

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

FOR THE COUNTY OF YAMHILL

93 MAR 24 PM 11:27

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

CITY OF NEWBERG
COUNTY CLERK

In the Matter of an Ordinance Amending the)
 Yamhill County Comprehensive Plan Map and)
 Official Zoning Map to Amend the Urban Growth)
 Boundary for the City of Newberg to Add to the)
 UGB and Plan Designate as "Future Urbanizable")
 18 Acres of Land Known as Tax Lot 3207-1000;)
 Applicant City of Newberg; Planning Docket)
 PA-01-93; and Declaring an Emergency.)

CITY OF NEWBERG
CITY RECORDER INDEX NO. 1056**ORDINANCE 640**

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) sat for the transaction of county business in formal session on March 12, 1997 Commissioners Ted Lopuszynski, Robert Johnstone, and Thomas E.B. Bunn being present.

WHEREAS, the City of Newberg has made application in Docket PA-01-93 to amend the City of Newberg Urban Growth Boundary (UGB) to add to the Newberg UGB 18 acres of land (Tax Lot 3207-1000) which is designated "AFSH" (Agriculture/Forestry Small Holding) on the Yamhill County Comprehensive Plan Map and "AF-10" (Agriculture/Forestry Small Holding 10-acre minimum) on the Official Zoning Map; and

WHEREAS, the County action will involve amending the Comprehensive Plan map to plan designate the subject property as "Future Urbanizable" and maintain the current AF-10 zoning designation on the property; and

WHEREAS, this UGB amendment must comply with the seven factors of Statewide Land Use Planning Goal 14 ("Urbanization") and the standards required by Goal 2, Part II(c) (Land Use Planning", Part II, Exceptions"); and

WHEREAS, in December of 1993, the City Council of the City of Newberg referred the subject property to the Newberg Urban Area Management Commission (NUAMC), and on January 16, 1997 NUAMC held a duly noticed public hearing and voted to approve Resolution 96-1 recommending that the City and County approve the proposed amendment; and

WHEREAS, on February 18, 1997, the City held a duly noticed hearing and voted in favor of the proposed UGB amendment, adopted Ordinance 97-2463, designating the subject property as Park (P) on the City Comprehensive Plan, based on written findings, and submitted it to the County for adoption; and

WHEREAS, on December 4, 1997, the Board held a duly noticed public hearing at which time the Board received public testimony and the findings of fact submitted by the applicant containing the justification for the proposed UGB amendment, attached hereto and incorporated herein as Exhibit "A", and following the close of hearing, the Board deliberated and voted unanimously to grant tentative approval for the proposed UGB amendment, and directed staff to prepare written findings for approval of the application; and

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WHEREAS, the City and the County have reached an agreement regarding Chehalem Drive to facilitate this UGB amendment, and the City has represented that it intends to execute a Memorandum of Understanding respecting property located on Chehalem Drive north of Crater School, attached hereto and incorporated herein as Exhibit "C"; and

WHEREAS, the Board finds that adoption of the proposed UGB amendment will comply with the seven factors of Statewide Land Use Planning Goal 14 ("Urbanization") and the standards required by Goal 2, Part II(c) ("Land Use Planning", Part II, Exceptions"), and that the ordinance is necessary to allow the change in the City of Newberg UGB; and

WHEREAS, the attached findings and agreement demonstrate that approval of this amendment to the City of Newberg UGB is in the best interests of the citizens of Yamhill County; Now Therefore,

THE YAMHILL COUNTY BOARD OF COMMISSIONERS ORDAINS AS FOLLOWS:

Section 1. The Yamhill County Comprehensive Plan (1974) Map, as amended, is hereby amended to add to the City of Newberg Urban Growth Boundary, and plan designate as "Future Urbanizable," land known as Tax Lot 3207-1000, as more particularly set forth in Exhibit "B" attached hereto and made a part of this ordinance by reference.

Section 2. The findings attached as Exhibit "A", and incorporated herein by reference, are hereby adopted in support of this ordinance.

Section 3. The Memorandum of Understanding between Yamhill County and the City of Yamhill respecting Chehalem Drive, a copy of which is attached as Exhibit "C", and incorporated herein by reference, is hereby accepted and approved and made a part of this ordinance by reference.

Section 4. This ordinance being necessary for the health, safety, and welfare of the citizens of Yamhill County, and an emergency having been declared to exist, is effective upon passage.

