed by an applicable goal*1, where the following standards are met:

- "(A) Reasons justify why the state policy embodied in the applicable goals should not apply;
- (B) Areas which do not require a new exception cannot reasonably accommodate the use;
- (C) The long-term environmental, economic, social and energy consequences resulting from the proposed use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site; and
- (D) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts."

The requirements of ORS 197.732(1)(c) and Goal 2 (Exceptions) have been interpreted in Oregon Administrative Rules (OAR) adopted by LCDC, OAR 660-04-000.

*1 The subject site is not "built" or "committed" to urban uses, but was previously deemed "irrevocably committed" to rural residential development. Code Area 1.10, as adopted in the County-wide Exceptions process, indicate that lands immediately adjacent to the subject site on the west are "irrevocably committed" to industrial uses. The lands adjoining the subject site, on the east, are also "irrevocably committed" to industrial uses through individual comprehensive plan and zoning amendments previously processed.

OAR 660-04-018(3) provides that when a local government takes a "reasons" exception, plan and zone designations must limit the uses and activities "to only those uses that are justified in the exception". The uses authorized by this exception are heavy industrial related uses.

- A. The site, initially excepted for rural residential development, is in the midst of an expanding heavy industrial use area. The approval of a private request for a plan amendment and zone change were made to accommodate the siting of the adjoining NTRC. Initially the City of Newberg sited its wastewater treatment plant by a county authorized conditional use permit. At a later date the city expanded the UGB and annexed the property, zoning the sewage works M3 and adjacent lands M2.

The subject property is well suited to industrial development. It has direct access to Wynooski Road, a designated public industrial access route. The site is in close proximity to State Highway 219, a primary access to Interstate 5 and industrial locations, both north and south, in western Oregon. Municipal water supply, a 12 inch main, traverses the site frontage on Wynooski Road and municipal sewer is within close proximity to the site.

The sites suitability for heavy industrial use is readily apparent through the approval of previous quasi-judicial planning approvals for heavy industrial uses, the consideration of the site for future urban industrialization through the city's Urban Reserve Study, City Comprehensive Plan goals and policies supporting industrialization of the lands in proximity to the Smurfit Newsprint Mill, and the individual alteration of land uses in the area to heavy industrial uses.

- B. The request is consistent with the Newberg Comprehensive Plan policy to site heavy industrial uses in proximity to the Newberg Smurfit Mill. Other lands, presently within the UGB, in proximity to the Smurfit Mill are not available for purchase and development at this time.

The city plan, reflected in the present zoning map, encourages the development of other industrial lands to light industrial or industrial park uses. The M1 and M2 zoning districts have been deemed, by the city, as inappropriate for heavy industrial uses. The city has indicated a preference for heavy industrial uses to locate near the Smurfit Newsprint Mill, the request responds to that preference and planning concept.

- C. The proposed development is consistent with other heavy industrial uses in the area. The proposed development will be sited in concert with DEQ requirements and stipulated permit provisions for the protection of the environment and the maintenance of air, water and land quality. The development will not occur in the environmentally sensitive areas of the subject property and the development will be appropriately screened to minimize or eliminate visual impacts.

The sites proximity to state highway and industrial transportation routes will minimize impacts related to truck traffic. The ease of access to the state and interstate highway system will ensure that truck traffic, generated by the industrial activities, will not impact residential areas within the community. Sites to the west of the Smurfit Mill would require truck traffic to move through a residential area along 11th Street, north of the mill. Many of the streets within the city are not suitable for truck traffic, given the age and method of construction, the width of the street, and residential occupancies.

Other industrial sites within the city either do not possess sufficient vacant land area, are dedicated to campus type industrial development, light industrial uses or are in an area of mixed light and commercial land uses that would be incompatible with heavy industrial uses.

The proposed use will create between 8-24 new jobs within the community and will draw its employees from the local work force. The proposed activity is not subject to seasonal fluctuations that would result in layoffs. The products, industrial fuels and agricultural compost derived from recovered fiber, will fill available market niches on a local, regional and statewide basis. The proposed use will lend stability and diversity to the local economic base and provide expanded job opportunities for the local work force.

- D. The proposed use is compatible with other adjacent and adjoining uses. The use is compatible with the NTRC, the city sewage plant, and the Smurfit operations that lie to the east, north and northwest of the site. Land on the opposite side of Wynooski Road, zoned M2, is vacant. The site is well buffered by open space and vegetation from residential uses in the area. The immediate area is in transition from rural residential to industrial occupancy. This application is further evidence of the areas suitability for industrial use as are pending Urban Reserve determinations before the city and county.

The on-site operations will be located to the rear of the buildable portion of the site, consistent with the adjoining NTRC operations. The site will accommodate separate points of ingress and egress to eliminate potential traffic congestion at the points of entry and exit. The site will be adequately screened with appropriate plant materials. The site will be operated in a responsible manner consistent with DEQ permit requirements and standards.

Marvin Schneider UGB Amendment Application
Supplemental Information
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The following attachments are provided as exhibits to the basic application previously filed:

- Exhibit A - Real Estate Sales Contract
- Exhibit B - Site Plan
- Exhibit C - Floor Plan, Receiving Station
- Exhibit D - Waste Composting News Articles (12)
- Exhibit E - DEQ Letter, October 23, 1991
- Exhibit F - DEQ Letter, June 11, 1993

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CONTRACT—REAL ESTATE

THIS CONTRACT, Made this 21 day of July, 1993, between ROBERT C. GARDNER and RUTH ALICE GARDNER, husband and wife

and MARVIN SCHNEIDER and ANITA SCHNEIDER, husband and wife, hereinafter called the seller, hereinafter called the buyer,

WITNESSETH: That in consideration of the mutual covenants and agreements herein contained, the seller agrees to sell unto the buyer and the buyer agrees to purchase from the seller all of the following described lands and premises situated in Yamhill County, State of Oregon, to-wit:

A part of the Samuel D. Snowden DLC #68 and of Lot 2 of Section 28 and of Lot 10 in Section 29, all in Township 3 South, Range 2 West of the WM, in Yamhill County, Oregon, described as follows:

Beginning at a stake 23.70 chains South and 4.34 chains South 76° West of the NE corner of said Snowden Claim; thence South 23.56 chains; thence West 4.34 chains to the SE corner of a tract conveyed by Maranda Hadley to H. E. Hadley by deed recorded April 13, 1887 in Book "Y", Page 39, Deed Records; thence North along the East line of said Hadley tract 22.53 chains to the center of County Road; thence North 76° East along center of said County Road 4.51 chains to the place of beginning.

SUBJECT to the rights of the public in and to that portion of the premises herein described lying within the limits of roads, streets and highways.

ONE HUNDRED SEVENTY SIX THOUSAND & NO/100 --- Dollars (\$ 176,000.00), for the sum of SEVENTY SIX THOUSAND & NO/100 --- Dollars (\$ 76,000.00) is paid on the execution hereof (the receipt of which is hereby acknowledged by the seller), and the remainder to be paid to the order of the seller at the times and in amounts as follows, to-wit: The unpaid balance of \$100,000.00 to be paid in monthly installments of not less than \$1,239.86 each with the first monthly payment to commence on the 1st day of Sept 1993 and a like payment on the 1st day of each month thereafter until the 1st day of Sept 2003 at which time the entire unpaid balance shall become due and payable in full.

SEE REVERSE SIDE OF CONTRACT FOR FURTHER TERMS AND CONDITIONS

The buyer warrants to and covenants with the seller that the real property described in this contract is (A) primarily for buyer's personal, family, household or agricultural purposes, (B) for an organization or (even if buyer is a natural person) is for business or commercial purposes other than agricultural purposes.

All of said purchase price may be paid at any time; all deferred balances of said purchase price shall bear interest at the rate of 8.5% per cent per annum from August 15 1993 until paid, interest to be paid monthly and * being included in the minimum regular payments above required. Taxes on said premises for the current year shall be prorated between the parties hereto as of August 15 1993.

The buyer shall be entitled to possession of said lands on August 15 1993 and may retain such possession so long as he is not in default under the terms of this contract. The buyer agrees that at all times he will keep the premises and the buildings, now or hereafter erected thereon, in good condition and repair and will not suffer or permit any waste or strip thereon; that he will keep said premises free from construction and all other liens and save the seller harmless therefrom and reimburse seller for all costs and attorney's fees incurred by him in defending against any such liens; that he will pay all taxes hereafter levied against said property, as well as all water rents, public charges and municipal liens which hereafter lawfully may be imposed upon said premises, all promptly before the same or any part thereof become past due; that at buyer's expense, he will insure and keep insured all buildings now or hereafter erected on said premises against loss or damage by fire (with extended coverage) in an amount not less than \$ market value in a company or companies satisfactory to the seller, with loss payable first to the seller and then to the buyer as their respective interests may appear and all policies of insurance to be delivered to the seller as soon as insured. Now if the buyer shall fail to pay any such liens, costs, water rents, taxes, or charges or to procure and pay for such insurance, the seller may do so and any payment so made shall be added to and become a part of the debt secured by this contract and shall bear interest at the rate aforesaid, without waiver, however, of any right arising to the seller for buyer's breach of contract.

The seller agrees that at his expense and within ten days from the date hereof, he will furnish unto buyer a title insurance policy insuring (in an amount equal to said purchase price) marketable title in and to said premises in the seller on or subsequent to the date of this agreement, save and except the usual printed exceptions and the building and other restrictions and easements now of record, if any. Seller also agrees that when said purchase price is fully paid and upon request and upon surrender of this agreement, he will deliver a good and sufficient deed conveying said premises in fee simple unto the buyer, his heirs and assigns, free and clear of encumbrances as of the date hereof and free and clear of all encumbrances since said date placed, permitted or arising by or under seller, excepting, however, the said easements and restrictions and the taxes, municipal liens, water rents and public charges so assumed by the buyer and further excepting all liens and encumbrances created by the buyer or his assigns.

(Continued on reverse)

IMPORTANT NOTICE: Delete, by lining out, whichever phrase and whichever warranty (A) or (B) is not applicable. If warranty (A) is applicable and if seller is a creditor, or such word is defined in the Truth-in-Lending Act and Regulation Z, the seller MUST comply with the Act and Regulation by making required disclosures; for this purpose, use Stevens-Ness Form No. 1308 or similar. If the contract becomes a first lien to finance the purchase of a dwelling use Stevens-Ness Form No. 1307 or similar.

ROBERT C. GARDNER, et ux
SELLER'S NAME AND ADDRESS
MARVIN SCHNEIDER, et ux
BUYER'S NAME AND ADDRESS
After recording return to:
MARVIN SCHNEIDER, et ux
NAME, ADDRESS, ZIP
Until a change is requested all tax statements shall be sent to the following address:
MARVIN SCHNEIDER, et ux
NAME, ADDRESS, ZIP

STATE OF OREGON,
County of
I certify that the within instrument was received for record on the day of 1993 at o'clock P.M., and recorded in book/reel/volume No. on page. or as document/fee/life/instrument/microfilm No. Record of Deeds of said county.
Witness my hand and seal of County affixed.
By EXHIBIT A Deputy

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And it is understood and agreed between said parties that time is of the essence of this contract, and in case the buyer shall fail to make the payments above required, or any of them, punctually within 20 days of the time limited therefor, or fail to keep any agreement herein contained, then the seller at his option shall have the following rights: (1) to declare this contract null and void; (2) to declare the whole unpaid principal balance of said purchase price with the interest thereon at once due and payable; (3) to withdraw said deed and other documents from escrow and/or (4) to foreclose this contract by suit in equity, and in any of such cases, all rights and interest created or then existing in favor of the buyer as against the seller hereunder shall utterly cease and determine and the right to the possession of the premises above described and all other rights acquired by the buyer hereunder shall revert to and rest in said seller without any act of re-entry, or any other act of said seller to be performed and without any right of the buyer of return, reclamation or compensation for money paid on account of the purchase of said property as absolutely, fully and perfectly as if this contract and such payments had never been made; and in case of such default all payments theretofore made on this contract are to be retained by and belong to said seller as the agreed and reasonable rent of said premises up to the time of such default. And the said seller, in case of such default, shall have the right immediately, or at any time thereafter, to enter upon the land aforesaid, without any process of law, and take immediate possession thereof, together with all the improvements and appurtenances thereon or thereto belonging.

The buyer further agrees that failure by the seller at any time to require performance by the buyer of any provision hereof shall in no way affect his right hereunder to enforce the same, nor shall any waiver by said seller of any breach of any provision hereof be held to be a waiver of any succeeding breach of any such provision, or as a waiver of the provision itself.

The true and actual consideration paid for this transfer, stated in terms of dollars, is \$ 176,000.00. However, the actual consideration consists of or includes other property or value given or promised which is part of the consideration (indicate which):

In case suit or action is instituted to foreclose this contract or to enforce any provision hereof, the losing party in said suit or action agrees to pay such sum as the trial court may adjudge reasonable as attorney's fees to be allowed the prevailing party in said suit or action and if an appeal is taken from any judgment or decree of such trial court, the losing party further promises to pay such sum as the appellate court shall adjudge reasonable as the prevailing party's attorney's fees on such appeal.

In construing this contract, it is understood that the seller or the buyer may be more than one person or a corporation; that if the context so requires, the singular pronoun shall be taken to mean and include the plural, the masculine and the neuter, and that generally all grammatical changes shall be made, assumed and implied to make the provisions hereof apply equally to corporations and to individuals.

This agreement shall bind and inure to the benefit of, as the circumstances may require, not only the immediate parties hereto but their respective heirs, executors, administrators, personal representatives, successors in interest and assigns as well.

IN WITNESS WHEREOF, said parties have executed this instrument in triplicate; if either of the undersigned is a corporation, it has caused its corporate name to be signed and its corporate seal affixed hereto by its officers duly authorized thereunto by order of its board of directors.

Robert C. Gardner, Seller
Ruth Alice Gardner, Seller
Marvin Schneider, Buyer
Anita Schneider, Buyer

NOTE—The sentence between the symbols @, if not applicable, should be deleted. See ORS 93.030.

STATE OF OREGON,)
County of Yamhill) ss.
July 21, 1993

STATE OF OREGON, County of) ss.
Personally appeared _____ and _____

Personally appeared the above named ROBERT C. GARDNER and RUTH ALICE GARDNER and MARVIN SCHNEIDER and ANITA SCHNEIDER

_____ and _____, who, being duly sworn, each for himself and not one for the other, did say that the former is the _____ president and that the latter is the _____ secretary of _____ a corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its board of directors; and each of them acknowledged said instrument to be its voluntary act and deed.

and acknowledged the foregoing instrument to be their voluntary act and deed.

Before me: _____ (SEAL)
Notary Public for Oregon
My commission expires: _____

OFFICIAL SEAL
JACK C. NILSEN
Notary Public for Oregon
My commission expires 11/18/94

It is understood and agreed that buyer has inspected the real premises and building(s) located thereupon and buyer agrees that he is purchasing same in its present as/is condition without any warranties or representations on the part of seller.

ORS 93.990(3) Violation of ORS 93.636 is punishable, upon conviction, by a fine of not more than \$100.

(DESCRIPTION CONTINUED)

FURTHER TERMS AND CONDITIONS

THE PROPERTY DESCRIBED IN THIS INSTRUMENT MAY NOT BE WITHIN A FIRE PROTECTION DISTRICT PROTECTING STRUCTURES. THE PROPERTY IS SUBJECT TO LAND USE LAWS AND REGULATIONS WHICH IN FARM OR FOREST ZONES, MAY NOT AUTHORIZE CONSTRUCTION OR SITING OF A RESIDENCE. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND EXISTENCE OF FIRE PROTECTION FOR STRUCTURES.

It is understood and agreed that buyer has inspected the real premises and building(s) located thereupon and buyer agrees that he is purchasing same in its present as/is condition without any warranties or representations on the part of seller.

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TIPPING FLOOR

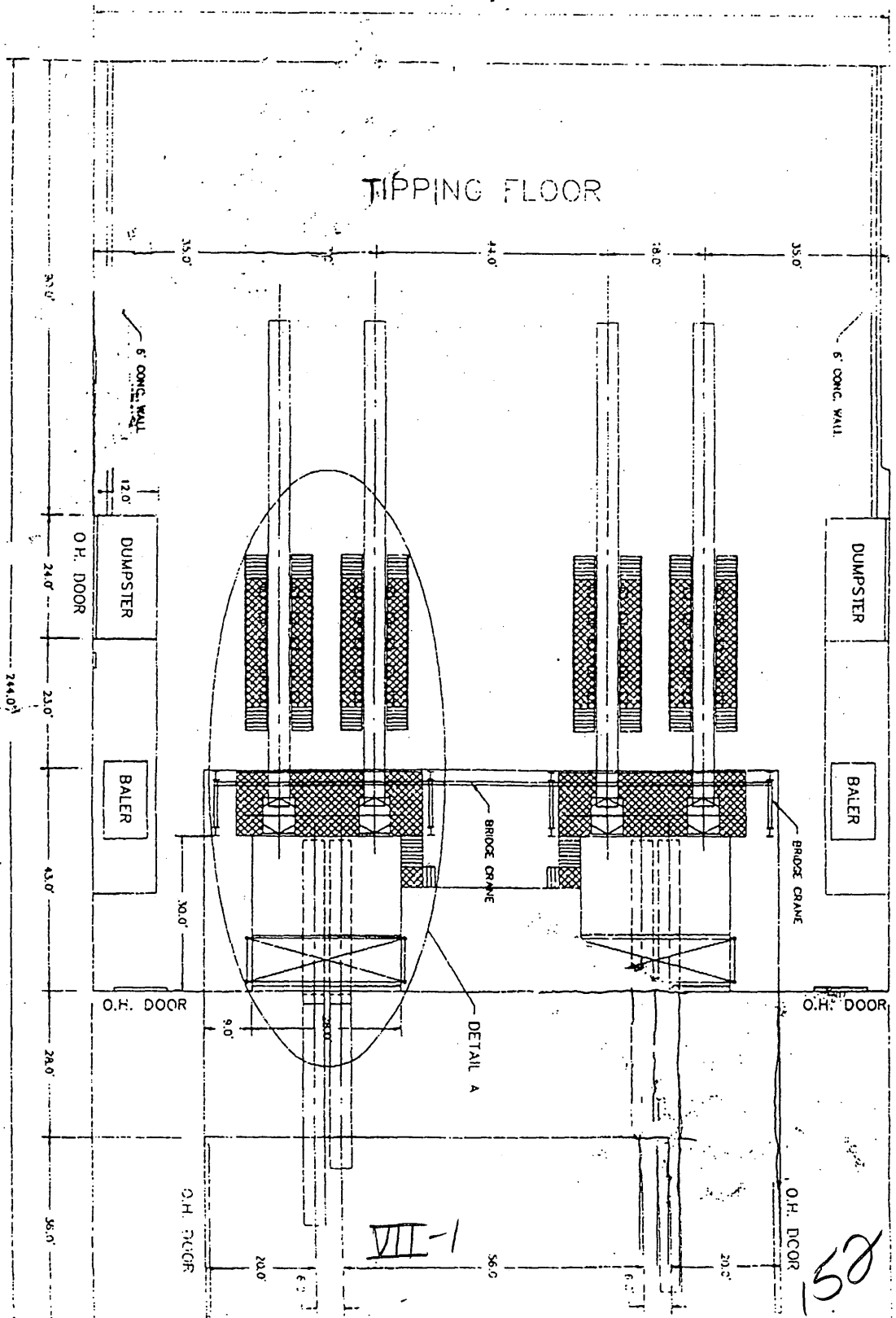
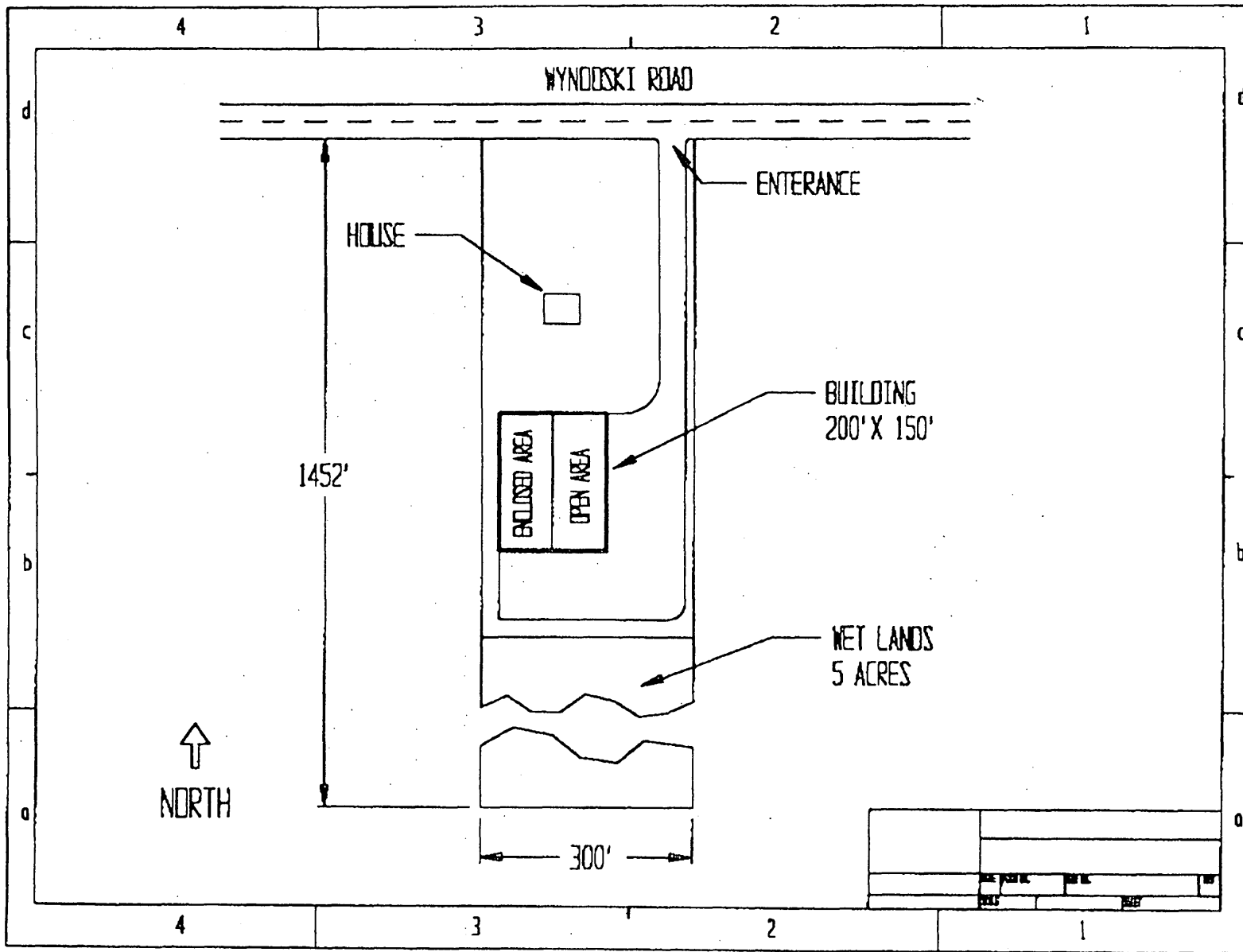


