CITY OF NEWBERG COUNCIL AGENDA

MARCH 7, 2011

7:00 P.M. MEETING

PUBLIC SAFETY BUILDING TRAINING ROOM (401 EAST THIRD STREET)

I. CALL MEETING TO ORDER*

II. ROLL CALL

III. PLEDGE OF ALLEGIANCE

IV. CITY MANAGER'S REPORT

V. PUBLIC COMMENTS

(30 minutes maximum, which may be extended at the Mayor's discretion, with an opportunity to speak for no more than 5 minutes per speaker allowed)

VI. CONSENT CALENDAR

Consider a motion approving **Resolution No. 2011-2935** authorizing the city manager to dedicate a portion of the property at 921 S. Blaine Street as public right-of-way. (Pgs. 3-8)

VII. PUBLIC HEARINGS

Consider a motion approving **Ordinance No. 2011-2734** amending the Newberg Comprehensive Plan and Development Code to reflect the Newberg-Dundee Bypass Tier 2 alignment. (Pgs. 9-68) **(Legislative Hearing)**

VIII. COUNCIL BUSINESS

X. ADJOURNMENT

City of Newberg Mission Statement:

The City of Newberg serves its citizens, promotes safety, and maintains a healthy community.

*The Mayor reserves the right to change the order of items to be considered by the Council at their meeting. No new items will be heard after 11:00 p.m., unless approved by the Council.

INDEX OF ORDERS, ORDINANCES, AND/OR RESOLUTIONS:

ORDINANCE(S):

Ordinance No. 2011-2734 adopting amendments to the Comprehensive Plan and Development Code to reflect the Tier 2 bypass alignment of the Newberg-Dundee Bypass Corridor

RESOLUTION(S):

Resolution No. 2011-2935 authorizing the city manager to dedicate a portion of the property owned by the City of Newberg at 921 South Blaine Street to the public for street purposes.

ACCOMMODATION OF PHYSICAL IMPAIRMENTS: In order to accommodate persons with physical impairments, please notify the City Manager's office of any special physical or language accommodations you may need as far in advance of the meeting as possible and no later than 48 hours prior to the meeting. To request these arrangements, please contact Norma Alley, City Recorder, at (503) 537-1283.

Council accepts comments on agenda items during the meeting. Fill out a form identifying the item you wish to speak on prior to the agenda item beginning and turn it into the City Recorder. The exception is land use hearings, which requires a specific public hearing process. The City Council asks written testimony be submitted to the City Recorder before 5:00 p.m. on the preceding Thursday. Written testimony submitted after that will be brought before the Council on the night of the meeting for consideration and a vote to accept or not accept it into the record.

*The Mayor reserves the right to change the order of items to be considered by the Council at their meeting. No new items will be heard after 11:00 p.m., unless approved by the Council.

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: March 7, 2011	
Order No. ____ Ordinance No. ___ Resolution No. 2011-2935 XX Motion ___ Information ___	
SUBJECT: Authorize the City Manager to dedicate for street purposes the portion of the city-owned property at 921 S. Blaine Street that is in the currently traveled portion of S. Blaine Street, south of Ninth Street	**Contact Person (Preparer) for this Resolution: Annette de Paz, City Surveyor** **Dept.: Public Works Department** **File No.:** *(if applicable)*

RECOMMENDATION:

Adopt **Resolution No. 2011-2935.**

EXECUTIVE SUMMARY:

The City of Newberg Surveyor's Office has conducted extensive research in order to locate the original dedication documents of the right-of-way of Blaine Street from Ninth Street to its south terminus. While this portion of Blaine Street has provided access to several residential properties, the Newberg Animal Shelter, and the Chehalem Park and Recreation District (CPRD) skate park for many years, evidence proving this portion of Blaine Street was ever legally dedicated as public right-of-way was not found.

The Surveyor's Office seeks to establish the legal limits of Blaine Street by requesting right-of-way dedications from property owners having frontage on Blaine Street. The City of Newberg owns the property at 921 S. Blaine Street, which is the current location of the Newberg Animal Shelter. The requested right-of-way dedication will not affect the usable square footage of the property as it only seeks to establish in legal record the right-of-way limits as they are currently evidenced on the ground.

FISCAL IMPACT:

Sufficient funds for recording fees are included in the FY 10/11 Engineering Division budget, which are anticipated to be under $50.00.

STRATEGIC ASSESSMENT:

When the Newberg Animal Shelter is re-located to its new site on Sandoz Road, the City may seek to dispose of the property of at 921 S. Blaine Street. The City should ensure that there is legal access to the property prior to selling, donating, or otherwise transferring ownership or developing the property.

RESOLUTION NO. 2011-2935

A RESOLUTION AUTHORIZING THE CITY MANAGER TO DEDICATE A PORTION OF THE PROPERTY OWNED BY THE CITY OF NEWBERG AT 921 SOUTH BLAINE STREET TO THE PUBLIC FOR STREET PURPOSES

RECITALS:

1. The original dedication instrument(s) establishing the legal right-of-way limits of the portion of Blaine Street that is south of Ninth Street, has not been found in a thorough search of public records.

2. This portion of Blaine Street provides primary and, in some cases, exclusive access to four residential parcels; the Newberg Animal Shelter; and the Skate Park and Dog Park owned by Chehalem Park and Recreation District.

3. The city surveyor seeks to legally establish the right of the public to use the currently traveled portion of Blaine Street for access, and to define the limits of the right-of-way as extended from the right-of-way lines of Blaine Street north of Ninth Street.

4. Right-of-way dedications have been requested from all property owners having frontage on Blaine Street, south of Ninth Street.

5. The City of Newberg owns the property at 921 South Blaine Street.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

The city manager is hereby authorized to dedicate to the public for street purposes the portion of the property owned by the City of Newberg at 921 South Blaine Street as described in Exhibit "A", which is hereby adopted and by this reference incorporated.

- **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: March 8, 2011.

ADOPTED by the City Council of the City of Newberg, Oregon, this 7th day of March 2011.

_____
Norma I. Alley, City Recorder

ATTEST by the Mayor this 10th day of March 2011.

_____
Bob Andrews, Mayor

LEGISLATIVE HISTORY

By and through _____ Committee at ___/___/2011 meeting. Or, _X_ None.

THIS SPACE RESERVED FOR RECORDERS USE

EXHIBIT "A" TO
RESOLUTION NO. 2011-2935

AFTER RECORDING RETURN TO:
City of Newberg – Engineering Division
PO Box 970 - 414 E. First Street
Newberg, OR 97132

DEED OF DEDICATION

KNOW ALL MEN BY THESE PRESENTS, that City of Newberg, a Municipal Coporation, Grantor, does hereby dedicate, grant and convey to the Public, and that the City of Newberg, a Municipal Corporation of the State of Oregon, hereinafter called the Grantee, does hereby accept on behalf of the public, for use as a public right-of-way the following described real property located in Yamhill County, State of Oregon, to-wit:

A portion of that Property described by deed to City of Newberg, a municipal corporation, recorded as Film 107, Page 1932 in Record of Deeds of Yamhill County on September 9, 1975 and more particularly described in ATTACHED EXHIBITS A and B.

TO HAVE AND TO HOLD the above described, dedicated, granted and conveyed premises unto said Grantee, its successors and assigns forever.

The true consideration for this conveyance is $0.00 and other valuable consideration.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. 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 THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007.

THIS SPACE RESERVED FOR RECORDERS USE

EXHIBIT "A" TO
RESOLUTION NO. 2011-2935

AFTER RECORDING RETURN TO:
City of Newberg – Engineering Division
PO Box 970 - 414 E. First Street
Newberg, OR 97132

IN WITNESS WHEREOF, the parties have executed this document this _____day of _____, 2010.

_____
Daniel Danicic
City Manager

STATE OF_____)
City of _____ :s.s.
County of _____)

This instrument was acknowledged before me this ____ day of _____ ____,

by _____.

Notary Public for Oregon

CITY OF NEWBERG
ACCEPTED:

_____
Norma I. Alley Date
City Recorder

APPROVED AS TO FORM

_____
Terrence D. Mahr Date
City Attorney

RIGHT-OF-WAY DEDICATION

BEING a 60-foot-wide strip of land located in the Rogers Donation Land Claim Number 55 and in the southeast ¼ of Section 19 of Township 3 South Range 2 West of the Willamette Meridian in Yamhill County, Oregon, and being a portion of the following tracts of land;

1. Property described by deed to John Vida and Edith Vida, recorded as Instrument Number 200711790 in Official Yamhill County Records on May 30, 2007;
2. Property described by deed to Mark L. Eklund, recorded as Film 132, Page 1661 in Records of Deeds of Yamhill County on September 15, 1978;
3. Property described by deed to Skyler McColm and Sarah C. McColm, as tenants by the entirety and Dana C. Huntley, recorded as Instrument Number 200915804 in Official Yamhill County Records on September 30, 2009;
4. Property described by deed to Judith A. Bauer, recorded as Instrument Number 200101851 in Official Yamhill County Records on February 9, 2001;
5. Property described by deed to City of Newberg, a municipal corporation, recorded as Film 107, Page 1932 in Record of Deeds of Yamhill County on September 9, 1975;
6. Property described by deed to Chehalem Park and Recreation District, a public corporation, recorded as Film 297, Page 586 in Yamhill County Records on November 5, 1993;
7. Property described by deed to Southeast Paper Manufacturing Co., a Georgia general partnership, recorded as Instrument Number 199922467 in Official Yamhill County Records on November 15, 1999;
8. Property described by deed to East Ninth Apartments Oreg. Ltd., and Oregon Limited Partnership, recorded as Volume 195, Page 1422 in Yamhill County Records on June 28, 1985;

Said strip of land being 30.00 feet wide on each side of the following described centerline;

BEGINNING at the intersection of the centerlines of Blaine Street and Ninth Street, said intersection being South 88° 21' 32" East a distance of 1234.99 feet from an iron rod in a monument box found at the intersection of Ninth Street and the West line of said Rodgers DLC, and said Point of Beginning also being North 88° 21' 32" West a distance of 838.91 feet from an iron rod in a monument box found at the intersection of College Street and Ninth Street;

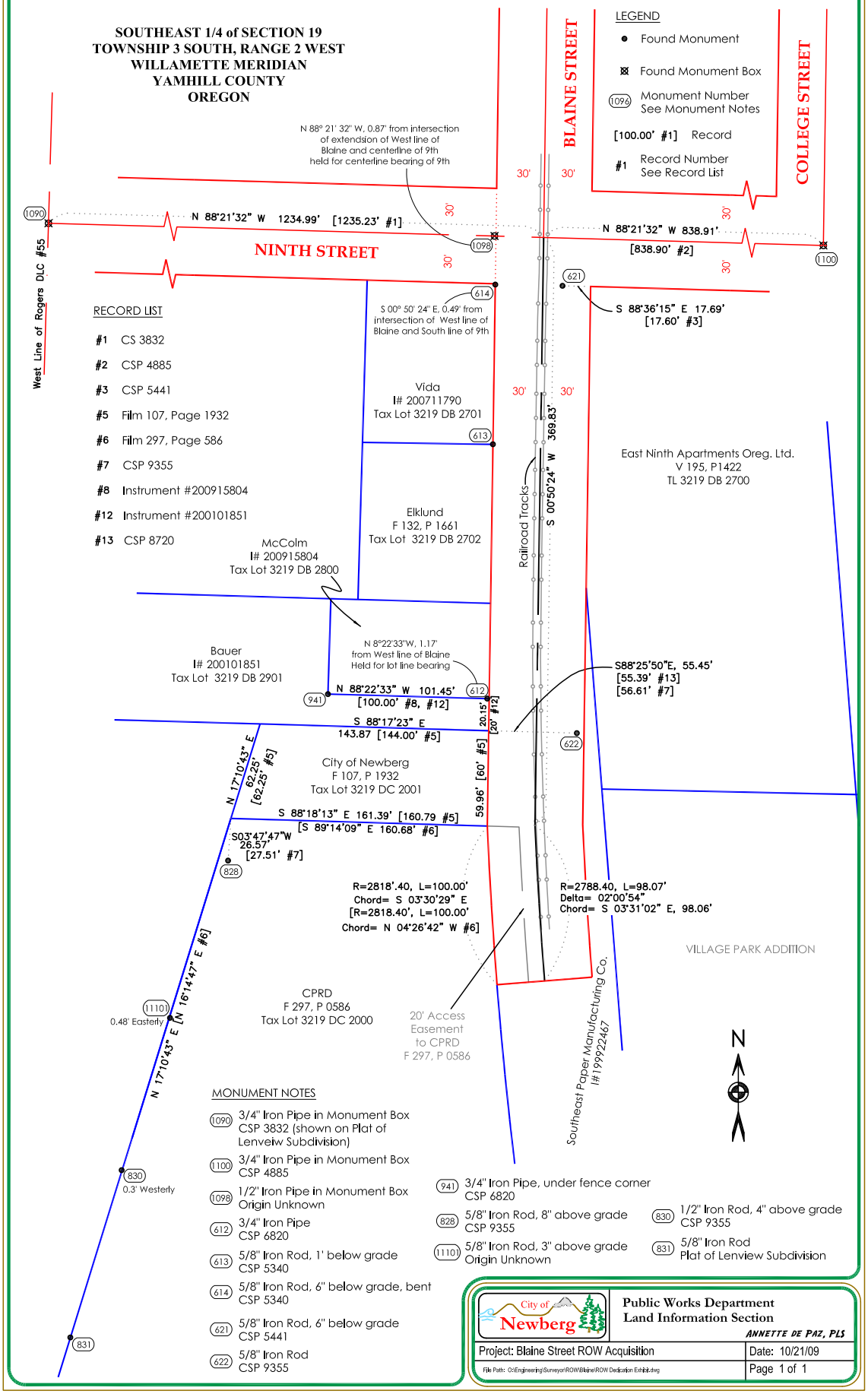
THENCE South 00° 50' 24" West a distance of 369.83 feet to a point of curvature to the left;

THENCE along a 2788.40 foot-radius curve to the left, an arc distance of 98.07 feet, the chord of said arc being 98.06 feet in length and bearing South 03° 31' 02"East, to the terminus of the centerline herein described.

EXHIBIT "A" TO
RESOLUTION NO. 2011-2935

EXHIBIT "B"

SOUTHEAST 1/4 of SECTION 19
TOWNSHIP 3 SOUTH, RANGE 2 WEST
WILLAMETTE MERIDIAN
YAMHILL COUNTY
OREGON



City of Newberg
Public Works Department
Land Information Section
ANNETTE DE PAZ, PLS

Project: Blaine Street ROW Acquisition	Date: 10/21/09
File Path: O:\Engineering\Surveyor\ROW\Blaine\ROW Dedication Exhibit.dwg	Page 1 of 1

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: March 7, 2011				
Order ___ No.	Ordinance XX No. 2011-2734	Resolution ___ No.	Motion ___	Information ___

SUBJECT: A request to amend the Newberg Comprehensive Plan and Development Code to reflect the Newberg-Dundee Bypass Tier 2 alignment.	**Contact Person (Preparer) for this Motion: Luke Pelz, AICP; Assistant Planner** **Dept.: Planning & Building Department** **File No.: CPTA-10-001** *(if applicable)*

HEARING TYPE: ☒ **LEGISLATIVE** ☐ **QUASI-JUDICIAL**

RECOMMENDATION:

Adopt **Ordinance No. 2011-2734** amending the Newberg Comprehensive Plan and Development Code to reflect the Newberg-Dundee Bypass Tier 2 alignment.

EXECUTIVE SUMMARY:

The Oregon Department of Transportation (ODOT) is proposing to build a Bypass around the cities of Newberg and Dundee. The Bypass is intended to reduce congestion on Highway 99W, and improve downtown livability and traffic flow in Newberg and Dundee. In June 2010, ODOT released a draft environmental impact report (*Newberg Dundee Tier 2 Draft Environmental Impact Statement*) to help the public and decision makers understand the environmental consequences of the Bypass and its various design and local circulation options. After reviewing all comments, ODOT selected a Preferred Alternative. The Preferred Alternative was selected based on project purpose and need, community and local preferences, avoiding and/or minimizing adverse impacts, ODOT standard design practices, operational safety, potential engineering requirements that increase costs, and regulatory requirements. The Preferred Alternative is an 11-mile, four-lane, access-controlled expressway around the cities of Newberg and Dundee, extending from Highway 99W/Hwy 18 junction near Dayton to Rex Hill near Newberg. The project includes the Bypass, four interchanges, and required changes to local streets in order to accommodate the Bypass. The next steps in the process are for ODOT to prepare a Final Environmental Impact Statement and to gain the required land use approvals from Yamhill County and the participating cities. ODOT submitted an application to Yamhill County in December, 2010, for land use actions necessary to support the LPA, including some modifications to goal exceptions approved in 2004. ODOT made a request that the Newberg City Council initiate legislative amendments in order to reflect the Tier 2 bypass alignment and to support the Yamhill County land use actions. The Newberg City Council initiated a Type IV legislative amendment regarding this matter at their December 6, 2010 regular meeting. The Planning Commission held a hearing and made a recommendation that the Council amend certain portions of the Newberg Comprehensive Plan, Development Code, and Transportation System Plan to support the Newberg-Dundee Bypass Tier 2 alignment.