DONE at McMinnville, Oregon this 12th day of March, 1998.

ATTEST

YAMHILL COUNTY BOARD OF COMMISSIONERS

CHARLES STERN

County Clerk



JOHN C. PINKSTAFF

Assistant County Counsel

lu/pa01-93.001

Chairman

TED LOPUSZYNSKI

Commissioner

ROBERT JOHNSTONE

Commissioner

THOMAS E.E. BUNN

Accepted by Yamhill County
Board of Commissioners on

3-12-98 by Board Order

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ORDINANCE 640
Exhibit "A"

ADOPTED BY BOARD OF COMMISSIONERS

March 5, 1998

DOCKET: PA-1-93 (City File No. UGB-1-93)

REQUEST: Amend the Newberg Urban Growth Boundary (UGB) to include an additional parcel of approximately 18 acres.

LOCATION: The parcel is east of and adjacent to Chehalem Drive and is identified as Tax Lot 3207-1000.

EXISTING COMPREHENSIVE PLAN AND ZONING DESIGNATIONS:

Plan-designated County Very Low Density Residential and zoned AF-10 Agriculture/Forestry Small Holding.

PROPOSED COMPREHENSIVE PLAN AND ZONING DESIGNATIONS:

The City's Comprehensive Plan Designation would be P Park. The County Zoning Designation would remain AF-10 Agriculture/Forestry Small Holding until the property is annexed into the City.

FINDINGS:

A. Background Facts

The City's November 21, 1996 staff report summarizes the request and provides some background. The Board agrees with this summary and hereby adopts the city's staff report and incorporates it herein by this reference.

B. Urban Growth Boundary Amendment Criteria

1. Criteria to be addressed in UGB amendment requests include the *Newberg Urban Area Growth Management Agreement*, the statewide planning goals, and the city and county Comprehensive Plans. The review standards from the first three of these are detailed in the city's staff report. However, that report did not consider the county Comprehensive Plan.

2. The reason for the request is to allow establishment of a regional park. As noted above the existing zoning on the property is AF-10 Agriculture/Forestry Small Holding. Zoning of this type does allow parks and open space as a permitted use (Section 501.02(E) of the Yamhill County Zoning Ordinance). The park is anticipated to share facilities with the existing school to the south

which is inside the city limits. This will likely include the extension of sewer services to the park. Goal 11 states:

Counties shall not allow the establishment of new sewer systems outside urban growth boundaries or unincorporated community boundaries, or allow new extensions of sewer lines from within urban growth boundaries or unincorporated community boundaries to land outside those boundaries.

Based on this, the city could not extend sewer service without the property being inside the urban growth boundary.

3. The Yamhill County Comprehensive Plan Goals and Policies, Section IV, Goal 1 directs the county:

To develop a timely, orderly and efficient arrangement of public services and facilities to serve as a framework for urban and rural development, including public lands and buildings, parks and recreation areas and facilities, schools, police and fire protection, domestic water supply, sanitary and storm sewerage and other drainage facilities, and power, gas and telephone services.

The Chehalem Park and Recreation District plans to develop a regional park on the property. To develop a regional facility they will need to provide water and sewer facilities to the site. While this may be accomplished with a well and septic system it would be more convenient to allow the extension of the existing city service lines. As noted in the city's staff report, this property is within the designated urban reserve area. Therefore, the city and county have mutually agreed that this property will eventually be taken into the city limits. While the property may be served by on-site systems, allowing extension of city services would allow an orderly and efficient arrangement of public services and facilities.

4. In addition to public services the Yamhill County Comprehensive Plan Goals and Policies, Section IV.B.1, directs the county:

To provide adequate recreational opportunities in both the rural and urban environments to meet existing and projected needs.

Policy statements b. and d. are:

Yamhill County will seek the cooperation of the cities, school districts, and Chehalem Park and Recreation District in the joint acquisition, development, operation and maintenance of combined school and neighborhood park and playground sites in harmony with projected neighborhood needs and surrounding uses.

Yamhill County will encourage the location of urban parks in scenic areas which are easily accessible to much of the urban population and which can be developed to provide recreation opportunities for a variety of age and interest groups.

The Board finds that both of these goals are fulfilled by the establishment of a park in this location. It would be established in close proximity to a school and would be easily accessible to much of the urban population.