EXHIBIT C

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EXHIBIT B

AGRICULTURAL WASTE COMPOSTING

THE HOUSE Subcommittee on Department Operations, Research, and Foreign Agriculture accepted an amendment to the Research Title of the 1990 Farm Bill (H.R. 3950) that requires the Secretary of Agriculture to identify appropriate methods of composting agricultural wastes and potential uses for such compost. The amendment, "Composting Research and Extension Program," was offered by Congressman George Brown (D-Calif.) on April 5, 1990.

"Subcommittee members discussed the amendment at some length and with considerable enthusiasm before adopting the amendment by unanimous voice vote," reports Kathy Hudson, a research fellow with the House Agriculture Committee. "We expect to complete work on the research title by the end of April and the full Agriculture Committee will probably begin consideration of all the titles of the Farm Bill in early May."

Congressman George Hochbrueckner (D-New York) introduced a bill, co-sponsored by Brown, which is identical to the text of the amendment adopted by the subcommittee. The "Composting Research Act of 1990" (H.R. 4490) recognizes that compost can be a safe and useful soil additive which can help to stabilize and enrich soil. "I believe composting could prove to be the 'sleeping giant' of waste management," says Hochbrueckner. "If compost operations can be designed to be cost-effective, convenient to the generators of compostable wastes, and non-offensive to nearby communities, then the technology should prove to be a highly attractive alternative to landfilling and incineration. Furthermore, if finished compost can be demonstrated to have value as a soil additive, then we will be advancing a truly natural system of recycling."

AMENDMENT REQUIREMENTS

The Composting Research and Extension Program amendment calls for a Compost Task Force to be established, no later than six months after the date of enactment of the Farm Act, by the Secretary of Agriculture. The task force would have to meet at least four times per year and would consist of 15 members, appointed by the Secretary, including representatives from a number of federal agencies, e.g. Dept. of Commerce, EPA, Food and Drug Administration, etc.; states with laws on composting; agricultural representatives; landscapers and builders; the composting industry; microbiological scientists; food and fiber processors; food service industries; public interest groups; and manufacturers of consumer product packaging.

The amendment also requires the Secretary, in consultation with the task force, to

A House Agriculture subcommittee approved an amendment that would require USDA to once again get involved in composting research.

study processes for composting agricultural wastes, including those that result from the production, processing, and distribution of food, fiber, forestry, livestock, and fish products. Research shall also be conducted on potential uses for these composts, and those derived from other waste streams as appropriate, and to identify domestic and international markets for such compost. This will include an evaluation of compost use on soil, plants, and food and fiber crops.

Other sections of the amendment require the following:

Information on compost standards: Compilation of a catalog of laws, rules, and programs adopted by state and local governments and foreign countries that: a) establish standards for compost quality; b) set definitions for processing, handling, or using compost; or c) otherwise affect the production of compost.

Extension programs: Initiation of extension efforts (e.g. seminars, demonstration projects) to inform the agricultural community about: a) the desirability and safety of compost derived from agricultural wastes; b) on-farm composting techniques; and c) procedures for using compost. In addition, the Secretary must consider designating composting as a farm conservation practice eligible for cost-sharing.

Interagency Agreements: Efforts shall be made by the Secretary to enter into agreements with appropriate Federal agencies, including the Federal Highway Administration and the Department of the Interior, to identify opportunities for applying compost on Federal lands.

Information Dissemination: Results of the research conducted under this amendment will be published and given to all entities receiving USDA funding. The publications shall contain technical and economic information concerning composting techniques and uses for compost.

BioCycle will update the status of both the amendment to the Research Title of the 1990 Farm Bill and the Compost Research Act of 1990 in an upcoming issue. For more information, contact the Committee on Agriculture, U.S. House of Representatives, 1430 Longworth Bldg., Washington, D.C. 20515; (202) 225-0301.

COMPOSTING PLUS RECYCLING EQUALS 70 PERCENT DIVERSION

Two Connecticut towns demonstrate that adding a sort for compostable household solid waste can keep 30 percent more material out of disposal facilities.

Jan Beyea, Lauren DeChant, Bruce Jones and Margaret Conditt

A COMPREHENSIVE approach to solid waste management needs to include not only recycling but also composting to capture the organic portion of the waste stream not otherwise recovered. Leaf and yard debris, food waste and paper that cannot be recycled comprise about 50 percent of municipal solid waste nationally, according to the Franklin Associates' characterization of MSW.

While there are a variety of technologies and emerging approaches for collecting and composting this portion, successful ones require separation of compostable and non-compostable waste as a necessary first step. There is growing interest in initiating this separation at the home as the first step in preparing waste for composting — especially with over 3,900 curbside recycling programs already in operation nationwide. Such collection systems have been referred to as source separated composting or wet bag/dry bag collection. However, there have not been any well documented studies in the U.S. which have shown how, and how much, compostable residential waste could be collected along with recyclables.

As a first step in demonstrating cocollection of compostable and recyclable wastes, the National Audubon Society and Procter & Gamble are conducting a joint research project. The goals are to measure how much household trash is compostable, determine how composting fits into a community's waste management plan — particularly in communities with established recycling programs — and measure the quality of the finished compost. From the outset, the project team believed that recycling and composting could divert between 60 and 70 percent of typical household waste from disposal. The collection phase of the project has been com-

pleted and this article reports on the results to date. The composting and compost quality research portion are still in progress.

SEPARATION STRATEGY

Residents of selected neighborhoods in Fairfield and Greenwich, Connecticut, were currently recycle plastic, paper and glass were asked to participate in the study. Households in Greenwich and Fairfield were recruited differently. In Fairfield, the Fire Selectman and the local recycling coordinator sent letters to residents in a targeted area. The letter stated that their neighborhood had been selected for a composting study. While participation was voluntary, households received kitchen bins and bags for collecting compostable wastes. In Greenwich, residents received an invitation from the local Audubon Society and Neighborhood Association. Residents had to send back a prestamped postcard to participate.

Each participating household was asked to sort its normal solid waste into a compostable, organic portion to be taken to Fairfield's compost facility (which processes municipal sludge and yard waste). (See "Organic Waste Recycling Facility Launched Dec., 1989, *BioCycle*.) Based on the operating experience of composting facilities in other communities, the MSW components selected for inclusion in the compostal portion of the waste are described in Table 1. (This same information was printed on each bag as a reminder to the project participants.) It includes food scraps, soiled paper, kitty litter, pizza boxes, diapers, napkins, tissues and other compostable wastes. Participants agreed to separate this fraction in addition to the recyclables.

The above items were selected to maximize the amount of residential wastes compatible with composting technology but not detract from the community's established

VII-1

plus plastics

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MAY 1

COMPOST GREENHOUSE

Bruce Fulford first became interested in the symbiotic relationship between a greenhouse and a composting operation in 1979. Four years later he raised enough money to build a demonstration project at New Alchemy Institute, a nonprofit research center in Falmouth, Massachusetts.

The project lasted from 1983 to 1987, using heat and carbon dioxide from composting to help plants to grow in a greenhouse. The plants—along with microbes in the greenhouse soil—removed odors and volatile organics from compost emissions. The project became a successful part of New Alchemy's market garden.

Fulford has since started a composting consulting business, BioThermal Associates of Jamaica Plain, Massachusetts. Now Biothermal is marketing the Greenfilter, which uses the technique developed at New Alchemy, combined with proprietary computer controls developed by BioThermal and the Gaia Institute, in New York City.

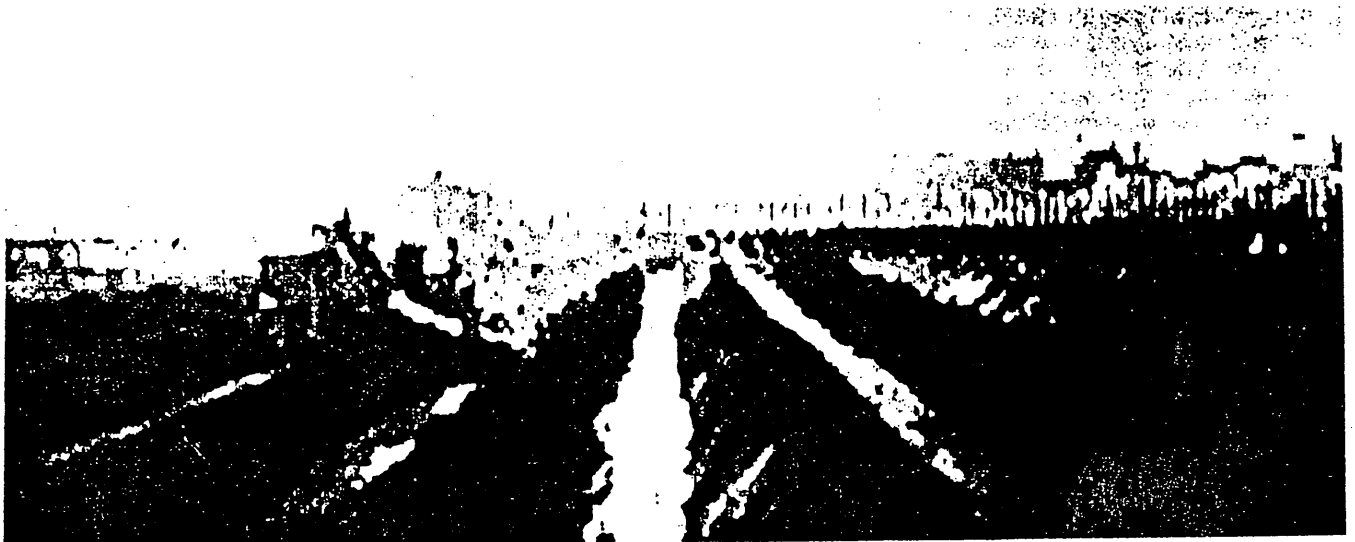
Construction of the system costs from \$8 to \$20 a square foot, but is designed to minimize energy use once in operation. "You don't have to spend thousands of dollars in electricity to scrub the air," Fulford says. Use of the Greenfilter leads to a horticulture operation, which can generate revenues of \$7 to \$30 annually per square foot of greenhouse space. At the same time, this may intimidate some in the composting industry. "Part of what we do is match the client with a staff that is capable of running a greenhouse," Fulford says.

The Greenfilter, which can be tailored to any size composting facility, is being considered for projects on Rikers Island, New York, and the roof of the Copley Square Hotel in Boston. In addition, San Diego County, California, has offered to fund a portion of a Greenfilter system for a food and yard waste composting project planned by BioThermal and Solana Recyclers of Encinitas, California, a nonprofit recycling firm. BioThermal must raise matching funds to receive the monies.

MARCH/APRIL 1993

Urban

DECAY



By Sue Darcey

■ "Urban decay" is good news for a number of communities. They are finding composting facilities yield fertile results.

Municipal solid waste composting is not just yard waste composting any more. As communities across the United States say no to incinerators and landfills and discover limits to what waste can be recycled, more are composting leftover trash that would otherwise go into a hole in the ground or up in smoke.

New York, hard-pressed to site new landfills and incineration facilities, has turned to municipal solid waste composting and recycling in a big way. The state Director of Solid Waste Norm Nosenchuck said in July that "several" municipal waste

compost facilities were planned in the New York area, in addition to scattered yard waste composting projects in many communities. Minnesota sports seven successful composting facilities, and Florida, three.

In May 1992, Mosi Kitwana, director of the National Composting Program of the U.S. Conference of Mayors, Washington, D.C., reported that within the United States, 16 mixed solid waste composting facilities were operating, six were under construction and at least 33 were in the advanced stages of planning. In 1990, only nine such facilities were operating.

Composting can be termed "organic recycling." There are three main types of systems (see sidebar on page 24). Under proper conditions, composting accelerates the naturally occurring processes of decay experienced by all decomposing organic matter. Composting leaves, grass clippings and the entire organic portion of the solid waste stream is gaining popularity as communities seek alternatives to landfilling.

The process is applicable to al-

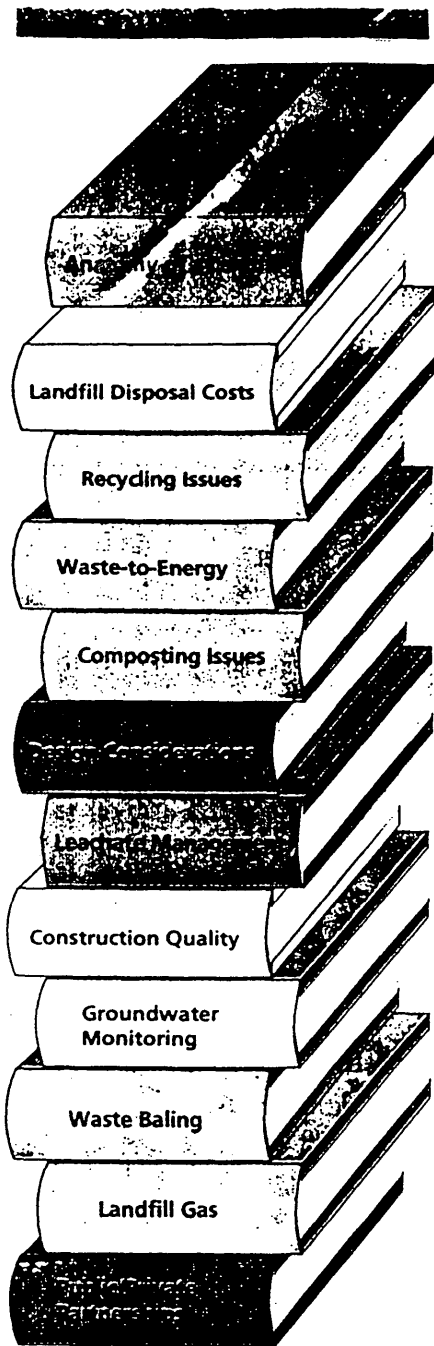
most any waste stream with a significant organic content, including mixed municipal solid waste and sewage sludge, as well as yard waste. A large volume of these wastes can be processed by composting.

Recycling By Composting

According to New York's most recent solid waste management plan, composting can recycle "a significant portion of a planning unit's solid waste stream," with proper pre-processing. About 40 to 50 percent of municipal solid waste is organic in nature and potentially compostable.

Composting, say Ohio waste management officials, can be considered as any one of three waste management objectives: waste minimization because it reduces the volume of waste; source reduction if leaves or grass clippings are composted in backyards; and a recycling process because a humus-like product is created that can be used as a soil conditioner, mulch or low-quality fertilizer.

In Ohio, public parks departments and landfills are the primary users



Compost: A Windrow Of Opportunity?

By Charles R. Field

■ Many municipalities are hailing compost as the waste management system of the future. Is this option the right choice for your community, or just a bunch of rot?

yard leaf and grass clipping pile used by homeowners nationwide. This practice is encouraged by many localities as a cost-effective form of waste reduction. While there may be numerous back yard composting experts (at least one per neighborhood), larger scale composting of other materials can become a more complex process that requires the expertise and attention of an experienced operator.

A composting system must have the proper balance of several key elements: 1) carbon, 2) nitrogen, 3) moisture, 4) air and 5) proper temperature. Good sources of carbon include leaves and municipal solid waste, but these carbon rich materials are typically deficient in nitrogen. Good sources of nitrogen are municipal wastewater treatment sludge and grass clippings. A well-managed composting system uses an ideal ratio of carbon and nitrogen sources, which may require various waste mixtures. The elements of moisture, air and temperature must be constantly monitored and adjusted to maintain optimum composting activity. A shortage or excess of any of the critical elements may slow the composting process by inhibiting the growth of the microorganisms that feed on the waste materials.

Airing It Out

Once the proper balance of carbon and nitrogen has been established, an adequate supply of air must be provided. Large-scale composting is controlled by the mixing, aerating and monitoring of the waste materials.

The primary large-scale composting methods are windrow and in-vessel. Another, less common method is aerated static piles (see sidebar on page 24).

The windrow method is probably the most common form of waste composting. Here, the raw organic material (compost) is placed in long windrows, which are elongated piles with sloped sides placed on a flat surface. The shape of the piles allows air to reach a large portion of the compost. The shape also allows the compost to be turned and mixed, either by standard equipment such as a front-end loader or by specialized equipment designed specifically to turn windrows. The mixing dramatically increases the amount of oxygen available to the compost, but it also tends to dry it. Thus, water is frequently added during mixing.

The operator may have to debug yard waste, shred materials or remove leftover plastics and inorganics. The more complex the feed stock (such as municipal solid waste), the more such procedures are required. In most instances, municipal solid waste (MSW) composting systems must rely upon an aggressive waste processing system to capture recyclables, inorganics and toxic materials prior to the compost system.

The windrow method has enjoyed a relatively high level of popularity largely due to its simplicity. But windrow systems require a large surface area to stockpile the waste stream for the composting cycle. For this reason, odor can be a significant problem. Rainfall on the windrows can become contaminated and

An age-old practice, composting is now referred to by some as the waste management system of the future.

By definition, composting is the process of exposing organic materials to a combination of air, warmth and moisture. The correct combination of these elements encourages microorganisms (bacteria, fungi, etc.) to grow. These microorganisms convert the organic waste into an inert humus (dirt).

Materials typically composted include: yard waste (leaves, brush and grass clippings), wastewater treatment plant sludge, municipal solid waste or a combination of these materials. The most common form of composting is the small-scale, back-

COMPOST FACTS



International Process Systems • Liberty Lane
Hampton, New Hampshire 03842 • 603/925-3915 Fax: 603/929-3164

Municipal Solid Waste Composting: A Simple Solution?

by Thomas L. Richard, M.S., Guest Commentator
Department of Agricultural and Biological Engineering, Cornell University, Ithaca, NY

April 1989

Few communities have escaped the solid waste crises of the 1980's. Strict environmental regulations on landfills and incinerators have caused the costs of disposal to skyrocket, while at the same time forcing many existing facilities to close. Increasingly, communities are searching for environmentally sound solid waste disposal alternatives. Recycling and composting programs, alternatives which can handle a significant portion of the solid waste stream, are key elements to the successful resolution of the solid waste disposal problem.