The proposed amendments would do the following:

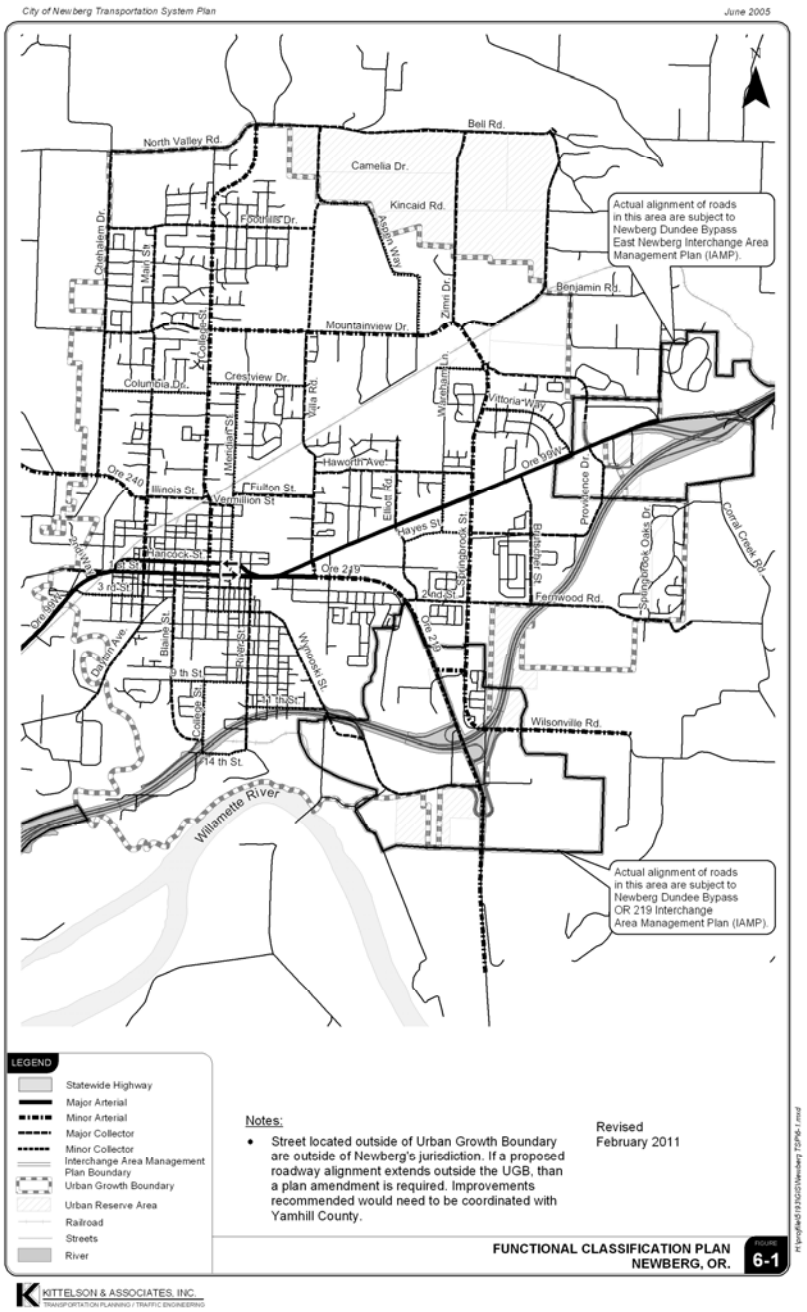
1. Amend certain Newberg Comprehensive Plan policies related to the Bypass. In particular, the amendments would:
    a. Adopt a policy **supporting ODOT's locally preferred alternative** alignment of the Bypass.

b. Amend policies relating to **when the Bypass will be considered a "planned improvement"** for purposes of Oregon's Transportation Planning Rule.
c. Adopt **policies to create future Interchange Area Management Plans** for areas near the Bypass interchanges.

2. **Reduce the boundaries of the Bypass Interchange Overlay**. This overlay specifies that certain commercial uses are not allowed in industrial areas near the Highway 219 bypass interchange.

3. Amend the Newberg Transportation System Plan maps to **show the alignment of the bypass and certain local roads near the interchanges**, including Wynooski Road, a road connecting Wilsonville Road with Highway 219, a road connecting Corral Creek Road to the planned extension of Crestview Drive, and local access roads connecting to Providence Drive.

Proposed Newberg-Dundee Bypass Tier 2 Alignment and Interchange Overlay Zones



FISCAL IMPACT:

No direct impact. Adopting the amendments will facilitate eventual construction of the Bypass.

STRATEGIC ASSESSMENT:

The Planning Commission Recommendation is shown in Attachment "1", Staff's presentation for the March 7, 2011, hearing is shown in Attachment "2", and public comments are shown in Attachment "3".

ATTACHMENTS:
Ordinance 2011-2734 with:

Exhibit "A" Comprehensive Plan Amendments
Exhibit "B" Development Code Amendments
Exhibit "C" Transportation System Plan Amendments
Exhibit "D" Findings

1. Planning Commission Resolution 2011-287
2. Staff Hearing Presentation
3. Public Comment

PLANNING COMMISSION RESOLUTION NO. 2011-287

A RESOLUTION RECOMMENDING THAT THE CITY COUNCIL ADOPT AMENDMENTS TO THE COMPREHENSIVE PLAN AND DEVELOPMENT CODE TO REFLECT THE TIER 2 BYPASS ALIGNMNENT OF THE NEWBERG-DUNDEE BYPASS CORRIDOR

RECITALS:

1. The Oregon Department of Transportation (ODOT) conducted a public hearing on the Tier 2 Draft Environmental Impact Statement (DEIS) for the Newberg Dundee Bypass on June 29, 2010, followed by selection of the Locally Preferred Alternative (LPA).

2. ODOT has submitted an application to Yamhill County for land use actions necessary to support the LPA, including some modifications to goal exceptions approved in 2004.

3. Amendments to the Newberg Comprehensive Plan and Development Code are necessary to reflect the Tier 2 bypass alignment and support the Yamhill County land use actions.

THE PLANNING COMMISSION OF THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. The Planning Commission recommends that the City Council approve the proposed Comprehensive Plan amendments shown Exhibit "A", the proposed Development Code amendments shown in Exhibit "B", and the proposed Transportation System Plan amendments shown in Exhibit "C". Exhibits "A", "B", and "C' are hereby attached and by this reference incorporated.
2. This recommendation is based on the staff report, findings shown in Exhibit "D", and public testimony.

ADOPTED by the Planning Commission of the City of Newberg, Oregon, this 10th day of February, 2011

AYES: 6 NAYS: 0 ABSTAIN: Ø ABSENT: 1 (A. Edwards)

ATTEST:

Barb Bunday

Planning Commission Secretary

Philip D. Smith

Planning Commission Chair

Exhibits:
"A" Proposed Comprehensive Amendments
"B" Proposed Development Code Amendments
"C" TSP Amendments
"D" Findings

ATTACHMENT "2"

Comprehensive Plan & Development Code Amendment to Reflect the Newberg-Dundee Bypass Tier 2 Alignment

APPLICANT: OREGON DEPARTMENT OF TRANSPORTATION

CITY COUNCIL
PUBLIC HEARING
MARCH 7, 2011

HEARING AGENDA

- Staff Report
- Public Testimony
- City Council Deliberation
- City Council Decision

BACKGROUND

- ODOT is proposing to build a bypass on the south side of Newberg and Dundee.
- Draft environmental impact report released in June 2010. ODOT held a public hearing, took public comment, and selected a preferred alternative.
- ODOT to prepare final EIS and seek local land use approvals regarding the preferred alternative (Tier 2 alignment).
- *Note: tonight's hearing is not to decide if a bypass will be built.*

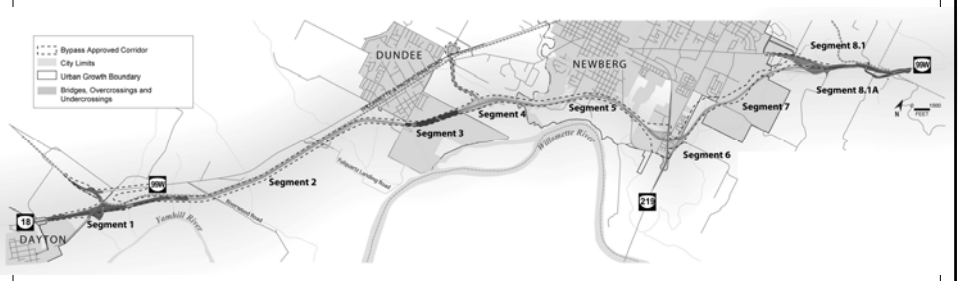
REQUEST #1

Amend certain Newberg Comprehensive Plan policies related to the Bypass. The amendments would:

- Adopt a policy **supporting ODOT's locally preferred alternative** alignment of the Bypass.
- Amend policies relating to **when the Bypass will be considered a "planned improvement"** for purposes of Oregon's Transportation Planning Rule.
- Adopt **policies to create future Interchange Area Management Plans** for areas near the Bypass interchanges.

ATTACHMENT "2"

ENTIRE BYPASS ALIGNMENT

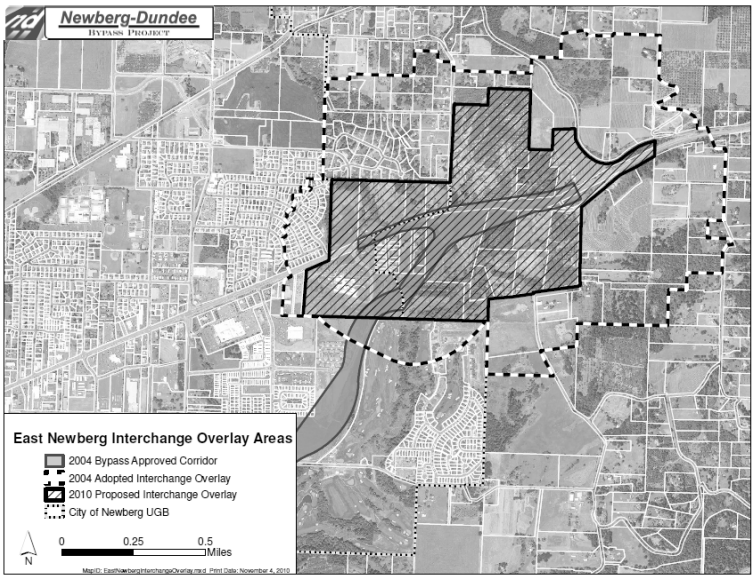


REQUEST #2

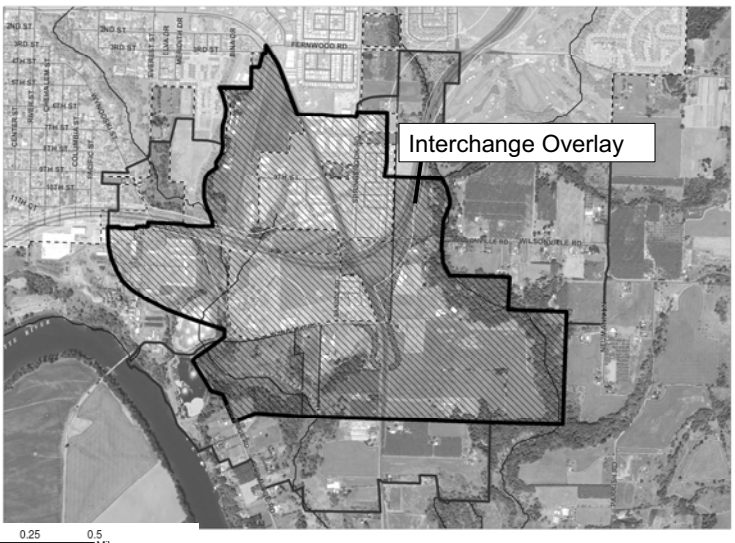
Reduce the boundaries of the Bypass Interchange Overlay. This overlay specifies that certain commercial uses are not allowed in industrial areas near the Highway 219 bypass interchange.

ATTACHMENT "2"

EAST NEWBERG INTERCHANGE OVERLAY AREAS



OR 219 INTERCHANGE OVERLAY AREAS



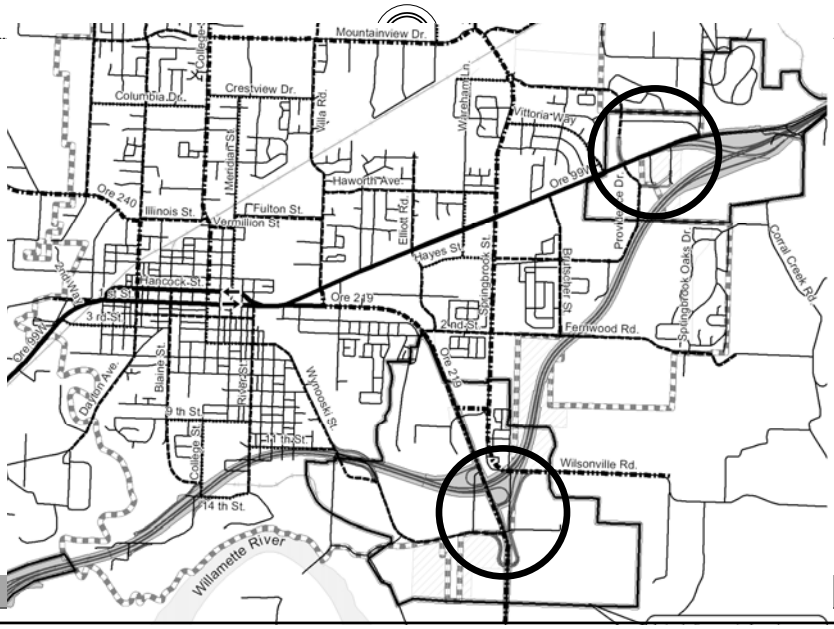
ATTACHMENT "2"

REQUEST #3

Amend the Newberg Transportation System Plan maps to **show the alignment of the bypass and certain local roads near the interchanges**, including:

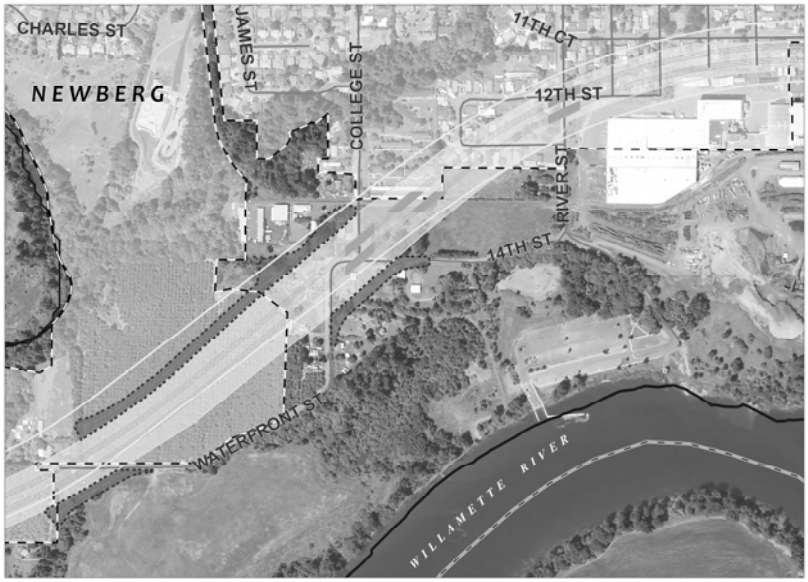
- Wynooski Road,
- a road connecting Wilsonville Road with Highway 219,
- a road connecting Corral Creek Road to the planned extension of Crestview Drive, and;
- local access roads connecting to Providence Drive.

LOCAL ROADS NEAR INTERCHANGE AREAS



ATTACHMENT "2"

LOCAL ROADS NEAR INTERCHANGE AREAS

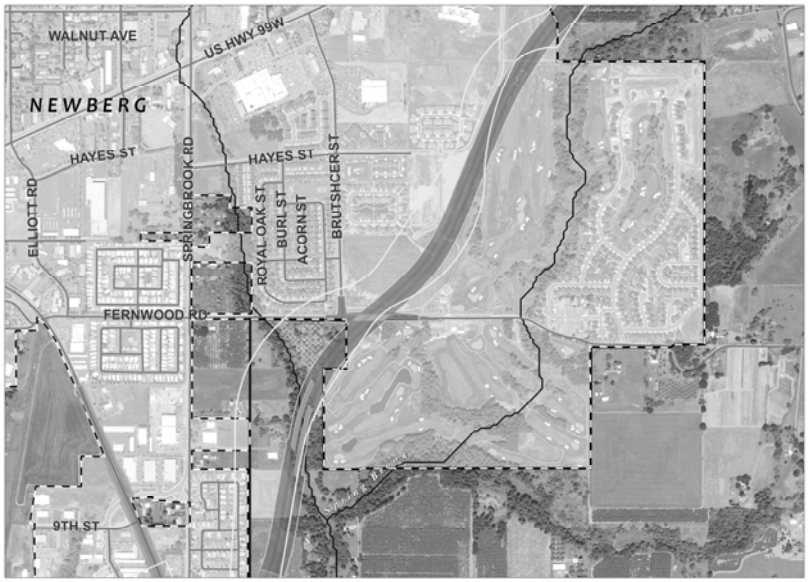


LOCAL ROADS NEAR INTERCHANGE AREAS

ATTACHMENT "2"

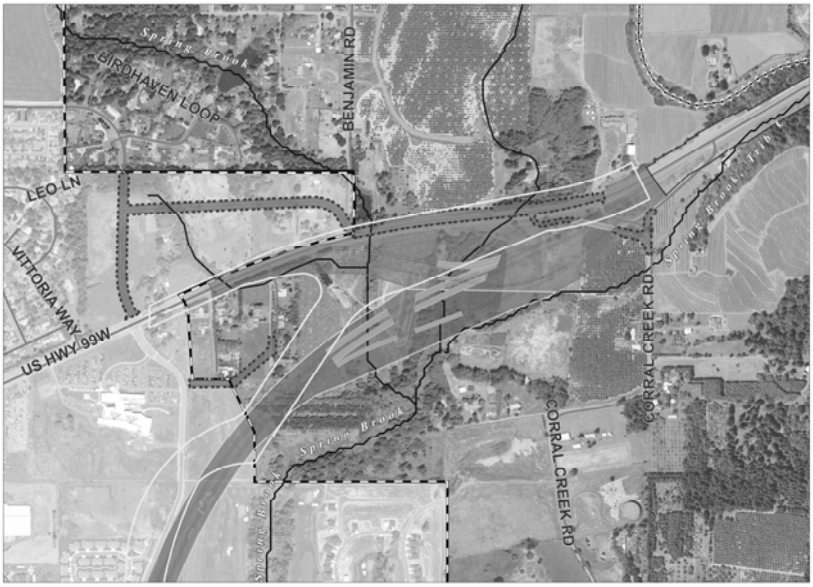
LOCAL ROADS NEAR INTERCHANGE AREAS

LOCAL ROADS NEAR INTERCHANGE AREAS



ATTACHMENT "2"

LOCAL ROADS NEAR INTERCHANGE AREAS



CRITERIA SUMMARY

The amendments should:

- Be consistent with the Newberg Comprehensive Plan and Development Code policies.
- Have a public need, and the need is best served by the proposed amendments.
- Be consistent with the Statewide Planning Goals.