5. Future jurisdiction and maintenance of the roadway that borders the subject property.

5.1 The existing Newberg Urban Area Growth Management Agreement, Section V.1.e.(4) states:

The conditions under which County and other roads should meet City standards within the Urban Growth Boundary. Roads should be compatible with City street alignments and extensions. Upon annexation of property, roads, adjacent to (and which serve) such property should also be annexed.

The county and the Newberg City Council approved and signed this agreement on July 2, 1979.

5.2 The Yamhill County Transportation Plan Section 5.2.2 has Goals and Policies that deal with this issue. Goals 4, 5, and 6 of this section state:

4. *It is the policy of Yamhill County to coordinate the County Transportation System Plan with the transportation plans of the ten incorporated cities within Yamhill County. The County will emphasize continuity in the classification of roads and appropriate design standards for roadways which link urban areas with rural areas outside Urban Growth Boundaries. At the time of UGB amendment Yamhill County and the City involved shall agree on classification and design standards of all County Roads within the proposed UGB area prior to finalization of the amendment.*

5. *County policy will encourage the expeditious transfer of jurisdiction of roadways to incorporated cities in conjunction with annexation. It is the policy of Yamhill County that developers of property who propose annexation and who have frontage on road that does not meet city road standards shall the primary responsibility for upgrading the road to city standards. Roads shall be upgraded at the time of annexation, or the developer shall sign an agreement with the city to upgrade the road at the time of development. Transfer of jurisdiction shall require the approval of both the County and the City in accordance with the provisions in Oregon Revised Statutes 373.270.*

6. *It is the policy of Yamhill County to require the transfer, or an agreement to transfer with specific time lines and milestones as part of the agreement, or jurisdiction of County roadways within urban growth boundaries to their respective cities at the time of annexation.*

5.3 The Board finds that the Memorandum of Understanding between the county and the city attached hereto as Exhibit "C", addressing the future road jurisdiction and maintenance issues related to this request satisfies the foregoing provisions of the Newberg Urban Area Growth Management Agreement and the Yamhill County Transportation Plan.

DECISION

Based on the above findings, the Board approves the request in Docket PA-1-93 to amend the Newberg Urban Growth Boundary (UGB) to include Tax Lot 3207-1000.

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EXHIBIT "B" FOR ORDINANCE NO. 640