Fewer landfills, but options are available

In New York State alone, the number of landfills has dropped from about 1,600 in 1964 to less than 300 today, and most of the remaining landfills are under orders to close in the next few years. Given the new realities of high costs and scarce facilities, many local governments have been forced to re-examine their waste disposal options. Among the options which are considered most frequently are recycling and composting. Neither is a particularly new technology. Recycling was common during World Wars I and II as a patriotic duty of conserving scarce resources. Composting has been an accepted agricultural practice for at least 2,000 years. But both of these technologies have, until very recently, been a minimal part of modern solid waste management.

These technologies require greater organization and management than a single solid waste management solution such as a landfill or an incinerator. While recycling and composting produce marketable products, processing costs are typically greater than the product's market value. When landfills were cheap, it was hard for recycling and composting to compete. Now with increasingly expensive landfill fees and greater public support, the additional effort required by these technologies has produced a solution that is not only environmentally sound, but can also be economically attractive.

Recycling requires organization

The effort required for successful recycling must occur at many levels: in the home, where residents must separate recyclables from non-recyclables; by the collection system, which requires separate bins and perhaps additional trucks; and at the processing facility, where there are multiple processing lines and many employees. All this effort requires organization and management far greater than the traditional landfill. Because not all of our waste is recyclable, this effort is in addition to another disposal system such as a landfill or incinerator.

The additional workload required by recycling has been a significant disincentive. Even when the economics start to make sense, as has been true for several years in some parts of the nation, recycling has been slow to catch on. Despite the demonstrated ability of recycling programs to stimulate participation and divert solid waste, both individual citizens and government officials have been reluctant to support a system which requires extra effort on their parts. Too often the search has continued for a simple solution: one facility to take it all.

The composting alternative

Recently, municipal solid waste (MSW) composting has been suggested as one way out of the solid waste dilemma. MSW composting is a process by which mixed municipal wastes are shredded and ground, blended with a wet nitrogenous waste, typically sewage sludge, and mixed in a composting reactor. The paper, cardboard, food scraps, yard waste, and sludge which are compostable can comprise as much as two-thirds of the solid waste stream. These materials after shredding and mixing, decompose during the composting process into a stable humus product. That part of the system is indeed relatively simple, and appears on the surface as a "one facility takes all" solution.



COMPOST AND COMPOSTING

PUBLIC CONCERN is growing over the increasingly serious problem of how to dispose of solid wastes. The amount of garbage thrown out in the United States rises year by year while existing landfill spaces reach their capacity and the environmental damage caused by excessive incineration becomes increasingly unacceptable. What can be done? Can *composting* provide an answer?

Composting is a natural form of recycling. For millions of years leaves have fallen to forest floors where they have been transformed into a mineral rich, dirt-like substance (compost). Compost has returned to the soil valuable nutrients that have fed new trees from which new leaves have fallen and perpetuated Nature's eternal cycle.

Today it is economically viable, technologically feasible and ecologically expedient to exploit the *ancient* process of composting to help solve the *modern* problem of solid waste disposal. Whereas landfill techniques are designed to keep wastes stable - garbage is compacted daily and covered with successive layers of plastic, dirt or both - composting serves to break down or decompose wastes. It is this which gives composting its sharp contemporary relevance.

Although composting is a fact of nature and has occurred since the beginning of time, its potential for waste management is only now being fully realized. Through modern techniques the natural process of composting can be accelerated; it can be completed in 30-180 days. Modern composting is an efficient means of transforming organic wastes into clean and safe soil conditioners with the same useful properties as peat moss.

The great potential of composting remains untapped. This results not only from the failure of some commercial operations (primarily in the 50s and 60s), in which facilities were poorly operated and markets underexploited, but also from the popular impression that composting is in some senses merely a "feel good" idea without genuine practical or economic benefits.

The falsity of this idea has been underlined in recent years and municipal authorities, realizing also that composting is safe and environmentally sound, have made efforts to integrate composting into their waste management plans. Composting provides a particularly effective method of achieving ambitious recycling goals. It is estimated that, together with an aggressive recycling program, composting provides a means of handling 60 percent of a municipality's trash. Presently, composting operations range from back yard compost piles to commercial facilities producing anywhere from ten to several hundred tons of compost per day.

COMPOST FACTS



International Process Systems • Liberty Lane
Hampton, New Hampshire 03842 • 603/925-3915 Fax: 603/929-3164

COMPOST: A Living Fertilizer

by Lewis M. Naylor, Ph.D. and Geoffrey Kuter, Ph.D.
INTERNATIONAL PROCESS SYSTEMS, INC.

December, 1987

Living fertilizers

For a garden to thrive, its soil must be alive. Compost is a living fertilizer and its use adds life to a soil. The fertilizer value of compost is derived from the metabolic activities of living organisms in the compost and in the soil to which it is applied. As these organisms feed on the organic matter, proteins, and carbohydrates in the compost, water soluble nutrients are released. Since most of the plant nutrients in compost are not immediately soluble in water, this process releases nutrients gradually as they are needed by plants. This is good. In contrast, the water soluble nutrients in commercial inorganic fertilizers are leached out of the soil into ground water when their amount exceeds crop uptake.

Compost biochemistry

The formation of compost is a natural, but extremely complex biochemical process in which cellulosic materials (polysaccharides), proteins (sources of nitrogen, phosphorus and sulfur), and fats and carbohydrates (energy sources) are decomposed and transformed into a humus-like material. The vast and immensely diverse population of fungi, protozoa and bacteria initiating this process grow, reproduce and die as environmental conditions in the composting materials change. Cell walls of these organisms are decomposed by successive generations of microbes, contributing to the humus content of finished compost, the final stage of the production of a living fertilizer.

Chemicals of life

Compost contains all the chemicals of life: carbon, oxygen, hydrogen, nitrogen, phosphorus, potassium, calcium, magnesium, sulfur, and a diverse group of trace elements such as copper, zinc, iron, and boron. These elements as well as the bulk provided by the organic matter in compost can improve the humus content of soil and contribute greatly to the chemical and physical properties of a fertile soil and enhance the growth of plants and trees.

A time release fertilizer

Degradation or *mineralization* of the compost organic matter by microorganisms is moderated by soil temperature and moisture conditions. Certain fractions of the compost are readily degradable. These would include chemicals such as proteins, or materials with a large surface area to volume such as sawdust. Other fractions are more recalcitrant or resistant to degradation. These would include larger chunks such as wood chips, and more complex molecules such as the lignins binding the wood fibers.

Because degradation of these diverse materials in compost occurs slowly over weeks to years, nutrients are released gradually. And one of the benefits of complex organic fertilizers such as compost is that *conditions favoring microbial degradation also favor plant growth*. Thus, the nutrients are released at a time when plants are actively growing. As a result nutrients are used more efficiently, reducing the amount of fertilizer that needs to be applied and the potential loss of soluble nutrients such as nitrate to groundwater.

Compost provides...

- Fertilization: releases nutrients when plants need them most; all the chemicals of life.
- Soil nutrition: adds microorganisms, improves biological activity in soil.
- Humus: improves rooting environment for more vigorous plants.



A Rotten Solution For Our Solid-Waste Woes

Tom Arrandale

All things decay, the second law of thermodynamics holds. That process, a particularly rapid one for organic matter exposed to air and moisture, offers a natural solution to the dilemma of disposing of solid waste.

For generations, gardeners have been throwing organic wastes, such as leaves, grass clippings and table leftovers, onto backyard compost piles. Bacteria and fungi break them down to form partially decayed humus rich in soil nutrients. By applying the same biological principles, states and communities can find a practical use for the life-sustaining organic matter that they now burn or dump into landfills. Developed on a nationwide scale, composting could help replenish lawns, forests, stripped-off mines and the nation's eroding croplands.

"It is intrinsically a sensible notion," says Charles Cannon, executive vice president of the Solid Waste Composting Council, a newly formed trade group. As much as 60 percent of the nation's garbage could be composted, including disposable diapers, soiled paper wrappers and thrown-out food as well as grass, leaves and branches.

More than 200 municipal waste composting plants are in operation in Europe. In the United States, some communities have a lot of experience with the approach: Big Sandy, Texas, began composting solid wastes in 1973. Most of this country's compostable wastes, however, are still being buried in landfills, where lack of oxygen slows the natural decaying process. But as tipping fees jump, composting is growing more attractive.

Seattle has distributed 10,000 cedar bins to encourage backyard composting by homeowners, with an additional 70,000 recycled-plastic bins on the way. Ten states have banned dumping leaves or yard wastes, and hundreds of small-scale composting operations have sprung up to handle the overflow. But right now, only 10 U.S. plants are turning municipal solid waste into compost.

Large-scale composting can be done by simply piling wastes in long rows, then turning them from time to time to expose all the material to oxygen. More sophisticated operations speed the process by moving shredded wastes through concrete bays or drums, piping air through the piles and churning them with mechanical equipment. Minnesota's composting plants charge \$40 to \$50 per ton of waste they accept, compared with typical landfill tipping fees of \$80 per ton or the \$125 per ton that a Minneapolis incinerator charges to burn them. The cost of building a composting

plant amounts to a third to a half of the investment that a similarly sized incinerator requires.

Most existing composting plants are small-scale operations primarily serving small communities. But Portland, Oregon, and Fort Lauderdale, Florida, are readying plants that each will compost 600 tons of municipal garbage a day. Four other facilities are due to open this year, in Bellingham, Washington, and three Minnesota counties. Another 50 to 60 proposals are under serious study, ranging from a \$1.5 million Hidalgo County, Texas, operation to a \$45 million plant that would "co-compost" solid waste along with sewage sludge in Burlington County, New Jersey.

Composting gives off odors that, unless controlled, will antagonize nearby residents. A 50-ton-per-day composting plant occupies at least two and a half acres; the space required to enlarge capacity could make composting impractical in crowded metropolitan areas. The most serious obstacle, however, may be winning public acceptance of using compost made from garbage. Gardeners are eager to use high-quality yard-waste compost, but compost made from mixed solid wastes often contains shards of glass and plastic.

Just three states—Florida, Minnesota and New York—have set regulations for solid-waste compost processing and quality. California and Minnesota now have ordered state agencies to give solid-waste compost preference when buying soil-enhancing material for landscaping highways and parks. Minnesota and the U.S. Bureau of Mines are studying using compost to reclaim open pit mines.

Burger King is preparing to launch a pilot program to compost food and paper wastes from its Minneapolis-St. Paul outlets. Procter & Gamble, the consumer products giant, is testing compostable baby diapers. The company has set up a \$20 million fund to support composting research and finance demonstration projects that make composting an integral part of community solid-waste strategies. P&G also is backing University of Minnesota studies on using composted municipal wastes to grow corn, alfalfa and barley.

If composting takes off, it could give farmers a way to replace costly chemical fertilizers that now contaminate rural streams and groundwater. Organic growers have been advocating that for years, but government farm policy officials and solid-waste managers should also start making the connection. Composted urban wastes could make rural farmlands more fertile, and we could address two environmental problems at once by going back to basics. □

Garbage in, compost out

Sevier County plant develops productive alternative to burial

By Yvonne Loveday
News-Sentinel correspondent

Imagine a non-polluting waste management program that eats non-sorted garbage and spits out usable compost.

High-tech dreams?

Not any longer. A vessel co-composting plant is on-line in Sevier County. One of only three plants in the nation designed to deal with a solution to municipal waste problems, this plant produces humus for agricultural use from garbage.

"We're looking at a 75 percent reduction in what we usually have to landfill," said John deMoll, general manager of Sevier Solid Waste Inc.

The progressive plant, which is getting national attention, processes up to 150 tons of garbage a day in three 184-foot by 12-foot digesters. After over-sized items are removed for recycling or disposal, garbage is pushed into the massive rotating drums. Sewage sludge is added at this point. Microbes in the digesters break down organic waste in the digesters over a period of three days.

When this first phase of composting is complete, the contents of the digesters are sent on a conveyor belt through a trommel screen. Metals and non-compostable materials fall away, leaving a mountain of rough compost on the processing floor.

Workers then pile the compost in aerated windows. Temperature and moisture are carefully monitored for six to eight weeks with the help of a computer system.

After curing, the material is sifted once again to remove glass and plastic particles. It is then bagged and offered for sale as compost.

Like other conventionally composted material, the finished product is chemically balanced and ready for use on lawns and gardens, deMoll said.

"We take solid waste and sludge and turn it into a resource," said Roder Russo, a representative for Bedminster Bio-conversion Corp., a New Jersey-based company that markets the technology used in the digester system.

Sevier Solid Waste Inc. signed a contract with Bedminster in October 1991. Bedminster built the \$6.5 million compound and will operate it for five years. After that five years, SSWI has the option of taking over the operation or signing another five-year contract.

DeMoll estimates it costs \$30 per ton to operate and maintain the facility. This is roughly equal to the cost of a fully operating landfill, he said.

"And that doesn't count the profit from sales on finished compost," he said. Bedminster and SSWI will share these profits, with Bedminster receiving 60 percent of sales.

Necessary landfill space will also be drastically reduced.

"Where we need three and a half acres a year for landfill now, we'll need one-half acre with this process. We'll be looking at substantial savings over the next years," deMoll said.

The need for garbage pre-sorting is eliminated with the digester system. Garbage can be sorted for recycling, but it is not necessary. The technology separates within the process.

The 20-25 percent of trash that cannot be converted into compost will be landfilled. This trash, however, has been de-toxified and sanitized in the composting drums prior to landfilling.

People from all over the coun-

try are examining the Sevier County plant, with the intent of building similar systems in their own communities.

"This is a very real and genuine solution to the solid waste problem," said Jerry Goldstein, editor of BioCycle and one-time editor of Organic Farming and Gardening magazine. BioCycle recently ran an article on the innovative plant.

"I have a lot of confidence in John and his management of the program. It always comes down to how well these technologies are implemented. The best programs have an aggressive recycling component built in," he said.

DeMoll did a study on alternative waste practices for SSWI while working for the Tennessee Local Planning Office. As a result, he started looking into large-scale composting and visited an operating Bedminster plant in St. Cloud, Minn. The results of his study were later accepted by SSWI for implementation.

The digester technology, or vessel co-composting, was developed by Eric Eweson in 1959.

1-11-1

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ABOUT THE COVER

Snails, frogs and fish have a significant role in the wastewater purification system serving the corporate headquarters of Paws, Inc., home of Garfield, the omnipresent cat. Report begins on p. 46. (Photo by Dennis Barnes)

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EDITORIAL

FOCUSING ON THE FRACTIONS

A MAJOR CHALLENGE in 1992 will be to push recycling and composting up and over the 50 percent levels, while maintaining program costs — better yet, lowering them. For some project managers, integrated collection of recyclables in the same truck as trash may be an effective system. Various examples of cocollection are described in the report beginning on page 30 of this issue. This approach is certainly one that can help to reduce collection costs if well managed.

As the year begins, it's evident that household and commercial organics will be increasingly targeted to increase diversion of the waste stream now hauled to landfills. Examples of pilot projects now underway are described in the reports on pages 34 to 36. According to Kathy McAlpine of Metro Toronto's Waste Reduction Department, the 30 ton per day wet waste composting pilot "is the direction we're definitely heading. ...It's a logical progression, the next step in our waste management master plan. The idea is to pick up the excess — meat scraps and other food and yard wastes which are not being composted in the backyard." In her account, Glenda Gies of Airite Environmental describes how the Canadian community of Richmond Hill is beginning a curbside collection and in-vessel composting project for bagged food waste from 10,000 households and commercial generators.

Some of the most dramatic shifts for specific waste fractions are occurring in the food industry — growers, packers, processors, wholesalers and retailers. Every day, we're in contact with farmers, corporate executives, produce terminal and supermarket managers who want to reduce disposal costs by composting. "At one time, we were sending 500 tons a month to the dump," says the manager at a major food terminal, "but now it's very limited. Our dumping fees have reached \$150 a ton, whereas four years ago, it was \$16.50."

A special report on solid waste in a recent issue of *The Packer*, a business paper for the produce industry, emphasizes the significant role of composting and recycling. "Composting is one opportunity for the industry to be incredibly proactive and make a difference in how solid waste is handled," states Bryan Solberman, executive vice president of the Produce Marketing Association. More attention is being given to solving current obstacles to food waste processing — for example, to reuse or grind pallets and cardboard as well as utilize packaging more compatible with composting operations.

Toward this objective, some companies in the biodegradable polymers industry are stressing the need for more support of broad-based composting initiatives. Speaking at an American Chemical Society symposium, Ken Tracy of Warner-Lambert Company urged the industry to join with its customers to help build a composting infrastructure. "We must collectively encourage consumers to source separate their biodegradable household wastes for pickup. We need to make it easy, convenient and safe, much the same way existing recycling programs work for plastic, glass, paper and metals."

As we begin 1992, more and more industries are focusing on ways to recover their specific fractions of the waste stream, and their integrated efforts add up to major improvements in the economics and efficiency of composting and recycling. ■

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EPA Issues Final MSW Characterization Report

The U.S. EPA has released its final report in a 20-year series of reports on waste characterization. Entitled "Characterization of Municipal Solid Waste in the United States: 1992 Update," the report is based on a study conducted for the EPA by Franklin Associates, Ltd. (Prairie Village, Kan.).

Although it has been common practice to landfill wastes such as municipal sludge, nonhazardous industrial wastes, sluff from automobile salvage operations, and construction and demolition debris, it should be noted that MSW, as defined in the report, does not include these items, as well as a number of other wastes that may well go into municipal waste landfills.

Data from the report provides a nationwide picture of MSW generation and management. It highlights changes that have occurred over the year—both in types of wastes generated, and in the ways they are managed—and charts these changes by product category. It also projects MSW generation by material and product, and the management of MSW to the year 2000.

The report offers a three-point waste management strategy: 1) source reduction (including reuse and backyard composting) 2) recycling (including composting), and 3) combustion and landfilling (preferably with energy recovery). Source reduction itself is not quantified, as the report states, because there is no generally accepted methodology for measuring it

on a national level.

Composting of yard trimmings was found to be increasing rapidly due to state-wide landfill bans, and composting of mixed municipal wastes was defined as a developing technology in the U.S. It was estimated that 500,000 tons of mixed MSW were recovered for composting in 1990, but insufficient data was available to project the future tonnage treated by this technology.

Most MSW combustion currently practiced in the U.S., the report states, incorporates recovery of an energy product in addition to the volume reduction it produces.

In order to meet a nationwide recycling goal of 25% by 1995, the report says that increased recovery of all types of MSW must take place. Based on current recovery and generation rates, the report estimates that in order to achieve the goal, 51.9 million tons will have to be recovered in 1995. Projecting to the year 2000, recovery

rates are forecasted at 35%.

To reach that figure, the report says that nearly half of all paper and paperboard, nearly 40% of all glass, over 40% of metals, 64% of all yard trimmings, and nearly 12% of all plastics have to be recovered from the MSW stream.

The reported 1990 figure of MSW generated, 195.7 million tons, was broken down as follows: 17.1% recovered for recycling, 16.3% combusted for energy recovery, and 66.6% disposed in landfills or elsewhere. The landfill figure does not include residuals from recycling, composting, or combustion. All categories are projected to grow in tonnage, with containers and packaging projected to remain the largest single category at between 33% and 34%. Overall, MSW generation is projected to increase at a rate of 1.3% per year between 1990 and 2000, compared to 2.8% per year between 1980 and 1990.

cont'd.

BWTI's Karen Goodhart Gains Seat On NSWMA Board

Karen Goodhart, the 1992 chairperson of the National Solid Wastes Management Association's Biomedical Waste Treatment Institute (BWTI), has gained a seat on NSWMA's Board of Directors.

With the move, finalized by a BWTI vote Aug. 13, Goodhart becomes both the first representative of BWTI and the first woman to gain a seat on the board. The board

voted in late July to grant a seat to the biomedical waste sector interest group.

Goodhart is CEO of operating company Enviro Med Management Services (Baltimore), which runs the country's largest medwaste incinerator. The 150-tpd facility is owned by Medical Waste Associates, also based in Baltimore. ■

KEY ISSUES IN SOLID WASTE COMPOSTING

TWO years ago, when *BioCycle* first surveyed cities and counties about their interest in solid waste composting, the response was lukewarm. Many waste managers were unfamiliar with the technology, while others thought it was a far out idea. There was a handful of pioneers who had forged ahead with a project. Overall, the picture was anything but dynamic.

