

## ORDER NO. 2007-0004

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**AN ORDER DENYING A REQUEST TO INCLUDE CERTAIN  
PROPERTY LOCATED AT 31544 NE CORRAL CREEK ROAD,  
YAMHILL COUNTY TAX LOT R3222 02700, WITHIN THE CITY  
OF NEWBERG URBAN RESERVE AREA**

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### RECITALS:

1. On June 14, 2006, Pacific Lifestyle Investments submitted a request for an amendment to the Newberg Comprehensive Plan to add approximately 59.5 acres located at 31544 NE Corral Creek Road to the Newberg Urban Reserve Area, Yamhill County Tax Lot R3222 02700.
2. After proper notice, the Newberg Urban Area Management Commission (NUAMC) heard the request at a hearing on August 23, 2006. The hearing was continued to September 21, 2006 to allow time for proponents to respond in writing to testimony, for interested persons to reply to that response, and for proponent rebuttals.
3. On September 21, 2006, at the hearing continued from August 23, 2006, NUAMC heard the proponent's responses to testimony received, as well as rebuttals to the proponent's responses, and deliberated on the request. It concluded that the applicable criteria had not been met, and that approval of the applicant was not in the best interest of the community at that time.
4. On November 30, 2006, NUAMC adopted Resolution No. 2006-16, recommending that the Newberg City Council and Yamhill County Board of Commissioners deny the applicant's request to include the subject property in the Newberg Urban Reserve Area.
5. After proper notice, on April 2, 2007, the Newberg City Council held a hearing to consider the request.
6. The City Council finds that the applicable criteria have not been met, and that approval of the application is not in the best interests of the community at this time.

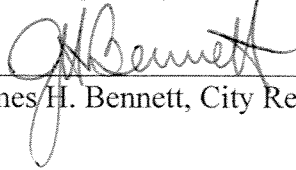
### THE CITY OF NEWBERG ORDERS AS FOLLOWS:

1. The application by Pacific Lifestyle Investments to include the property described in Exhibits "A" and "B" in the Newberg Urban Reserve is hereby denied.

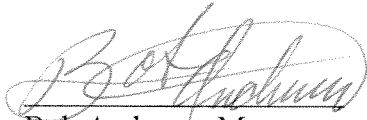
2. The findings which are attached hereto as Exhibit "C" are incorporated herein.

➤ **EFFECTIVE DATE** of this order is the adoption date, which is: April 2, 2007.

**ADOPTED** by the City Council of the City of Newberg, Oregon, this 2<sup>nd</sup> day of April, 2007.

  
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James H. Bennett, City Recorder

**ATTEST** by the Mayor this 5<sup>th</sup> day of April, 2007.

  
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Bob Andrews, Mayor

### **QUASI-JUDICIAL HISTORY**

By and through Newberg Urban Area Management Commission at meetings on 8/23/06, 9/21/06, and 11/30/06.