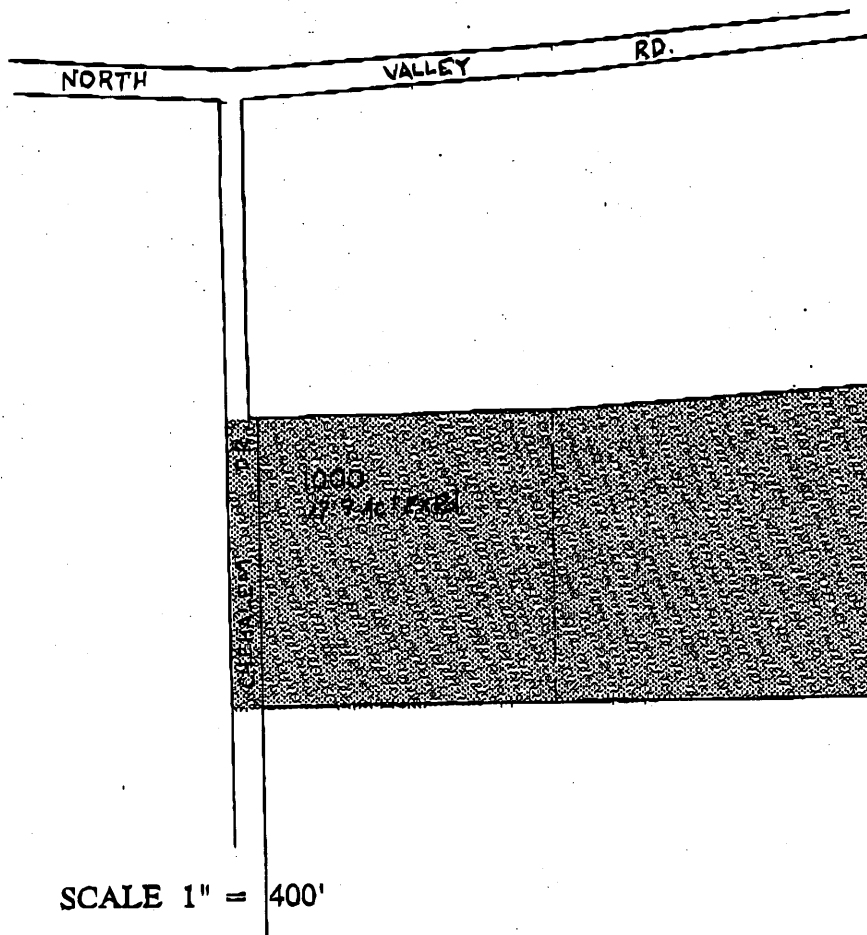
PLAN AMENDMENT/ZONE CHANGE

ADOPTED BY THE YAMHILL COUNTY BOARD OF COMMISSIONERS

December 18, 1997

**TO AMEND THE URBAN GROWTH BOUNDARY FOR THE CITY OF
NEWBERG AND CHANGE THE PLAN DESIGNATION
FROM AFSH AGRICULTURE/FORESTRY SMALL HOLDING TO FUTURE
URBANIZABLE**

**THE CHANGE INCLUDES THAT PORTION OF CHEHALEM DRIVE THAT
BORDERS THE PROPERTY**



- SCALE 1" = 400'
- CHANGE APPLIES TO TAX LOT 3207-1000, DESCRIBED ABOVE
- MAP PREPARED BY THE YAMHILL COUNTY PLANNING DEPARTMENT

EXHIBIT "B"

Memorandum of Understanding

Between Yamhill County and the City of Newberg

For Property Generally Located on Chehalem Drive North of Crater School

THIS MEMORANDUM OF UNDERSTANDING, made and entered into as of the ____ day of March, 1998, by and between the following parties:

Yamhill County,
a Political Subdivision
of the State of Oregon

City of Newberg
an Oregon Municipal Corporation
in Yamhill County, Oregon

Purpose: The purpose of this Memorandum of Understanding is to allow for the logical expansion of the Urban Growth Boundary and City Limits of the City of Newberg. This Memorandum specifically addresses the transfer of jurisdiction of roadways, the transfer of roadway maintenance, and the standards at which roadways should be developed. This agreement applies to property generally located on the east side of Chehalem Drive, north of Crater School and specifically described in Exhibit "A".

County Transportation Plan: The Transportation System Plan (TSP) of Yamhill County provides policies that address roadway issues. The road agreement sections of the County TSP are in 5.2.2, Goals and Policies 4, 5, and 6. These sections say:

4. It is the policy of Yamhill County to coordinate the County Transportation System Plan with the transportation plans of the ten incorporated cities within Yamhill County. The County will emphasize continuity in the classification of roads and appropriate design standards for roadways which link urban areas with rural areas outside Urban Growth Boundaries. at the time of UGB amendment Yamhill County and the City involved shall agree on classification and design standards of all County Roads within the proposed UGB area prior to finalization of the amendment.

5. County policy will encourage the expeditious transfer of jurisdiction of roadways to incorporated cities in conjunction with annexation. It is the policy of Yamhill County that developers of property who propose annexation and who have frontage on a road that does not meet City road standards shall have the primary responsibility for upgrading the road to City standards. Roads shall be upgraded at the time of annexation, or the developer shall sign an agreement with the City to upgrade the road, at the time of development. Transfer of jurisdiction shall require the approval of both the County and the City, in accordance with provisions in Oregon Revised Statutes 373.270.

6. It is the policy of Yamhill County to require the transfer, or an agreement to transfer with specific time lines and milestones as part of the agreement, of jurisdiction of County roadways within urban growth boundaries to their respective cities at the time of annexation.

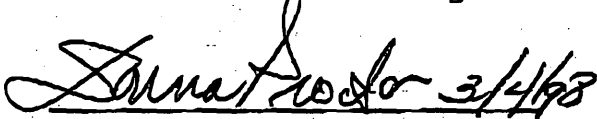
FILM 63 PAGE 2173

Item #1 - Agreement on Policy #4: Chehalem Drive is a collector street in the City's Transportation Plan and the street should ultimately be developed to collector street standards. A copy of the City's existing standards for collector streets is included as Exhibit "B". Since adequate right-of-way width is not available on the west side of Chehalem Drive, the roadway shall be improved to a 3/4 width street. The street shall be improved to include curb, gutter, and sidewalk on the east side; a five (5) foot wide bike lane on the east side; and two ten (10) foot travel lanes. This will require a minimum right-of-way width of thirty (30) feet. Dedication of the necessary right-of-way width will be required of the property owner at the time of annexation to the City of Newberg.