ATTACHMENT "2"

PLANNING COMMISSION RECOMMENDATION

The City Council should **adopt Ordinance 2011-2734** adopting certain amendments to the Comprehensive Plan, Development Code, and Transportation System Plan to reflect the Newberg-Dundee Bypass Tier 2 alignment.

ATTACHMENT "3"

CITY OF NEWBERG PLANNING COMMISSION
PUBLIC COMMENT REGISTRATION CARD

PLEASE STATE YOUR NAME PRIOR TO SPEAKING

(Agendas available at entrance)

Agenda Item No.: I **FILE No.:** 1 **Meeting Date:** 2/10/11

If you wish to make ORAL COMMENTS at this meeting, or submit written comments, please ***provide all of the information requested below.*** The agenda item numbers and project names are printed on the agenda. If you are attending the meeting to observe, you do not need to fill out a Registration Card.

Please check one (public hearings only):

- ☐ PROPONENT (For)
- ☒ OPPONENT (Against)
- ☐ UNDECIDED (Testify during either Proponent or Opponent testimony)
- ☐ WRITTEN COMMENT (oral testimony not required)

****If you don't raise an issue, either orally or in writing, you may be precluded from appealing****

Please print legibly:

Name MIKE GOUGLER **Phone Number** 503 810-5576

Professional Standing *(if representing someone)*

Mailing Address *(including Zip Code)* 4729 MASTERS DR. NEWBERG

Email Address GGOUGE@YAHOO.COM

Signature

☐ Please do not release my contact information in a public records request

THANK YOU FOR COMPLETING THIS! These cards help us spell your name correctly for the permanent record and assists the Planning Commission Chair in determining time limits if there are many residents present.

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ATTACHMENT "3"

Received Planning Commission 2/10/11

Before the Planning Commission 2/10/11
Mike Gougler
4729 Masters Dr.
Newberg, OR 97132

Newberg Planning Committee
Date: 2/10/11
Re: Bypass Amendments
No.: 1

With due respect for the time and effort invested in this matter by your selves and staff, I respectively request you consider taking more time to fully investigate the consequences of an approval of this request to modify Newberg's Comprehensive Plan to accommodate ODOT's request.

The requested change to the Comprehensive Plan is made to require that Newberg comply with Oregon's Transportation Planning Rule, more specifically the rules described in OAR-660-012-0060.

Under this rule, Newberg, would be required to secure ODOT approval when and if a land use or development project would be deemed to have a "**Significant Effect**" under OAR-660-012-0060, when a comprehensive plan or land use regulation amendment would result in an existing or planned transportation facility failing to meet adopted performance standards at any point in the **planning period**.

The rule provides that where a proposed comprehensive plan or land use regulation amendment would **SIGNIFICANTLY AFFECT** an existing or planned transportation facility, then the local government must put in place measures to assure that land uses allowed by the amendment are consistent with the identified function, capacity and performance standards of the affected facility.

ODOT considers a **planning period** to be 20 years.

Until June 2004, if a significant event occurred, the local jurisdiction only needed to rely on planned transportation facilities that had a funding commitment at the time the significant event occurred.

In 2005 the Rule was amended to allow "projects authorized in the Transportation System Plan (TSP) for which a funding mechanism is in place or approved for which funding is **reasonably likely** to be provided by the end of the planning period." There are brief guidelines in the OAR describing "reasonably likely".

The OAR requires ODOT to inform the local government as to what state transportation facilities and improvements the local government can rely on as being available for use by the end of the planning period, so that the local government can determine **significant effect.**

(Please note that "level of service" changes are considered a "significant effect".)

The OAR specifies that the planned state facilities and improvements local governments can rely on include:

- transportation facilities, improvements or services that are "funded for construction or implementation" in the STIP, and
- Improvements to state highways that are "included as planned improvements in a regional or local TSP or comprehensive plan" when ODOT provides a "**written statement**" that the improvements are "**reasonably likely**" to be provided by the end of the planning period.

Considering the above:

1. Has ODOT provided Newberg its "**reasonable likely**" determination in the form of a "**written statement**"?
2. Has ODOT provided the City with a detailed map and explanation of how local roads will be affected by the alignment of the bypass? Specifically, has the City seen the proposed (desired) designs for local roads near the interchanges, Wynooski Road, Wilsonville Road & Hwy 219, Corral Creek Road, Crestview Drive and Providence Drive?
3. Is there a study or an opinion paper on how the "significant effects" of annexation of URA lands will affect the geographic and economic ability to add these lands to the City?
4. Are the costs to mitigate the "significant effects" of annexing the lands under and around the property the School District acquired for the new high school possible to determine?
5. How will the effort to create industrial land south of Newberg be affected by the requested modification of Newberg's comprehensive plan?

Note regarding the "level of service" matter. If a future construction project within a fully entitled development (residential, retail or commercial) affects the "level of service" at an interchange or intersection. The cost of compensating for that change will be born directly by the builder/developer and indirectly by the City through loss of tax revenue and employment, if the compensating costs make the project cost prohibitive. Newberg's ability to grow and develop competitively with other cities is already inhibited by ODOT's unequal application of "level of service" requirements. In Sherwood Hwy 99 is classified as an "Urban Highway?" and adjacent development must reserve 5 – 0 % of the intersection/interchange capacity. In Newberg, Hwy 99 is classified as a "Freight Route" and adjacent development is required to reserve 30% capacity.

CITY OF NEWBERG PLANNING COMMISSION
PUBLIC COMMENT REGISTRATION CARD

PLEASE STATE YOUR NAME PRIOR TO SPEAKING
(Agendas available at entrance)

Agenda Item No.: V **FILE No.:** _____ **Meeting Date:** 02/10/11

If you wish to make ORAL COMMENTS at this meeting, or submit written comments, please ***provide all of the information requested below.*** The agenda item numbers and project names are printed on the agenda. If you are attending the meeting to observe, you do not need to fill out a Registration Card.

Please check one (public hearings only):

- ☐ PROPONENT (For)
- ☒ OPPONENT (Against)
- ☐ UNDECIDED (Testify during either Proponent or Opponent testimony)
- ☒ WRITTEN COMMENT (oral testimony not required)

Item V: My wife and I built our dream home at The Greens at Springbrook in 2009. We wanted a view of the Chehalem Glenn Golf Course and a quiet, peaceful environment. If the bypass is built in the current configuration our home will look out at section 8.1A and the highway will be approximately 300 yards from our back door.

Please print legibly:

Name Joseph Churella **Phone Number** 503-888-4013

Professional Standing *(if representing someone)* _____

Mailing Address *(including Zip Code)* 727 Tin Cup Way, Newberg OR 97132

Email Address _____ _____ *Signature*

☐ Please do not release my contact information in a public records request

THANK YOU FOR COMPLETING THIS! These cards help us spell your name correctly for the permanent record and assists the Planning Commission Chair in determining time limits if there are many residents present.

Z:\PC\PC MTG MASTERS\PC-REGFRM.DOC 5/99

ATTACHMENT "3"

CITY OF NEWBERG PLANNING COMMISSION
PUBLIC COMMENT REGISTRATION CARD

PLEASE STATE YOUR NAME PRIOR TO SPEAKING

(Agendas available at entrance)

Agenda Item No.: V **FILE No.:** 2011- **Meeting Date:** 2-10-1

If you wish to make ORAL COMMENTS at this meeting, or submit written comments, please ***provide all of the information requested below.*** The agenda item numbers and project names are printed on the agenda. If you are attending the meeting to observe, you do not need to fill out a Registration Card.

Please check one (public hearings only):

- ☐ PROPONENT (For)
- ☐ OPPONENT (Against)
- ☒ UNDECIDED (Testify during either Proponent or Opponent testimony)
- ☐ WRITTEN COMMENT (oral testimony not required)

WARREN PARRISH

If you don't raise up hands, either verbally or in writing, you may be precluded from speaking.

Please print legibly:

Name WARREN PARRISH **Phone Number** 503-538-3204

Professional Standing *(if representing someone)*

Mailing Address *(including Zip Code)* 30450 NE Wilsonville Rd

Email Address

Signature

☐ Please do not release my contact information in a public records request

THANK YOU FOR COMPLETING THIS! These cards help us spell your name correctly for the permanent record and assists the Planning Commission Chair in determining time limits if there are many residents present.

Z:\PC\PC MTG MASTERS\PC-REGFRM.DOC 5/99

ATTACHMENT "3"

CITY OF NEWBERG PLANNING COMMISSION
PUBLIC COMMENT REGISTRATION CARD

PLEASE STATE YOUR NAME PRIOR TO SPEAKING

(Agendas available at entrance)

Agenda Item No.: _____ ***FILE No.:*** _____ **Meeting Date:** 2/10

If you wish to make ORAL COMMENTS at this meeting, or submit written comments, please ***provide all of the information requested below.*** The agenda item numbers and project names are printed on the agenda. If you are attending the meeting to observe, you do not need to fill out a Registration Card.

Please check one (public hearings only):

- ☐ PROPONENT (For)
- ☐ OPPONENT (Against)
- ☒ UNDECIDED (Testify during either Proponent or Opponent testimony)
- ☐ WRITTEN COMMENT (oral testimony not required)

questions about segment 7

[redacted]

Please print legibly:

Name Mike Tatro **Phone Number** 949 922-1633

Professional Standing *(if representing someone)* _____

Mailing Address *(including Zip Code)* 151 Argyle Court
Newberg, OR 97132

Email Address MIKE-TATRO56@GMAIL.COM

Signature

☒ Please do not release my contact information in a public records request

THANK YOU FOR COMPLETING THIS! These cards help us spell your name correctly for the permanent record and assists the Planning Commission Chair in determining time limits if there are many residents present.

Z:\PC\PC MTG MASTERS\PC-REGFRM.DOC 5/99

Attachment 3

To Whom It May Concern,

February 17, 2011

I find the plans for the Newberg - Dundee bypass to be irresponsible for the communities involved. I understand the motivation to push this project forward is driven by political agenda, both to provide temporary jobs and use taxes immediately for jobs that are in a 'Ready' stage.

I desire to point out that the initial information provided to the residents concerned was so worded that it was immposible to understand that you could submit a "No-Build response. Only when reviewing the information online was it stated as an alternative. So the fact that only 10 opted for a no build is no surprise.

This project is terribly unfunded. There is only $192 million available and their estimate is that it will cost $500 million. I have recently read that the full estimate is $800 million. Either way it will not be sufficient. The costs will continue to mount and with rising gas prices and declining drivers we will have our very own "Road to nowhere."

Please invest in improving Rail transportation instead

Shallan Booker

ORDINANCE NO. 2011-2734

AN ORDINANCE ADOPTING AMENDMENTS TO THE COMPREHENSIVE PLAN AND DEVELOPMENT CODE TO REFLECT THE TIER 2 BYPASS ALIGNMENT OF THE NEWBERG-DUNDEE BYPASS CORRIDOR

RECITALS:

1. The Oregon Department of Transportation (ODOT) conducted a public hearing on the Tier 2 Draft Environmental Impact Statement (DEIS) for the Newberg Dundee Bypass on June 29, 2010, followed by selection of the Locally Preferred Alternative (LPA).

2. ODOT has submitted an application to Yamhill County for land use actions necessary to support the LPA, including some modifications to goal exceptions approved in 2004.

3. Amendments to the Newberg Comprehensive Plan and Development Code are necessary to reflect the Tier 2 bypass alignment and support the Yamhill County land use actions.

THE CITY OF NEWBERG ORDAINS AS FOLLOWS:

1. The Newberg Comprehensive Plan, Development Code, and Transportation System Plan are amended as shown Exhibits "A", "B", and "C", which are hereby attached and by this reference incorporated.

2. The amendments are based on the findings shown in Exhibit "D", which are hereby attached and by this reference incorporated.

- **EFFECTIVE DATE** of this ordinance is 30 days after the adoption date, which is: April 6, 2011.

ADOPTED by the City Council of the City of Newberg, Oregon, this 7th day of March, 2011, by the following votes: **AYE:** **NAY:** **ABSENT:** **ABSTAIN:**

_____
Norma I. Alley, City Recorder

ATTEST by the Mayor this 10th day of March, 2011.

_____
Bob Andrews, Mayor

LEGISLATIVE HISTORY

By and through the Planning Commission at 02/10 /2011 meeting. Or, ___ None.
(committee name) *(date)* *(check if applicable)*

K. TRANSPORTATION

GOAL 4: Minimize the impact of regional traffic on the local transportation system.

POLICIES:

h. The City actively supports the development of the Bypass in the southern location corridor described as ~~Modified 3J in the Location Environmental Impact Statement, to be defined following the selection of a more narrowly defined~~ the locally preferred alternative ~~through the Design Level~~ in the Tier 2 Environmental Impact Statement (EIS) process. (Ordinance 2005-2619, May 16, 2005, amended by Ordinance 2008-2708, December 1, 2008)

i. The City supports the designation of the Bypass as a moderate to high-speed statewide expressway and freight route as defined in the Oregon Highway Plan. The Bypass and interchanges will be fully access controlled and no direct access will be allowed from private properties onto the Bypass. The primary function of the Bypass is to provide for moderate to high-speed ~~through~~ statewide and regional trips and to relieve congestion through downtown Newberg and Dundee. (Ordinance 2004-2602, September 20, 2004)

j. The functions of the Bypass are to accommodate and divert longer-distance statewide through trips around the Newberg-Dundee urban area and to serve regional trips going to and from Newberg or Dundee (i.e. Those trips with either an origin or destination outside of the Newberg-Dundee urban area). The function of the planned intermediate interchanges is to provide access between Newberg or Dundee and other regions (e.g. McMinnville, Portland or the coast). It is not the function of the interchanges to provide for or attract regional commercial or highway commercial development in the ~~in the~~ vicinity of the interchanges. In general, needs for commercial development should be accommodated in areas planned for commercial development within Newberg. Plan amendments and zone changes shall be consistent with the function of the bypass and interchanges as set forth in this policy. (Ordinance 2004-2602, September 20, 2004)

k. For the purposes of compliance with the Transportation Planning Rule, OAR 660-12-0060 and in order to support the goal exception that Yamhill County ~~must take~~ took to advance construction of the Bypass, the City of Newberg acknowledges that reliance upon the Bypass as a planned ~~facility~~ improvement to support comprehensive plan amendments or zone changes is premature. (Amended by Ordinance 2008-2708, December 1, 2008)

Accordingly, proposed changes to lands already planned and zoned for urban uses inside the Newberg UGB, annexations, and plan amendments or zone changes within approved Urban Reserve Areas shall be subject to the analysis and mitigation requirements of OAR 660-12-0060. ~~Upon adoption of a Bypass~~

~~financing plan by the Oregon Transportation Commission, those portions of the Bypass identified to be constructed within the 20-year planning horizon by the financial plan can be considered planned transportation facilities pursuant to OAR 660-12-0060.~~ In accordance with OAR 660-012-0060, the Bypass will be considered a planned improvement that is reasonably likely to be constructed during the 20-year planning horizon when the OTP includes all or a specific phase of the Bypass in the construction section of the Statewide Transportation Improvement Program (STIP), or when ODOT provides a written statement that the improvements are reasonably likely to be provided by the end of the planning period. ODOT expects to provide such a letter upon receiving a record of decision for the design level EIS if it results in a record of decision authorizing a full Bypass or a specific Bypass phase that can be funded within the 20-year planning horizon. During the period ~~prior to adoption of a Bypass financing plan,~~ before the Bypass can be considered a planned improvement, the City of Newberg will work with ODOT to pursue interim measures to comply with OAR 660-12-0060. This may include adopting alternative mobility standards for Oregon 99W and Oregon 219. For purposes of the Newberg TSP, alternative mobility standards are consistent with the planned function of Oregon 99W through Newberg as a lower speed local arterial intended to provide access to businesses and residences and a more pedestrian friendly environment. Alternative mobility standards may continue to be necessary on Oregon 99W and Oregon 219 until the full Bypass can be completed. (Amended by Ordinance 2008-2708, December 1, 2008)

l. ~~Prior to Oregon Transportation Commission approval of a Bypass financial plan and in conjunction with development and completion of the design-level Bypass EIS, the City will coordinate with ODOT, Yamhill County and affected property owners to participate in preparation and adoption of preliminary Interchange Area Management Plans (IAMPs) for the East Newberg and Oregon 219 Interchanges, consistent with the requirements of the 1999 Oregon Highway Plan and OAR 734-051-0155 (the Access Management Rule). The IAMPs will address the following at a minimum: access management standards, road connections and local street circulation, compatible land uses and a process to ensure that bypass and interchange protection are considered when land use actions are proposed within the Interchange Overlay District. The preliminary IAMPs will be designed to protect the function and capacity of the interchanges for at least a 20-year planning period.~~ The City will coordinate with ODOT, Yamhill County and affected property owners to develop an Interchange Area Management Plan (IAMP) for the East Newberg and Oregon 219 Interchanges as a means to help protect the function and capacity of the interchanges for at least a 20 to 25-year planning period. The IAMP must be adopted by the Oregon Transportation Commission (OTC) before construction of the respective interchange, consistent with the requirements of the 1999 Oregon Highway Plan and OAR 734-051-0155(7). (Ordinance 2004-2602, September 20, 2004, amended by Ordinance 2008-2708, December 1, 2008)

m. To protect the function of the Bypass to serve primarily longer-distance statewide and regional through trips, the City of Newberg will apply an Interchange Overlay District to lands that are within the Newberg city limits and within approximately ¼ mile of the East Newberg and Oregon 219 interchange ramps. (Ordinance 2004-2602, September 20, 2004)

n. Permitted and conditional uses that are authorized under existing base city zones will generally be allowed within the Interchange Overlay, with certain limitations on commercial uses in the industrial zones. (Amended by Ordinance 2008-2708, December 1, 2008)

o. The Bypass location corridor was selected to avoid displacement of the Sportsman Airpark. The City supports the continued operation of the airport. The airport is located within the Newberg UGB, is within ¼ mile of the Oregon 219 interchange and is currently under Yamhill County jurisdiction. If the airport property is annexed, the City intends to apply an Airport Zone that maintains the ongoing use of the facility as an airport. The City will not support conversion of the airport property to commercial zoning or uses. The Bypass itself should be designed to avoid conflicts with existing air transportation corridors.