**Exhibits:**

Exhibit "A": Map

Exhibit "B": Legal Description

Exhibit "C": Findings

Attachment 1: Transportation System Plan

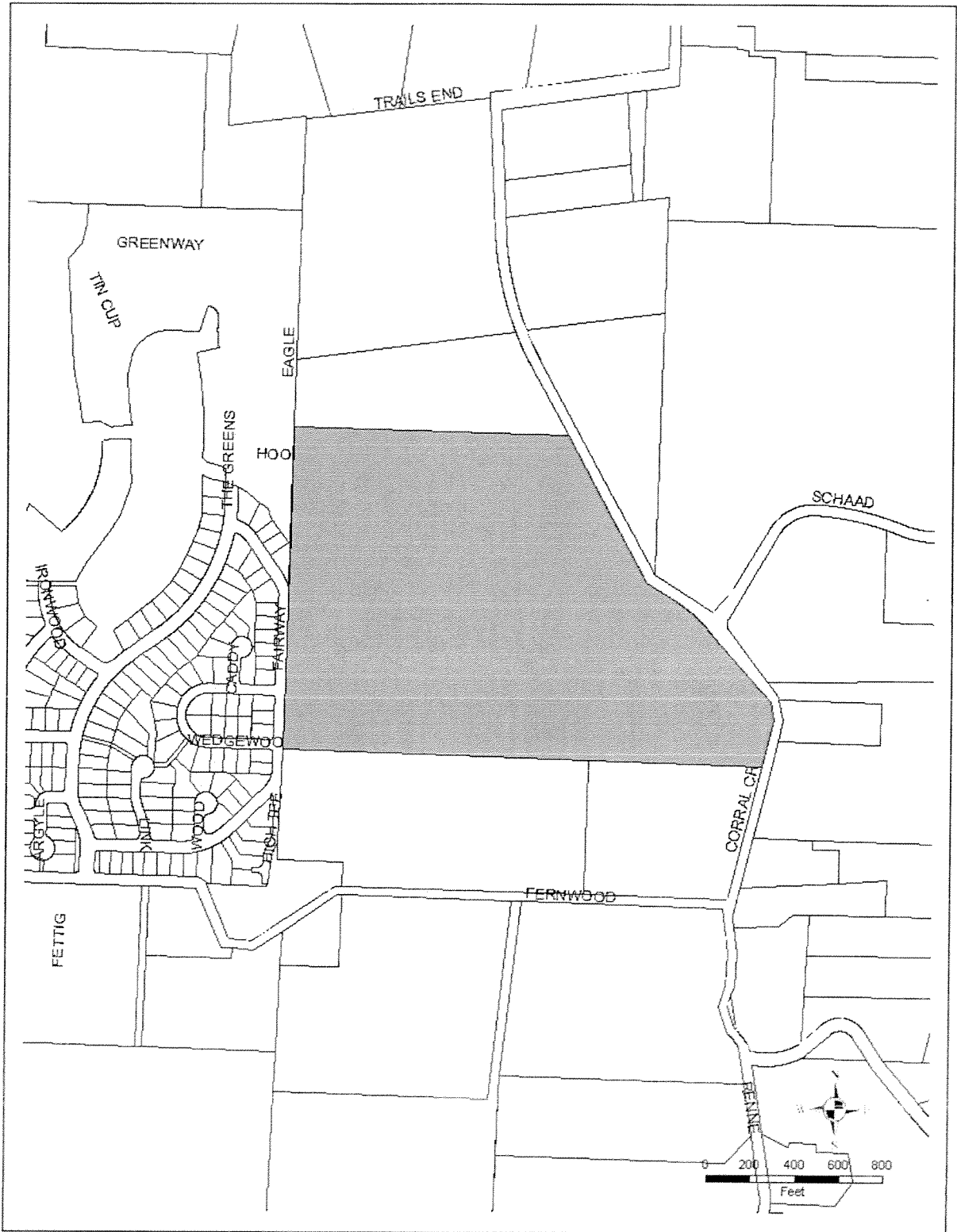
Attachment 2: Aerial Photo

Attachment 3: Current Comprehensive Plan Map

Attachment 4: Current Zoning Map

Attachment 5: Contour Map

EXHIBIT "A": MAP



## EXHIBIT "B": LEGAL DESCRIPTION

Commencing at the quarter post of the line between 15 and 22 in Township 3 South, Range 2 West of the Willamette Meridian in Yamhill County, State of Oregon and being a part of the Ira Orton D.L.C. Notification No. 4161, running thence North (Variation 20°45' East) 5.22 chains to a stake and stone; thence West 24.85 chains to a stake and stone on the East line of the Blutcher D.L.C. and West line of the said Orton D.L.C.; thence South 1/4° East on said line 22.49 chains to stake and stone; thence East 32.69 chains to stake and stone; thence North 12 1/2° East 3.12 chains to angle corner; thence North 7° West 3.85 chains to angle corner; thence North 51 1/2° West 10.28 chains; thence North 4 chains to PLACE OF BEGINNING and containing 65 acres of land more or less except 2 acres heretofore deeded to William Cordier, leaving 62 acres more or less therein conveyed, subject to County road privileges.

## EXHIBIT "C": URBAN RESERVE AMENDMENT FINDINGS

Approval of an urban reserve amendment for 59.5 acres.

URA-06-001

### OAR 660-021-0030

*(2) Inclusion of land within an urban reserve area shall be based upon the locational factors of Goal 14 and a demonstration that there are no reasonable alternatives that will require less, or have less effect upon, resource land. Cities and counties cooperatively, and the Metropolitan Service District for the Portland Metropolitan Area Urban Growth Boundary, shall first study lands adjacent to, or nearby, the urban growth boundary for suitability for inclusion within urban reserve areas, as measured by the factors and criteria set forth in this section. Local governments shall then designate for inclusion within urban reserve areas that suitable land which satisfies the priorities in section (3) of this rule.*

**Finding:** Goal 14 calls for an orderly and efficient transition from rural to urban land use. When determining the location of changes to the urban growth boundary, this goal requires evaluation of alternative boundary locations consistent with ORS 197.298 and with consideration of the locational factors. Section (3) of OAR 660-021-0030 states that land found suitable for an urban reserve can be included only according to certain priorities, which are then listed. This regulation requires cities and counties, cooperatively, to first study lands adjacent to the urban growth boundary to determine their suitability for inclusion in urban growth areas.

To determine whether a given piece of land has the highest priority of all potential areas suitable for an urban reserve, it is necessary to look at all of the potential areas. To evaluate the relative agricultural value of various agricultural resource areas, the same methodology and level of detail would need to be applied across the board. A legislative process allows for an even-handed, unbiased evaluation of alternative areas. A quasi-judicial process is well-suited to evaluate a particular piece of land, but not to balance the merits of one piece of land against the merits of every other potential piece of land with equal or higher priority.

The subject site should be evaluated only after considering all first and second priority sites, and relative to all other third priority sites, based on a similar level and type of analysis. While the applicant has attempted to do this, the quasi-judicial nature of the process does not lend itself to applying the same standards to all potential sites.

*(3) Land found suitable for an urban reserve may be included within an urban reserve area only according to the following priorities:*

*(a) First priority goes to land adjacent to, or nearby, an urban growth boundary and identified in an acknowledged comprehensive plan as an exception area or nonresource land. First priority may include resource land that is completely surrounded by exception areas unless these are high value crop areas as defined in Goal 8 or prime or unique agricultural lands as defined by the United States Department of Agriculture;*

**Finding:** The Chehalem Ridge site is not identified in an acknowledged comprehensive plan as an exception area or nonresource land. It is not completely surrounded by exception areas. It does not meet the criteria for first priority for inclusion within an urban reserve area.

*(b) If land of higher priority is inadequate to accommodate the amount of land estimated in section (1) of this rule, second priority goes to land designated as marginal land pursuant to ORS 197.247;*

**Finding:** Does not apply. No marginal land is designated in the Newberg area.

*(c) If land of higher priority is inadequate to accommodate the amount of land estimated in section (1) of this rule, third priority goes to land designated in an acknowledged comprehensive plan for agriculture or forestry, or both. Higher priority shall be given to land of lower capability as measured by the capability classification system or by cubic foot site class, whichever is appropriate for the current use.*

**Finding:** The subject site is designated for agriculture, and thus is third priority. The subject site appears to be lower capability class than other parcels surrounding Newberg.

*(4) Land of lower priority under section (3) of this rule may be included if land of higher priority is found to be inadequate to accommodate the amount of land estimated in section (1) of this rule for one or more of the following reasons:*

*(a) Future urban services could not reasonably be provided to the higher priority area due to topographical or other physical constraints; or*

*(b) Maximum efficiency of land uses within a proposed urban reserve area requires inclusion of lower priority lands in order to include or to provide services to higher priority lands.*

**Finding:** Since this site has not been designated as exception land, it must compete against all sites with higher priority that can reasonably be provided with future urban services. At this time, it has not been proven that higher priority areas could not reasonably be provided with urban services due to topographical or other physical constraints. Also, the applicant has not indicated that inclusion of the Chehalem Ridge site is required in order to include or to provide services to high priority lands. If the site were to be included as part of a larger area, it might be necessary to include it for one of those purposes.