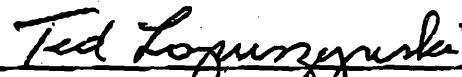
Item #2 - Agreement on Policy #5: The City of Newberg shall require at least one of the following. The developer or property owner shall be required to upgrade the road at either (1) time of annexation or (2) time of development. As an alternative, the City is authorized to require the improvement through a deferred improvement agreement which will require that the road be improved at a date agreed upon by both the City and the County. Should the City allow a deferred improvement agreement, the developer shall also be required to sign a waiver of remonstrance to future roadway frontage and other utility improvements required in conjunction with Chehalem Drive if the roadway is improved through the Local Improvement District (LID) process. For purposes of this Memorandum, the term "developer" also includes property owners.

Item #3 - Agreement on Policy #6: Transfer of maintenance shall go from the County to the City at either (1) the time the roadway is upgraded to City standards or (2) at some date or event mutually agreed upon between the City and the County.

Signatures: The City of Newberg and Yamhill County mutually agree to abide by this Memorandum of Understanding and indicate this agreement by signing below.



Mayor Donna Proctor/Date
City of Newberg



Ted Lopuszynski, Board Chair/Date
Yamhill Co. Board of Commissioners

Exhibit "A" - Legal description for subject property
Exhibit "B" - Existing City collector street standard

Accepted by Yamhill County
Board of Commissioners on

by Board Order
98-169

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EXHIBIT "B"

LEGAL DESCRIPTION FOR UGB-1-93
CHEHALEM PARK AND RECREATION PROPERTY
URBAN GROWTH BOUNDARY AMENDMENT

A tract of land in Section 7, Township 3 South, Range 2 West of the Willamette Meridian, Yamhill County, Oregon described as follows:

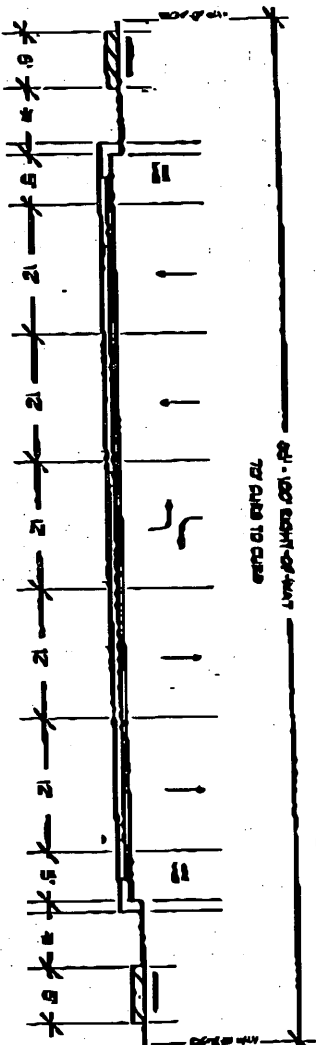
Beginning at a point in the West line of the James Morris Donation Land Claim that is South, 1467.16 feet from the Northwest corner of said Claim; thence North $86^{\circ}32'30''$ East, 642.35 feet along a fence now there (July, 1982) (passing an iron rod at 30.06 feet) to an iron rod; thence South $02^{\circ}21'10''$ East, 11.45 feet to a $3/4$ inch iron pipe in a ditch at the Northwest corner of that certain tract of land described in Quitclaim Deed to Crater recorded in Book 177, Page 577, Yamhill County Deed Records; thence North $86^{\circ}22'$ East, 305.22 feet along a fence now there (July 1982) to a $3/4$ inch iron pipe set in County Survey #P-4730; thence North $86^{\circ}18'50''$ East, 380.14 feet to an iron pipe at the Northeast corner of said Crater tract; thence South $01^{\circ}25'30''$ West, 136.33 feet along a fence now there (July 1982) to an iron pipe; thence West 8.00 feet; thence South $00^{\circ}51'$ West, 405.90 feet; thence East, 17.00 feet to a $5/8$ inch iron rod at the Northwest corner of County Survey #P-7014; thence South $00^{\circ}01'50''$ West, 742.51 feet along the West line of said County Survey #P-7014 and the West line of Anna's Addition to a $5/8$ inch iron rod at the Southwest corner of Anna's Addition; thence North $89^{\circ}34'20''$ West, 662.29 feet to a point that is South, 5.00 feet from a $1/4$ inch iron pipe at the Northwest corner of Tract 16, County Survey #147-C as set in County Survey #P-4769; thence North $89^{\circ}11'$ West, 662.67 feet along a fence now there (July 1982) and its Westerly extension to a point in the West line of said Morris Claim that is South, 4.79 feet from a one inch iron pipe set in County Survey #P-4769 for the true $1/4$ corner of Donation Land Claim; thence North, 1199.15 feet to the point of beginning.