p. The City of Newberg will coordinate with ODOT on any development proposal within the Bypass location corridor and Interchange Overlay District through the City's established Site Design Review process. Development planning should consider and complement the intended function of the bypass. Land use decisions should consider the planned corridor location and avoid conflicts where feasible (Amended by Ordinance 2008-2708, December 1, 2008)

q. The City recognizes that the Oregon Highway Plan seeks to avoid UGB expansions along Statewide Highways and around interchanges unless ODOT and the appropriate local governments agree to an Interchange Area Management Plan to protect interchange operation or an access management plan for segments along the highways. [OHP Action 1B.8 ~~1B.4~~]. Thus, the City will work with ODOT, property owners, and citizens to ~~update the~~ finalize the East Newberg and Oregon 219 IAMPs ~~with more specific management strategies as soon as a financing plan that identifies a more certain time frame for construction is adopted by the Oregon Transportation Commission for the Bypass.~~ prior to construction of the full Bypass or a phase of the Bypass, as appropriate. Each IAMP must be consistent with the local comprehensive plan and adopted by the Oregon Transportation Commission. (Amended by Ordinance 2008-2708, December 1, 2008).

r. Special planning and efforts shall be made to replace affordable housing displaced by construction of the bypass within the community. ODOT shall be encouraged to provide relocation assistance to the maximum extent allowed under Federal law. (Ordinance 2004-2602, September 20, 2004)

s. Special planning and efforts shall be made to retain and create livable and desirable neighborhoods near the bypass. This shall include retaining or creating street connections, pedestrian paths, recreational areas, landscaping, noise attenuation, physical barriers to the bypass, and other community features.

t. The Newberg Transportation System Plan shall be amended to show the changes to local circulation and access that are included in the Tier 2 EIS and are necessary to support mitigation for local roads and access that are severed or disrupted by the Bypass. This action shall be documented with both a TSP figure and text.

Part 20. BYPASS INTERCHANGE (BI) OVERLAY

151.531 PURPOSE.

The purpose of the BI Overlay is to:

(A) Protect the planned function and capacity of the Newberg-Dundee Bypass (Bypass) as an "expressway" as defined in the 1999 Oregon Highway Plan by supporting ODOT's efforts and responsibility to manage access to the state highway system in accordance with the OHP and Oregon Administrative Rule 734-51 and managing land uses in the vicinity of the East Newberg and Oregon 219 interchanges.

(B) Support the Newberg Comprehensive Plan for urban lands surrounding the East ~~Newbery~~ Newberg and Oregon 219 interchanges to protect the planned function of the Bypass and interchanges to serve primarily longer-distance statewide and regional through trips. (Ord. 2008-2708, passed 12-04-08)

(C) (1) To avoid development of commercial uses within planned industrial areas near the interchanges and ensure the long-term capacity for the through traffic function of the Bypass, the BI Overlay will prohibit certain uses that would otherwise be permitted outright or with conditional use ~~approved~~ approval in Newberg's Industrial Districts (M-1, M-2, and M-3) within the Bypass Interchange Overlay. The Industrial Commercial Sub-district of the M-4 District shall not be applied within the boundaries of the BI Overlay.

(2) ~~ODOT will prepare Interchange Area Management Plans (IAMPs) for the East Newberg and Oregon 219 interchanges in partnership with Newberg, Yamhill County and affected property owners. This Bypass Interchange Overlay is intended as an interim land use tool that may be refined, revised or replaced as IAMPs are prepared and adopted for the East Newberg and Oregon 219 interchanges as required by the Oregon Highway Plan and OAR 731-051-0155.~~ The City will coordinate with ODOT, Yamhill County and affected property owners to develop an Interchange Area Management Plan for the East Newberg and Oregon 219 Interchanges as a means to help protect the function and capacity of each interchange for at least a 20 to 25-year planning period. The IAMPs must be adopted by the Oregon Transportation Commission (OTC) before construction of the respective interchange, consistent with the requirements of the 1999 Oregon Highway Plan and OAR 734-051-0155(7). The Bypass Interchange Overlay may be refined, revised or replaced when final IAMPs are prepared prior to their adoption by the OTC.

(Ord. 2004-2602, passed 9-20-04, amended by Ord. 2008-2708, passed 12-04-08)

151.531.1 AREA OF APPLICATION OF INTERCHANGE OVERLAY.

(A) The Bypass Interchange Overlay shall apply to lands inside the city limits within ~~approximately one-quarter mile of the end of the ramps to the East Newberg and Oregon 219 interchanges to the Bypass.~~ the boundaries shown on Map VI (East Newberg Interchange) and Map VII (Oregon 219 Interchange).

(B) The Bypass Interchange Overlay applies in addition to the regulations of ~~this~~ the underlying zoning district. All property within the Bypass Interchange Overlay shall be subject to both the provisions of this section and to the underlying zoning district. Nothing in this section shall be construed as a waiver or suspension of the provisions of any underlying zoning district, or any other applicable overlay district.

(C) The general boundaries of the Bypass Interchange Overlay are shown on Map VI (East Newberg Interchange) and Map VII (Oregon 219 Interchange) and shall be delineated on a parcel specific basis on the official zoning map. The width of the Bypass corridor and interchanges shall be automatically narrowed to a smaller alignment-specific width as contained in the Record of Decision when it is issued for the Tier 2 Environmental Impact Statement.
(Ord. 2004-2602, passed 9-20-04)

151.531.2 PERMITTED USES.
All uses of land and water that are permitted in the underlying zoning district(s) are also permitted in the Bypass Interchange Overlay, with the exception of the special limitations on commercial uses in the Industrial Districts as outlined in § 151.531.4.
(Ord. 2004-2602, passed 9-20-04)

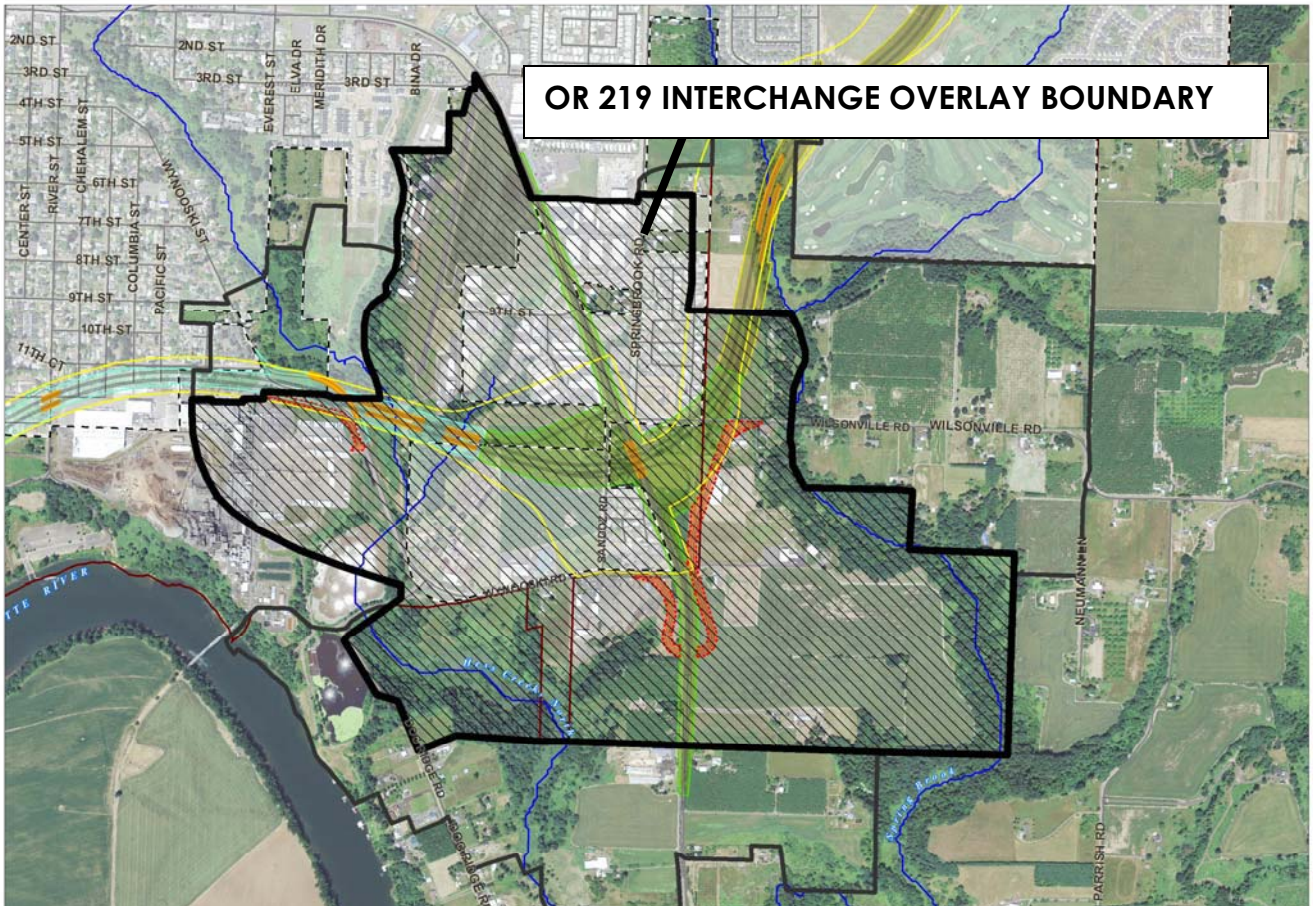
151.531.3 CONDITIONAL USES.
(A) Uses of land and water that are listed as conditional uses in the underlying zoning district(s) may also be allowed in the Bypass Interchange Overlay, with the exception of uses included in the list of prohibited uses in § 151.531.4.
(B) Proposed conditional uses in the Bypass Interchange Overlay are subject to the standard conditional use criteria and procedures of this code.
(Ord. 2004-2602, passed 9-20-04)

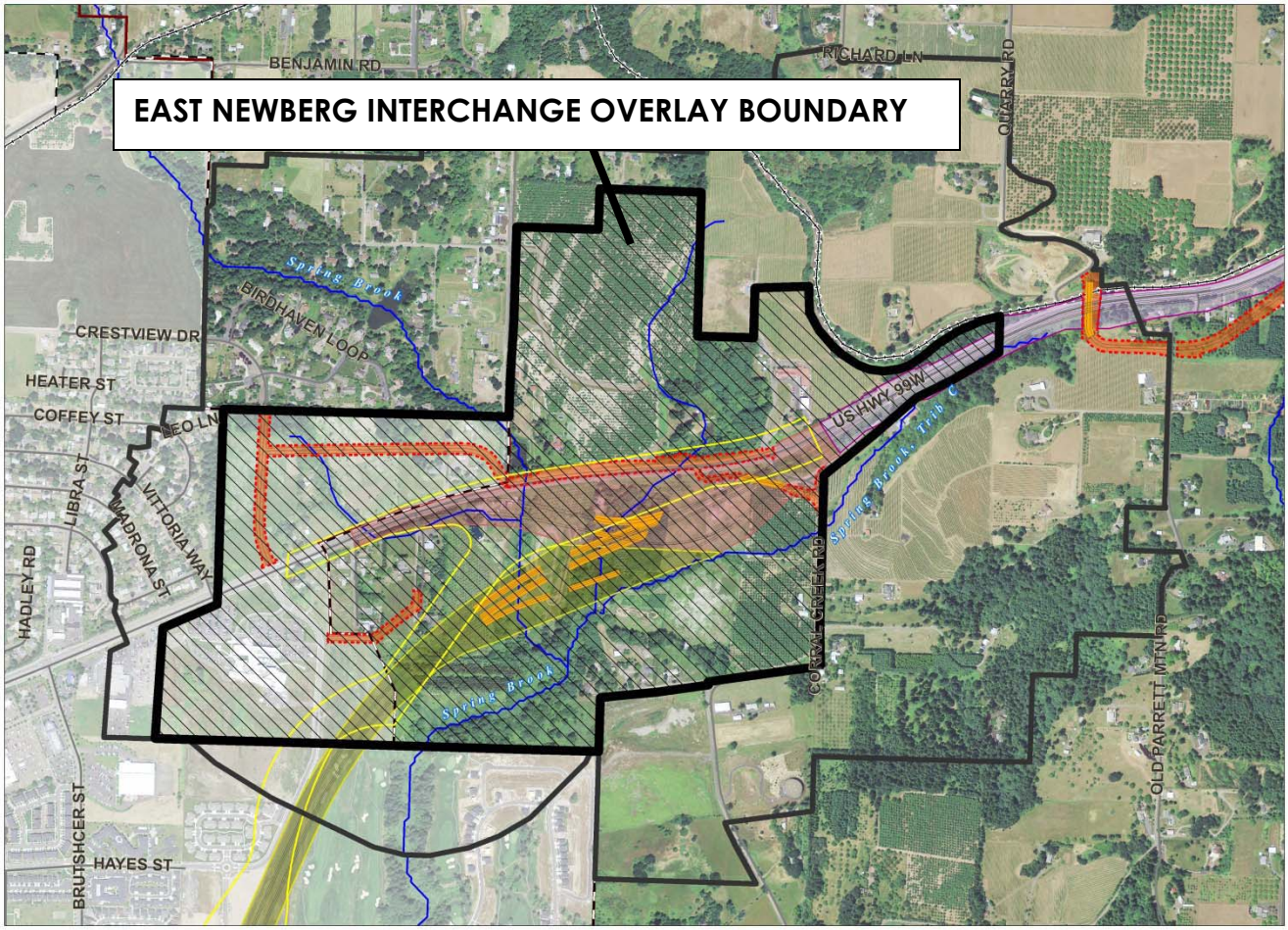
151.531.4 PROHIBITED USES.
(A) Several commercial types of uses are permitted outright or with conditional use approval in Newberg's Industrial Districts (M-1, M-2, and M-3). The area within the Newberg UGB near the Oregon 219 interchange is generally planned for industrial use. To protect the interchange area from commercial development, the following uses are prohibited within the M-1, M-2, and M-3 Districts within the boundaries of the Bypass Interchange Overlay.

(1) Automobile sales, new and used.
(2) Billboards.
(3) Car washes.
(4) Convenience grocery stores.
(5) Restaurants larger than 2000 square feet or with drive-up service windows.
(6) Service stations.
(7) Drive-in theaters.
(8) Auction sales.
(9) Bakeries, retail.
(10) Building material sales.
(11) Driving ranges.
(12) Feed and seed stores.
(13) Miniature golf courses.
(14) Skating rinks.

(Ord. 2004-2602, passed 9-20-04)

(B) The Industrial Commercial Sub-district of the M-4 District shall not be applied within the boundaries of the BI Overlay.