#### **Goal 14 “Boundary Location” Factors:**

*The location of the urban growth boundary and changes to the boundary shall be determined by evaluating alternative boundary locations consistent with ORS 197.298 and with consideration of the following factors:*

- (1) Efficient accommodation of identified land needs;*
- (2) Orderly and economic provision of public facilities and services;*
- (3) Comparative environmental, energy, economic and social consequences; and*
- (4) Compatibility of the proposed urban uses with nearby agricultural and forest activities occurring on farm and forest land outside the UGB.*

#### **Findings**

*(1) Efficient accommodation of identified land needs.* While the size of the Chehalem Ridge site provides opportunities for efficient design of livable residential communities, it is not necessarily efficient to bring in a single parcel if that decision commits the City to a pattern of eastward expansion without adequate analysis of alternatives.

**(2) Orderly and economic provision of public facilities and services.** Newberg updated its water system plan in 2004, and its transportation system plan in 2005. The City's sewerage master plan was last updated in 1985, and work is just beginning on an update. The City's 2001 Drainage Master Plan deals largely with improvements needed within the existing developed city, and recommends further policy discussions of the costs and benefits of storm water detention for meeting the needs of future development.

In general, the site itself can be efficiently provided with water, sewer and stormwater services. The applicant has compared the cost of providing public facilities and services to the site with the cost of extending public facilities and services to each of the exception areas, and concluded that it compares favorably with the exception areas. Water and sewer lines are readily available to the site. The internal street system of the Greens at Springbrook has been designed to allow connection to the east.

What is less clear is whether bringing this one parcel into the Urban Reserve ahead of other land in the area would allow orderly and economic provision of public facilities and services.

For example, the sewage pump station was designed to allow future expansion. If this parcel alone were to be brought on line, the sewage pump station would presumably need to be expanded to serve the Chehalem Ridge development, and then need to be expanded again or redesigned to serve any additional development in the area. While the streets accessing the Greens at Springbrook provide desirable connectivity, development of Chehalem Ridge without solving the area's transportation problems and providing adequate access to major roads could generate excessive traffic through the adjoining residential area.

Transportation. The Newberg Transportation System Plan, like the water plan, addresses the future needs of the City's Urban Growth Boundary area and the Urban Reserve Areas, as well as the existing City, looking forward to needs in the year 2025. It includes a Street Plan, Pedestrian System Plan, Bicycle System Plan, and Transit Plan, as well as plans for other transportation modes. Attachment 1 shows planned street improvements for the planning area.

The applicant cited the City's planned improvements to Fernwood Road, plans to connect Hayes Street with Providence Drive, planned improvements to Brutscher, and the future signalization of Fernwood Road and Springbrook, and indicated that the project will not impact transportation facilities so as to require improvements beyond what is now planned.

The applicant has either minimized or not dealt with the impacts to several other transportation facilities and possible improvements to accommodate increased development.

Road projects addressing those impacts and needed improvement could include the access from Corral Creek Road to Hwy 99W both before and after construction of the bypass; improvements to Corral Creek Road itself; a new North-South collection road passing through the site; improvements to Fernwood Road, improvements to Wilsonville Road, and construction of a roundabout where the North-South collection road connects with Fernwood Road.

The Lancaster Engineering analysis concluded that the Springbrook/Fernwood Road

intersection would require a traffic signal by 2025, with or without development of the Chehalem Ridge site. Lancaster recommended conducting traffic signal warrant analyses as development occurs in the area to determine when the signal warrants are met, and constructing the signal as appropriate.

These and possibly other specific transportation facilities required to serve the larger Southeast community, including their timing, financing, and funding, are still being studied. The applicant, along with the owners or developers of other properties served by the transportation improvements, would be expected to share in the cost of providing the transportation facilities needed to create a complete and livable community that goes beyond the boundaries of the site and does not significantly impact transportation facilities or residents outside of the project area.

***(3) Comparative environmental, energy, economic and social consequences.***

This boundary location factor requires the comparison of the environmental, social, economic and energy consequences (ESEE) of the proposed site with those of potential alternative sites. At this time, the level of detail in the analysis for the Chehalem Ridge site is substantially higher than it is for the competing alternative sites. To be thorough, this analysis should be done through a legislative process.

***(4) Compatibility of the proposed urban uses with nearby agricultural and forest activities occurring on farm and forest land outside the UGB.***

**Finding.** Attachment 2 is an aerial view showing the site in the context of nearby agricultural activities. Residential use would be compatible with the residential use of property to the west. Property to the south is agricultural resource land currently used for grazing cattle. Entrance to the Chehalem Ridge site from the south could impact that property if the access road or a new North-South collector road cuts across the pasture. Property to the north is agricultural resource land, but does not appear to be actively farmed at this time. Properties east of Corral Creek Road are zoned for rural residential and 10-acre agricultural use. The road provides a barrier to residential interference with the limited agricultural use of these properties. Property at the intersection of Corral Creek Road and Fernwood Road is a horse ranch that has been adversely impacted by construction traffic for the Greens at Springbrook turning from Corral Creek onto Fernwood. Also, horses currently travel on Fernwood Road. As traffic increases on Fernwood Road and Corral Creek Road, this use may become less feasible, or at least less enjoyable.

While residential property owners may like the idea of being “out in the country,” residential development creates conflicts for commercially viable agriculture. For example, use of roads by slow-moving agricultural machinery is not compatible with high volumes of commuter traffic. Residents complain about normal agricultural activities that generate noises at odd hours, unpleasant odors, and seasonal dust. Many of these land use conflicts could be mitigated through the thoughtful planning and design of a complete community, rather than an isolated residential parcel. For example, if the abutting properties are also needed for urban expansion, they could be brought in together and thus eliminate urban/farm conflicts.