Today, that picture is dramatically different. There are at least 40 communities or counties in the consideration, design, construction or operational phases of a solid waste composting project. The momentum is being fueled by a number of factors: diminishing or non-existent landfill capacity; anti-incineration sentiments; state solid waste management regulations that encourage composting; cost-competitiveness of this option with other alternatives; aggressive marketing of composting systems by vendors; and the compatibility of composting with recycling programs. In addition, the U.S. Environmental Protection Agency recently proposed its new landfill regulations that will make it difficult and costly for many existing landfills to remain open. In many of these areas, with a lack of markets for energy from incinerators and a small population base, composting appears to be the only viable alternative.

To date, there are six operating MSW composting facilities. Two—one in New Castle County, Delaware and the other in Portage, Wisconsin—are composting MSW with sewage sludge. The others—Fillmore County and St. Cloud, Minnesota, Sumter County, Florida, and Dodge County, Kansas—are processing only solid waste. Table 1 provides the status of all projects.

The 1988 overview of solid waste composting will be divided into several parts. This article discusses the climate for MSW composting and addresses key issues to be considered when requesting proposals from vendors and designing a facility. The second part, to appear in the next issue of *BioCycle*, will review the different MSW composting systems on the market and take a closer look at planned and operating facilities.

MSW composting, as discussed in this article, encompasses the entire organic and/or biodegradable fraction of the solid waste stream. Generally speaking, a program

With incineration on the outs in many areas, this waste management alternative is starting to take center stage.

Nora Goldstein

would be designed around handling the entire waste stream, as opposed to only separated and relatively uncontaminated fractions like leaves and yard waste.

THE COMPOSTING CLIMATE

Unlike sewage sludge composting, which really got its start in the 1970s, MSW composting has a longer history. In the 1950s and 1960s, a number of vendors were marketing systems and a handful of projects got underway. Overestimation of markets, underdesign in equipment and labor, and very low tipping fees at garbage dumps contributed to the demise of those facilities.

But the climate for MSW composting has changed since those days. "The biggest difference is economics," says Eliot Epstein of E&A Environmental Consultants in Stoughton, Massachusetts. "In the 1950s and '60s, there were no economics. How could you compost in a massive plant and try to sell the material when you could throw garbage into a dump for \$2 to \$3/ton? Today, however, composting is competing with the mass burn technology. We are looking at \$35 to \$55/ton for MSW composting—before assigning a value to the end product—versus a minimum of \$75 to \$100/ton for mass burn."

The second difference, says Epstein, is concern about the environment. "In the 1950s and early 1960s, people didn't worry about dioxin emissions or acid rain, or buy bottled water," he explains. "But starting in the late 1960s and into the 1970s and '80s, people have become very environmentally conscious. They are most concerned about their health, and any kind of system that could contribute to health problems becomes an issue."

While various offices in the federal government have been studying the viability of solid waste composting, state governments have taken a very active role in its development. Massachusetts, for example, established a \$7 million grant program to help communities conduct feasibility studies or construct projects for composting (MSW as well as other fractions such as leaves and wood waste). Minnesota has a capital assistance grant program where it provides 50 percent of the financing for MSW composting projects. Iowa, as part of its Groundwater Protection Act, also will provide capital assistance to composting projects. Its

WASTE REDUCTION WORKS LIKE MAGIC

WASHERS and dryers are the marketable commodities generated by the Magic Chef Company at its Herrin, Illinois plant that employs 870 people. Until recently, managers of the plant also had to contract with a local hauler for over 60 open-top dumpster loads (40 cubic yards each) of nonhazardous solid waste each month. At a cost of about \$140 a load, Magic Chef appeared to be getting a good deal for refuse collection. In September, 1992, however, the landfill owned by the local refuse hauler closed in response to increased regulations required by Illinois law. As a result, refuse hauling costs increased 144 percent! Something had to be done to reduce facility costs.

Rene De Groof, environmental engineer for the Herrin plant, saw ways to expand beyond current recycling practices and dramatically decrease the amount of solid waste requiring disposal after visiting a sister company that manufactures refrigerators. With the assistance of two student interns, and without reductions in production or staff, the amount of nonhazardous solid waste headed to the landfill was reduced by 69 percent—from 51 dumpsters in September, 1992 to 16 dumpsters in December, 1992. Beginning January, 1993, open-top dumpsters were phased out in favor of a 40 yard compactor which further reduced disposal tonnages.

Corrugated boxes used in large quantities have been recycled for some

The assembly line keeps churning out washers and driers, but the landfill is getting almost 70 percent less deliveries from this Illinois plant.

Larry D. Newton

time, but are now compacted in a 40 yard container. About 300 "one-way" pallets a week are shipped to a facility in Galesburg, Illinois where they are ground for an industrial process fuel, but at a lower cost than to dispose in the landfill. A local firm that reuses pallets gets a semi-load every five to six weeks.

Plastic stretch wrap is baled and given to employees to be used as archery targets. Since the plant is located in a rural area with a large deer population, this program is very popular. The bales save a little more than one open-top dumpster every four days and weigh 575 pounds. A continuing search is in progress to find an alter-

nate means of recycling this commodity should they run out of archers.

Polypropylene molding operations produce washer tubs, agitators and dryer blower housings. When possible, off-spec or damaged plastic parts are ground and remolded using a mixture of 20 percent recycled to 80 percent virgin polypropylene—a process which has been going on for some time. Occasionally, however, plastic reground material is contaminated with foreign matter. This contamination prevents use of the material for remolding. When this occurs, a local recycling center picks up contaminated plastic, which amounts to over 4,000 pounds a month, at no charge. About 500 pounds a month of vacuum-formed LDPE shipping trays also are picked up by the same recycler. LDPE liners inside metal chemical barrels are recycled in the same way.

COST AVOIDANCE

Waste reduction throughout this plant has justified the addition of an employee at the loading dock to compact corrugated boxes and load pallets. Although the environmental ethic is present, De Groof says that the primary motivation for instituting these measures is cost avoidance. "Our goal is to sell washers and dryers, not recyclables," he explains.

In the near future, De Groof plans to meet with plant engineers from other firms in southern Illinois to find out what else can be done or to encourage similar programs throughout the region. The Illinois Environmental Protection Agency and the Illinois State Chamber of Commerce has made this task a little easier by periodically publishing an Industrial Material Exchange booklet to assist manufacturing plants statewide to offer surplus or by-product materials to others with similar feedstock. The bottom line is that with very little additional effort or environmental zeal and a little common sense, the amount of solid waste requiring disposal has been significantly reduced—a feat that can work almost anywhere. □

Larry Newton is a solid waste planner with the Lower Egypt Planning and Development Commission in Carbondale, Illinois.

OCT 23 1991

Mr. Rod Schmall
Smurfit Newsprint Corporation
427 Main Street
Oregon City, OR 97045

Re: Composition Fuel Trial
Burn

Dear Rod:

The Department of Environmental Quality approves your request to conduct a short-term, qualitative trial during which "composition fuel" prepared by Riedel, Inc. will be burned in combination with hog fuel in the Newberg Mill # 10 boiler. The following list of requirements must be met during the trial burn:

1. The composition fuel will be limited to approximately 50 tons.
2. The trial will be limited to 2 days.
3. The percentage of composition fuel will be limited to 20% by weight on a wet basis.

The Department has received a letter from METRO providing information that burning composition fuel is consistent with their solid waste management plan.

The Department considers the "composition fuel" to be a solid waste which may make the hog fuel boiler subject to the air quality incinerator regulations. The trial burn should include a qualitative determination of the feasibility of complying with these regulations (opacity, temperature, residence time, etc.). Any information regarding the applicability of the air quality incinerator regulations should be provided.

A solid waste disposal permit will not be required for the combustion of composition fuel.



811 SW Sixth Avenue
Portland, OR 97204-15
(503) 229-5000
TDD (503) 229-5003
DEQ-1

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Mr. Rod Schmall
October 23, 1991
Page 2

A permit modification request to burn the composition fuel must include a Land Use Compatibility Statement from the City of Newberg.

Please contact Fritz Skirvin when the exact date and times of the trial burn have been determined. If you have any questions, please call me at 229-5749. Our toll free number is 1-800-452-4011.

Sincerely,



Jill Inahara
Program Operations Section
Air Quality Division

JSI:a
LTR\AH20026
cc: Fritz Skirvin, WVR
Ed Woods, NWR
Tim Davison, HSW
John MacKellar, OD

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June 11, 1993

John C. Pinkstaff
Assistant County Counsel
Yamhill County Courthouse
Fifth and Evans
McMinnville, OR 97128-4523

Re: Proposal by American Waste Management, Inc.
for Yamhill County

Dear Mr. Pinkstaff:

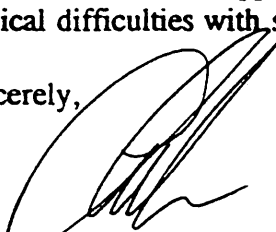
I am writing at the request of James Lackey of American Waste Management, Inc. concerning a solid waste treatment facility that they are proposing for Yamhill County.

Mr. Lackey and Marv Schneider discussed the project with me on June 7, 1993.

A solid waste treatment facility to pelletize garbage such as Mr. Lackey and Mr. Schneider are proposing would be required to obtain a solid waste permit as a "treatment facility" from the Department of Environmental Quality. Mr. Lackey should also check with the Department's Air Quality Division concerning the need for an air contaminant discharge permit. From the solid waste side, such a facility does not appear to be anything that the Department could not permit.

After the project had received a statement of Land Use Compatibility from the appropriate local government(s), the Department would review their application for a solid waste permit. We would anticipate no particular technical difficulties with such a permit.

Sincerely,


Charles W. Donaldson, Manager
Solid Waste Permits and Compliance Section

dmc

cc: Don Hernandez, DEQ WVR
James Lackey, President, American Waste Management, Inc.

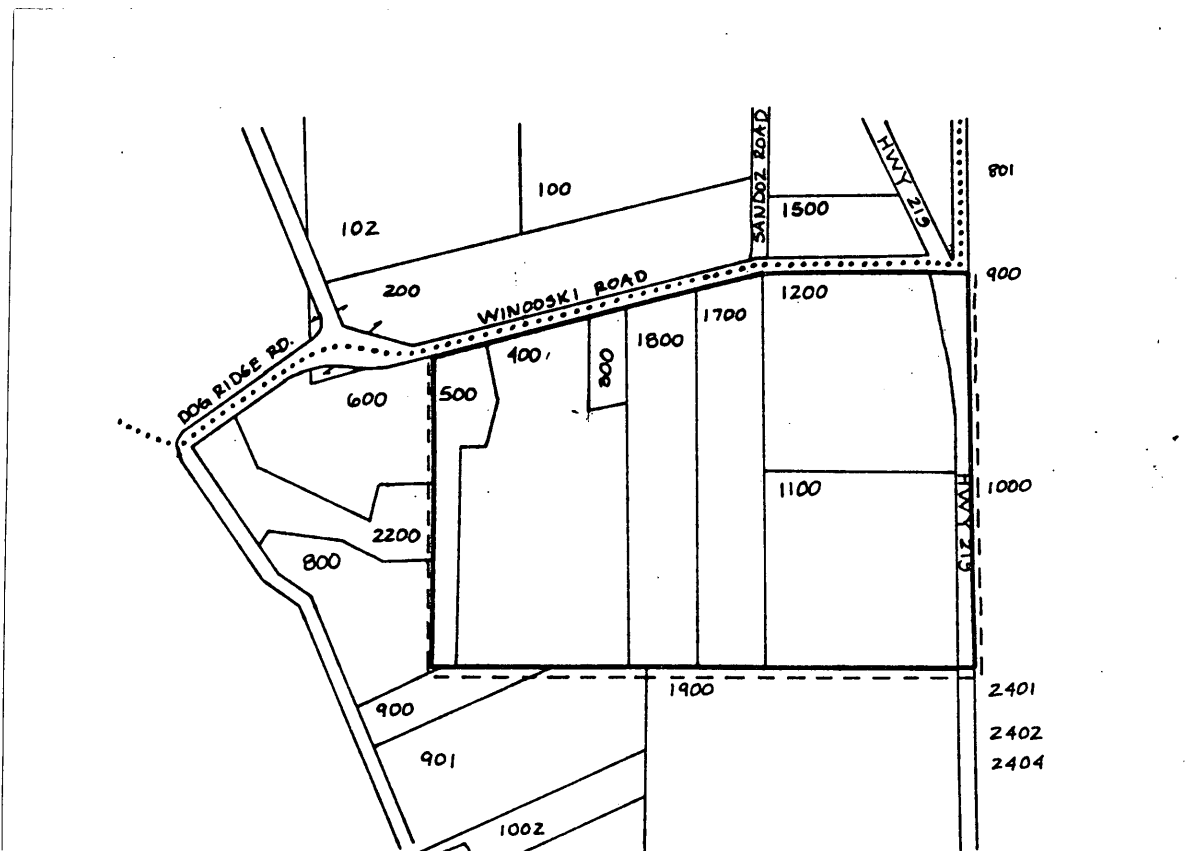


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DEQ-1

VII-1

VII-1

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- LEGEND**
- Reserve area boundary
 - Urban Growth Boundary
 - Study area boundary

NEWBERG URBAN RESERVE AREA PROJECT
STUDY AREA "E"

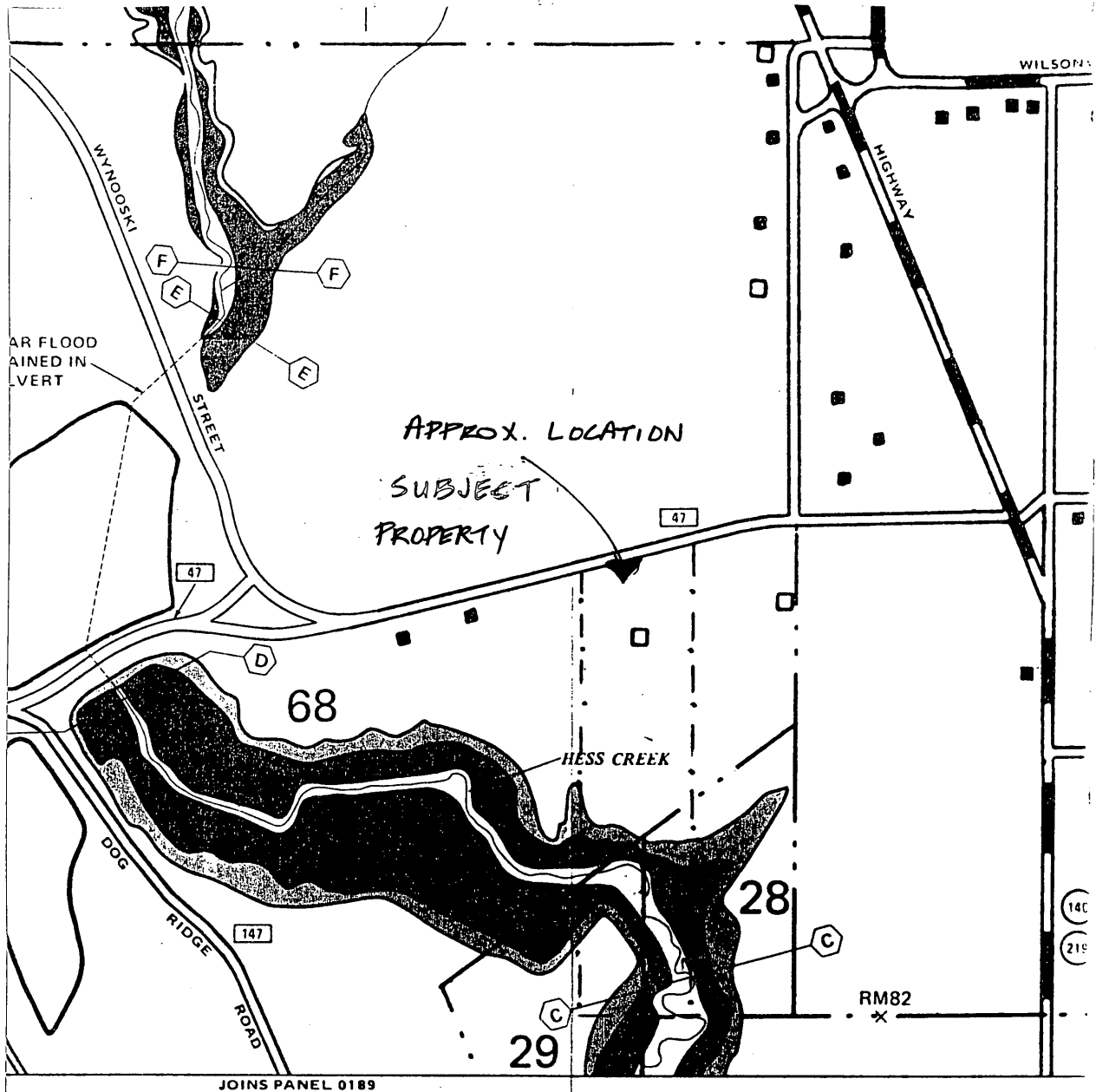
Description:
Urban Growth Boundary
Amendment
File: UGB-2-93
Date: 9-7-93

EXHIBIT 4
URBAN RESERVE AREA
PROPOSED BOUNDARY
MAP

Tax Lot: 3228-1800
Location: 2409 Wynooski
Application By:
Marvin Schneider

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Description:
 Urban Growth Boundary
 Amendment
File: UGB-2-93
Date: 9-7-93

**EXHIBIT 5
 FLOODPLAIN MAP**

Tax Lot: 3228-1800
 Location: 2409 Wynoski
 Application By:
 Marvin Schneider

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REQUEST FOR COUNCIL ACTION

DATE SUBMITTED: October 22, 1993

MOTION

RESOLUTION

DATE ACTION REQUESTED: November 1, 1993

ORDINANCE

INFORMATION

SUBJECT: Comprehensive Plan Amendment and Zone Change from LDR/R-1 Low Density Residential to COM/C-2 Community Commercial ((File CPA-2/Z-2-93)

RECOMMENDATION: Adoption of attached ordinance and findings for approval.

BACKGROUND:

On October 21, 1993, the Planning Commission unanimously recommended approval of the proposed Comprehensive Plan Amendment and Zone Change. The proposed change would convert a 3900 sq.ft. area from a LDR/R-1 to a COM/C-2 designation. The site is currently developed with a Dairy Queen restaurant. The restaurant is a non-conforming use because part of it is located in the R-1 zone. A zone change would allow the restaurant to place a new building on the site because the entire site would be in a commercial zone.

The site is bordered by an industrial zone to the west, a commercial zone to the north, and northeast and a low density residential zone to the east.

PROCESS:

Section 606 of the Zoning Ordinance sets forth the process by which the Council shall take action on Zone Changes and Plan Amendments. The section states that Council shall consider the proposal based on the following:

- The decision of the Planning Commission;
- The report of the Planner;
- The record of the Planning Commission proceedings; and
- Any report or written statement of a party determined to have standing.

If the proposal satisfies the criteria for a zone change the Council shall enact the ordinance (see the attached Findings for the criteria). If the Council finds that the criteria are not satisfied, it shall reject the proposal.

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Section 606 states that the Council shall hold its hearing on the record and that if additional evidence is needed the Council may take the following action:

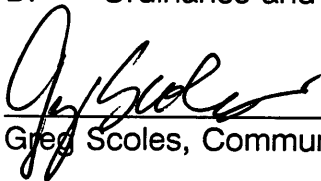
- Remand the matter to the Planning Commission for an additional public hearing;
or
- Vote unanimously to hold a public hearing where new evidence may be presented.
This requires public notice to be mailed and published prior to the hearing.

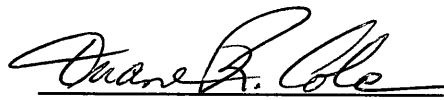
Section 606 does permit the Council to ask questions of the persons who participated at the Planning Commission level provided new evidence is not provided.

COST: None

ATTACHMENTS:

- A. Planning Commission Minutes
- B. Application CPA-2-93/Z-2-93
- C. Letter from Mac Rental
- D. Ordinance and Findings for Approval


Greg Scoles, Community Dev. Dir.