OR 219 INTERCHANGE OVERLAY BOUNDARY
2ND ST
3RD ST
4TH ST
5TH ST
6TH ST
7TH ST
8TH ST
9TH ST
10TH ST
11TH CT
CENTER ST
RIVER ST
CHEHALEM ST
COLUMBIA ST
PACIFIC ST
WYNOOSKI ST
EVEREST ST
ELVA DR
MERIDITH DR
BINA DR
SPRINGBROOK RD
WILSONVILLE RD
BAKOLZ RD
NEUMANN LN
PARRISH RD
Spring Brook


EAST NEWBERG INTERCHANGE OVERLAY BOUNDARY
BENJAMIN RD
RICHARD LN
QUARRY RD
Spring Brook
BIRDHAVEN LOOP
CRESTVIEW DR
HEATER ST
COFFEY ST
LEO LN
LIBRA ST
VITTORIA WAY
MADRONA ST
HADLEY RD
US HWY 99W
Spring Brook, Trib C
CORNELL CREEK RD
OLD PARRETT MTN RD
BRUTSHCER ST
HAYES ST

City of Newberg Transportation System Plan June 2005

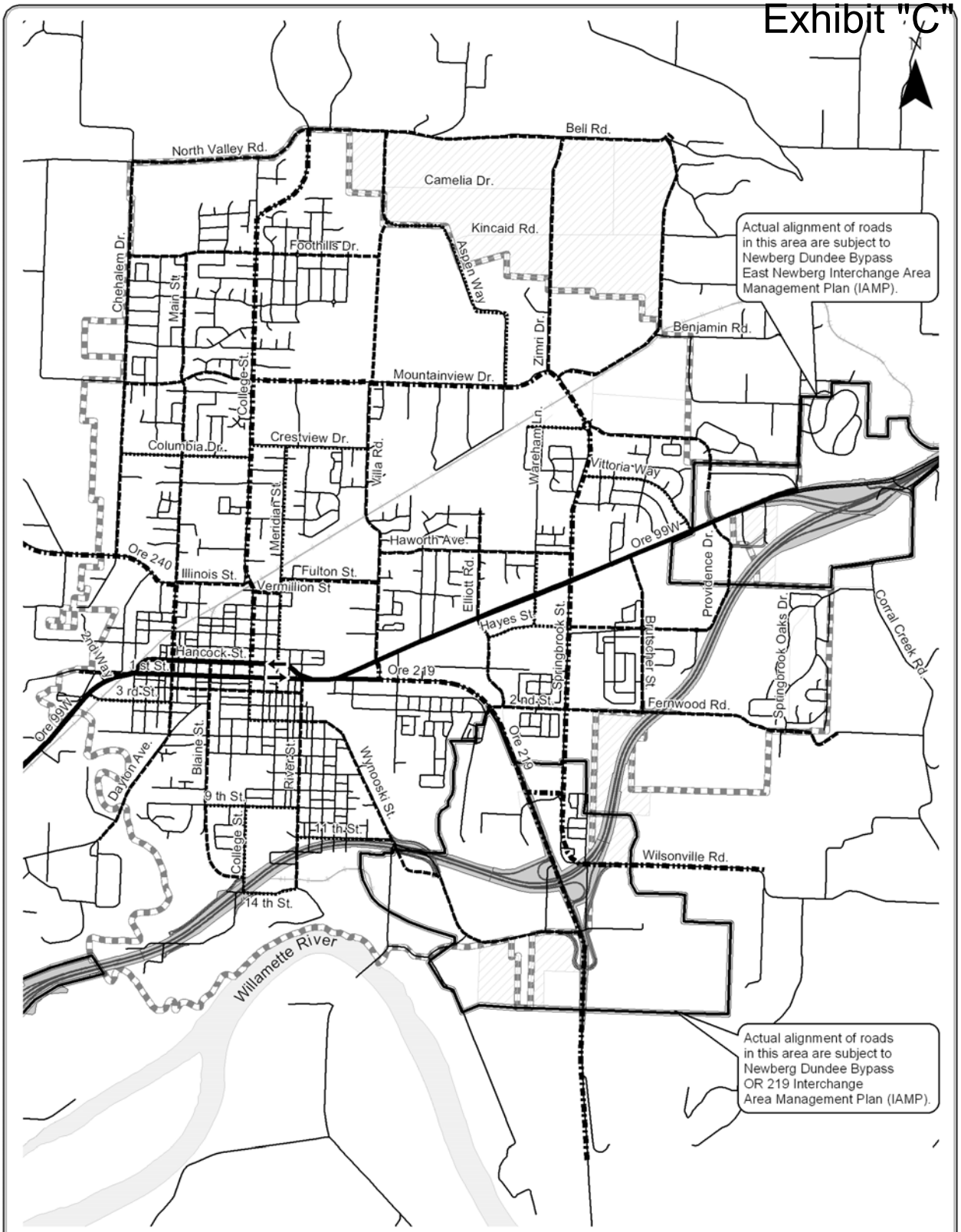
Page 128, #21 NDTIP:

Delete second bullet.

- Maintain access to river area on ~~all existing through-streets~~ College and River Streets;
- ~~Provide frontage road along Bypass between River Street and Wynooski Street;~~
- Provide for safe pedestrian and bicycle access to and ~~across~~ under the Bypass at College and River Streets;

Page 129, #4. Wynooski Street:
Delete last sentence of paragraph:
… "~~The final alignment of Wynooski is subject to the Interchange Area Management Plan that ODOT will prepare in conjunction with the NDTIP Bypass project.~~"

Exhibit "C"



LEGEND

- Statewide Highway
- Major Arterial
- Minor Arterial
- Major Collector
- Minor Collector
- Interchange Area Management Plan Boundary
- Urban Growth Boundary
- Urban Reserve Area
- Railroad
- Streets
- River

Notes:

- Street located outside of Urban Growth Boundary are outside of Newberg's jurisdiction. If a proposed roadway alignment extends outside the UGB, than a plan amendment is required. Improvements recommended would need to be coordinated with Yamhill County.

Revised February 2011

FUNCTIONAL CLASSIFICATION PLAN NEWBERG, OR.

FIGURE **6-1**

H:\profile\5193\GIS\Newberg TSP\6-1.mxd

KITTELSON & ASSOCIATES, INC.
TRANSPORTATION PLANNING / TRAFFIC ENGINEERING

EXHIBIT "D"
FINDINGS FOR CPTA-10-011

The following findings support the adoption of amendments to the Newberg Comprehensive Plan, Development Code and Transportation System Plan as set forth in Exhibits A, B and C to revise measures to protect the function of the Bypass and interchanges. The findings are organized to address relevant goals, policies and criteria of the Newberg Comprehensive Plan, Newberg Development Code, and the Statewide Planning Goals. Language from the relevant documents is presented in bold, italic type. Because there is significant overlap between the local and statewide planning goals, the findings to address the Statewide Planning Goals include cross-references to the earlier Newberg Comprehensive Plan findings to minimize redundancy where appropriate.

In 2004, the City adopted policies and regulations relating to the Newberg-Dundee Bypass (Ordinance No. 2004-2602). The provisions imposed both short and long term restrictions on land uses near the OR 219 and East Newberg interchanges to protect the function of the future interchanges. In 2008, the City adopted Ordinance No. 2008-2708 and amended the Newberg Comprehensive Plan and Development Code to end the temporary freeze on urban growth boundary amendments, urban reserve area amendments, comprehensive plan amendments, and zone changes within the Bypass Interchange Overlay Districts. The legislative amendments included in this package (CPTA-10-011) further refine the policy and code framework for the Bypass as the project has progressed from the Tier 1 location phase through the Tier 2 design phase.

1. Newberg Comprehensive Plan Findings

In some instances, the Newberg Comprehensive Plan policies use mandatory ("shall") language, while in other instances, the policies use directory language (e.g., "should" or "encourage") which express preferences but do not serve as mandatory review criteria. While the findings address many policies that use directory language, those policies do not operate as review standards with which the text amendment application must comply.

A. CITIZEN INVOLVEMENT

GOAL: To maintain a Citizen Involvement Program that offers citizens the opportunity for involvement in all phases of the planning process.

Finding: The City mailed individual notice of the February 10, 2011, public hearing on the recommended amendments to property owners of record with land within the boundaries of the revised Bypass corridor and/or within the boundaries of the revised Interchange Overlay District (within Newberg city limits). In addition, the City published a general notice of the type IV public hearings in the January 19 edition of the *Newberg Graphic.* Additionally, a 45-notice was provided to the Department of Land Conservation and Development as required for post acknowledgement plan amendments.

A public hearing of the Newberg Planning Commission was held on February 10, 2011, and public testimony accepted. On February 10, 2011, Newberg Planning Commission forwarded a recommendation to the Newberg City Council. Newberg City Council will hold a public hearing on the record to consider the recommendation of the Planning Commission and all of the evidence in the record.

Prior to the public hearings on the proposed amendments, the City of Newberg and the Oregon Department of Transportation (ODOT) provided many opportunities for citizens to be involved in the Tier 2 design planning phase from 2005 through 2010. Public involvement activities in Newberg included open houses, design workshops and local access forums, newsletters, and a project website. The public had an opportunity to review and comment on the Tier 2 DEIS during the June 4 – July 19, 2010 public comment period. ODOT held a public hearing/open house for the Tier 2 DEIS at Newberg High School on June 29, 2010. One hundred eighteen individuals attended. Court reporters were available to take one-on-one oral testimony during the public hearing/open house. Altogether, 106 comments were submitted during the public comment period on the DEIS. Thirty-two individuals and all of the local jurisdictions favored a Build Alternative. In summary, the City finds that citizens have been provided an opportunity for involvement in all phases of the planning process, including the federal NEPA process associated with the Tier 2 DEIS and the local land use process associated with public hearings on the plan policies and code amendments included in CPTA-10-011

H. THE ECONOMY

2. Industrial Areas Policies

c. Newberg shall actively pursue the inclusion of large industrial sites within the urban growth boundary.

h. Where areas have been planned for large industrial sites, zoning regulations shall be developed and maintained to keep those sites intact. Such sites shall not be further divided except to create planned industrial parks that support a specific industry.

Finding: Since adopting plan policies and code provisions for the Bypass in 2004, the City of Newberg has proceeded with planning for the Southeast Industrial Area in proximity to the proposed OR 219 interchange. The City has approved a master plan for the Southeast Industrial Area and also approved a UGB expansion in coordination with Yamhill County to accommodate large site industrial users east of OR 219. The UGB amendment has not yet been acknowledged. However, planning for the future industrial area has been coordinated with planning for the Bypass and the OR 219 interchange, including but not limited to access spacing standards from the interchange and development of a local street system for industrial access. The bypass alignment has been adjusted to avoid division of planned industrial parks. The bypass will also improve access to the industrial areas for large trucks and other industrial vehicles. The City finds that continued support for the Bypass project will reinforce the City's long-term policies for large-site industrial areas.

3. Commercial Areas Policies

d. To maintain the integrity and function of the highway system, new commercial development shall be discouraged along the route of any limited access highway.

Finding: Policy 3.d was included in the Newberg Comprehensive Plan before the Tier 1 location phase of the Bypass project. The specific policies adopted for the Bypass in 2004 were consistent with this policy and no policy changes are proposed. In particular, the Council finds that the following portion of policy j of Transportation Goal 4 is consistent with and further implements the Commercial Areas Policy highlighted above: "It is not the function of the interchanges to provide for or attract regional commercial or highway commercial development in the vicinity of the interchanges. In general, needs for commercial development should be accommodated in areas planned for commercial development within Newberg. Plan amendments and zone changes shall be consistent with the function of the Bypass and interchanges as set forth in this policy."

I. HOUSING

GOAL: To provide for diversity in the type, density and location of housing within the City to ensure there is an adequate supply of affordable housing units to meet the needs of City residents' of various income levels.

3. Mix Policies

a. The City will encourage innovative approaches to solving the problem of meeting low income housing needs. Such approaches may include, but are not limited to the following: rent subsidies, federally funded development under HUD programs, state and regional housing programs.

b. Low and moderate-income housing should not be concentrated within particular areas of the City.

c. Manufactured dwellings shall be recognized as a source of affordable housing.

d. The City shall support regional fair share distribution of assisted housing for low-income people.

e. The City shall encourage an adequate supply of rental housing dispersed throughout the City to meet the needs of renters.

Finding: All federally funded transportation projects must evaluate potential impacts to minority and low-income populations in an effort to prevent any disproportionate adverse impacts to these environmental justice (EJ) populations. These impacts can be direct, as in residential relocations, or indirect, such as better accessibility provided by the Bypass. During

the Tier 1 Location phase, ODOT and the City of Newberg supported southerly adjustment of the Bypass location corridor (Modified 3J) because it would displace 18 fewer existing homes in south Newberg when compared with 3J.

During the Tier 2 DEIS, ODOT has continued to coordinate with the community in an effort to reduce impacts on low and moderate-income housing The Tier 2 DEIS identifies Design Option 5.2D as ODOT's preferred alternative in Segment 5. This Design Option would remove 48 residences, while the other two Design Options would each remove 56 residences (Tier 2 DEIS, page ES-23). Design Option 5.2D would displace residential units only on the south side of 11th Street and would keep the street open for local circulation. Transportation facilities and improvements are a permitted use in all of Newberg's residential zones (R-1, R-2, R-3 and R-P). While Design Option 5.2D impacts more of the SP Newsprint property, it reduces residential and neighborhood impacts relative to the other design options. The following additional measures are being pursued to avoid EJ impact:

- Locate Design Option 5.2D as far south as possible to minimize impacts to Scott Leavitt Park and the neighborhood while preserving the viability of SP Newsprint.
- Maintain local streets and driveways to properties (residences and businesses) and across the Bypass, and minimize neighborhood segmentation and school route disruption. (Tier 2 DEIS, page ES-25).

In Segment 6 (OR 219 interchange), the Build Alternative would displace 23 residences. During the Tier 2 design phase, the interchange design was refined to minimize impacts on manufactured dwellings. Section 2.5.6 of the DEIS (page 2-36) summarizes the design options that were considered but withdrawn for the OR 219 interchange. Six design options were considered for the interchange, but none of them were carried forward into the Tier 2 DEIS, primarily because of higher residential displacement impacts.

As summarized in Tables 3.2-2 and 3.2-3 of the Tier 2 DEIS, the Bypass project is expected to displace a total of 103.8 total acres within Newberg's UGB, including 42.1 acres designated for Medium Density Residential (MDR) development. [1] When the City of Newberg approved the Bypass location corridor in 2004, the findings to address the city's housing goal assumed that the project would displace a total of about 112 acres within the Newberg UGB. [2]

To address this issue, the City Council established the Affordable Housing Ad Hoc Committee in 2008. The Committee's charge was to "…identify and recommend tools appropriate for the Newberg community that are intended to encourage the development of housing for working families."

The Committee developed an *Affordable Housing Action Plan (2009)* that identified actions the community could take to ensure adequate affordable housing is available, including but not limited to:

[1] The acres include ROW acquisition for the Bypass, interchanges and local circulation changes. The MDR designation includes MDR, MDR/RD and MDR/SP plan designations.
[2] See Exhibit D Findings to Ordinance No. 2004-2602, page 15.

- Insure an adequate land supply for affordable housing
- Change development code standards
- Amend the development fee schedule
- Develop and support public and private programs
- Strengthen economic development efforts

The City finds that an expected outcome of the updated housing needs analysis and Housing Element of the Comprehensive Plan could include plan map changes and/or expansion of the Newberg UGB to ensure that there is an adequate supply of affordable housing units to meet the needs of City residents of various income levels.

Additionally, because an adequate supply of housing for all income levels is of upmost importance to the City, the City added policy "s" to Goal 4 of the Transportation Policies in 2004. The intent of this policy was to consider potential displacements from the Bypass when the City updated its buildable land inventory, which has occurred. ODOT and the City will coordinate to the extent allowed by law to ensure that the housing actually displaced by the Bypass is replaced in the City during the Tier 2 design phase.

The right-of-way chapter of the Tier 2 DEIS (p. 3-106) includes detailed information on the availability of replacement housing comparable to housing displaced by the Build Alternative, including analysis of:

- Owner-Occupied Relocations
- Manufactured Homes on Rented Sites
- Availability of Replacement Rental Apartments and Houses

Additionally, the right-of-way chapter describes the relationship of the Environmental Justice analysis and the Uniform Relocation Act (p. 3-110). During Tier 2, ODOT has proceeded with buying property, including several properties in south Newberg. ODOT is using the relocation benefits and assistance for these acquisitions as outlined in Appendix E of the Tier 2 DEIS. Based on the information in the Tier 2 DEIS, the City finds that the proposed plan and code amendments to reflect the Tier 2 preferred alternative are consistent with the City's housing goal.

K. TRANSPORTATION

GOAL 1: Establish cooperative agreements to address transportation based planning, development, operation and maintenance.

Finding: The Bypass project is being developed through a two-phase process where the location for the corridor (about 300 feet wide) and interchanges was defined first, with a subsequent design phase to define the precise alignment of the Bypass within the wider location corridor. The environmental review process (NEPA) has also been separated into Tier 1 location and Tier 2 design phases. Consistent with Goal 1 above, ODOT and the City of Newberg entered into an Intergovernmental Agreement to define respective state and local responsibilities for planning in the location and design phases. The IGA has expired but the City and ODOT have continued to cooperate on planning for the Bypass, including discussion of plan and code amendments needed

to support the Tier 2 EIS process. At an appropriate time prior to their construction, ODOT and the City will develop and the Oregon Transportation Commission will approve interchange area management plans for the OR 219 and East Newberg interchanges.

GOAL 4: Minimize the impact of regional traffic on the local transportation system.

Specific Policies for the Newberg-Dundee Bypass

h. The City actively supports the development of the Bypass in the southern location corridor described as Modified 3J in the Location Environmental Impact Statement.

Finding: Development of the Bypass is intended to minimize the impact of regional and statewide traffic on the local transportation system. As described in the Tier 2 DEIS (page ES-3) the purpose of the proposed project is to improve mobility and safety for vehicle trips through Newberg and Dundee and to reduce congestion with fewer truck and passenger vehicle trips on OR 99W in these communities. Chapter 3.1 (Transportation) of the Tier 2 DEIS provides the evidence to document the purpose and need for the project.

Newberg's Transportation System Plan and Comprehensive Plan have supported the development of a southerly Bypass for many years. As noted earlier, the City adopted policy "h" above in 2004 to support Modified 3J in the Tier 1 location phase. The Bypass alignment is generally consistent with the location corridor approved in 2004. As shown in Exhibit A, a revision to the wording of policy "h" is proposed to endorse the locally preferred alternative based on the more detailed design refinements from the Tier 2 EIS process.

i. The City supports the designation of the Bypass as a moderate to high-speed statewide expressway and freight route as defined in the Oregon Highway Plan. The Bypass and interchanges will be fully access controlled and no direct access will be allowed from private properties onto the Bypass. The primary function of the Bypass is to provide for moderate to high-speed through trips and to relieve congestion through downtown Newberg.

Finding: Newberg's comprehensive plan will continue to rely on this key policy (with minor revisions as shown in Exhibit A) in support of the function of the Bypass. Additionally, in February 2006, the Oregon Transportation Commission (OTC) adopted the Newberg-Dundee Bypass/Oregon 18 Facility Plan and, at the same time, amended the Oregon Highway Plan. The net effect of this action was to establish the bypass part of Oregon Highway 18 with a designation as a limited access statewide expressway. The City finds that the Tier 2 DEIS preferred alternative is consistent with policy "i" above.

j. The functions of the Bypass are to accommodate and divert longer-distance through trips around the Newberg-Dundee urban area and to serve regional trips going to and from Newberg or Dundee (i.e. Those trips with either an origin or destination outside of the Newberg-Dundee urban area). The function of the planned intermediate interchanges is to provide access between

Newberg or Dundee and other regions (e.g. McMinnville, Portland or the coast). It is not the function of the interchanges to provide for or attract regional commercial or highway commercial development in the vicinity of the interchanges. In general, needs for commercial development should be accommodated in areas planned for commercial development within Newberg. Plan amendments and zone changes shall be consistent with the function of the Bypass and interchanges as set forth in this policy.