### **Statewide LCDC Goals:**

Goals 4, 15, 16, 17, 18, and 19 do not apply to this application. The Commission reviewed the facts and testimony presented in light of the other goals, and determined as follows:

#### ***Goal 1. Citizen Involvement.***

**Finding:** Between November 1, 2005 and May 30, 2006, the City held eight public meetings to receive input from the neighborhoods most affected by the UGB and URA expansions recommended by the Committee, concluding with a workshop with public comments before the Newberg Urban Area Management Commission (NUAMC). Three of these neighborhood meetings, held on November 1, 2005, December 13, 2005, and March 16, 2006, dealt with land use and transportation issues in the Southeast Newberg area. Public input from the Southeast area meetings is being included as the City prepares the first draft of the Southeast Newberg Land Use and Transportation Plan. On July 11, 2006, the applicant met with neighbors of the Chehalem Ridge project to provide information and answer questions.

The hearing process for this request also fulfills the citizen involvement requirements. Testimony presented at the hearing and in writing prior to the hearing and during the subsequent comment period allowed the neighbors to identify potential impacts of development and dispute the applicant's statements. Likewise, the applicant had opportunity to respond to the statements by the neighbors. Testimony focused on the soils and agricultural capability of the site; transportation deficiencies and traffic safety issues; the availability of public services through the Greens at Springbrook; the timing of the application with regard to the ongoing legislative process that is designed to address transportation planning for the area as a whole; and the areawide buildable land supply and need. Testimony pointed to the need for area planning to mitigate impacts of development, rather than bringing in a single parcel.

#### ***Goal 2. Land Use Planning.***

**Finding:** This goal stipulates that land use decisions be made in accordance with a comprehensive plan and that suitable "implementation ordinances" to the plan's policies must be adopted. It requires that plans be based on "factual information," that local plans and ordinances are coordinated with those of other jurisdictions and agencies, and that plans be reviewed periodically and amended as needed.

**Factual Information.** The application presented factual information including recently adopted population projections and land needs assessments, the report of the Ad Hoc Committee on Newberg's Future, Newberg's recently adopted Transportation System Plan, and site information and utility information as described in the application.

**Coordination.** This amendment was concurrently reviewed by Yamhill County and the City of Newberg. The application was referred for comment to a number of agencies, including ODOT, DLCD, DSL, Newberg School District, and utility companies. On October 31, 2006, Yamhill County notified the City of Newberg by letter that the City's population projections were coordinated with those of Yamhill County.

**Periodic Plan Review and Amendment as Needed.** The City is currently conducting a legislative process to update its comprehensive plan and amend its Urban Growth Boundary and Urban Reserve

Areas. This process was initiated, at least in part, in response to a previous attempt to bring the subject parcel into the City's Urban Growth Boundary. The Chehalem Ridge application would bring this parcel into the Urban Reserve ahead of the other properties being considered as part of the legislative process. The Commission finds that this would frustrate the intention of the legislative process currently under way.

Goal 2 also contains standards for taking exceptions to statewide goals. A local government may adopt an exception to a goal when the following standards are met:

***(1) Reasons justify why the state policy embodied in the applicable goals should not apply;***

**Finding:** The addition of the Chehalem Ridge property to the City's Urban Reserve is consistent with the recommendations of the Ad Hoc Committee on Newberg's Future, which included this parcel in the area that it recommended adding to the City's Urban Growth Boundary to meet the City's land needs between 2005 and 2025. The Ad Hoc Committee on Newberg's Future had determined that the City's Urban Reserve Area would not be sufficient to meet the City's needs for the period from 2025 to 2040, even if selected areas within the existing City limits were rezoned to higher densities, and the City changed its policies and regulations to achieve higher residential densities and more efficient land use patterns. The analysis and rationale for the Committee's recommendations are found in the Committee's *Report to Newberg City Council*. In recommending expansion to the southeast, however, the Committee stated that a master plan would be needed for this area in conjunction with including it in UGB, and that development should be allowed to occur only concurrently with the provision of the needed transportation facilities. The City's Land Use and Transportation Use Plan for the Southeast Area is still a draft, and not scheduled for adoption until March 2007. The Commission finds that expansion of the Urban Reserve eastward to accommodate a single parcel is not advisable until and unless areawide land use and transportation issues can be satisfactorily resolved.

***(2) Areas which do not require a new exception cannot reasonably accommodate the use;***

**Finding:** While the some of the exception areas adjacent to the existing Urban Growth Boundary are suitable for meeting the City's growth needs through the planning period, not all of these areas are appropriate for inclusion. The City's land needs cannot be met by exception areas alone. To meet the needs of both the 20 years covered by the Urban Growth Boundary and the period beyond that covered by the Urban Reserve, agricultural resource land will need to supplement the exception areas that are appropriate for urbanization.

Before the Ad Hoc Committee concluded that agricultural land should be brought into the City's Urban Reserve and Urban Growth Boundary, it reviewed maps and analysis for each of several "Study Areas" surrounding Newberg. It recommended some exception areas for further study for inclusion in the UGB or URA. The Committee concluded that the remaining non-resource land adjacent to the existing UGB was constrained by either 1) topography that made public water and sewer services very costly per unit; 2) parcelization that made it difficult to assemble sites that could be developed both efficiently and creatively; 3) an understanding between the City of Newberg and the City of Dundee that each city wished to maintain its own identity with a physical separation; or 4) the route of the proposed Newberg-Dundee bypass. The analysis and rationale for the Committee's recommendations are found in the Committee's *Report to Newberg City Council*.

***(3) The long-term environmental, economic, social and energy consequences resulting from the***

*use of the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site; and*

**Finding:** Environmental impacts from development would not be significantly different than those from development of any site on the edge of an urban area. With the exception of transportation-related impacts, it appears that the combined environmental, energy, economic and social impacts would not be significantly greater for the Chehalem Ridge site than for any of the other sites. While water and sewer service costs for the southwest area were discussed and considered by the Ad Hoc Committee in a general way, more detailed cost studies would be needed to determine the costs of serving that area.