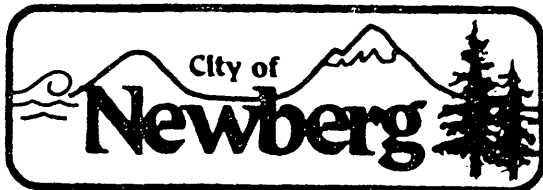

Duane Cole, City Manager

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Application by Sept 14.

750⁰⁰



414 E. First St.

Newberg, Oregon 97132

APPLICATION FOR:

- ZONE CHANGE
- PLAN AMENDMENT
- ANNEXATION

FILE: CPA-2/72-93

DATE: 8-18-93

FEE: 750⁰⁰

RECEIPT NO: 11090

APPLICANT: M.A.L. CORP. D.B.A. DAIRY QUEEN PHONE: 538-6112 #538-7973

ADDRESS: 404 W. 1ST NEWBERG OR 97132

OWNER(S): STEVE & MARY JANE LEHMANN PHONE: 538-7973

(If different from above)
ADDRESS: 300 MELBODY LN. NEWBERG OR 97132

ENGINEER SURVEYOR: _____ PHONE: _____

ADDRESS: _____

OTHER PROFESSIONAL: BOB STUBBS PHONE: 206-254-0900

ADDRESS: 11818 S.E. MILL PLAIN BLVD. #408 VANCOUVER WA 98684

GENERAL INFORMATION:

LOCATION: NEWBERG DAIRY QUEEN 404 W. 1ST ST. 111 S Harrison

TAX LOT NO: R32198D-00400

CURRENT ZONE: RESIDENTIAL PROPOSED ZONE: COMMERCIAL, ATTACH TO #R32198D-00200

CURRENT PLAN DESIGNATION: COMMERCIAL LDR PROPOSED PLAN DESIGNATION: COMMERCIAL

CURRENT USE/STRUCTURES: COMMERCIAL / PARKING LOT, REST ROOMS, STORAGE

NUMBER OF EXISTING DWELLING UNITS: ONE POPULATION (ANNEXATION REQUESTS): N/A

PROPOSED USE/IMPROVEMENTS: COMMERCIAL DEVELOPMENT OF NEW DAIRY QUEEN

TOPOGRAPHY: _____

SURROUNDING USES: NORTH: 99W SOUTH: RESIDENTIAL - (OWNED BY APPLICANT)

EAST: COMMERCIAL, LIGHT INDUSTRIAL WEST: RESIDENTIAL -
M&C RENTAL

SQUARE FOOTAGE OF SITE: 3900 ACREAGE: _____

IDENTIFY ROAD ACCESS: HARRISON ST.

COMPREHENSIVE PLAN AMENDMENT/ZONE CHANGE CRITERIA:

On an attached sheet of paper identify how your request complies with the following criteria:

1. The proposed change is consistent with and promotes the objectives of the Comprehensive Plan and of the Zoning Ordinance of the City. (Identify specific goal and policy statements contained within the Comprehensive Plan which apply to your request.)
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.

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ANNEXATION CRITERIA

On an attached sheet of paper identify how your request complies with the following criteria:

1. Consistency of the annexation in relation to the Newberg Comprehensive Plan and other applicable regulations set forth by the City of Newberg, the State, and affected jurisdictions and agencies.
2. The availability of basic public services which include but are not limited to sewer, water and electricity to the site in adequate quantities to serve the potential users without adversely affecting the availability of these services to existing users.
3. The impact upon public services which include but are not limited to police and fire protection, schools, hospitals and public transportation to the extent that they shall not be unduly compromised.
4. The need for housing, employment opportunities, and livability in the City of Newberg and surrounding areas.
5. The location of the site as to provide for the efficiency in land use in relation to public facilities and services, transportation, energy conservation, urbanization and social impacts.

This application must be completed and returned to the Community Development Office together with TEN(10) copies of a site plan. One original copy of the plan may be submitted if prepared in an 8 1/2" by 11" format. A current title report must accompany the application.

Check with the Planning Staff regarding additional requirements for your project. You are encouraged to arrange a pre-application conference with staff prior to submittal.

NOTE: ALL OWNERS MUST SIGN THIS APPLICATION OR SUBMIT LETTERS OF CONSENT. INCOMPLETE OR MISSING INFORMATION MAY DELAY THE APPROVAL PROCESS.

8-19-93
Date

8-19-93
Date

Date

Steve Lehman
Applicant

Mary Jane Lehman
Applicant

Applicant

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Newberg Dairy Queen Zone change request.

Combined one commercial lot.

1. The requested zone change is consistent with the objectives of the comprehensive plan and zoning ordinances of the City of Newberg.

This lot is currently being used as a commercial lot for the Dairy Queen.

This request for a zone change will establish the required commercial use designation, for which this lot has been used for, for approximately 18 years.

2. Is there a public need for this change ?

Because this lot is already being used for commercial use, it will not make a dramatic change in the surrounding neighborhood.

By allowing this zone change to take affect, the new Dairy Queen Development will better the surrounding neighborhood and 99W area by being more environmental friendly by having more landscaping.

3. Allowing this zone change will organize the two tax lots (#R3219B-00400 & - R32219B-00200) currently being used by the Dairy Queen into one commercial lot.
4. This request complies with all criteria of the Newberg Comprehensive plan. Because this lot has been used in conjunction with the neighboring commercial lot in the course of the Dairy Queen business, it has complied with all public services for years. A zone change will have no impact on any city services.

Respectfully Submitted,



Steve Lehmann
Applicant

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MAC RENTAL

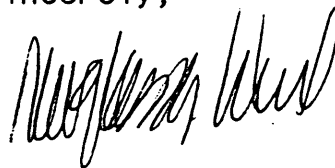
October 5, 1993

Greg Scoles
City of Newberg
414 E. First Street
Newberg, OR 97132

Mr. Scoles,

We are in favor of the zone change for the Dairy Queen. As adjacent property owners we see no adverse affects.

Sincerely,



Doug Hurl
Jim Hurl
Mac Rental

2800 Lafayette Ave.
McMinnville, OR 97128
(503) 472-6223

408 W. First St.
Newberg, OR 97132
(503) 538-7352

731 W. Baseline
Cornelius, OR 97113
(503) 357-7368

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ORDINANCE NO. 93- 2369

AN ORDINANCE AMENDING THE COMPREHENSIVE PLAN MAP FROM LDR (LOW DENSITY RESIDENTIAL) TO COM (COMMERCIAL) AND AMENDING THE ZONING MAP FROM R-1 (LOW DENSITY RESIDENTIAL) TO C-2 (COMMUNITY COMMERCIAL) FOR A PARCEL IDENTIFIED AS A PORTION OF TAX LOT 3219BD-400.

WHEREAS, The Newberg Ordinance No. 1967, section 4 and Newberg Ordinance Section 1968 sections 592-608 set forth the procedures and criteria for Plan Amendments and Zone Changes;

WHEREAS, The Planning Commission held a public hearing on October 21, 1993 and unanimously recommended that the City Council approve the proposal;

WHEREAS, The City Council has considered the decision of the Commission; the record of the Planning Commission proceedings; the attached Findings of Fact - Exhibit A, as prepared and presented by the City Planner; and written statements by parties determined to have standing;

NOW, THEREFORE, the Council of the City of Newberg ordains as follows:

- Section 1. A portion of tax lot 3219BD-400 is hereby designated COM on the Comprehensive Plan and rezoned from R-1 Low Density Residential to C-2 Community Commercial.
- Section 2. The Newberg, Oregon Zoning Map of Ordinance 1968 and the Newberg Comprehensive Plan Map of Ordinance 1967 shall be amended to reflect the change.
- Section 3. The Newberg City Council adopts the findings of fact which shall be made a part of this ordinance and are attached as Exhibit A.

PASSED by the City Council of the City of Newberg this _ day of , 1993, by the following votes:

AYES:

NAYS:

ABSENT:

City Recorder

APPROVED by the Mayor this ___ day of _____, 1993.

Donna Proctor - Mayor

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**EXHIBIT A
FINDINGS OF FACT**

October 21, 1993

APPLICANT: M.A.L. Corp dba Dairy Queen

REQUEST: Comprehensive Plan Amendment and Zone Change from R-1 Low Density Residential to C-2 Community Commercial

ZONING: R-1 Low Density Residential

LOCATION: 111 S. Harrison

TAX LOT: 3219BD-400

FILE NO: CPA-2-93

CRITERIA: Newberg Zoning Ordinance Section 600

EXHIBITS:

1. CPA-2-93/Z-2-93 application - by reference
2. Site Map - attached
3. Zoning Map - attached

I. SUMMARY

The zoning and comprehensive plan designation of the site is R-1 Low Density Residential. The site has been used as a commercial lot for the Dairy Queen for approximately 18 years; however, the commercial parking lot is a non-conforming use in the R-1 zone. If approved, the site will be designated as a C-2 Commercial zone. Commercial parking lots are outright permitted in the C-2 zone.

II. COMPREHENSIVE PLAN AMENDMENT - CRITERIA AND ORDINANCE REQUIREMENTS

A. Criteria

The Newberg City Council has the authority to make the final decision on this matter. The Planning Commission has an advisory role. 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** of the **Newberg Zoning Ordinance** and read as follows:

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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.

B. Comprehensive Plan/Zoning Ordinance Descriptions

1. Comprehensive Plan Descriptions

The Plan Classification section of the Comprehensive Plan Description describes the Low Density Residential and Community Commercial designations:

a. Low Density Residential (LDR) Areas

The objective of this designation is to provide a wide range of housing types and styles, while allowing for an overall density of up to 4.4 units per acre.

Typical housing types will include single family attached and detached housing. Clustered housing areas within Planned Unit Developments or condominiums must include adequate open areas to maintain the low overall density of this classification.

Services shall include improved streets, underground utilities (except electrical transmission lines), street lighting, sidewalks, and in some cases, bikeways.

b. Commercial Land Use (COM) Areas

The objective of this designation is to provide for a wide variety of commercial activities including offices, retail sales and services.

2. Zoning Ordinance Descriptions

a. R-1 District

Section 302 of the Zoning Ordinance lists the following description and purpose for the R-1 district:

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"The R-1 Low Density Residential District is intended for low density, urban single family residential and planned unit development uses. A stable and healthful environment, together with the full range of urban services, makes this the most important land use of the community. The R-1 district is intended to be consistent with the "Low Density Residential" designation of the comprehensive plan."

b. C-2 District

Section 352 of the Zoning Ordinance lists the following description and purpose for the C-2 district:

"The C-2 Community Commercial District is intended to create, preserve and enhance areas with a wide range of retail sales and service establishments serving both long and short term needs in compact locations typically appropriate to commercial clusters near intersections of major thoroughfares. This district also includes some development which does not strictly fit the description of sections 352 through 360 but also does not merit a zoning district. The C-2 district is intended to be consistent with the "commercial" and "mixed use" designations to the Comprehensive Plan.

III. COMPREHENSIVE PLAN GOALS AND POLICIES

The following goals and policies from the Comprehensive Plan are relevant to the proposed development.

A. The Economy - General Policy b.

The City shall encourage economic expansion consistent with local needs

B. Urban Design - Commercial Areas Policy b.

Existing development shall be encouraged to follow the same general design standards as new commercial development.

IV. FACTS

- A. Tax lot -400 is approximately 130,000 sq. ft. Approximately 3900 sq. ft. is proposed to change from a R-1 to a C-2 zone. A lot line adjustment is proposed to follow the zone change to transfer the area to Tax lot -200.

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- B. The site has been used as a commercial lot for the Dairy Queen Restaurant for approximately 18 years. The applicant proposes to demolish the existing restaurant and construct a new facility. The site will continue to be used for patron parking.
- C. The parcel fronts S. Harrison Street.
- D. The surrounding conditions are as follows:
 - North: Commercial property (Dairy Queen Restaurant) abutting Highway 99W; zoned C-2
 - South: Single family residence; zoned R-1
 - East: Single family residence; zoned C-2 and R-1
 - West: Industrial property (Mac Rental); zoned M-2
- E. Sewer, water and storm sewer are available to the site.

V. REFERRALS

Referrals for the zone change and Comprehensive Plan amendment were sent to all City Departments, utility companies, Newberg School District, Yamhill County, and the Oregon Department of Transportation. No conflicts were noted by any of the responding agencies; however, ODOT noted that the applicant must apply for a new highway access permit. Failure to do so may mean the loss of an existing highway access.

VI. CONCLUSIONARY FINDINGS

The proposed zone change and Comprehensive Plan amendment complies with the criteria set forth in Section 600 of the Newberg Zoning Ordinance as follows:

A. Criterion 1

The proposed zone change and Comprehensive Plan amendment is consistent with and promotes the objectives of the Zoning Ordinance and Comprehensive Plan. Tax lot -400 is partially used as a residence and partially used by Dairy Queen for patron parking. The objective of the R-1 zone is to provide a stable and healthful environment for residential living. This parcel is surrounded on three sides by non-residential uses, and a part of it is not used for residential purposes. Therefore, it can be argued that this parcel does not have the environment usually associated with the R-1 zone and can be changed to a commercial use without affecting this or surrounding property.

B. Criterion 2

The Comprehensive Plan identifies Newberg's land use needs. According to the Comprehensive Plan, there is adequate R-1 land available for development. About

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3900 sq. ft is under consideration. This is not enough to support a new commercial development, but is enough to allow the upgrade of an existing commercial establishment. Such an upgrade would better comply with the Comprehensive Plan's urban design goals and policies than does the existing establishment.

C. Criterion 3

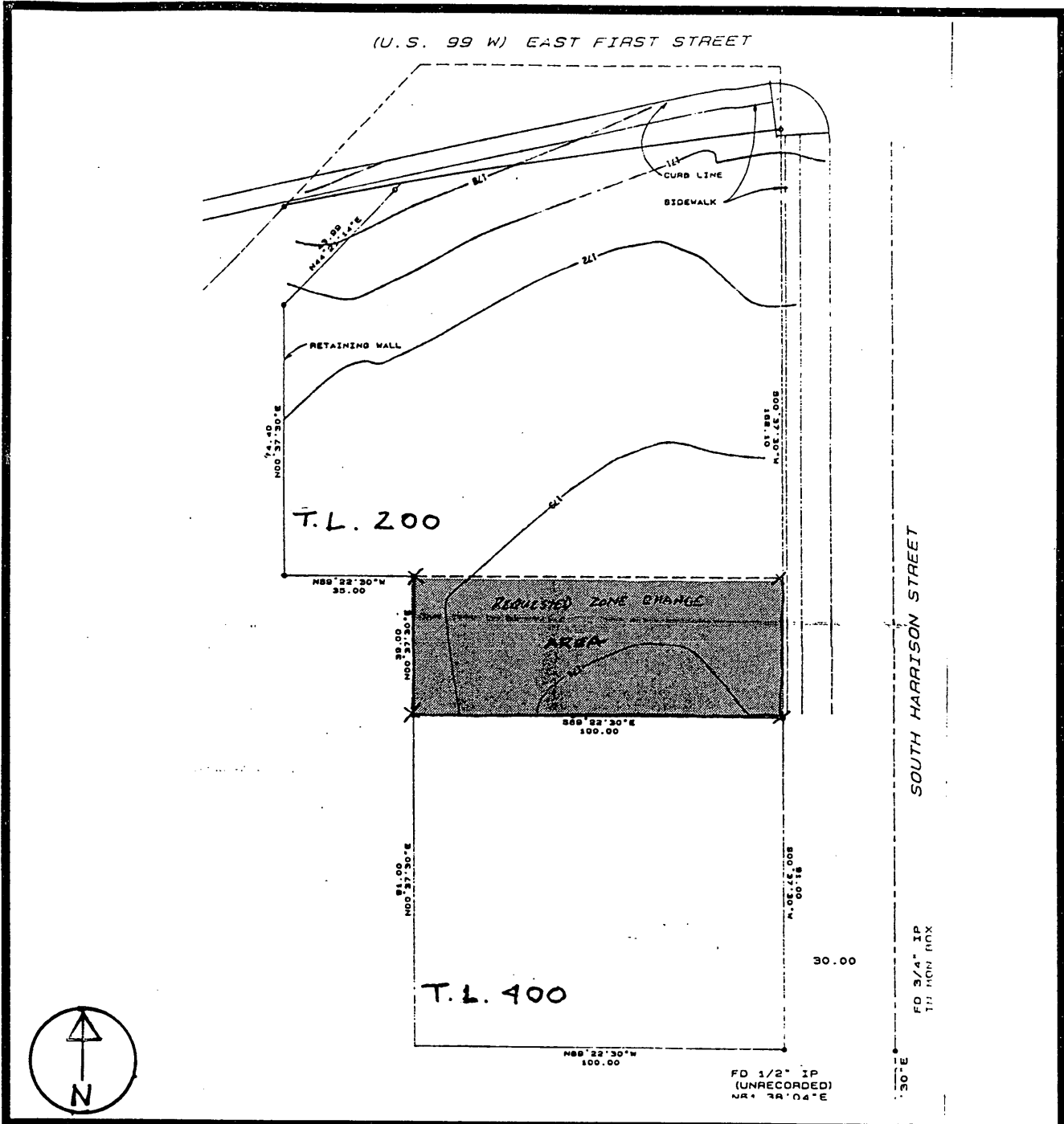
The need is best served by rezoning and amending the Comprehensive Plan designation on this particular parcel. The location of the parcel, between the single family residential area, the M-2 zoned parcel to the west and C-2 commercial to the north, presents the opportunity to transition the land uses from low density residential to community commercial.

VII. RECOMMENDATION

Based on the facts and findings, the Planning Department advises the Planning Commission to recommend that the City Council approval the zone change and comprehensive plan amendment.

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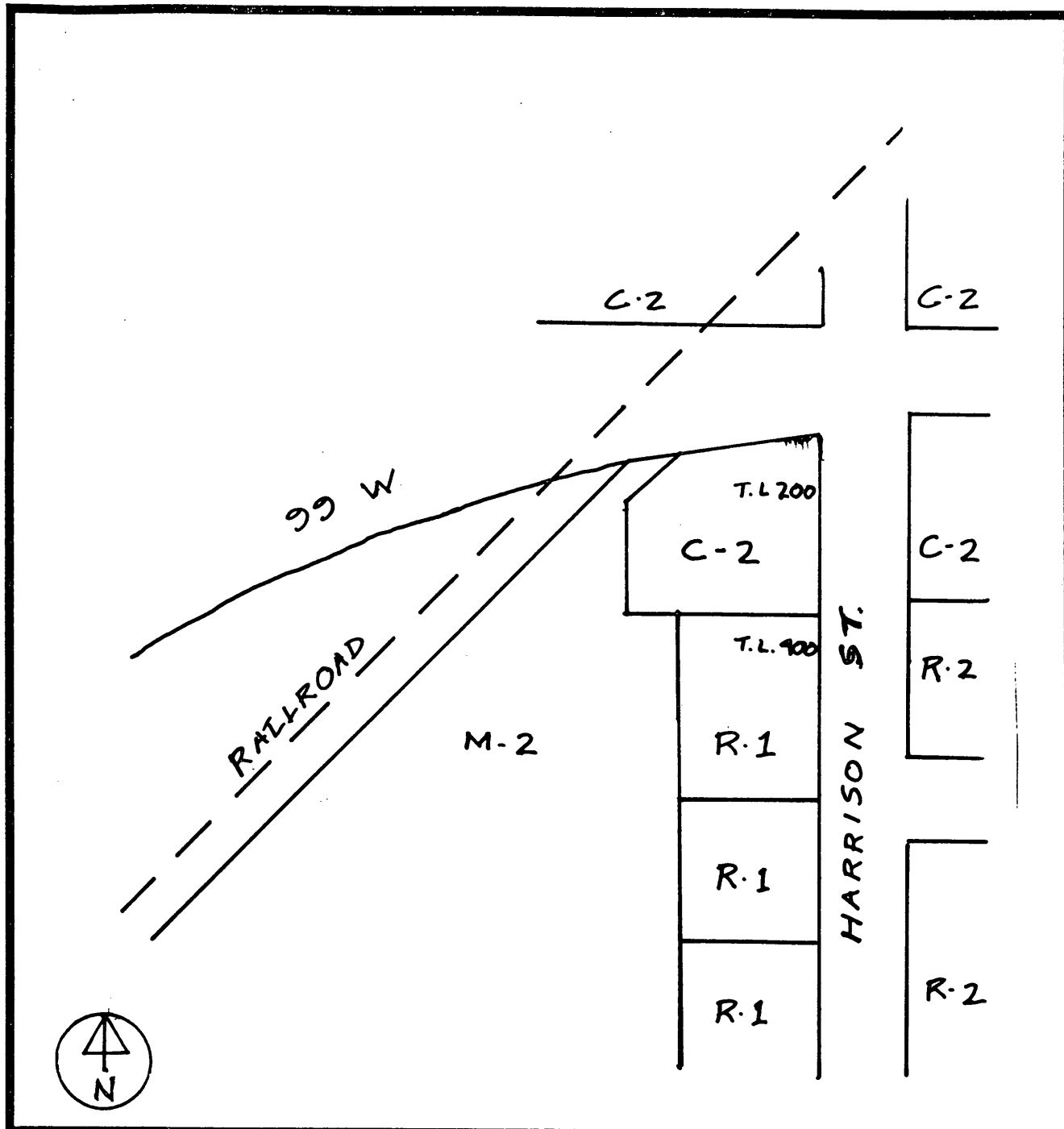
Description:
 Comprehensive Plan
 Amendment/Zone Change
 from R-1 to C-2
File: CPA-2-93
Date: 10-21-93

SITE MAP
EXHIBIT 2

Tax Lot: 3219BD-400
Location: 111 S. Harrison
Application By:
 M.A.L. Corp. dba Dairy
 Queen

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Description:
 Comprehensive Plan
 Amendment/Zone Change
 from R-1 to C-2
File: CPA-2-93
Date: 10-21-93

ZONING MAP

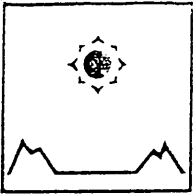
EXHIBIT 3

Tax Lot: 3219BD-400
 Location: 111 S. Harrison

 Application By:
 M.A.L. Corp. dba Dairy
 Queen

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MID-WILLAMETTE VALLEY COUNCIL OF GOVERNMENTS

105 HIGH STREET S.E.
SALEM, OREGON 97301

Telephone (503) 588-6177
FAX (503) 588-6094



CHAIR:
DR. CRAIG SMITH
SALEM/KEIZER SCHOOL DISTRICT

VICE CHAIR:
COUNCILOR BILL RIEGEL
CITY OF SALEM

EXECUTIVE DIRECTOR
ALAN H. HERSHEY

Mayor and City Council
City of Newberg
414 E. First Street
Newberg, Oregon 97132

September 15, 1993

Dear Mayor Proctor and Councilors:

Attached is an outline of a feasibility study recently adopted by the COG Board of Directors. We seek to gather facts about the potential impacts of providing a navigable channel in the Willamette River from Independence north to Portland.