ALSO INCLUDING the east half of Chehalem Drive (County Road No. 67) adjacent to and west of the above described tract. Chehalem Drive being a 40 foot county road whose travelled centerline is described as being 20 feet west of the boundary said tract per County Survey CSP 8020.

SAVE AND EXCEPT the tract of land conveyed to Newberg School District 29JT by Bargain and Sale Deed Recorded September 8, 1993 in Film Volume 293 Page 0883 Microfilm Records of Yamhill County, Oregon.
Yamhill County Tax Account Number: R3207 01000

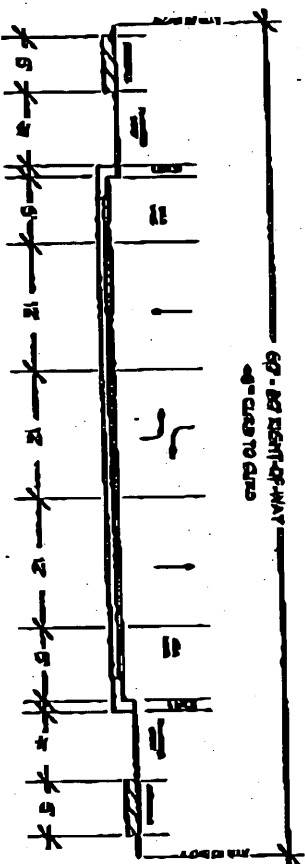
Exhibit "C"
PAGE 3

5-LANE ARTERIAL



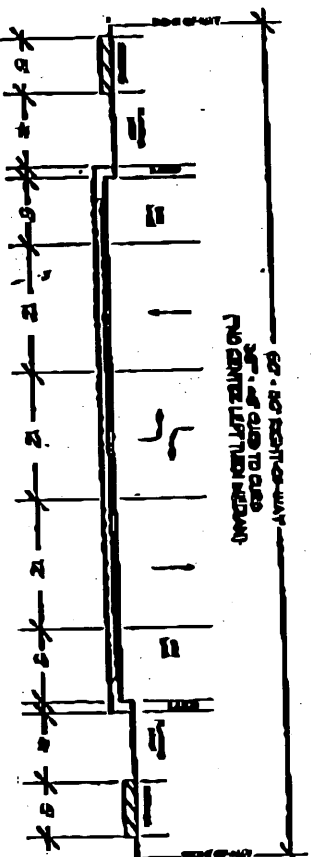
* VARIES WITH RIGHT-OF-WAY

3-LANE MAJOR/MINOR ARTERIAL



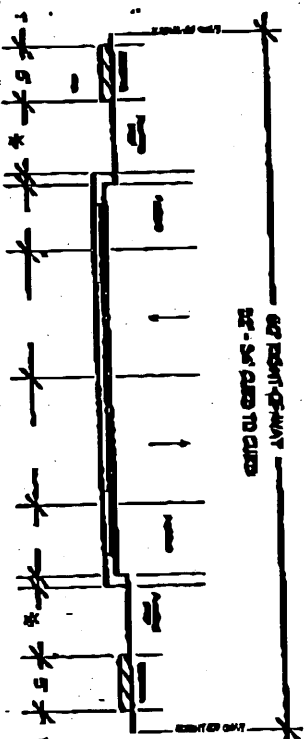
* VARIES WITH RIGHT-OF-WAY

COLLECTOR



* VARIES WITH RIGHT-OF-WAY

LOCAL (RESIDENTIAL)



* VARIES WITH RIGHT-OF-WAY

NOTE: MODIFICATION TO LOCAL STREET STANDARDS
REQUIRED CITY COUNCIL APPROVAL

RECOMMENDED
ROADWAY STANDARDS

CITY OF NEWBERG
TRANSPORTATION SYSTEM PLAN

MAY 1993

EXHIBIT "C"
PAGE 4
FIGURE 3-10