As previously stated, the City's land needs for the planning period exceed the amount of buildable exception land that would be appropriate for urbanization. Some agricultural resource land, as well as exception land, will need to be added to the Urban Reserve Area. In making their recommendation, the Ad Hoc Committee on Newberg's Future studied a number of areas that would require a goal exception. The subject parcel is only one of many sites identified. At this time, the relative environmental, economic, social and energy consequences resulting from the use of each of these sites have not been fully explored. The City has engaged a consultant to prepare the draft findings for the legislative expansion of the Urban Reserve Area, and will be analyzing those consequences over the next several weeks.

The major issue for the Chehalem Ridge site is transportation: the improvements that will be needed for development of this and other properties in the area, their timing and costs, who will pay for the improvements, and how that will be arranged. The costs of transportation facilities to serve the Southeast Newberg area are still under review. Many questions will need to be addressed in preparing the draft Southeast Newberg Transportation and Land Use Plan. When the analysis has been completed for the legislative expansion and the Southeast Newberg Transportation and Land Use Plan have been completed, it should be much easier to determine whether the project site will have significantly greater environmental, energy, economic and social impacts than other agricultural resource sites considered.

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

**Finding:** Residential use would be compatible with the residential use of property to the west. Property to the south is currently used for grazing cattle. Entrance to the Chehalem Ridge site from the south could impact that property if the access road cuts across the pasture. Property to the north does not appear to be actively farmed at this time. Properties east of Corral Creek Road could be impacted by increased traffic on Corral Creek Road or Schaad Road. The Southeast Newberg Land Use and Transportation Plan will identify ways that private development can mitigate impacts to neighboring properties that are not included in the Urban Reserve Area. Development of a single parcel would subject the remaining agricultural uses to the types of impacts described above under ***Goal 14, Boundary Location (4) Compatibility of the proposed urban uses with nearby agricultural and forest activities occurring on farm and forest land outside the UGB.***

### ***Goal 3. Agricultural Lands.***

**Finding:** This goal requires local governments to inventory agricultural lands and to "preserve and maintain" them for farm use. As discussed above, Newberg's options for growth are limited if it does not expand onto agricultural land. The City's Inventory of Natural and Cultural Resources report states the City's recognition that urban expansion will undoubtedly occur on prime Class II soils, but notes that wasteful land use practices should be discouraged.

The applicant is requesting a Goal 3 exception for the entire Chehalem Ridge site. The applicant contends that this site is less suited for agricultural use, and better suited for residential development, than many others in the area. In recent years, agricultural production has consisted of harvesting hay, a relatively low value crop. The property also appears to be less valuable to agricultural production than many other agricultural properties adjoining the city and its future urban areas, based on the soils report provided by the applicant and observed topographic features.

The concern here is similar to concerns previously stated. To determine whether a given piece of land has the highest priority of all potential areas suitable for an urban reserve, it is necessary to look at all of the potential areas. To evaluate the relative agricultural value of various agricultural resource areas, the same methodology and level of detail would need to be applied across the board. A legislative process allows for an even-handed, unbiased evaluation of alternative areas. A quasi-judicial process is well-suited to evaluate a particular piece of land, but not to balance the merits of one piece of land against the merits of every other potential piece of land with equal or higher priority.

The subject site should be evaluated only after considering all first and second priority sites, and relative to all other third priority sites, based on a similar level and type of analysis. While the applicant has attempted to do this, the quasi-judicial nature of the process does not lend itself to applying the same standards to all potential sites.

### ***Goal 5. Open Spaces, Scenic and Historic Areas, and Natural Resources.***

**Finding:** Goal 5 requires inventories of resources to be conducted and policies to be adopted whereby the local jurisdiction can manage these resources. The City of Newberg prepared an inventory of natural and cultural resources in 1981 as part of its comprehensive planning program. This inventory includes the following resources: agricultural lands; forest lands; mineral and aggregate resources; fish and wildlife; water; air quality; and open space, scenic, natural, historic, and recreational resources.

In 2006 Newberg engaged Winterbrook Planning to conduct a reconnaissance-level field survey of streams and wetlands in the areas surrounding the City of Newberg, in conjunction with proposed legislative amendments of the City's UGB and URA. No wetlands or stream corridors were identified on the Chehalem Ridge site. The parcel is not listed in the Yamhill County Inventory of Cultural Resources (1984).

### ***Goal 6. Air, Water and Land Resources Quality.***

**Finding:** This goal requires local comprehensive plans and implementing measures to be consistent with state and federal regulations regarding air, water, and land resources quality. The Newberg Comprehensive Plan, Ordinance 1967 contains several policies intended to ensure conformance with

state and federal regulations governing air, water, and land resources quality.

Impacts to existing air quality in the area will occur if the area is annexed and developed. Construction impacts from dust during construction are likely to be comparable to those of similar projects in other locations, and would have similar mitigation requirements. Following development, traffic generated by 300 homes and a school would be the major source of air quality impacts. Local residents attending the school could partially offset this impact if students walk to school.

#### ***Goal 7. Areas Subject to Natural Disasters and Hazards***

**Finding:** The application did not identify any flood hazard areas or other areas especially subject to natural disasters or hazards. The site has some steep slopes, however. An engineer's report should be required as part of any application to bring this area into the Urban Growth Boundary.

#### ***Goal 8. Recreation Needs***

**Finding:** This goal requires a community to evaluate its areas and facilities for recreation and to develop plans to deal with the projected demand for them. The City's Comprehensive Plan includes policies designed to ensure recreational facilities and services are expanded to meet growing recreation demands of the community. City policy requires new residential development to contribute to public parks or facilities. Plan policy commits the City to cooperate with the Chehalem Park and Recreation District to locate parks and scenic areas which are easily accessible to the City's population and which can be developed to provide recreational opportunities for a variety of age and interest groups. Policies also state that schools and parks shall be located on adjacent sites wherever possible. The Chehalem Ridge site would provide a school with adjacent park.