Some of the potential benefits of such a channel may include:

- Decreased costs of transportation for bulk items such as agricultural commodities from this area by barge;
- Increased availability of sand and gravel for construction requirements; and
- Increased opportunities for tourism activities in this area including boating, fishing, sightseeing, etc.

For every potential positive impact, some interests will pose potential negative impacts. To carry out a factual review of what has been done in the past, what is allowed today, and what might be done in the future, we propose a study in three phases each concluded by a decision point to allow the data to be reviewed and a determination made to proceed or halt the study.

We are currently raising the resources for Phase I of the study from local organizations who do not have a likelihood of direct financial advantage. To date we have pledges of \$5,000 from the COG and Polk County. We are also contacting SEDCOR, V.I.S.A., the Monmouth/Independence Chamber of Commerce and others for assistance.

At your next Board meeting, would you please consider a pledge of \$500 to assist this effort?

Sincerely,

William Riegel
Vice Chair
(Councilor, Ward 2, City of Salem)

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WILLAMETTE RIVER COMMERCIAL NAVIGATION FEASIBILITY STUDY

Draft Proposal -- For Review and Discussion

Extending the commercially navigable portion of the Willamette River south to the Salem/Independence area would likely result in substantial economic benefits for the region. The following proposal is an outline for a feasibility analysis for this project.

PHASE I: Review of Presently Available Data and Research

- A. Conduct interviews with appropriate staff at the U.S. Army Corps of Engineers, the Oregon Division of State Lands, Oregon Department of Fish and Wildlife, Oregon Department of Geology and Mineral Industries and other related public agencies. Interview sand and gravel industry representatives and representatives of the water transportation industry.
- B. Follow-up on information developed from interviews, survey state and federal documents for studies on topics related to Willamette River navigation or dredging, and compile an information resource dossier on the subject.
- C. Prepare a report that summarizes the primary regulatory, economic and environmental issues that must be considered in a Willamette River navigation project and identifies potential barriers, as well as opportunities, that may be opened up by pursuing the project. Determine why river dredging and navigation was stopped. Identify major parties in potential conflict with the objectives of river navigation and major beneficiaries of the project.
- D. Research state and federal legal barriers to river navigation and prepare a remedial legislative strategy.

DECISION POINT: Provide the information to a committee of key elected officials and others to make a decision to proceed with further analysis or stop the project.

- F. If it is decided to pursue the study further, information developed in Phase I will then be used to refine and complete the design of Phase II.

Estimated costs:	140 hours of research @ \$45/hour -----	\$ 6,300
	Copying, travel, document production, misc. -	1,000
	54 hours of coordination, supervision and	
	follow-up @ \$50/hour -----	2,700
	Total	\$10,000

PHASE II: Project Cost/Benefit Analysis

**PRELIMINARY DRAFT
SUBJECT TO CHANGE**

This portion of the study will require the use of specialized engineering analysis and other consultants. The precise scope of work and other elements of work to be performed under this Phase will depend on what was developed in Phase I. Listed below are some of the likely topics for consideration.

COSTS

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- A. Estimate of regulatory costs such as EIS and permits as well as the potential

for litigation or other extended public decision processes.

- B. Estimate costs for any environmental mitigation measures.
- C. Estimate of costs for dredging and other in-river alterations necessary for navigation. (Locks, bank stabilization, etc.)
- D. Estimate of costs for support infrastructure such as docks, port facilities, gravel staging areas, etc.
- E. Identify initial fixed costs as well as continuing maintenance costs.
- F. Will the project result in a need for greater policing of river traffic?
- G. Indirect costs or costs to parties whose interests may be damaged by commercial river traffic?

BENEFITS

- A. Economic benefits -- Which industries and interests benefit most? Any industries or other economic interests harmed by increased river navigation? Specifically what kinds of economic benefits? Short or long-term? Job creation estimates?
- B. Transportation benefits.
- C. Construction industry benefits from greater aggregate and sand availability. Cash flow from sand/aggregate sales.
- D. Flood control and erosion control benefits.

DECISION POINT: Do the benefits outweigh the costs? Make another decision about whether to proceed with the project. Information developed in Phase II will be used to design Phase III in the event that the project is pursued further.

PHASE III: River Navigation Implementation Plan

- A. Develop financial plan for the project.
- B. Secure financing.
- C. Prepare EIS and obtain required permits.
- D. Design and bid construction of river improvements (if any).
- E. Make arrangements for dredging and other river activity.
- F. Develop or improve port facilities.

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The above draft was prepared at the request of representatives of the cities of Independence, Monmouth and Salem and Polk County. It was prepared by the staff of the Mid-Willamette Valley Council of Governments (503) 588-6177 July 12, 1993.

NEWBERG COMMUNITY HOSPITAL

MINUTES: EXECUTIVE COMMITTEE, OCTOBER 8, 1993, 7:00 A. M.

PRESENT: Jerry Frentress, Phil Edin, Fonda Schmidt, Dr. Holman,
Mark Meinert, Spike Sumner, Mike Olberding, Dr. Julie
Isaacson, Kate Copenhaver

The meeting was called to order by Jerry Frentress at
approximately 7:10 a.m.

The first action was to approve the minutes of 9/10/93, 9/13/93,
9/20/93, and 9/29/93. It was a consensus of those in attendance
that the minutes were approved as submitted.

DISCUSSION OF ELEVEN EXPECTATIONS AS SUBMITTED BY DUANE COLE AND
THE CITY COUNCIL:

After lengthy discussion, the Executive Committee reached
consensus recommendations to present to the full Hospital
Commission at the October 19, 1993 meeting. A list of items,
recommendations and summary comments is attached.

REVIEW OF POLICIES:

Fonda Schmidt moved and Phil Edin seconded a motion to accept
the policies forwarded by Administration, i.e., Policy #111.0,
105.1, 124.0, 126.0. The motion was unanimously supported.

NEXT AGENDA ITEMS:

Items #3, Discuss Expectations, #4, Discuss Goals & Objectives
and Institutional Standards, and Item #5, the Strategic Plan,
were not addressed and will be considered at the November
Executive Committee meeting.

ADJOURN:

The Executive Committee adjourned at 9:00 a.m.

Respectfully submitted,

Mark W. Meinert /s/

Mark W. Meinert
Administrator

MWM:jp

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NEWBERG COMMUNITY HOSPITAL

MINUTES: BOARD OF COMMISSIONERS, SEPTEMBER 28, 1993

PRESENT: Phil Edin, Jerry Frentress, Fonda Schmidt, Dr. Julie Isaacson, Jack Nulsen

ABSENT: Kate Copenhaver, Dr. Holman

EX-OFFICIO: Mayor Donna Proctor, Mark Meinert

GUESTS: Justine Pfeiffer, Spike Sumner, Kathleen Macken, Warren Good, Dr. Stan Kern, Duane Cole, Elaine Smith, Mr. and Mrs. John Newman, Richard Mills, Dave Thouvenel

The meeting was called to order at 7:00 p. m. and was called into Executive Session in accordance with ORS 192.660 (1)(H).

The meeting was called into open session at 7:20 p. m. and minutes of the 8-24-93 meeting were approved through a motion by Jack Nulsen and second by Jerry Frentress. The motion was unanimously supported.

ACTION ITEMS:

1. Election of Officers: Mr. Edin stated his desire to step down as chair of the hospital commission listing three reasons for that decision: (a) Effects on himself and his family during the last 90 days, (b) effect on his work, (c) he senses his role as chair is a problem in the healing process between the City Council and the Hospital Commission. Jerry Frentress, vice chairman of the Hospital Commission, has agreed to chair the Board and recommended that Mr. Edin be the vice chairman. Jerry also recommended that the Board bylaws be reviewed and that the chairman position be rotated every 90 days among those on the Executive Committee. Phil's term as chairman will be up in June of 1994 and therefore Fonda Schmidt moved and Jack Nulsen seconded a motion to elect Jerry Frentress chairman, Phil Edin vice chairman in this interim period. Fonda Schmidt recommended that the board monitor events and if more conflicts arise and Jerry is affected in the same way Phil has been affected then the Board should be made aware so appropriate action may be taken. The motion passed unanimously.

2. October Board Meeting Change: Mark Meinert requested a change of date for the October Board meeting since both he and Spike Sumner will be out of town on October 26th. Suggested dates were October 19th or November 2nd. Fonda suggested we also have to look at dates for the City Council/Board joint meetings. October 19th was concurred with by the Mayor and Duane Cole. After some discussion it was moved by Fonda that the Board meet at 6:00 p.m. on October 19, 1993 and at 7:30 p.m. the Board and City Council meet jointly. The motion was

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seconded by Jack Nulsen and passed unanimously.

The November Board meeting will fall 2 days before Thanksgiving but the Board felt that would not be a problem and will revisit the issue on October 19, 1993.

3. Key Bank Loan/Lease: Per a recommendation by the hospital auditors, a loan with Key Bank needs to be converted to a tax exempt lease agreement with KeyCorp Leasing. Paper work has been completed, the Executive Committee has approved and now needs Board approval. Jack Nulsen moved to refinance the loan with Key Bank to a lease agreement with KeyCorp Leasing with option to buy, seconded by Fonda Schmidt and unanimously approved.

4. Dental Provider: Mark asked for Board approval to change dental insurance provider as recommended by the Personnel Committee. The change from ODS to National Dental Health will reduce premiums by 28.8% with no loss of benefits. Fonda Schmidt moved to approve the change in Dental Insurance providers from ODS to National Dental Health, Jack Nulsen seconded the motion and it passed unanimously.

COMMITTEE REPORTS:

Executive Committee: Minutes of 9/10/93 and 9/20/93 were provided in the Board packets. Minutes of 9/13/93 were distributed and it was noted Dr. Isaacson was present at that meeting. The minutes will be corrected to reflect that change.

Joint Conference Committee: Mark addressed the minutes of August 26, 1993.

Finance Committee: Minutes of the Finance Committee were not available as the meeting was held earlier this evening prior to the Board meeting. Mr. Sumner reviewed the agenda items, there were no action items. Minutes of the meeting will be available for the October Board meeting.

Personnel: No further report from Personnel.

Administrator's Report: The City Council will address a resolution defining residency limitations to committees at their meeting on October 4, 1993. In conversation with Mr. Cole, Mark has been informed that the resolution does not affect committees which have been established by Ordinances, i.e., the Hospital Commission.

Mark reported having received a 100% evaluation from Medicare on our Home Health Department with 0 visits denied.

Sharing the cost of Mr. Epstein's services will be discussed at the Council meeting 10/4/93.

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OPEN AGENDA:

Jerry Frentress addressed the list of "expectations" as were printed in the Graphic on 9/25/93 and made it clear that he was not involved in creating them, that they were written and given to him and he agreed to carry them to the Board for an opinion. Jerry also reiterated he was of the opinion that without the expectations being brought before the Board, the ordinance would not have been rescinded and the Mayor agreed that was her understanding as well. Some felt the expectations were developed as an agenda item to be used at the joint Council/Commission meetings, that they were not pre-conditions we must adopt but were to give consideration. The City Council did not take action on the expectations and it was agreed they should be used for discussion at the joint meetings of the City Council and the Hospital Commission. Jerry Frentress moved that the 11 items be sent to the Executive Committee for review and then to the Joint Committee as agenda items. Jack seconded the motion. Jack moved to amend the motion to request that the City Council not take further action on the expectations until after the Council/Board joint meeting which was scheduled for October 19, 1993 and Fonda seconded. The motion as amended passed unanimously.

Board member replacement was discussed. Applications are to be consolidated both at the City and at the Hospital. The urgency of immediate appointments was questioned. Board members felt it was urgent to get someone on board as quickly as possible. Scott Reinhardt and Jerry Frentress are to meet to prioritize candidates before a recommendation is made to the Mayor. Jack Nulsen questioned item #10 of the expectations since the motion had been made and passed that no further action be taken until after the joint meeting on 10/19/93. It was determined that item #10 was a two part item and Fonda Schmidt moved and Jerry Frentress seconded a motion to rescind the 1st sentence of item #10 which deferred action on the immediate replacements of the two board vacancies. Further, the Executive Committee is authorized to meet and review all current applicants, provide recommendations to Jerry Frentress and to authorize Jerry to meet with Scott Reinhardt with the intention of making two recommendations for appointment to the Board of Commissioners. The motion was unanimously supported.

Spike Sumner provided facts concerning the sale of a boat which had been referred to in the letter Marty McIntosh wrote to the State Board of Ethics. Records have been researched, receipts have been located, dates have been verified and that report is attached to these minutes. Mr. Meinert noted that the sale of the board occurred before Mr. Hix expired.

Julie Isaacson noted the conflict with the City of Newberg has cost the hospital thousands of dollars not to mention what it has done to employee morale and employees feeling much at risk. Phil Edin responded that the Finance Committee had discussed

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expenses associated with attorney fees, etc., and had asked Mr. Sumner to record as best he can all expenses associated with the City's allegations.

Dr. Stan Kern, Bonnie Newman, and John Newman all expressed their feelings and opinions regarding the City's allegations against the hospital and urged that differences be settled as quickly as possible before more hurt and mistrust are generated.

At 8:45 p.m., the meeting adjourned into Executive Session in accordance with ORS 192.660 (1) (c) and 192.660 (1)(h).

Upon return to open session, the following actions were taken:

Phil Edin mentioned that he had been advised by Karen Creason of Stoel Rives, Boley, Jones and Grey that there were difficulties with the language in the proposed contract amendment from Terry Mahr and that she had advised Terry to hold the contract pending further evaluation.

Jerry Frentress moved and Fonda Schmidt seconded a motion to stop paying the City legal fees because we are currently not receiving any legal advice from the City. The motion was unanimously supported by the Board.

Fonda Schmidt moved and Jack Nulsen seconded a motion to approve the Medical Staff's recommendation pertaining to the appointment of Gary A. Beehler, D.O. The motion was unanimously approved.

There being no further business to come before the Board of Commissioners, the meeting was adjourned at approximately 9:40 p.m.

Respectfully submitted,



Mark W. Meinert
Administrator

Report written by: Justine Pfeiffer
Executive Secretary

jp

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NEWBERG COMMUNITY HOSPITAL
FINANCIAL SUMMARY - SEPTEMBER, 1993

=====

UTILIZATION:

Overall, hospital utilization, both inpatient and outpatient decreased during September. Inpatient utilization at 25% of occupancy was 78% of budget. Included in that number, the number of patient days in ICU was down significantly. Because of this, the overall acuity of the patients was down, and inpatient revenues reflect this. The average length of stay at 2.77 days was 79% of budget, and the lowest it has probably ever been. Total outpatient services at 6,795 were 93% of budget. Only the Emergency Room, and OB departments met their volume budgets for the month.

REVENUE:

Total gross revenue at \$1,199,886 was 86% of budget. Inpatient revenue at \$549,816 was 82% of budget, while outpatient revenue at \$628,851 was 91% of budget. Total deductions from revenue at \$300,114 were 77% of budget. Outpatient revenue was 53% of total patient revenue for the month, exceeding projection by 5%. Medicare/Medicaid revenue was 41.9% of total patient revenue for the month, and alternative delivery system revenue was 32.9% of total patient revenue for the month.

EXPENSE:

Total expense at \$957,224 was 99% of budget. We would have been lower in the expenses as compared to budget, but had exceptional expenses in the area of salary due to the turnover of our Director of Nurses, exceptional expenses in Administration for consulting fees on the Whitman Report, and higher than anticipated expenses from the health and dental premiums. Paid FTE's were 99% of budget, as were Productive FTE's.

MISCELLANEOUS:

Actual cash collections at \$984,525 were 99.3% of projection. Days of gross revenue in gross accounts receivable decreased to 75.8 during the month. The hospital had a net loss from operations of \$57,452 and a loss after interest income of \$52,905 for the month. Scheduled cash transfers were made to the Capital Improvement Fund, and Bond Account during the month.