Finding: Newberg's comprehensive plan will continue to rely on this key policy emphasizing that it is not the function of the intermediate interchanges (e.g., OR 219) to provide for or attract regional commercial or highway commercial development in the vicinity of the interchanges. The City finds that the Tier 2 DEIS preferred alternative is consistent with and will continue to support policy "j" above (with minor revisions as shown in Exhibit A).

k. For the purposes of compliance with the Transportation Planning Rule, OAR 660-12-0060 and in order to support the goal exception that Yamhill County must take to advance construction of the Bypass, the City of Newberg acknowledges that reliance upon the Bypass as a planned facility to support comprehensive plan amendments or zone changes is premature.

Accordingly, proposed changes to lands already planned and zoned for urban uses inside the Newberg UGB, annexations, and plan amendments or zone changes within approved Urban Reserve Areas shall be subject to the analysis and mitigation requirements of OAR 660-12-0060. Upon adoption of a Bypass financing plan by the Oregon Transportation Commission, those portions of the Bypass identified to be constructed within the 20-year planning horizon by the financial plan can be considered planned transportation facilities pursuant to OAR 660-12-0060. During the period prior to adoption of a Bypass financing plan, the City of Newberg will work with ODOT to pursue interim measures to comply with OAR 660-12-0060.

Finding: The City of Newberg has coordinated with ODOT to revise the wording of policy "k" to address the requirements of the Transportation Planning Rule (specifically OAR 660-012-0060). As shown in Exhibit A, new or revised wording is highlighted in underline type. The key policy changes are summarized below:

- The City will be able to consider the Bypass a planned improvement that is reasonably likely to be constructed during the 20-year planning horizon when the OTP includes all or a specific phase of the Bypass in the construction section of the Statewide Transportation Improvement Program (STIP) or when ODOT agrees, in writing, that all or a portion of the Bypass may be considered a planned improvement.
- During the period before the Bypass can be considered a planned improvement, the City of Newberg will work with ODOT to pursue interim measures to comply with OAR 660-012-0060. This may include adopting alternative mobility standards for OR 99W and OR 219.

As noted in the July 7, 2010 comment letter from Newberg City Council on the Tier 2 DEIS, "the City has long been a supporter of the Newberg-Dundee Bypass. As Mayor and Council members, we urge ODOT to continue to rank the Bypass as the state's highest priority project. We unanimously support the "Build Alternative" and urge – build it now."

The City finds that the proposed revisions to policy "k" are consistent with the Transportation Planning Rule.

> ***l.*** ***Prior to Oregon Transportation Commission approval of a Bypass financial plan and in conjunction with development and completion of the design-level Bypass EIS, the City will coordinate with ODOT, Yamhill County and affected property owners to participate in preparation and adoption of preliminary Interchange Area Management Plans (IAMPs) for the East Newberg and Oregon 219 Interchanges, consistent with the requirements of the 1999 Oregon Highway Plan and OAR 734-051-0155 (the Access Management Rule). The IAMPs will address the following at a minimum: access management standards, road connections and local street circulation, compatible land uses and a process to ensure that Bypass and interchange protection are considered when land use actions are proposed within the Interchange Overlay District. The preliminary IAMPs will be designed to protect the function and capacity of the interchanges for at least a 20-year planning period.***

Finding: The City of Newberg has coordinated with ODOT to revise the wording of policy "l" relating to Interchange Area Management Plans (IAMP). Rather than completing the IAMPs as part of the Tier 2 DEIS, the revised policy clarifies that the IAMPs must be adopted by the Oregon Transportation Commission before the construction of the respective interchange (OR 219 and East Newberg). The Tier 2 DEIS has addressed road connections and local street circulation, and the City of Newberg has already adopted policies and an Interchange Overlay District to identify and protect the function of the planned interchanges. The City finds that the proposed revisions to policy "l" are consistent with the 1999 Oregon Highway Plan and OAR 734-051-0155(7).

> ***m.*** ***To protect the function of the Bypass to serve primarily longer-distance through trips, the City of Newberg will apply an Interchange Overlay District to lands that are within the Newberg city limits and within approximately ¼ mile of the East Newberg and Oregon 219 interchange ramps.***

Finding: The City of Newberg and Yamhill County applied similar Bypass Interchange Overlay Districts in 2004 to support the Tier 1 location decision and Yamhill County goal exceptions for the Bypass. The Newberg Bypass Interchange (BI) Overlay was applied to land within the city limits within approximately ¼ mile of the East Newberg and OR 219 interchange ramps. The BI Overlay imposed in 2004 included an interim freeze on urban reserve area changes, UGB amendments, comprehensive plan amendments, and zone changes in the BI overlay areas until ODOT prepared Interchange Area Management Plans. It was anticipated that the IAMPs would be complete by September 2007.

The interim freeze was delaying several important Newberg planning projects, including planning for the Urban Reserve Area and an expansion of the UGB for large-site industrial uses. Therefore, the City of Newberg initiated and approved an ordinance in 2008 to amend the Newberg Comprehensive Plan and Development Code to end the temporary freeze on urban reserve area amendments, UGB amendments, comprehensive plan amendments, and zone changes within the Bypass Interchange Overlay Districts (Ordinance No. 2008-2708).

While IAMPs have not yet been completed the Tier 2 EIS process did include more detailed analysis and planning for changes to local access and circulation associated with the Bypass and the interchanges. Opportunities were provided for input from affected property owners, local jurisdictions, emergency service providers, school districts and others during multiple stakeholder working group and local access forums held in the Newberg area in 2006. The Tier 2 DEIS documents the mitigation to address two types of potential impacts associated with the Bypass:

- Changes to local circulation where the Bypass would eliminate or disrupt existing patterns of connectivity; and
- Revisions to property driveways or other connections to the local street system.

As shown in Exhibit C, the Newberg TSP is updated to reflect all of the changes to local access and circulation within the Newberg UGB that will be constructed by ODOT as part of the Bypass project.

The City of Newberg will retain the Bypass Interchange Overlay District. However, the size of the BI Overlay for the East Newberg and OR 219 interchanges is proposed to be reduced to include the developable and re-developable land that is most directly served by the interchange and reflect the more detailed local access and circulation planning that occurred in the Tier 2 EIS. The revised Overlay District boundaries are shown in Exhibit B and reflect a minimum area of 1,320 feet (¼-mile) from the interchange ramp terminals. ODOT interchange access spacing standards require a minimum distance of 1320 feet from the interchange ramp terminals before allowing an approach road permit to the cross street. This area is also the distance that ODOT typically manages around an interchange when it develops management plans. . The City finds that retention of the BI Overlay is consistent with policy "m" above, and the smaller size of the BI Overlay is appropriate to reflect the Tier 2 DEIS preferred alternative for local access and circulation within the overlay areas.

n. Permitted and conditional uses that are authorized under existing base city zones will generally be allowed within the Interchange Overlay, with certain limitations on commercial uses in the industrial zones.

Finding: As summarized above, the City of Newberg will retain the Bypass Interchange Overlay District, and no changes are proposed to the list of prohibited uses that would otherwise be permitted outright or with conditional use approval in Newberg's Industrial Districts (M-1, M-2 or M-3).

As described earlier in these findings, an area south of Newberg, on either side of OR 219, has been identified as the area best suited to meet Newberg's future needs for large site industrial development. Accordingly, staff facilitated a public process over a number of months to create a master plan for the area. The South Industrial Area Master Plan was completed in 2009. To help implement the master plan, the City approved Development Code amendments to create standards for a large lot M-4 industrial district (Ordinance No. 2009-2720). As part of these amendments, the City also approved an Interim Industrial overlay district to permit some level of industrial activity in keeping with the base zoning, while not impeding the future right-of-way acquisition for the Bypass.

Consistent with the intent of policy "n" above, a new provision is proposed as shown in Exhibit B (see 151.531.4(B)) to prohibit application of the Industrial Commercial Sub-district of the M-4 District within the boundaries of the BI Overlay. The M-4 industrial district will not be applied as part of the currently proposed amendments to the Development Code and will be implemented separately at such time the affected South Industrial Master Plan area is annexed to Newberg The City finds that the currently proposed additions to the Development Code will maintain consistency with policy "n".

> ***o. The Bypass location corridor was selected to avoid displacement of the Sportsman Airpark. The City supports the continued operation of the airport. The airport is located within the Newberg UGB, is within ¼ mile of the Oregon 219 interchange and is currently under Yamhill County jurisdiction. If the airport property is annexed, the City intends to apply an Airport Zone that maintains the ongoing use of the facility as an airport. The City will not support conversion of the airport property to commercial zoning or uses. The Bypass itself should be designed to avoid conflicts with existing air transportation corridors.***

Finding: No changes are proposed to the wording of policy "o" and the City will continue to support the continued operation of Sportsman Airpark. Through the Tier 2 EIS process, ODOT selected the alignment location and grade to avoid conflicts with existing runway protection zones for Sportsman Airpark, consistent with policy "o".

> ***p. The City of Newberg will coordinate with ODOT on any development proposal within the Bypass location corridor and Interchange Overlay District through the City's established Site Design Review process. Development planning should consider and complement the intended function of the Bypass. Land use decisions should consider the planned corridor location and avoid conflicts where feasible.***

Finding: No changes are proposed to the wording of policy "p" and the City will continue to use the Site Design Review process as a tool to coordinate with ODOT and property owners on a voluntary basis to avoid conflicts with the established Bypass corridor. This approach has been used successfully since 2004 and recent development projects have avoided conflicts with the Bypass corridor. Additionally, the City finds that a proposed amendment to the text of the Bypass Interchange Overlay (see Exhibit B) provides that the width of the Bypass location

corridor and interchanges shall be automatically narrowed to a smaller alignment-specific width when the Record of Decision is issued for the Tier 2 EIS. The City finds that the Site Design Review process will continue to provide a framework for notice and coordination with ODOT of development proposals within the Interchange Overlay District.

> ***q. The City recognizes that the Oregon Highway Plan seeks to avoid UGB expansions along Statewide Highways and around interchanges unless ODOT and the appropriate local governments agree to an Interchange Area Management Plan to protect interchange operation or access management for segments along the highways [OHP Action 1B.4]. Thus, the city will work with ODOT, property owners, and citizens to update the IAMPS with more specific management strategies as soon as a financing plan that identifies a more certain time frame for construction is adopted by the Oregon Transportation Commission for the Bypass.***

Finding: As shown in Exhibit A, minor changes to the wording of policy "q" are proposed to reflect that the IAMPs must be finalized prior to construction of the full Bypass or a phase of the Bypass, as appropriate. The revised language still recognizes the intent of the Oregon Highway Plan regarding UGB expansions along Statewide Highways and around interchanges.

> ***r. Special planning and efforts shall be made to replace affordable housing displaced by construction of the Bypass within the community. ODOT shall be encouraged to provide relocation assistance to the maximum extent allowed under Federal law.***

Finding: Chapter 3.3 of the Tier 2 DEIS addresses right-of-way impacts of the Bypass project. As summarized in that chapter, the Uniform Relocation Assistance and Real Properties Acquisitions Policies Act of 1970 (49 CFR Part 24) established uniform relocation assistance and real property acquisition policies for federal and federally assisted programs. This law provides protections and assistance for affected businesses, homeowner and renters.

Under this law, during relocation planning, ODOT is required to develop projects in a manner that recognizes the problems associated with the displacement of individuals, families, businesses, farm, and nonprofit organizations and to develop solutions to minimize the adverse impacts of displacements.

The City finds that Appendix E of the Tier 2 DEIS provides detailed information regarding the right-of-way acquisition process. The information included in Appendix E, including the discussion of relocation assistance services and "housing of last resort" documents consistency with policy "r" above.

> ***s. Special planning and efforts shall be made to retain and create livable and desirable neighborhoods near the Bypass. This shall include retaining or creating street connections, pedestrian paths, recreational areas, landscaping, noise attenuation, physical barriers to the Bypass, and other community features.***

Finding: The Tier 2 DEIS took policy "s" into account when evaluating design options within Newberg. As illustrated in Table ES-3 of the DEIS (page ES-20), there is a substantial difference between design options in Segments 5 & 7 in Newberg for the following "neighborhood livability" types of impacts:

Segment 5
- Right-of-Way and Socioeconomics
- Environmental Justice
- Noise
- Visual

Segment 7
- Right-of-Way and Socioeconomics
- Parks and Recreation

The Council finds that the Tier 2 preferred alternative in Segment 5 (5.2D) includes the following street connections to assure opportunities for neighborhood circulation across the Bypass, including pedestrian and bicycle circulation.

- River and College Streets and Wynooski Road and the Railroad are connected across the Bypass
- Waterfront and 14th Streets are relocated and reconnected to College Street
- 9th Street is extended between Pacific Street and Wynooski Road
- Miller Place is extended to new 9th Street

Additionally, the Council finds that the preferred alternative 5.2D is consistent with policy "s" because it would result in fewer displacements than the two other design options, it does not close 11th Street, and it avoids impacts to Scott Leavitt Park. Design Option 5.2D would acquire about 46 acres of property and 29 owner-occupied residences, 19 renter-occupied residences, and 7 businesses. Design Option 5.1C.2 would result in the acquisition of about 47 acres of property and 56 housing and 7 business displacements: 35 owner-occupied residences, 21 renter-occupied residences. Direct impacts from Design Option 5.1D.2 would be identical to Design Option 5.1C.2 and it could also have greater impacts on community cohesion. However, the Council also recognizes that the above-grade Bypass would result in more noise impacts and would create a greater visual barrier between the adjacent neighborhood and the Willamette River than the fully depressed design option. The City finds that on balance, the policy has been met.

The Council finds that the Tier 2 preferred alternative in Segment 7 (7.5C) includes a Fernwood Road structure over the Bypass to maintain connectivity between the neighborhood to the west of the Bypass and the Chehalem Glenn Golf Course. Additionally, it has fewer impacts to future construction areas for Newberg Providence Hospital. Design Option 7.5C would accommodate the permanent easements between the CPRD and Newberg Providence Hospital that allow relocation of Hole 2 on the Chehalem Glenn Golf Course.

Chapter 3.10 of the Tier 2 DEIS addresses noise and vibration. The Council finds that Table 3.10-5 (page 3-223) summarizes total estimated noise impacts by segment and design option. The Council recognizes that a detailed noise analysis will be performed for the preferred Alternative for the Tier 2 FEIS and mitigation in the form of noise barriers will be analyzed in more detail. Figure 3.10-15 through Figure 3.10-17 show the approximately locations of potential noise barriers for further study within Newberg. Potential noise mitigation would be analyzed for developments with plan approval issued prior to the Tier 2 FEIS. ODOT will continue to coordinate with local government officials and will meet with each jurisdiction to review the final noise study and the City accepts ODOT's commitment to build noise barriers to mitigate noise impacts in locations where barriers are determined to be reasonable and feasible (page 3-244).

Chapter 3.11 of the Tier 2 DEIS addresses visual resources. The Council finds that the overall visual impacts for Segments 5, 6, 7, 8.1 and 8.1A are addressed on pages 3-278 through 3-287, including before and after visual simulations. The City understands that specific mitigation for the Preferred Alternative will be identified in the Tier 2 FEIS. Mitigation measures are listed on pages 3-288 and 3-289, including but not limited to the following:

- Cut and Fills: Reduce form, texture, and/or color contrasts in large cut or fill slopes by varying slope lines, texturing, and replanting slopes.
- Sound and Retaining Walls: Decrease visual impacts by using a lower profile, varying wall height, placing walls on top of berms, using colors and textures that blend with the built and natural environments, and planting vegetation along walls.
- Foreground Screening: Establish visual barriers or landscape screening to screen views of the project from adjoining residences and other sensitive viewpoints.
- Preservation of Existing Vegetation: To the extent feasible, preserve existing trees and vegetation.
- Replacement and New Vegetation: Replace damaged and removed vegetation and plant new vegetation to shield viewers from negative visual elements.

In summary, the Council finds that the Tier 2 DEIS has considered policy "s" and the preferred alternative was supported by the Newberg City Council in public comments on the DEIS and finds that the provisions of policy "s" have been met.

GOAL 7: Minimize the capital improvement and community costs to implement the transportation plan.

Finding: Newberg's TSP documents that, without the Bypass, the City would have a difficult time developing and paying for a safe transportation system that provides adequate capacity and local access for Newberg residents, as well as supporting regional and statewide travel on the existing state and local street system. As part of the Bypass project development, and through the development of the current Newberg TSP, a variety of design options were considered for the Bypass and for changes to the surrounding local street system. The analysis supporting the selection of the preferred alternative recommended in the Tier 2 DEIS considered not only the operational feasibility of the design options, but also their cost and community impact. The options selected for recommendation represent the optimum balance of providing adequate

operational performance and minimizing impact to existing properties in as cost effective a manner as possible. The City is satisfied that these proposed policies and the preferred design options in the Tier 2 DEIS meets the objectives of Goal 7. By continuing active support of the development of the Bypass and local street system, as recommended in the Tier 2 DEIS, the City is moving one step closer to implementing the TSP and Goal 7 above.

h. Transportation facilities will be designed to minimize impacts on:

- ***Present and Planned Land Use patterns;***
- ***Natural and Scenic Resources;***
- ***Air Resource Quality, including noise;***
- ***Water and Land Resource Quality; and***
- ***Existing and Planned Transportation Facilities.***

Finding: The City finds that the Tier 2 DEIS evaluated design options and selected a preferred alternative that considers and minimizes impacts on all of the resources identified in policy "h" above. Specifically, the City finds that the following chapters of the DEIS include detailed information on impacts that are most relevant to show consistency with policy "h":

Chapter 3.1 Transportation
Chapter 3.2 Land Use
Chapter 3.3 Right-of-Way
Chapter 3.4 Socioeconomics
Chapter 3.6 Parks and Recreation
Chapter 3.9 Air Quality
Chapter 3.10 Noise and Vibration
Chapter 3.11 Visual Resources
Chapter 3.12 Water Quality and Hydrology
Chapter 3.13 Wetlands
Chapter 3.14 Biological Resources

i. New development and existing development undergoing expansion or modification shall be designed to accommodate planned long-term transportation improvement projects that are adjacent to the development.