#### ***Goal 9. Economic Development***

**Finding:** This goal requires local governments to provide adequate opportunities for a variety of economic activities. It requires local governments to analyze economic opportunities and constraints in the area, and to provide an adequate supply of land to meet the needs identified. Further, it requires limits on uses on or near sites zoned for specific industrial and commercial uses to those which are compatible with proposed uses.

Newberg has recently adopted an economic opportunity analysis and land needs projections. The City has initiated a legislative URA amendment process to review the recommendations of the Ad Hoc Committee on Newberg's Future regarding locations for needed commercial and industrial properties. Based on selection criteria for various land use types, the Committee did not identify the Chehalem Ridge site as a preferred location for meeting commercial or industrial land needs.

#### ***Goal 10. Housing***

**Finding:** This goal requires a community to plan for and accommodate needed housing types, including multifamily and manufactured housing. The community is also required to inventory developable residential lands, conduct an analysis of projected future demand for various housing types, and to plan and zone enough buildable land to meet those needs. The goal prohibits local plans from discriminating against needed housing types.

The goal for housing in the City of Newberg's Comprehensive Plan is to provide for diversity in the type, density, and location of housing to ensure there is an adequate supply of affordable housing

units to meet the needs of City residents of various income levels. The City is in the process of expanding its Urban Growth Boundary and Urban Reserve Areas to meet the City's land needs for the next 20 years (UGB) and for an additional period beyond that (URA). In November 2005, the City amended its Comprehensive Plan to reflect a future population of 38,352 by 2025 and 54,097 by 2040.

In forecasting the City's population growth and residential land needs, the City's consultants reviewed the demographic characteristics of the present and likely future population, and used those characteristics (e.g., age, income level, family structure) to estimate future housing needs and land requirements. The demographic characteristics give rise to choices from among a mixture of housing types. Those housing types typically correlate with housing of various densities, which in turn translate into land requirements after applying local density patterns, goals and assumptions.

The City's adopted and acknowledged comprehensive plan shows the following needs for residential land:

**Table IV-14. Future Land Needs and Supply, Newberg Urban Area**

<b>Plan Designation</b>	<b>Buildable Acres Needed 2005-2025</b>	<b>Buildable Acres in UGB (2004)</b>	<b>Surplus (Deficit) for 2005-2025</b>	<b>Buildable Acres Needed 2026-2040</b>	<b>Buildable Acres In URA11 (2004)</b>	<b>Surplus (Deficit) 2026-2040</b>
LDR	612	359	(253)	735		
MDR	173	142	(31)	191		
HDR	89	13	(76)	83		
COM	111	105	(6)	109		
IND	50	99	49	37		
IND (Large Site)	100	60	(40)	120		
P	85	0	(85)	115		
I, PQ, or other Inst.	164	0	(164)	233		
<b>Total</b>	<b>1,384</b>	<b>778</b>	<b>(606)</b>	<b>1,623</b>	<b>467</b>	<b>(1,156)</b>

The applicant's proposal would include the following land for housing:

<b>Density Type</b>	<b>Units Provided</b>	<b>Planned density, Units/gross acre</b>	<b>Acres Required</b>
Low Density	141	4.4	32
Medium Density	81	9	9
High Density	78	16.5	5
<b>Total</b>	<b>300</b>	<b>8.3</b>	<b>46</b>

Including the site within the City's URA would identify land that could help meet the housing needs of some components of the anticipated population.

### ***Goal 11. Public Facilities and Services.***

**Finding:** This goal aims for efficient planning of public services such as sewers, water, law enforcement and fire protection. It encourages planning of public services to meet the community's needs and capacities rather than responding to development as it occurs. Newberg's comprehensive plan includes the goal to plan and develop a timely, orderly, and efficient arrangement of public facilities and services to serve as a framework for urban development. City policies state that new residential areas shall have paved streets, curbs, pedestrian ways, water, sewer, storm drainage, street lights and underground utilities.

Efficient planning of public services to meet the community's needs and capacities requires coordinated utility and service plans for an area larger than a single development. For example, pedestrian ways require connections with paths and trails in neighboring areas. Storm drainage needs to consider impacts to land that will receive runoff, and downstream reaches. While a single development may not trigger the need for a police or fire substation, it may contribute to a problem that will eventually need to be addressed. The timely, orderly, and efficient arrangement of public facilities and services requires the coordination of plans for the entire area, not a piecemeal approach to development.

### ***Goal 12. Transportation***

**Finding:** The primary objective of this goal is to provide a safe, convenient and economic transportation system. The City's comprehensive plan contains several goals and policies designed to guide the planning and provision of a safe, convenient, and economic transportation system in cooperation with state, county, and neighboring communities in the region.

Improvements to the transportation system that would serve this site are currently under consideration. The specific nature of the improvements, their timing, and how the costs would be distributed are still being developed. The Ad Hoc Committee on Newberg's Future recommended having a transportation plan in place for this general area prior to bringing any part of the area into the UGB. The City is currently drafting the Southeast Newberg Land Use and Transportation Plan, in response to concerns expressed by the Ad Hoc Committee on Newberg's Future regarding the adequacy of the road network in this area. When that document has been completed and adopted, the City will have a clearer guide to what improvements to the area's transportation facilities need to be made, when the improvements need to occur, and how they will be funded and financed.

### ***Goal 13. Energy Conservation***

**Finding:** This goal states that land and uses developed on the land shall be managed and controlled so as to maximize the conservation of all forms of energy, based upon sound economic principles. The City of Newberg's energy goal is to conserve energy through efficient land use patterns and energy-related policies and ordinances. Planning policies state that the City will encourage energy-efficient development patterns, including the mixture of compatible land uses and a compactness of urban development. Design policies state that the City shall encourage the use of energy-efficient materials and construction methods in building new residential, commercial, industrial and other types of structures. The Chehalem Ridge site is located adjacent to existing development. A compact development of 300 housing units and a 10-acre school site are proposed on the 59-1/2 acre parcel.

### ***Goal 14. Urbanization***

This goal is 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. The goal requires that cities and counties establish urban growth boundaries to meet future land needs. The goal establishes land need factors and boundary location factors that must be addressed for any change to the urban growth boundary.