Respectfully submitted,

Jack R. Sumner

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Jack R. "Spike" Sumner, Director of Finance

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Newberg Community Hospital
Financial Summary
For the Month of Sept 1993

(IN THOUSANDS)

	Current Month			Year-To-Date			Prior Year
	Actual	Budget	% of Bud	Actual	Budget	% of Bud	
Gross Revenue (A)	1,200	1,394	86%	3,804	4,182	91%	3,853
Deductions From Revenue	300	389	77%	957	1,167	82%	1,014
Percentage of Gross Revenue	25%	28%	90%	25%	28%	90%	26%
Net Revenue	900	1,005	90%	2,847	3,015	94%	2,839
Expenses:							
Salaries and Benefits	574	575	100%	1,746	1,725	101%	1,670
Non Salary Expenses	298	309	96%	868	927	94%	931
Depreciation	66	62	106%	199	186	107%	168
Interest	19	18	106%	57	54	106%	62
Total	957	964	99%	2,870	2,892	99%	2,831
Percentage of Gross Revenue	80%	69%	115%	75%	69%	109%	73%
Percentage of Net Revenue	106%	96%	111%	101%	96%	105%	100%
Income (Loss) from Operations	(57)	41	-139%	(23)	123	-19%	8
Non-Operating Revenue	4	5	80%	15	15	100%	15
Contribution to Growth	(53)	46	-115%	(8)	138	-6%	23
Percentage of Gross Revenue	-4%	3%	-134%	0%	3%	-6%	1%
Percentage of Net Revenue	-6%	5%	-129%	0%	5%	-6%	1%
(A) Gross Revenue:							
Inpatient	550	670	82%	1,697	2,010	84%	1,817
Outpatient	628	694	90%	2,031	2,082	98%	1,940
Other	22	30	73%	76	90	84%	96
Total	1,200	1,394	86%	3,804	4,182	91%	3,853

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Newberg Community Hospital
Ratio and Statistics Analysis
For the Month of September, 1993
and three months ended September 30, 1993

	Target -----	6/30/93 -----	9/30/93 -----
I. Balance Sheet			
Current Ratio (Current Assets/Current Liabilities)	2.30	3.73	2.30
Equity Financing Ratio (Fund Balance/Total Assets)	0.616	0.577	0.572
II. Profitability			
Deductions Ratio (Revenue Deductions/Gross Pat Svc Revenue)	0.285	0.274	0.257
Mark-Up Ratio (Gross Pat Svc Rev+Other Op Rev/Op Exp)	1.43	1.35	1.33
Operating Margin Ratio (Income from Operations/Total Oper. Rev)	0.022	-0.010	-0.006
Return on Total Assets Ratio (Contribution to Growth/Total Assets)	0.047	-0.003	0.001
Return on Equity Ratio (Contribution to Growth/Fund Balance)	0.076	-0.005	0.002
Paid Hours per Adj Admission (Paid Hours/Adj. Admissions)	156	172	167
Productive Hours per Adj Admission (Productive Hours/Adj. Admissions)	135	152	144
III. Cash Flow			
Cash Flow to Total Debt Ratio (Contribution to Growth+Depr/Total Liab.)	0.277	0.147	0.047
Current Debt Coverage (Current Port LT Debt/Contr to Grth+Depr)	0.403	0.000	2.250
Days in Net Patient AR (Net Patient AR/Net Patient Rev/ /Days in Period)	55	53.8	48.8
Contribution to Capital Imp Fund	\$10,000	\$350,000	\$30,000

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IV. Volume Statistics	Target	6/30/93	7/31/93	8/31/93	9/30/93
Percent of Adj Occupancy	44.7%	42.9%	34.1%	40.4%	34.9%
Adjusted Patient Days	694	689	598	722	581
Adjusted Admissions	197	170	169	177	210
Total Outpatient Services	7,300	7,801	7,191	7,683	6,795

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Newberg Community Hospital
 Capital Improvement Fund
 Cash Flow Statement

	July 1993 Actual -----	August 1993 Actual -----	September 1993 Actual -----
Capital Improvement Fund Beginnining Cash:	\$1,245,206	\$1,234,807	\$1,302,069
Additions:			
Interest Income	\$8,795	\$3,555	\$3,572
Transfers From Operations	10,000	10,000	10,000
Auxillary Donations			
Foundation Donations		75,000	
Insurance/Financing Proceeds			
Net Proceeds From Financing			
Total Additions:	\$18,795	\$88,555	\$13,572
Requirements:			
Equipment/Project Additions	\$29,194	\$21,293	\$48,722
Hospital Construction			
House Renovation			
Project Equip/Furnishings			
Total Requirements:	\$29,194	\$21,293	\$48,722
Ending Cash:	\$1,234,807 =====	\$1,302,069 =====	\$1,266,919 =====

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WILLAMETTE RIVER COMMERCIAL NAVIGATION FEASIBILITY STUDY

CITY COUNCIL MEETING
NOV 21, 1993
AGENDA ITEM
VIII 1.

Draft Proposal -- For Review and Discussion

Extending the commercially navigable portion of the Willamette River south to the Salem/Independence area would likely result in substantial economic benefits for the region. The following proposal is an outline for a feasibility analysis for this project.

PHASE I: Review of Presently Available Data and Research

- A. Conduct interviews with appropriate staff at the U.S. Army Corps of Engineers, the Oregon Division of State Lands, Oregon Department of Fish and Wildlife, Oregon Department of Geology and Mineral Industries and other related public agencies. Interview sand and gravel industry representatives and representatives of the water transportation industry.
- B. Follow-up on information developed from interviews, survey state and federal documents for studies on topics related to Willamette River navigation or dredging, and compile an information resource dossier on the subject.
- C. Prepare a report that summarizes the primary regulatory, economic and environmental issues that must be considered in a Willamette River navigation project and identifies potential barriers, as well as opportunities, that may be opened up by pursuing the project. Determine why river dredging and navigation was stopped. Identify major parties in potential conflict with the objectives of river navigation and major beneficiaries of the project.
- D. Research state and federal legal barriers to river navigation and prepare a remedial legislative strategy.

DECISION POINT: Provide the information to a committee of key elected officials and others to make a decision to proceed with further analysis or stop the project.

- F. If it is decided to pursue the study further, information developed in Phase I will then be used to refine and complete the design of Phase II.

Estimated costs:	140 hours of research @ \$45/hour -----	\$ 6,300
	Copying, travel, document production, misc. -	1,000
	54 hours of coordination, supervision and follow-up @ \$50/hour -----	2,700
	Total	\$10,000

**PRELIMINARY DRAFT
SUBJECT TO CHANGE**

PHASE II: Project Cost/Benefit Analysis

This portion of the study will require the use of specialized engineering analysis and other consultants. The precise scope of work and other elements of work to be performed under this Phase will depend on what was developed in Phase I. Listed below are some of the likely topics for consideration.

COSTS

- A. Estimate of regulatory costs such as EIS and permits as well as the potential

for litigation or other extended public decision processes.

- B. Estimate costs for any environmental mitigation measures.
- C. Estimate of costs for dredging and other in-river alterations necessary for navigation. (Locks, bank stabilization, etc.)
- D. Estimate of costs for support infrastructure such as docks, port facilities, gravel staging areas, etc.
- E. Identify initial fixed costs as well as continuing maintenance costs.
- F. Will the project result in a need for greater policing of river traffic?
- G. Indirect costs or costs to parties whose interests may be damaged by commercial river traffic?

BENEFITS

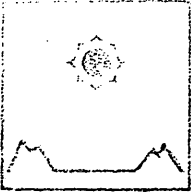
- A. Economic benefits -- Which industries and interests benefit most? Any industries or other economic interests harmed by increased river navigation? Specifically what kinds of economic benefits? Short or long-term? Job creation estimates?
- B. Transportation benefits.
- C. Construction industry benefits from greater aggregate and sand availability. Cash flow from sand/aggregate sales.
- D. Flood control and erosion control benefits.

DECISION POINT: Do the benefits outweigh the costs? Make another decision about whether to proceed with the project. Information developed in Phase II will be used to design Phase III in the event that the project is pursued further.

PHASE III: River Navigation Implementation Plan

- A. Develop financial plan for the project.
- B. Secure financing.
- C. Prepare EIS and obtain required permits.
- D. Design and bid construction of river improvements (if any).
- E. Make arrangements for dredging and other river activity.
- F. Develop or improve port facilities.

The above draft was prepared at the request of representatives of the cities of Independence, Monmouth and Salem and Polk County. It was prepared by the staff of the Mid-Willamette Valley Council of Governments (503) 588-6177 July 12, 1993.



MID-WILLAMETTE VALLEY COUNCIL OF GOVERNMENTS

105 HIGH STREET S.E.
SALEM, OREGON 97301

Telephone (503) 588-6177
FAX (503) 588-6094



CHAIR:
DR. CRAIG SMITH
SALEM KEIZER SCHOOL DISTRICT

VICE CHAIR:
COUNCILOR BILL RIEGEL
CITY OF SALEM

EXECUTIVE DIRECTOR
ALAN H. HERSHEY

September 15, 1993

Mayor and City Council
City of Newberg
414 E. First Street
Newberg, Oregon 97132

Dear Mayor Proctor and Councilors:

Attached is an outline of a feasibility study recently adopted by the COG Board of Directors. We seek to gather facts about the potential impacts of providing a navigable channel in the Willamette River from Independence north to Portland.

Some of the potential benefits of such a channel may include:

- Decreased costs of transportation for bulk items such as agricultural commodities from this area by barge;
- Increased availability of sand and gravel for construction requirements; and
- Increased opportunities for tourism activities in this area including boating, fishing, sightseeing, etc.

For every potential positive impact, some interests will pose potential negative impacts. To carry out a factual review of what has been done in the past, what is allowed today, and what might be done in the future, we propose a study in three phases each concluded by a decision point to allow the data to be reviewed and a determination made to proceed or halt the study.

We are currently raising the resources for Phase I of the study from local organizations who do not have a likelihood of direct financial advantage. To date we have pledges of \$5,000 from the COG and Polk County. We are also contacting SEDCOR, V.I.S.A., the Monmouth/Independence Chamber of Commerce and others for assistance.

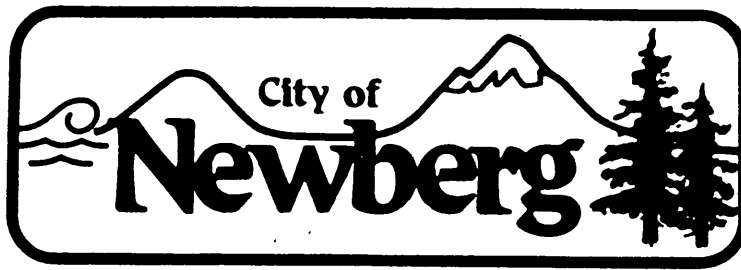
At your next Board meeting, would you please consider a pledge of ~~\$500~~ to assist this effort?

Sincerely,

William Riegel
Vice Chair
(Councilor, Ward 2, City of Salem)

~~\$500~~
\$250 *

*reduced 11-1-93



RECEIVED
OCT 18 1993

MID WILLAMETTE VALLEY
COUNCIL of GOVERNMENTS

City Manager
(503) 538-9421

City Attorney
(503) 537-1208

October 15, 1993

414 E. First St.
Newberg, Oregon 97132

City FAX
(503) 538-5393

Alan Hershey, Executive Director
Council of Governments
105 High St. SE
Salem, Oregon 97301

SUBJECT: Oregon Groundwater Protection Grant Program - FY 1994

Dear Alan:

The Oregon Department of Environmental Quality Water Quality Division, Groundwater Section has a grant program that funds a variety of activities. Of particular interest to the City of Newberg is well head protection.

The fax information I sent to you suggests that well head protection could be studied. It is limited to activities (1) in rural area; and (2) for established protection areas with nonpoint sources in them for inventory and developing of management practices.

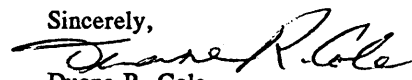
The City of Newberg perceives a need in Yamhill County and possibly other counties in the area to study well head protection issues. In particular, this study should identify the following:

1. Inventory of municipal wells that require well head protection;
2. Possible protection measures to be taken by counties or cities that would have well head protection needs;
3. An assessment on farming operations that are affected by the well head protection activities of cities near agricultural lands.

This is most likely a far broader mission than could be funded by the grant program. I am sure that the technical people involved in the grant process will break down each of these into sub-components that could be grant proposals.

Thanks for your attention to this concern and keep me advised as to the status of this potential grant program.

Sincerely,


Duane R. Cole
City Manager

DRC/bjm

pc: Scott Reinhardt, Council President

hershhey

City Council Meeting
MEETING NOV. 1, 1993
Agenda Item
VIII 1a

OREGON GROUNDWATER PROTECTION GRANT PROGRAM (319) FY 1994

Projects funded through section 319(h) of the Clean Water Act, as amended by the Water Quality Act of 1987.

GRANT REQUEST GUIDELINES

OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY
WATER QUALITY DIVISION, GROUNDWATER SECTION
PORTLAND, OR 97204
SEPTEMBER 1993

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Introduction

Nonpoint source pollution, long overlooked in federal water pollution regulation, has become a centerpiece of pollution control efforts. Congress added section 319 -- the nonpoint source (NPS) management programs section -- to the federal Clean Water Act in the 1987 amendments to provide federal support to nonpoint source control activities. Section 319(h) grant money, provided by EPA to individual states, forms an integral part of the federal nonpoint source program.

The Oregon Department of Environmental

Quality (ODEQ) has been assigned the responsibility of administering the Oregon 319 NPS grant program.

In Oregon, the 319(h) Nonpoint Source Grant Program has been structured in two program areas, Surface and Groundwater Nonpoint Source programs. This guideline will address the Oregon 319(h) Nonpoint Source Groundwater Grants Program only.

Groundwater grants are intended to be given to projects addressing the NPS objectives of the Groundwater Protection Act passed by legislature in 1989.

The overall objective of this act is to promote the prevention of groundwater contamination while striving to conserve, restore and maintain the high quality of Oregon's groundwater resources.

Application procedure, evaluation criteria, timelines, review process and grant administration are addressed in this guide.

Concerns that you may have about grant administration, management and coordination of groundwater quality NPS programs/projects should be directed to the Groundwater Section of ODEQ.

We hope this guide will provide you with the necessary information about the Oregon 319(h) Nonpoint Source Groundwater Program, but if after reading it you have further questions or concerns, please call Ivan Camacho at 1(800) 452-2011 or 1(503) 229-5088, or write to:

Department of Environmental
Quality
811 SW 6th Ave.
Portland, OR 97204
Attn. Ivan Camacho

If you have questions about the Oregon 319(h) Nonpoint Source Surface Water Grant Program, please contact Roger Wood, 1(800) 452-2011 or 1(503) 229-6893.

Timelines

Oregon Groundwater Protection Grant Program 319 important dates:

1. Announcement of Grant program
..... Sept. 30 - Oct. 1993
2. Grant Proposal Period
..... Oct. 1993
3. Grant Proposals Deadline
..... Oct. 29, 1993
4. Review of Grant Proposals (Oregon)
..... Nov. 1 - 22, 1993
5. Grant Proposals Reviewed (Oregon)
..... Nov. 25, 1993
6. Grant Proposals included in Intended Use Document, Due (at EPA Region X)
..... Dec. 1, 1993
7. Comments on Grant Proposals, by EPA (to ODEQ, EPA Award Offer to Oregon)
..... Jan. 14, 1994
8. Grant Application, due to EPA Region X
..... March 11, 1994
9. Money Available to Grant Recipients
..... May 1, 1994

Lines 1 thru 3 involve the applicant directly. The grant applicant deals with the ODEQ office to provide a complete grant proposal. Line 7 refers to EPA Region X comments on proposals (if any), initial funding offer and any other comments. These comments, if related to individual projects, will be passed on to the applicant and will need to be addressed, with applicant's input for the grant's final submittal by March 11, 1994).

Eligible Applicants

1. State agencies;
2. Political subdivisions which include counties, cities and special districts incorporated under Oregon laws; and
3. Groundwater management committees organized in Groundwater Management Areas. These committees have been established as part of the Groundwater Protection Act and are intended to address nonpoint source groundwater contamination problem in local areas.

Eligible Projects and Expenditures

Approved activities include those that carry out groundwater protection activities which the EPA Administrator determines are part of a comprehensive nonpoint source pollution control program, including research, planning groundwater assessments, demonstration programs, enforcement, technical assistance, education and training to protect groundwater quality from nonpoint sources of pollution" as mentioned in Section 319(h)(5)(D) of the Clean Water Act as amended by the Water Quality Act of 1987.

Funded projects must show a connection between the activity of concern and its effect on the quality of the groundwater. Once the connection is made between the activity and the groundwater quality the grant applicant must explain how the

proposed project will prevent or reduce groundwater contamination.

To be eligible, projects must fall into one or more of the following categories:

1. BEST MANAGEMENT PRACTICES as they RELATE to GROUNDWATER QUALITY:

Projects addressing this category should include:

Research and development in areas related to groundwater, including but not limited to hydrogeology, groundwater quality and alternative residential, industrial and agricultural practices. Development of recommendations for land use and management as it pertains to protecting groundwater resources;

Research leading to addressing a groundwater quality concern;

Demonstration projects to provide hands-on opportunities for individuals on current research and development of best management practices to protect groundwater. Such practices include but are not limited to hydrogeology, groundwater quality and alternative residential, industrial and agricultural practices;

Implementation. Efforts to develop recommendations for agricultural producers are needed.

2. PUBLIC EDUCATION.

3. **COMMUNITY INVOLVEMENT.**
Increased development and implementation of statewide groundwater public education and community involvement efforts to promote and attain the goal of the State to prevent contamination of Oregon's groundwater.

This amount will need to be allocated between surface and groundwater as it has been in the past. It is expected that an approximate \$400,000.00 will be available for groundwater projects.

4. **WELL HEAD PROTECTION**

*Some
Proposals
with Groundwater*

Limited to activities: 1) In rural areas for delineation; and 2) For established protection areas with nonpoint sources in them for inventory and developing of management practices.

2. **Limitations.** A balance between the Groundwater Management Areas and statewide activities will be achieved.

3. **Funded projects** are required to match the federal amount with 40% of the total project cost. This match should not be of other federal source. Requests for funding documents should contain a complete budget, including overhead (if appropriate).

5. **INFORMATION MANAGEMENT**

Projects addressing this category would include:

GIS Applications;
decision support;
statewide data sets.

4. In the past, projects have ranged from \$10,000 up to \$65,000.00 (EPA portion).

5. **Projects** are funded yearly. However, projects can be planned as multi-year projects, but funding for continuous funding need to be requested on a yearly basis.

6. **ASSESSMENT and/or MONITORING of LAND ACTIVITIES and their POTENTIAL for GROUNDWATER CONTAMINATION.**

Proposal Review Process

Once the Department of Environmental Quality has received the proposals, they will be reviewed. Projects will be evaluated based upon how they address a program priority or priorities (mentioned on Page 4).

Funding Limitations

1. **Funding.** A target amount of \$1,000,000.00 is expected to be made available for Oregon NPS water quality projects for FY 1994.

Evaluation of this year's projects will be performed by a review team (Groundwater Protection Act Committee).

The ODEQ may recommend slight modifications to proposal to better fit the Oregon comprehensive NPS strategies.

The final decision of which proposals will be presented to EPA for funding, however will be made by ODEQ. Proposals will be submitted to EPA in a draft named Intended Use Document. This document will include Surface and Groundwater efforts to address the comprehensive statewide NPS strategies

Submitting Grant Requests

Grant requests for the funding of NPS groundwater projects must provide complete information about the proposed work. The proposals must include the following:

Proposal name

Project Description:

- i) State problem/situation which will be addressed. A paragraph or two presenting the situation or concern that the project intends to address;
- ii). Objective. A Clear objective will assist us to visualize what your project will accomplish.
- iii) Relation to Oregon NPS groundwater priorities.
- iv). Anticipated results;

v). How the project will be managed to meet the objective (s);

vi). Performance measures/transferrable benefits (statewide). Explain how the anticipated results address the your objective (s) and how the results will be documented;

3. Environmental Stewardship

The goal of environmental stewardship is to educate and involve the public in order that they would adopt personal behavior patterns which would reflect in protection of the environment.

Although preferred, a proposal does not have to have an environmental stewardship component. Please mention if this is the case.

4. Budget

- i). Include overhead;
- ii). Include match (60/40);and
- iii). Include total budget.

5. Names of contact person (s). Including a Curriculum vitae, presenting credentials necessary to undertake a groundwater quality protection project.

**OREGON GROUNDWATER PROTECTION
GRANT PROGRAM (319) FY 1994**

Applicant:

**Mid-Willamette Valley Council of Governments,
An ORS 190 Intergovernmental Agency**

Project Title:

Mid-Willamette Valley Wellhead Protection Project

The Mid-Willamette Valley Wellhead Protection Project (Project) will identify wellhead impact areas using the Region of Impact Designation (RID) process, inventory potential contamination sources, and propose management strategies for Marion and Yamhill Counties. The Project will examine wellhead protection as a regional issue and develop a model that could be used in other areas.

Project Manager:

**Mike Unger, Senior Planner
Mid-Willamette Valley Council of Governments
105 High Street SE
Salem, Oregon 97301
(503) 588-6177**

October 29, 1993

1. PROPOSAL NAME

The proposal name is the *"Mid-Willamette Valley Wellhead Protection Project"*.

2. PROJECT DESCRIPTION

2.1 Problem Statement/Purpose

The 1986 amendments to the Federal Safe Drinking Water Act (SDWA) established a wellhead protection program intended to prevent groundwater contamination. The Oregon Department of Environmental Quality (DEQ) was designated as the lead agency to implement the wellhead protection program in Oregon. In 1992, DEQ developed the Oregon Wellhead Protection Program Public Advisory Plan (Plan). The Plan outlines a three-step process to implement the Program: delineation of wellhead protection areas; inventory of potential sources of contamination; and implementation of a management plan. Public water suppliers would be responsible for delineation and inventory. Cities and Counties would be responsible for developing management plans. The Plan also proposes that the Wellhead Protection Program be implemented as a part of a jurisdiction's Comprehensive Plan Periodic Review process.

The Mid-Willamette Valley Wellhead Protection Project (Project) will identify wellhead impact areas using the Region of Impact Designation (RID) process, inventory potential contamination sources, and propose management strategies for Marion and Yamhill Counties. The Project will examine wellhead protection as a regional issue and develop a model that could be used in other areas.