Finding: The City of Newberg has coordinated with ODOT for at least six years to accommodate the planned development of the Bypass. The Tier 1 Bypass location corridor has been identified on the City's TSP since 2004 and the City has coordinated with ODOT and property owners on development proposals within the Bypass location corridor and Interchange Overlay District through the City's established Site Design Review process since that time. The City and ODOT have effectively negotiated with property owners to consider the planned Bypass corridor and avoided conflicts where feasible, consistent with the intent of policy "i" above.

The City is proposing an amendment to the Development Code (see Exhibit B) to document that the width of the Bypass corridor and interchanges shall be automatically narrowed to smaller specific width when the Record of Decision is issued for the Tier 2 FEIS.

GOAL 9: Create effective circulation and access for the local transportation system.

Finding: By diverting through trips onto the Bypass and away from OR 99W, congestion will be reduced in downtown Newberg and opportunities for effective circulation and local access enhanced as OR 99W serves more of a local transportation function. Because the Bypass will have full access control, creating an effective system for local access across and around the Bypass and interchanges has been a critical element of the Tier 2 DEIS process.

Exhibit C provides an update to Figure 6-1 of the Newberg TSP and identifies all of the local street connections across the Bypass that will be constructed by ODOT as part of the Bypass project to assure consistency with Goal 9.

Goal 10: Maintain the viability of existing rail, water and air transportation systems.

Finding: The City finds that the Bypass and associated plan and code amendments included in CPTA-10-011 will not affect the viability of existing rail or water transportation systems. Sportsman's Airpark is located within ¼ to ½ mile of the OR 219 interchange and the Bypass and interchange location were selected to maintain the viability of the Airpark, consistent with Goal 10. Specifically, the Council finds that a segment of the Bypass vertical profile is below grade to avoid the flight paths form the Sportsman Airpark (Tier 2 DEIS, page 2-35).

GOAL 12: Minimize the negative impact of a Highway 99 Bypass on the Newberg community.

a. The Bypass should be located within the study area as far from the Willamette River as practical.

Finding: The City of Newberg actively supported the development of the Bypass in the southern location corridor described as Modified 3J in the Tier 1 EIS. Through the Tier 2 DEIS process, the Bypass alignment has generally remained within the location corridor approved in 2004. Any shifts of the Bypass outside of the corridor are generally associated with refined engineering designs, safety requirements, and reconstruction of local roadways disrupted by the Bypass.

The Council is aware that three design options were evaluated in Segment 5. The design option preferred by ODOT and the City of Newberg (5.2D) is slightly closer to the Willamette River than the other two design options. However, the Council finds that the preferred alternative provides the opportunity to reduce housing displacements, leaves 11th Street open for local circulation and also is farther south of Scott Leavitt Park. On balance, the Council finds that the Bypass alignment has been located as far as practical from the Willamette River while also minimizing impacts on local circulation (11th Street) and housing displacement. Therefore, the Council finds that the Tier 2 preferred alternative is generally consistent with policy "a" above.

b. Pedestrian/bike trails, streets, and rail lines should have access across the Bypass route. The Bypass should not block access to the Willamette Greenway or the Chehalem Creek corridor and Ewing Young Park. Trails connecting across the Bypass should be welcoming and pedestrian-friendly amenities, such as benches, decorative lighting, decorative walkway paving materials, and special landscaping.

Finding: The Tier 2 DEIS preferred alternative in Segment 5 maintains access across the Bypass route with undercrossings at River and College Streets and Wynooski Road. Waterfront and 14th Streets are relocated and reconnected to College Street. These street connections will maintain connectivity to the Willamette Greenway and Rogers Landing, the Chehalem Creek corridor and Ewing Young Park. The street connections will be designed to Newberg TSP standards and will include sidewalks, bike lanes and lighting.

The City of Newberg has incorporated the Bypass location corridor into the Riverfront Master Plan. As noted above, local access to the riverfront area will be provided via College and River Streets. The Tier 2 DEIS describes the Newberg Riverfront Master Plan Area on page 3-173. The CPRD Chehalem Heritage Trail Concept is also summarized on page 3-173. The concept envisions a 50+ mile trail system that circles Newberg and Dundee and connects to the riverfront in both communities (see Figure 3.6-12 of the DEIS). The trail is proposed to cross the Bypass project in several places at local road or stream crossings; however, the trail is early in the planning stages and the location is conceptual.

The Bypass would span all of the trail's proposed creek crossings. The City finds that there would be opportunities to accommodate the proposed trail under the bridges associated with the Tier 2 preferred alternative, consistent with the intent of policy "b".

c. The Bypass route should be located as far north as practical within the study area to consolidate the Riverfront District residential and commercial land on the south side of the Bypass.

Finding: The Tier 2 DEIS evaluated three design options in Segment 5, which extends from West Newberg to the OR 219 interchange in proximity to the Riverfront District. The three design options are generally located within the Bypass corridor approved in 2004. Two of the design options are located in the northerly portion of the corridor. The preferred alternative (5.2D) is located in the southern portion of the corridor and provides the following benefits:

- Fewer property acquisitions, with fewer residential displacements.
- A location that minimizes impacts to the South Newberg neighborhood in this segment, which contains low-income and minority populations. This option's location, which is farther south, has the least impacts to this residential neighborhood and preserves the local connectivity to the neighborhood to the greatest extent possible.
- A location that avoids closing 11th Street and does not displace eight housing units on the north side of 11th Street.

- A location that moves the potential Bypass noise levels farther away from Scott Leavitt Park.
- Lower right-of-way and construction costs.

The Riverfront District is largely undeveloped. The City supports the preferred alternative and the decision to minimize impacts on the South Newberg neighborhood and Scott Leavitt Park relative to consolidating the undeveloped Riverfront District on the south side of the Bypass. The Tier 2 DEIS preferred alternative does not encroach any further south into the Riverfront District than was anticipated in 2004. Also, the street connections across the Bypass will maintain connectivity for the Riverfront District. Therefore, the City finds that the Bypass route has been located as far north as practical within Segment 6 to minimize impacts on an established neighborhood while also accommodating plans for future development of the Riverfront District, consistent with policy "c".

d. The Bypass should be below grade through the riverfront area.

Finding: As directed by policy "d" above, the Tier 2 DEIS included evaluation of a below-grade design option (5.1C.2) through the riverfront area. Due to the following factors as described in the Tier 2 DEIS, ODOT did not select the below-grade option as the preferred alternative.

- The below-grade option (5.1D.2) is about 25 feet below the existing grade. In this location, ODOT estimates constructing the Bypass below-grade would cost over twice as much as the preferred alternative (5.2D) due to excavation, support walls and a permanent dewatering system.
- Construction of the below-grade option would also have engineering risks related to a permanent dewatering system. These risks include: 1) requirements for active monitoring and maintenance, 2) possible lowering of groundwater levels within 200 yards of the Bypass, and 3) Groundwater from the below-grade section near SP Newsprint might require a water treatment facility to remove hazardous materials.

Newberg City Council submitted a comment letter on the Tier 2 DEIS on July 7, 2010. In that letter, the Council supported the Build Alternative, and concurred with ODOT's recommended design options for Segments 5 through 8 that directly affect Newberg. For Segment 5 that extends through the Riverfront District, the Newberg City Council supported design option 5.2D instead of the below grade option after considering and weighing the impacts and costs associated with the below grade and at grade options. In summary, the City of Newberg has concurred that the engineering risks and costs associated with a below grade design are not feasible and concurs with ODOT's recommended design option 5.2D, with the following additional comments:

- Connectivity between the community and the river must be provided.
- Measures need to be provided to mitigate sound levels in this predominantly residential neighborhood.
- The eastern portion of this segment must take into consideration the need to maintain the usability and to extend the length of the Sportsman Airpark runway.

e. Significant landscaping should be located along the Bypass, including trees.

Finding: At least two chapters of the Tier 2 DEIS address existing vegetation and landscaping along the Bypass: Chapter 3.11 – Visual Resources and Chapter 3.14 – Biological Resources. Based on information in the Tier 2 DEIS, the City finds that ODOT avoided or minimized direct impacts to plants, wildlife, and wildlife habitats within the project area to the extent possible during the preliminary design of the Build Alternative, including modifying and/or shifting the Bypass roadway to avoid high-quality native vegetation and wildlife habitat (e.g., oak forest habitat and major wildlife corridors principally located along watercourses). In addition, ODOT used full-span bridges at most of the stream crossings to minimize direct and indirect impacts.

Specific mitigation for the Preferred Alternative will be identified in the Tier 2 FEIS to address policy "e" above. General mitigation measures are described on pages 3-288, 3-289, 3-363 and 3-364 of the Tier 2 DEIS and include the following:

- To the extent feasible, preserve existing trees and vegetation.
- Replant the right-of-way in areas disturbed but not permanently altered during construction, and use landscaping with native plant species within the outer road right-of-way.
- Establish visual barriers or landscape screening to attractively screen views of the project from adjoining residences and other sensitive viewpoints.
- Revegetate disturbed riparian areas near the Spring Brook Tributaries C and D realignments.

f. Measures should be taken to minimize noise in adjacent residential, tourist commercial and recreational areas.

Finding: Chapter 3.10 of the Tier 2 DEIS addresses noise and vibration. The Council finds that Table 3.10-5 (page 3-223) summarizes total estimated noise impacts by segment and design option. The Council recognizes that a detailed noise analysis will be performed for the Preferred Alternative for the Tier 2 FEIS and mitigation in the form of noise barriers will be analyzed in more detail. Figure 3.10-15 through Figure 3.10-17 show the approximate locations of potential noise barriers for further study within Newberg. Potential noise mitigation would be analyzed for developments with plan approval issued prior to the Tier 2 FEIS. ODOT will continue to coordinate with local government officials and will meet with each jurisdiction to review the final noise study and the City accepts ODOT's commitment to build noise barriers to mitigate noise impacts in locations where barriers are reasonable and feasible (page 3-244).

The Newberg City Council July 7, 2010 comment letter on the Tier 2 DEIS specifically noted that measures need to be provided to mitigate sound levels in the predominantly residential neighborhood in Segment 5. Additionally, the comment letter expressed that sound attenuation will also be important through Segment 7, with the significant community amenities of Providence Hospital Newberg and the Chehalem Glenn Golf Course.

Based on the information in the Tier 2 DEIS, the City finds that measures have been taken in selecting the Preferred Alternative to minimize noise in adjacent residential, tourist commercial and recreational areas as directed by policy "f" above.

g. Impacts to Scott Leavitt Park shall be mitigated to significantly enhance the function of the park after construction of the Bypass.

Finding: As described on page 3-184 of the Tier 2 DEIS, ODOT located the Bypass as far south as feasible to minimize impacts to Scott Leavitt Park. Of the three design options considered in Segment 5, the preferred alternative (5.2D) would be farthest south to minimize impacts to the neighborhood surrounding the Bypass, including Scott Leavitt Park, while preserving the viability of SP Newsprint. In the Tier 2 FEIS, ODOT will conduct additional analysis of a noise barrier along the Bypass near Scott Leavitt Park to reduce traffic noise from the Bypass. Additionally, roadside signs will direct motorists to new local circulation patterns and access to the park.

Based on the efforts that have already been taken to minimize impacts to Scott Leavitt Park in selecting the preferred alternative, and the commitment to further analyze noise barriers in the Tier 2 FEIS, the City finds that policy "g" has been met.

h. Safe pedestrian and bicycle connections shall be maintained between the riverfront area and downtown.

Finding: As noted earlier, safe pedestrian and bicycle connections will be maintained across the Bypass and between the riverfront area and downtown with the under-crossings at College, River and Wynooski Streets. These street connections will be constructed in accordance with Newberg TSP standards and will include sidewalks, bike lanes and lighting to assure that these facilities are safe and attractive to pedestrians, cyclists and motorists.

N. URBANIZATION

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

Finding: The specific Newberg Comprehensive Plan policies that were adopted by the City in 2004 to support the Bypass have helped to provide for an orderly and efficient transition from rural to urban land uses. From 2004 to 2008, the City of Newberg and Yamhill County maintained an interim freeze on UGB expansions, plan amendments and zone changes around the East Newberg and OR 219 interchanges to provide time for initial planning for local circulation around the future interchanges. These policies reduced pressures to prematurely convert land from rural to urban land uses on the basis of the planned Bypass and interchange locations.

Additionally, adopted plan policies acknowledge that the Bypass will have full access control and also describe that it is not the function of the intermediate interchanges (e.g., OR 219) to provide for or attract regional commercial or highway commercial development in the vicinity of

the interchanges. Additionally, the City recognizes that the Interchange Area Management Plans must be adopted by the Oregon Transportation Commission before construction of the East Newberg and OR 219 Interchanges. These plans will adopt design, land use and access management strategies needed to protect the function and operation of the interchange and to avoid pressure for indirect land use growth around the interchange areas.

Based on the minor revisions to the comprehensive plan and development code framework that is already in place, the City finds that it has provided for the orderly and efficient transition from rural to urban land use as required by Goal 1.

2. Newberg Development Code Findings

151.122 PROCEDURES FOR COMPREHENISVE PLAN MAP AND ZONING MAP AMENDMENTS.

(B) Type IV plan and zoning map amendments – large area of the city and multiple ownerships.

(1) The city may initiate plan map amendments affecting large areas and multiple ownerships under the Type IV procedure. No public notice is required to initiate the amendment. Initiation must be done by resolution of the Planning Commission or City Council. These map changes include those that have widespread and significant impact beyond the immediate area of change.

Finding: The plan and code amendments adopted by the City of Newberg in 2004 identified the Tier 1 Bypass location corridor (Modified 3J) and also applied the Bypass Interchange Overlay to lands within the city limits and within approximately ¼ mile of the East Newberg and OR 219 interchanges to the Bypass. Through the Tier 2 DEIS process, the alignment of the Bypass has been more specifically defined. As described on page ES-22, some portions of the Bypass alignment are now located outside of the initial corridor identified during Tier 1 because additional site-specific analysis and/or public and agency input indicated the need to move the alignment to avoid impacts. Segments 1, 2, 4, 6, 7, and 8 include land that is outside of the approved corridor.

Additionally, ODOT has coordinated with the City of Newberg to refine and reduce the size of the Bypass Interchange Overlays for the East Newberg and OR 219 interchanges. The smaller Interchange Overlays are shown in Exhibit B and primarily reflect the Tier 2 DEIS planning for local circulation in the vicinity of the planned interchanges.

It is important to emphasize that the plan and code amendments attached in Exhibits A, B and C do not change existing comprehensive plan designations or base zoning. While the amendments are appropriately categorized as text amendments, because the Bypass corridor is shown on the TSP and the Bypass Interchange Overlay is identified on the Zoning Map, findings are provided to address both map and text amendment criteria.

The amendments affect multiple ownerships. The Newberg City Council initiated the Type IV map amendments to revise Bypass location corridor and reduce the size of the Bypass Interchange Overlay on December 6, 2010, consistent with the initiation procedures outlined in Section 151.122(B) (1).

(2) Amendment criteria. The City must demonstrate:

(a) The proposed change is consistent with and promotes the objectives of the Newberg Comprehensive Plan and this code;

Finding: Findings to address why the proposed amendments set forth in Exhibits A, B and C comply with and promote the objectives of the Newberg Comprehensive Plan are presented in Section 1 and are incorporated by this reference. The City's acknowledged Transportation System Plan and Comprehensive Plan already support development of the Bypass in a southerly corridor. The proposed amendments are intended in large part to refine the policies that were initially adopted based on the Tier 1 location EIS with the more detailed Tier 2 DEIS.

The purpose of the Newberg Development Code is outlined in Section 151.002. The Code regulations are designed to achieve eleven objectives, including the following:

- *To promote safe, fast and efficient movement of people and goods without sacrificing the quality of the City's environment….*
- *To minimize street congestion…*
- *To facilitate adequate provisions for transportation…*

The proposed amendments are needed to reflect the advance of the project from the location phase through the design phase. The City's adopted TSP clearly documents the importance of the Bypass project to promote safe, fast and efficient movement of statewide and regional traffic (people and freight) and to minimize congestion on OR 99W and other local streets. The Tier 2 DEIS includes more detailed planning and commitments for local circulation improvements that will be constructed as part of the project.

(b) There is a public need for a change of the kind in question;

Finding: The Bypass is a large and complex project that involves land in four different jurisdictions (Yamhill County, Newberg, Dundee and Dayton). Because the Bypass will be a state facility funded at least in part with federal funds, the National Environmental Policy Act (NEPA), the Oregon Highway Plan and ODOT's State Agency Coordination Program with LCDC also provide a framework for planning and project development.

Refinements to the comprehensive plan and development code amendments adopted in 2004 are needed to reflect that the project has moved from the Tier 1 location phase through the Tier 2 design phase. To provide a coordinated land use framework for the Bypass, ODOT has recommended that Yamhill County and the Cities of Newberg, Dundee and Dayton adopt consistent and related policies to protect the function of the Bypass to serve primarily longer-distance through traffic. Adoption of the policy and code revisions associated with the Tier 2

DEIS is needed before Yamhill County can adopt new and/or modified goal exceptions for the preferred alternative.