OAR 660-021-0030(2) states that inclusion of land within an urban reserve area shall be based upon the locational factors of Goal 14. These factors are:

***Boundary Location The location of the urban growth boundary and changes to the boundary shall be determined by evaluating alternative boundary locations consistent with ORS 197.298 and with consideration of the following factors:***

- (1) Efficient accommodation of identified land needs;***
- (2) Orderly and economic provision of public facilities and services;***
- (3) Comparative environmental, energy, economic and social consequences; and***
- (4) Compatibility of the proposed urban uses with nearby agricultural and forest activities occurring on farm and forest land outside the UGB.***

**Finding:** Findings for the boundary location factors are stated above, under OAR 660-021-0030.

***Newberg Comprehensive Plan Amendment - Newberg Development Code, Section § 151.122:***

***The applicant must demonstrate compliance with the following criteria:***

- (a) The proposed change is consistent with and promotes the goals and policies of the Newberg Comprehensive Plan and this Code;***

The following addresses particular comprehensive plan policies.

***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 applicant's representatives have participated in the ongoing legislative plan amendment process, starting with meetings of the Ad Hoc Committee on Newberg's Future. Between November 1, 2005 and May 30, 2006, the City held eight public meetings to receive input from the neighborhoods most affected by the UGB and URA expansions recommended by the Committee, concluding with a workshop with public comments before the Newberg Urban Area Management Commission (NUAMC). Three of these neighborhood meetings, held on November 1, 2005, December 13, 2005, and March 16, 2006, dealt with land use and transportation issues in the Southeast Newberg area. The applicant assisted the City with these meetings by sharing consulting services. Public input from the Southeast area meetings is being included as the City prepares the first draft of the Southeast Newberg Land Use and Transportation Plan.

On July 11, 2006, the applicant met with neighbors of the Chehalem Ridge project to provide information and answer questions. The hearing process for this request fulfills the City's citizen involvement requirements. Notices were mailed to owners of property within 500 feet of the site, posted in four public places, and published in the City's newspaper of record. Testimony presented at the hearing and in writing prior to the hearing and during the subsequent comment period allowed



the neighbors to identify potential impacts of development and dispute the applicant's statements. Likewise, the applicant had opportunity to respond to the statements by the neighbors. Testimony focused on the soils and agricultural capability of the site; transportation deficiencies and traffic safety issues; the availability of public services through the Greens at Springbrook; the timing of the application with regard to the ongoing legislative process that is designed to address transportation planning for the area as a whole; and the areawide buildable land supply and need.

#### ***B. Land Use Planning.***

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

**Finding:** Inclusion of this property into the URA would be consistent with the city's and state's goal of providing enough land for growth, but would not be part of the City's on-going land use planning program.

#### ***C. Agricultural Lands.***

***Goal: To provide for the orderly and efficient transition from rural to urban lands.***

***Policy (1): The conversion of land from agricultural to urban land uses shall be orderly and efficient.***

**Finding:** In 1992 and 1993 an urban reserve area project was completed. The Urban Reserve Area land supply was intended to provide adequate land for the City's needs to 2020. A proposed legislative expansion is in progress to expand the UGB to meet a portion of the City's 2025 need by bringing land in the northwestern URAs into the UGB. Other land in the existing URA would not be likely to meet the City's short-term residential land needs for various reasons (e.g., distance to water and sewer service, higher priority for use as commercial or industrial, constraints imposed by planning for the Newberg-Dundee Bypass). The proposed site has the potential for contributing to the orderly and efficient conversion of agricultural land to urban uses as part of a legislative expansion of the URA in that it abuts existing residential development within the current city boundary.

While it may prove to be orderly and efficient to include this property as part of a larger area, however, it would not be orderly and efficient to bring in one isolated parcel that could be viewed by developers and local residents as a commitment by the City to develop to the east, absent the needed plans and commitments for transportation improvements and other urban services.

***Policy (2): Inclusion of lands in agricultural use within the Urban Growth Boundary is recognition of a commitment of future urbanization, as such lands are necessary to meet long-range population and economic needs, based on criteria outlined in the statewide Urbanization Goal.***

**Finding:** Expanding the URA to include the Chehalem Ridge site would commit not only that site, but the City to an eastward expansion. Such expansion should be done as part of a larger analysis of potential land for urbanization.

#### ***D. Wooded Areas***

***Goal: To retain and protect wooded areas.***

***Policy (1): Existing wooded areas shall be encouraged to remain as open areas for wildlife habitat and limited recreational uses.***

**Policy (2):** *Development in drainageways shall be limited in order to prevent erosion and protect water quality. Trees provide needed protection from erosion and should be maintained.*

**Finding:** The applicant plans to maintain the area around the retention pond as open space.

#### **E. Air, Water, and Land Resource Quality.**

**Goal:** *To maintain, and where feasible, enhance air water and land resource qualities within the community.*

**Policy(3):** *As public sanitary sewer becomes available all development shall connect to the public system.*

**Policy (4):** *The Newberg airshed shall be protected from excessive pollution levels resulting from urbanization.*

**Finding:** The completed Fernwood Road pump station can be expanded to serve future development within the project area, thereby reducing the overall number of pump stations that might be needed to serve these areas as development occurs. The impact per dwelling unit on air, water, and land resource quality from 300 homes on 60 acres with adequate public facilities is likely to be less than development at rural densities (at 1 unit per 2.5 acres, 24 homes on 60 acres or 300 homes on 750 acres).

#### **K. Transportation**

##### **Goal 4, Policy q**

**q.** *The City agrees not to approve expansion of the Newberg UGB or Urban Reserve Areas around the East Newberg or Oregon 219 interchanges until IAMPs for the two interchanges are prepared and adopted by ODOT, Yamhill County and the City of Newberg. An exception to this policy will be allowed for a limited expansion of the Newberg UGB into the westerly portion of Urban Reserve Area C to accommodate construction of the Northern Arterial in the general location shown on the City of Newberg acknowledged Transportation System Plan, including that land north of Highway 99W within Urban Reserve Area C.*

**Finding:** This limitation prevents expansion of the City's UGB in some of the City's existing URAs, or the creation of new URAs at the interchanges. The site is not subject to this limitation.