The Project has economic implications for the region. Approximately 78% of the state's population uses groundwater either at home, work, or school. There are 106 community wells and approximately 20 schools with wells in the two-county region. Oregon's contamination problems are not extensive at this time; however, continued population and economic growth will require efforts to ensure clean groundwater. Potable groundwater is a critical priority for the region's and state's continued vitality. Cities and industries cannot exist without clean water. Addressing the issue now, while the problem is minimal, is considerably more cost effective than waiting until a problem arises.

2.2 Project Objectives

The Project's primary objective is to implement a wellhead protection and public education program in the two-county area. This objective will be met through the following steps:

A. Identification

All community wellheads and schools served by wells within the study area will be identified¹. The next step is to define an impact area around the wellhead. In lieu of conducting a full delineation, a costly and time consuming procedure, a Region of Impact Designation (RID) will be determined. RID is a circle around the wellhead that is a function of the pumping capacity. The RID determination will be conducted in the manner outlined in the Public Advisory Plan and its appendices.

The RID will provide for a region-wide assessment, thereby allowing local jurisdictions to prioritize wellhead delineation and protection. Residents within the RID area will be targeted for public education. In addition, the RID will be the preliminary contaminant inventory area.

B. Inventory

Following the identification of RID around wellheads, a "windshield" survey will be conducted to assess potential contaminants and their risk. Inventory schemes such as those outlined in "Wellhead Protection: A Guide for Small Communities" (EPA/625/R-93/002) will be evaluated for their potential during the process. Where possible, volunteers from the RID or surrounding areas will be utilized in the inventory process.

A matrix of preliminary risk assessment will be developed. A Technical Advisory Committee (TAC) will be assembled to help develop the risk assessment matrix. The TAC will consist of state and local officials, industry and agriculture representatives, and water providers.

The inventory will consist of the identification of potential contaminant sources and their frequency of occurrence. Individual sources will be classified as low-medium-, or high-risk using categories defined in the plan. The sources will be weighted according to the potential risk and combined with their respective frequency of occurrence in the RID to yields a "contaminant score". The risk assessment matrix will combine the contaminant score with the population served to develop an overall risk factor associated with each community well and school served by a well.

¹For the purposes of this project, community wellheads shall be defined consistent with the Environmental Protection Agency (EPA) definition. Community wellheads shall include all systems serving at least 15 connections or 25 year-round residents.

C. Management Strategies

The Project will produce a list of management strategies or best management practices. The management strategies will take the form of "model" ordinances which local jurisdictions can consider when implementing a protection program. A chief concern of the management strategies will be to balance the public concerns for groundwater protection with the private property rights of affected individuals. The management strategies will be developed by the Technical Advisory Committee and Steering Committee with the input from the Water Resource Committees from the two counties (note: Yamhill County is currently exploring the formation of a Water Resource Committee). In addition, public forums will be held in the counties to solicit public input and feedback. Section 2.5 contains an outline of the project's management structure.

D. Public Education

Public education and involvement will be an essential element at each stage of the Project. Informational mailings will be sent to all residents within identified RID areas. The mailings will include information on wellhead protection, the Project, and how interested parties can participate. In addition, public forums will be held in each county to discuss the Wellhead Protection Project and its findings. Furthermore, public participation will be sought in developing management strategies.

The public information mailings and forums will serve as a model for other regions implementing wellhead protection programs.

2.3 Relationship to Oregon NPS Groundwater Priorities

The proposed project represents the first effort in the state to begin implementing the Oregon Wellhead Protection Program Public Advisory Plan. Realizing that the formal initiation of the wellhead protection plan would be difficult, the Wellhead Advisory Committee developed a procedure to increase public awareness and conduct a preliminary inventory of potential contaminant source. The Project will implement the Wellhead Advisory Committee's recommendations: 1) wellheads and their Region of Impact Designation (RID) will be identified; 2) an inventory of potential contaminants will be conducted; 3) management strategies will be developed; and 4) a significant public information and education effort will be made. Furthermore, the Project will address wellhead protection at a regional level.

2.4 Anticipated Results

The Project will produce a report which will serve as a working document for public education and planning. The report will include the following:

- A. Every community wellhead serving at least 15 connections or 25 year-round residents and schools served by a well will be identified, by county.
- B. The Region of Impact Designation (RID) will be identified for each wellhead.
- C. An inventory of potential contaminants within the RID will be prepared for each wellhead.
- D. A risk assessment matrix will be developed to rate the contamination potential for each wellhead. The matrix will help cities and counties prioritize wellheads to be formally delineated and protected.
- E. A series of wellhead management strategies will be developed. The strategies will include model ordinances which attempt to balance groundwater protection with private property rights.
- F. The project will contain a strong public education component. Residents, businesses, and their employees within RID areas will receive informational mailings on wellhead protection and will be invited to public forums discussing the Project's findings and proposed management strategies.

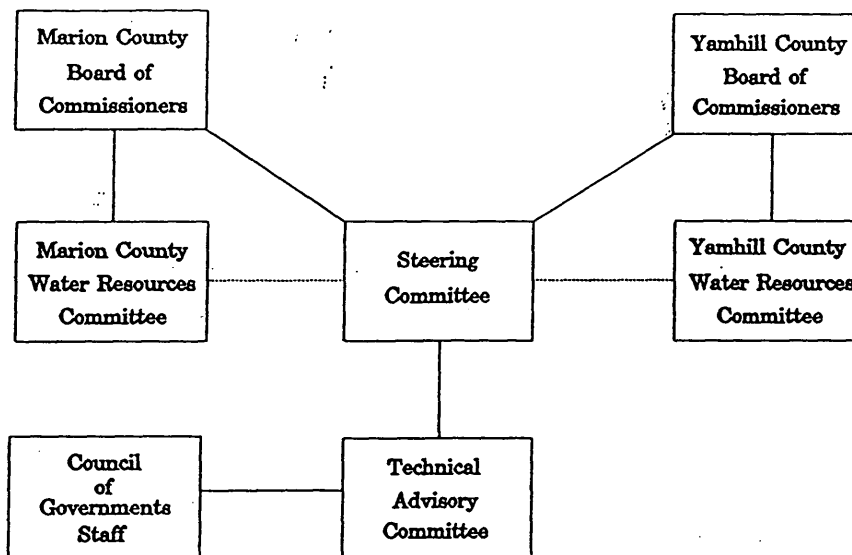
2.5 Project Management

The project will be managed by the Mid-Willamette Valley Council of Governments (COG). Mike Unger, Senior Planner, will be the Project Manager. Richard Schmid, Chief Planner, will provide additional oversight. Their curriculum vitae are provided in Appendix A. Other COG staff may be assigned to work on the project.

The COG will work closely with DEQ, the Health Division, Department of Water Resources, and other related state agencies to ensure that the project is consistent with the Oregon Wellhead Protection Program Public Advisory Plan. Staff from the above mentioned agencies will be included in a Technical Advisory Committee.

The Project will be structured to allow broad participation and input from citizens, cities and counties, and agriculture and industry interests. Several committees will be established or utilized to facilitate broad participation. The following is an illustration of the committee process and a description of the purpose and proposed composition of the committees.

Project Management Structure



Steering Committee

Function:

The Steering Committee will oversee the project and serve as the policy making body. The Steering Committee will act on recommendations from the Technical Advisory Committee and Project Staff. The final report will be approved by the Steering Committee.

Proposed Composition:

Each county will appoint three persons to serve on the Steering Committee. In turn, the Steering Committee will appoint one additional person to serve as a chairperson.

Technical Advisory Committee (TAC)

Function:

The TAC will provide technical support. The committee will help develop the risk assessment matrix and management strategies.

Proposed Composition:

- Department of Water Resources
- Department of Environmental Quality
- Department of Agriculture
- Department of Land Conservation and Development
- Health Division
- Public Water Association
- City/County Public Works Departments
- City/County Planning Departments
- Industry Representative
- Environmental Representative
- Agriculture Representative

Water Resource Committees

Function:

The Water Resource Committee within each county will be used to review project findings and provide feedback. (Note: Yamhill County is exploring the formation of a Water Resource Committee, but may not have such a committee at the time of the Project.)

2.6 Performance Measures/Transferable Benefits

The Project will produce a regional (Marion and Yamhill Counties) inventory of community wellheads and schools served by a well. The inventory will include an assessment of contaminant risk for each wellhead. This inventory will be an effective tool for prioritizing water systems in terms of their "need" for a formal wellhead protection system. In addition, management strategies will be developed to help cities and counties implement wellhead protection systems.

The Project will serve as a model which can be transferred to other regions. The risk assessment matrix, management strategies, and public education/information effort could be implemented in other areas.

3. ENVIRONMENTAL STEWARDSHIP

A primary goal of the Project is to increase understanding about groundwater protection. This goal will be met through an assessment of groundwater contamination risks, development of strategies to reduce those risks, provision of public information and education about wellhead protection, and to ensure community involvement in development and implementation. The RID process allows critical wellhead areas to

be efficiently defined on a regional level. Thus, public education can be focused across the two-county area.

4. BUDGET

Task	Personnel Expense	Long Distance Phone	Mileage	Printing, Mailing, etc.	Total
A. Identification	4,334	180		250	4,764
B. Inventory	21,143	180	400	450	22,173
C. Management Strategies	7,330	180		300	7,810
D. Public Education	5,330	180		7,200	12,710
E. Meetings ¹	12,940		120	450	13,510
Total	\$51,077	\$720	\$520	\$8,650	\$60,967
Grant Request					\$36,580
Local Match ²					\$24,387

¹The budget assumes a total of 20 meetings between the Steering, TAC, and Water Resource Committees.

²Local match will be provided by Marion and Yamhill Counties.

Wellington E. Webb
MAYOR



City and County of Denver
CITY AND COUNTY BUILDING • DENVER, COLORADO • 80202

July, 1993

AREA CODE 303 640-2721
640-2720 (V/TDD)

Becky for Nov 1st Committee agenda
Frank

Dear Mayor:

The Laymen's National Bible Association is sponsoring for the 53rd consecutive year the interfaith observance of **National Bible Week**. It will take place November 21 - 28, 1993.

I am privileged to serve as Chairman of the Mayors Committee for this celebration. I ask that you issue a proclamation calling for Bible Week observance. A draft is enclosed for your use. Please adapt this in whatever way you wish.

During **National Bible Week** the sponsors will provide the media with materials for a public service advertising campaign designed to remind All Americans of the Bible's importance. Also nonsectarian biblical materials will be provided for free distribution in local observances all over the country.

If you send a copy of your proclamation to the Chairman of **National Bible Week** it will be displayed at the Bible Week inaugural luncheon to be held in The Hotel Pierre in New York City on November 19. It should reach the office by November 15, 1993 to be included.

Send your proclamation to: Laymen's National Bible Association, 1865 Broadway, 12th Floor, New York, New York 10023, Attention: Mr. Robert G. Burton, National Chairman.

I greatly appreciate your cooperation in this effort.

Yours truly,

Wellington E. Webb
Mayor Wellington E. Webb
Mayors Chairman

Please send a copy

A PROCLAMATION
For
NATIONAL BIBLE WEEK
November 21 to 28, 1993

WHEREAS the Bible has been a constant source of inspiration and moral and spiritual guidance for peoples and nations throughout the centuries; and

WHEREAS the Bible has been a particular beacon for Americans as evidenced in its profound effect on the attitudes, beliefs, ideas and principals contained in our Declaration of Independence and the Constitution of the United States; and

WHEREAS the Bible has greatly influenced our nation's art, literature, music, laws and sense of charity; and

WHEREAS in this time of financial distress, with its attendant plights of joblessness and homelessness, many Americans turn directly to the Bible for comfort and guidance for themselves and their families; and

WHEREAS it becomes necessary to educate all Americans, but especially our youth, to the values that distinguish a humane and caring society; and

WHEREAS for fifty-three years business and professional people of all faiths have banded together in the Laymen's National Bible Association to sponsor National Bible Week as a time to remind all Americans, whatever their faith, of the Bible's unique place in American history; and

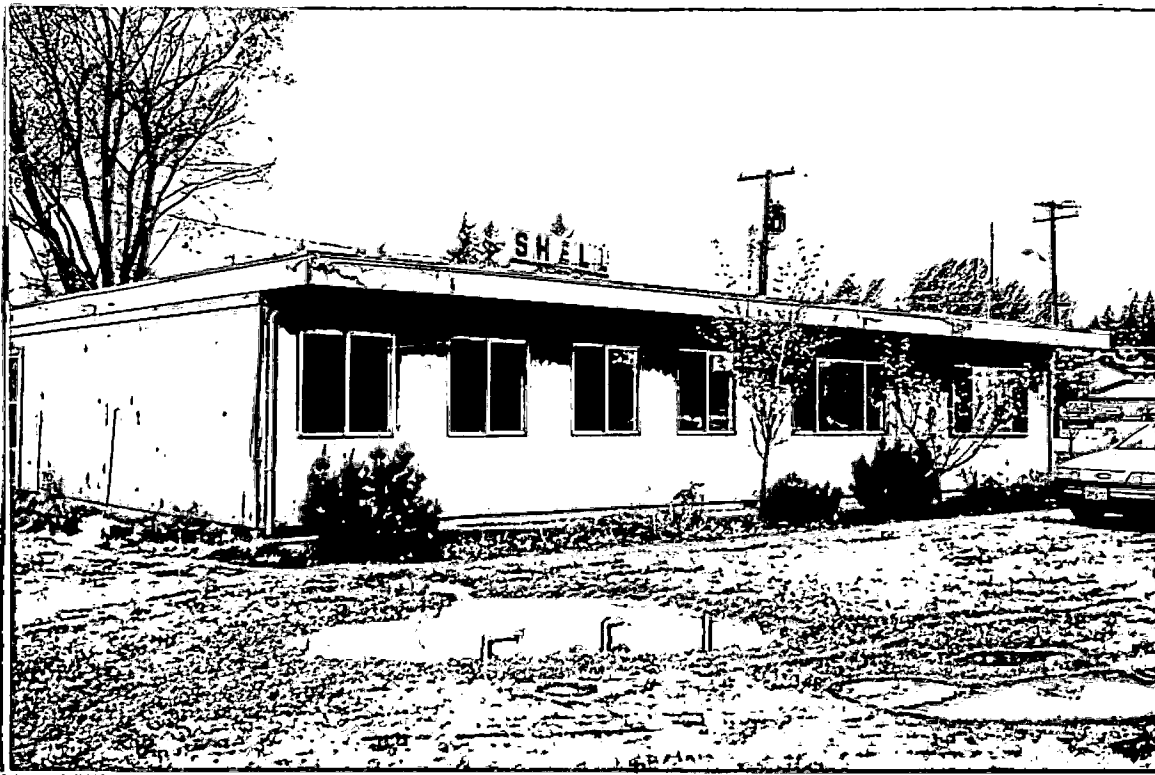
WHEREAS this annual emphasis has helped to strengthen spiritual awareness in the past throughout America by encouraging personal reading and study of the Bible;

THEREFORE I, _____, Mayor of _____ do hereby proclaim November 21 to 28, 1993 as NATIONAL BIBLE WEEK in _____. I urge all my fellow citizens to participate in its observance by reading the Bible and discovering its importance in the life and culture of our nation.

(seal)

Signed:

Date:



PARKING LOT AS MAINTAINED BY MR JOHNSON

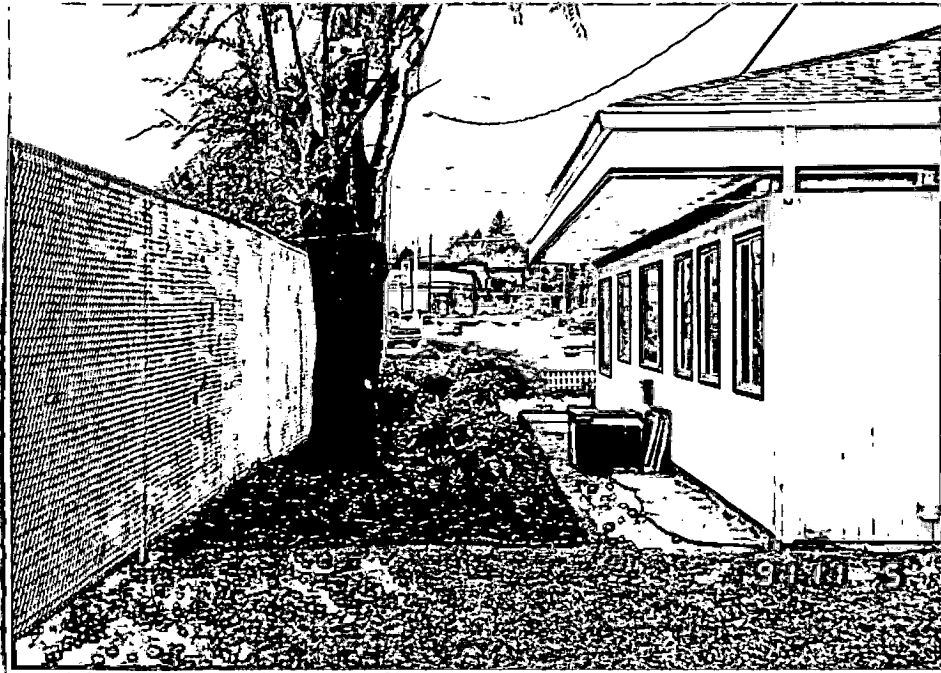
PLEASE NOTE BUILDING DAMAGE FROM TRUCKS



BUILDING AFTER REMODELING AND NEW LOT

VI-1

86



ACCESS OFFERED TO MR JOHNSON BY BARRY COGUT



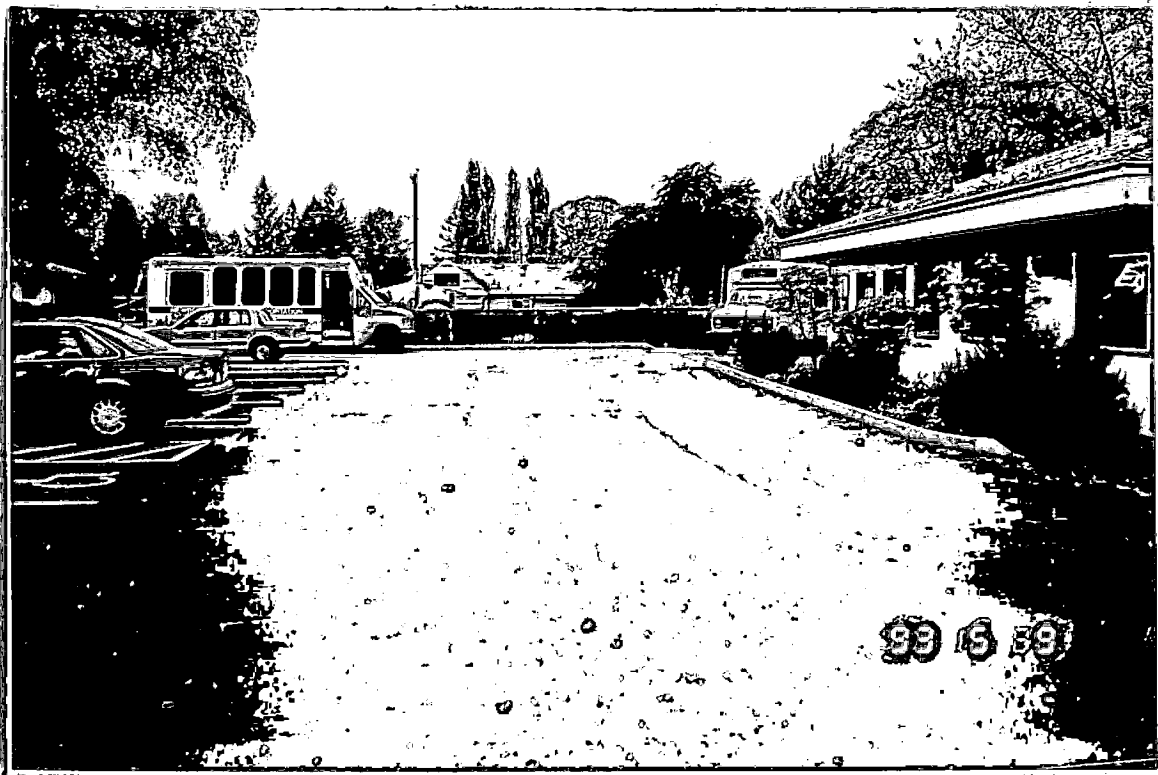
POTENTIAL ACCESS TO CARE HOME

FROM CHURCH STREET

ON PROPERTY OWNED BY MR JOHNSON

VI-1

87



OFFICE PARKING LOT WITH THREE FOOT ELEVATION

AT THE ALLEY

VI-1

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