> ***(c) The need will be best served by changing the classification of the particular piece of property in question as compared with other available property.***

Finding: The plan and code amendments set forth in Exhibits A, B and C do not change the plan or zoning classifications of any property. Further, the proposed revisions to the Interchange Overlay District (see Exhibit B) actually reduce the size of the area subject to the overlay based on the more detailed local circulation planning that occurred in the Tier 2 DEIS process.

> ***(C) Amendment of land use regulation. A change in requirements, general provisions, exceptions or other provisions of a land use regulation may be initiated by resolution of the Planning Commission or the City Council. No notice is required to initiate the amendment. Amendments to land use regulation shall be reviewed under the Type IV procedure.***

Finding: The proposed amendments to the Newberg Development Code (see Exhibit B) are intended to reflect the reduced size of the Interchange Overlay. The size of the BI Overlay for the East Newberg and OR 219 interchanges is proposed to be reduced to include the developable and re-developable land that is most directly served by the interchange and reflect the more detailed local access and circulation planning that occurred in the Tier 2 EIS. Additionally, minor text changes are proposed to reflect the amended policy for the timing and adoption of IAMPs. Another new provision is proposed to accommodate an automatic narrowing of the alignment-specific Bypass corridor when the Record of Decision is issued for the Tier 2 EIS.

3. Statewide Planning Goal Findings

Goal 1 – Citizen Involvement

To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

Finding: Goal 1 requires that local governments provide citizens with opportunities to participate in several phases of land use planning, ranging from broad scale public involvement in the development of comprehensive plans and implementing ordinances to more site-specific review of plan and development proposals. Generally, Goal 1 is satisfied when a local government follows the public notice procedures set out in its acknowledged comprehensive plan and land use regulations.

The finding to address the Citizen Involvement Goal of the Newberg Comprehensive Plan (see page 1 of these findings) is incorporated by this reference to show compliance with Goal 1 of the Statewide Planning Goals.

Goal 2 – Land Use Planning

To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.

Finding: Part I of Goal 2 requires that actions related to land use be consistent with acknowledged comprehensive plans of cities and counties. Consistency of the proposed plan, code and TSP amendments with the acknowledged Newberg City Comprehensive Plan is addressed in Section 1 of these findings.

The proposed amendments are consistent with the Newberg Comprehensive Plan and TSP because those plans authorize the Bypass in a southerly alignment. Additionally, planning for the Bypass has involved extended coordination between affected governments and agencies, evaluation of alternatives, and an adequate factual base as supported by the Tier 1 location EIS and the Tier 2 DEIS.

In developing the Tier 2 DEIS and selecting the recommended alternative, ODOT (the lead agency) has engaged in significant coordination efforts over an approximately six year period with Yamhill County officials, officials from the cities of Newberg, Dundee, Dayton, representatives of the Oregon Department of Land Conservation and Development, the Federal Highway Administration, and other federal, state and local agencies and officials.

The Tier 2 DEIS included an analysis of design alternatives as required by Goal 2. For all of these reasons, Goal 2 Part I is met.

Goal 3 – Agricultural Lands

To preserve and maintain agricultural lands.

Finding: The areas affected by the proposed text amendments are located within the Newberg city limits. The area is currently designated and zoned for urban development and no plan or zoning designations will be changed. Therefore, Goal 3 is not applicable.

Goal 4 – Forest Lands

To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.

Finding: The areas affected by the proposed text amendments are located within the Newberg city limits. The area is currently designated and zoned for urban development and no plan or zoning designations will be changed. No designated forest lands will be affected by the proposed amendments. Therefore, Goal 4 is not applicable.

Goal 5 – Open Spaces, Scenic and Historic Areas, and Natural Resources

To protect natural resources and conserve scenic and historic areas and open spaces.

Finding: Goal 5 resources that could be affected by the Tier 2 DEIS preferred alternative include riparian corridors, wetlands, and historic and open space resources as addressed in the following chapters of the Tier 2 DEIS:

Chapter 3.6 Parks and Recreation
Chapter 3.7 Cultural Resources
Chapter 3.12 Water Quality and Hydrology
Chapter 3.13 Wetlands
Chapter 3.14 Biological Resources

The City defers to the Division of State Lands (DSL) for the inventory and regulation of wetlands. Accordingly, wetlands impacted by the Tier 2 DEIS preferred alternative will require permit approvals under DSL regulations governing development of wetlands. The Tier 2 DEIS documents how the Bypass alignment has been designed to avoid Goal 5 resources. Where avoidance is not possible, the Tier 2 DEIS identifies general efforts that will be taken to minimize and mitigate the impacts. The City understands that documentation of final mitigation for natural resource impacts will occur during the Tier 2 FEIS. Further, we find that ODOT has entered into agreements with state and federal resource agencies through the CETAS process and have adopted design measures to mitigate the impacts to natural resources. Those regulatory agencies have concurred with the preferred alternative.

Newberg's Development Code includes a Stream Corridor Sub-District and a Historic Landmarks Sub-District. As the Bypass project moves further into the design and construction phase, compliance with the provisions of the Stream Corridor Overlay and Historic Overlay will be addressed as applicable. The City finds that Goal 5 has been met.

Goal 6 – Air, Water and Land Resource Quality

To maintain and improve the quality of the air, water and land resources of the state.

Finding: Newberg's acknowledged comprehensive plan includes a policy that the City will cooperate with State and Federal agencies which regulate environmental quality and shall adhere to the standards established by these agencies in the issuance of any permits or approvals given by the City. This policy is intended to cover discharges and emissions that may impair air, water or land quality or exceed the established standards for noise or other emissions. The City finds that a detailed noise analysis will be performed for the preferred alternative for the Tier 2 FEIS. Mitigation in the form of noise barriers will be evaluated in more detail and ODOT is committed to building noise barriers to mitigate noise impacts in locations where barriers are reasonable and feasible (Tier 2 DEIS, page 3-244). The City finds that Goal 6 has been met.

Goal 7 – Areas Subject to Natural Disasters and Hazards

To protect people and property from natural hazards.

Finding: The Bypass project will affect some known hazards to development, including floodplains and steep slopes. For example, there is earthquake hazard around Chehalem Creek and a small area near Fernwood Road in East Newberg. The west end of the project area is more prone to liquefaction. However, according to the Tier 2 DEIS, ODOT will employ proper design and construction practices and mitigation measures (including best management practices) to avoid, minimize or mitigate impacts to areas subject to natural disasters and hazards, consistent with Goal 7. The City finds that Goal 7 has been met.

Goal 8 – Recreational Needs

To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.

Finding: The Bypass will improve access to recreational destination areas such as the Oregon Coast, Yamhill County wineries, and the Spirit Mountain Casino. The Bypass could impede local access to the Willamette River Greenway. However, the City finds that this impact will be mitigated through the provision of local street crossings included in the Tier 2 DEIS preferred alternative. ODOT recognizes the importance of the issue of local access to the viability of the Newberg Riverfront District and the Chehalem Glenn Golf Course. The Bypass will have no impact on the Newberg Riverfront District and only a *de minimis* impact on the Chehalem Glenn Golf Course. Analysis in the Tier 2 DEIS has determined that the impact will not have a negative effect on this recreational resource. The findings addressing compliance with Newberg Comprehensive Plan Goal 12 (Minimize the negative impact of a Highway 99 Bypass on the Newberg community) are incorporated by this reference. The City finds that Goal 8 is met.

Goal 9 – Economic Development

To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

Finding: The Bypass and OR 219 interchange will displace about 31.8 acres[3] within Newberg's UGB that are currently designated for industrial development. Nevertheless, the Bypass will have generally positive long-term economic impacts for areas that are subject to Goal 9. In particular, the Bypass and OR 219 interchange will improve mobility and accessibility generally, and freight movement in particular, through the south Newberg industrial area. Additionally the Bypass will divert a large percentage of through truck traffic from OR 99W through downtown Newberg and thereby reduce noise and congestion and enhance the viability of the downtown area.

The City has completed a Goal 9 study to assure that adequate lands are available within the Newberg UGB to meet projected industrial and commercial land needs of the 2010-2030

[3] This includes the following Newberg Comprehensive Plan designations: Industrial, Industrial/RD, Industrial/SP.

planning horizon. The City finds that the land displacement associated with the Bypass and interchanges has been incorporated into the Goal 9 study.

Since adopting plan policies and code provisions for the Bypass in 2004, the City has proceeded with planning for the Southeast Industrial Area in proximity to the OR 219 interchange. The City has approved a master plan for the Southeast Industrial Area. However, planning for the future industrial area has been coordinated with planning for the Bypass and the OR 219 interchange, including but not limited to access spacing standards from the interchange and development of a local street system for industrial access.

The City finds that continued support for the Bypass project will reinforce the City's long-term policies for industrial areas consistent with Statewide Planning Goal 9.

Goal 10 – Housing

To provide for the housing needs of citizens of the state.

Finding: Goal 10 requires local governments to do their fair share to provide for the housing needs of people of all income levels. Under Goal 10, cities must inventory "buildable lands" for residential use and encourage the availability of needed housing units at price ranges and rent levels that are commensurate with the financial capabilities of Oregon households.

The finding addressing compliance with the Newberg Comprehensive Plan goal and policies on housing is incorporated by this reference to address Statewide Planning Goal 10. As noted in that finding, the City of Newberg adopted an updated Housing Element of the Comprehensive Plan in 2010, including estimated residential land needs and supply data for the 2010-2030 planning horizon. The City considered the displacement of housing from the Bypass when it updated its buildable lands inventory. Therefore, the City has considered potential displacements during the appropriate planning process where housing needs could be considered comprehensively, and to proactively plan for displacements before construction of the Bypass.

During Tier 2, ODOT has proceeded with buying property, including several properties in south Newberg. ODOT is using the relocation benefits and assistance for these acquisitions as outlined in Appendix E of the Tier 2 DEIS. Based on the information in the Tier 2 DEIS, the City finds that the proposed plan and code amendments to reflect the Tier 2 preferred alternative are consistent with Statewide Planning Goal 10.

Goal 11 – Public Facilities and Services

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

Finding: Chapter 3.8 of the Tier 2 DEIS addresses direct impacts of the Build Alternative on overhead and underground utilities. Additionally, an order of magnitude cost for utility relocation was developed and included in the overall cost estimate in the Tier 2 DEIS. Further details related to utility cost responsibilities will be identified during project final design. As

described on page 3-205 of the Tier 2 DEIS, during construction, ODOT would work with service providers to minimize disruption of service and would give local businesses and neighborhoods early notification of potential service disruptions. ODOT would also work with utilities on construction timing so that utilities could take advantage of periods when the Bypass construction coincides with the utility relocation. The City finds that the proposed plan amendments are consistent with Goal 11.

Goal 12 – Transportation

To provide and encourage a safe, convenient and economic transportation system.

Finding: The findings in Section 1 that address the Newberg Comprehensive Plan Transportation Goal and policies are adopted by this reference to demonstrate compliance with Goal 12. The Transportation Planning Rule (TPR) implements Goal 12. The following findings focus more specifically on the requirements of that rule (OAR 660-012).

As explained in OAR 660-012-0010(1), the TPR divides transportation planning into two phases: (1) transportation system planning, and (2) transportation project development. Transportation system planning establishes land use controls and a network of facilities and services to meet overall transportation needs. Transportation project development implements the TSP by determining the precise location, alignment, and preliminary design of improvements included in the TSP.

The southerly Bypass location corridor is already included in Newberg's acknowledged TSP and supported in comprehensive plan policies based on the Tier 1 EIS. The Oregon Transportation Commission has also adopted the Bypass location corridor as part of the Oregon Highway Plan. Through the Tier 2 DEIS process, the project has advanced from the location phase through the more detailed alignment and project development envisioned in the TPR.

OAR 660-012-0015 provides for coordination between the State of Oregon and affected cities and counties in developing transportation system plans. ODOT has prepared and adopted a state Transportation System Plan and modal plans in accordance with statutes and its program for state agency coordination. The state TSP identifies a system of transportation facilities and services adequate to meet identified state needs. This section of the TPR also requires that cities and counties prepare, adopt and amend local TSPs for lands within their planning jurisdiction. Local TSPs shall establish a system of transportation facilities and services adequate to meet identified local transportation needs and shall be consistent with adopted elements of the state TSP.

As the Tier 2 DEIS and its supporting documents show, the Bypass project has been coordinated among ODOT, Yamhill County and the cities of Newberg, Dundee and Dayton. Coordination has also extended to Marion and Washington Counties and the Federal Highway Administration. Since 2004, all of the local jurisdiction plans (Yamhill County, Newberg, Dundee and Dayton) and ODOT's Highway Plan have been coordinated in calling for and supporting development of the Bypass in the southern location corridor.

OAR 660-012-0020(1) requires that a TSP establish a coordinated network of transportation facilities adequate to serve state, regional and local transportation needs. As documented in Chapter 3.1 (Transportation) of the Tier 2 DEIS, the Bypass would serve state and regional transportation needs and would free up capacity on existing OR 99W to serve local and regional travel needs. Again, all of the affected jurisdictions have already authorized the Bypass within their acknowledged TSPs and all plans have been coordinated.

OAR 660-012-0035(3) requires consideration of various factors in evaluating and selecting transportation system alternatives. While this level of analysis is targeted to the overall transportation system planning phase, the Tier 2 DEIS includes consideration of similar factors in the evaluation of design options for the Bypass, including compliance with air, land and water quality standards; minimizing adverse economic, social, environmental consequences; and minimizing conflicts and facilitating connections between modes of transportation.

OAR 660-012-0040 requires that the TSP include a financing program, including a general estimate of the timing for planning transportation facilities and major improvements and a determination of their rough cost estimates. Table ES-1 of the Tier 2 DEIS estimates a total cost of about $752 - $879 million to construct the Bypass (including right-of-way cost, utility relocation and local circulation cost). Funding for the Bypass will come from a variety of sources, including federal, state, and local governments. The Oregon Jobs and Transportation Act (HB 2001), passed by the 2009 Oregon Legislature, authorizes bonds to be issued as early as 2011 to be used to finance all or any portion of a number of projects. This bill includes $192 million for the Newberg Dundee Bypass.

A formal financing plan is currently being prepared and will be finalized after a Record of Decision (ROD) on the Tier 2 FEIS.

OAR 660-012-0045 requires that local governments adopt regulations to protect transportation facilities for their identified functions. This provision of the TPR provided the key impetus for Yamhill County and the cities of Newberg, Dundee and Dayton to amend their comprehensive plans in 2004 to protect the Bypass and interchanges to accommodate primarily longer-distance through traffic. The proposed amendments to the Newberg Comprehensive Plan, Development Code and TSP retain the plan and code framework, but refine specific provisions to reflect the Tier 2 DEIS and the progression of the project from the more general location phase to the more detailed alignment and project development phase. The City finds that Goal 12 is met.

Goal 13 – Energy

To conserve energy.

Finding: Highways are not generally synonymous with the notion of energy conservation. However, Goal 13 does not prohibit new highways or improvements to existing highways. Indeed, such an interpretation would conflict with provisions in Goal 12 and the TPR authorizing highway facilities and improvements as part of an overall multimodal transportation plan.

The Bypass is intended to improve statewide and regional mobility through the area and to make OR 99W more accessible for local and regional traffic. The Bypass will relieve the substantial traffic congestion that already existing along OR 99W and that will deteriorate further in the absence of the Bypass. Facilitating the smooth flow of traffic at acceptable levels of services can help conserve fuel by avoiding the wasteful burning of fuel at intersections already above capacity or expected to exceed capacity during the planning period.

Chapter 3.17 (Energy) of the Tier 2 DEIS includes the following petroleum overview:

> In 2000, 47 percent of all energy used in Oregon came from petroleum, with about 80 percent of this petroleum used for transportation. Oregon's use of petroleum grew by about 8 percent between 1990 and 2000. Researchers do not expect the growth of petroleum demand in Oregon or in the project area to slow, due to the continued increases in population and vehicle travel. However, newer vehicles are more fuel-efficient, and the federal government is requiring higher fuel efficiency in vehicles, which could change future demand for petroleum. The City finds that Goal 13 is met.

Goal 14 – Urbanization

To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.

Finding: A four-lane limited access facility is considered to be an urban use because it serves transportation needs well beyond those of the affected rural area. This causes no problem inside a UGB, where urban uses are authorized. Hence, the Bypass, where located inside the Newberg, Dundee and Dayton UGBs, complies with Goal 14. Outside of the UGBs, the Bypass is permitted only through an exception to Goal 14 (and Goals 3 and 11). Yamhill County approved goal exceptions for the Bypass and interchanges on rural lands in 2004. The county goal exception was supported by coordinated policies in the county and city comprehensive plans to reduce pressures to prematurely convert land from rural to urban land uses on the basis of the planned Bypass and interchange locations.

ODOT has submitted an application to Yamhill County to modify the goal exceptions approved in 2004 to reflect refinements to the Bypass alignment, interchange design and modifications to local circulation based on the Tier 2 DEIS. Similar to the approach followed in 2004 for the Bypass location decision, ODOT is coordinating with Yamhill County and the cities of Newberg, Dundee and Dayton to update a similar package of plan and code provisions to support the Tier 2 DEIS preferred alternative. The City is working with ODOT and Yamhill County to develop Interchange Area Management Plans for the Interchange at 99W and at Highway 219 that will include additional land use measures, design measures and access management strategies to ensure an orderly and efficient transition from rural to urban use. The City finds that Goal 14 is met.

Goal 15 – Willamette River Greenway

To protect, conserve, enhance, and maintain the natural, scenic, historical, agricultural, economic, and recreational qualities of lands along the Willamette River as the Willamette River Greenway.

Finding: The Tier 2 DEIS preferred alternative does not directly impact lands inside the Willamette River Greenway boundary. However, as summarized in the findings addressing the Newberg Comprehensive Plan, the Tier 2 process has included planning for local access (auto, bike and pedestrian) across the Bypass to the Willamette River Greenway and the Newberg Riverfront district. With these efforts, the City finds that Goal 15 is met.