##### **Goal 9: Create effective circulation and access for the local transportation system.**

**Finding:** The Ad Hoc Committee on Newberg's Future recommended having a transportation plan in place for this general area prior to bringing any part of the area into the UGB. Improvements to the transportation system that would serve this site are currently under consideration. The specific nature of the improvements, their timing, and how the costs would be distributed are still being developed. Without a plan for the area as a whole, it is not possible to create efficient circulation and access for this site.

#### **L. Public Facilities and Services.**

**Policy 1(a):** *The provision of public facilities and services shall be used as tools to implement the land use plan and encourage an orderly and efficient development pattern.*

**Policy2(c):** *Developments with urban densities should be encouraged to locate within the area which can be served by Newberg's present sanitary sewer system.*

**Finding:** Water and sewer service, including a sewage pump station in Fernwood Road, are available at or very close to the site. The pump station has been designed so that it can be enlarged as the area develops. The City's 4 MG water reservoir is located on the east side of

Corral Creek, slightly north of the site. This site can be efficiently served by public facilities and services.

Doing this, however, would not be a tool to implement a land use plan, since plans for this area have not yet been adopted. Although the sewage pump station was designed to allow future expansion and the pump station could presumably be expanded to serve the Chehalem Ridge development, it would need to be expanded again or redesigned to serve any additional development in the area. This would not necessarily encourage an orderly and efficient development pattern. Any upgrades to the pump station should consider the entire area that would be added, not just this one parcel.

***N. Urbanization. Goal 1: To provide for the orderly and efficient transition from rural to urban land uses.***

**Finding:** Inclusion of this property into the URA would be consistent with the city's and state's goal of providing enough land for growth, but would not be part of the City's on-going land use planning program. See findings under OAR 660-021-0030 and Goal 14, above.

***Policy l(h): The designated Urban Reserve Area identifies the priority lands to include within the Newberg Urban Growth Boundary to meet projected growth needs to provide a thirty (30) to fifty (50) year land supply. Designated Urban Reserve Area lands will be included within the Urban Growth Boundary on a phased basis at periodic review. Property owners will also have the opportunity to request that land within the designated Urban Reserve Area be included within the Newberg Urban Growth Boundary based on the criteria outlined in the LCDC Goal 14 and the Urban Growth Management [Agreement].***

**Finding:** The Urban Reserve Areas were evaluated and prioritized for inclusion in the UGB approximately eight to ten years ago. Since that time, few URAs have been incorporated into the City's UGB. These amendments have been small and have not provided adequate land to meet the growth needs of the City. Consequently, the City has undertaken a legislative process to amend its URA and UGB. While the Urban Growth Management Agreement does not specifically prohibit property owners from requesting amendment of the Urban Reserve Areas, the assumption and intent seems to be that the URA will be amended legislatively, and the UGB may be expanded into areas within the URA at the request of either the City or the individual property owner. Until now, that is what has occurred.

***(b) Public facilities and services are or can be reasonably made available to support the uses allowed by the proposed change.***

**Finding:** See the findings under Goal 11: Public Facilities and Services.

***(c) Compliance with the State Transportation Planning Rule (OAR 660-012-0060) for proposals that significantly affect transportation facilities.***

**Finding:** See the findings under Goal 12: Transportation

**Yamhill Comprehensive Plan Policies**

***Section I.A., Goal 1: To encourage the containment of growth within existing urban centers, provide for the orderly, staged, diversified and compatible development of all of the cities of Yamhill County, and assure an efficient transition from rural to urban land uses.***

**Finding:** Whenever possible, the Yamhill County Planning Office encourages urban development to be conducted on property that is already within the urban growth boundary, rather than encourage expansion of the boundary.

**Section II.A., Goal 1, Policy a:** *Yamhill County will provide for the preservation of farm lands through appropriate zoning, recognizing comparative economic returns to agriculture and alternative uses, changing ownership patterns and management practices.*

**Finding:** The applicant stated that the property has lower agricultural suitability based on soils. As indicated above, the property is classified as agricultural land. The additional soils analysis does not reclassify it as nonresource land.

**Section II.A., Goal 1, Policy b:** *Yamhill county shall provide for the protection of farmland in large blocks through minimum lot sizes of 20, 40 and 80 acres, as appropriate, on the Comprehensive Plan and official zoning maps. Any proposal to reduce the minimum lot size on a farm or farm/forest parcel shall be shown to be appropriate to maintain the existing commercial agricultural enterprise in the area.*

**Finding:** Near the bottom of page 171 of the application it states, “There will be no impact on existing large blocks of agricultural land. The parcels immediately adjacent to the north, south, and across Corral Creek Road are 2-1/2 to 20 acres in size and are not large blocks of farm land.” (Underline added) It is clear from the applicant’s own finding that there are 20 acre blocks of farm land in the area. The policy clearly states that 20 acres is a large block of agricultural land. In addition, designating this nearly 60 acre parcel for future development does change a large agricultural block of land.

**Section II, Goal 1.** *To conserve Yamhill County’s farm lands for the production of crops and livestock and to ensure that the conversion of farm land to urban use where necessary and appropriate occurs in an orderly and economical manner,*

**Section II, Goal 2, Policy a:** *Yamhill County will continue to preserve those areas for future farm use which exhibit Class I through IV soils as identified in the Capability Classification System of the U.S. Soil Conservation Service.*

**Finding:** On page 71 of the applicant’s submittal regarding the Consistency with Yamhill County Comprehensive Goals and Policies, the application states that, “Class I and II soils are considered resource lands and are given low priority for URA designation.” As noted in Finding B-2, this is incorrect. Agricultural land can have many different soil types. Class I through IV soils are given priority for preservation. The fact that land is zoned as agricultural or forest land makes it classified as resource land.

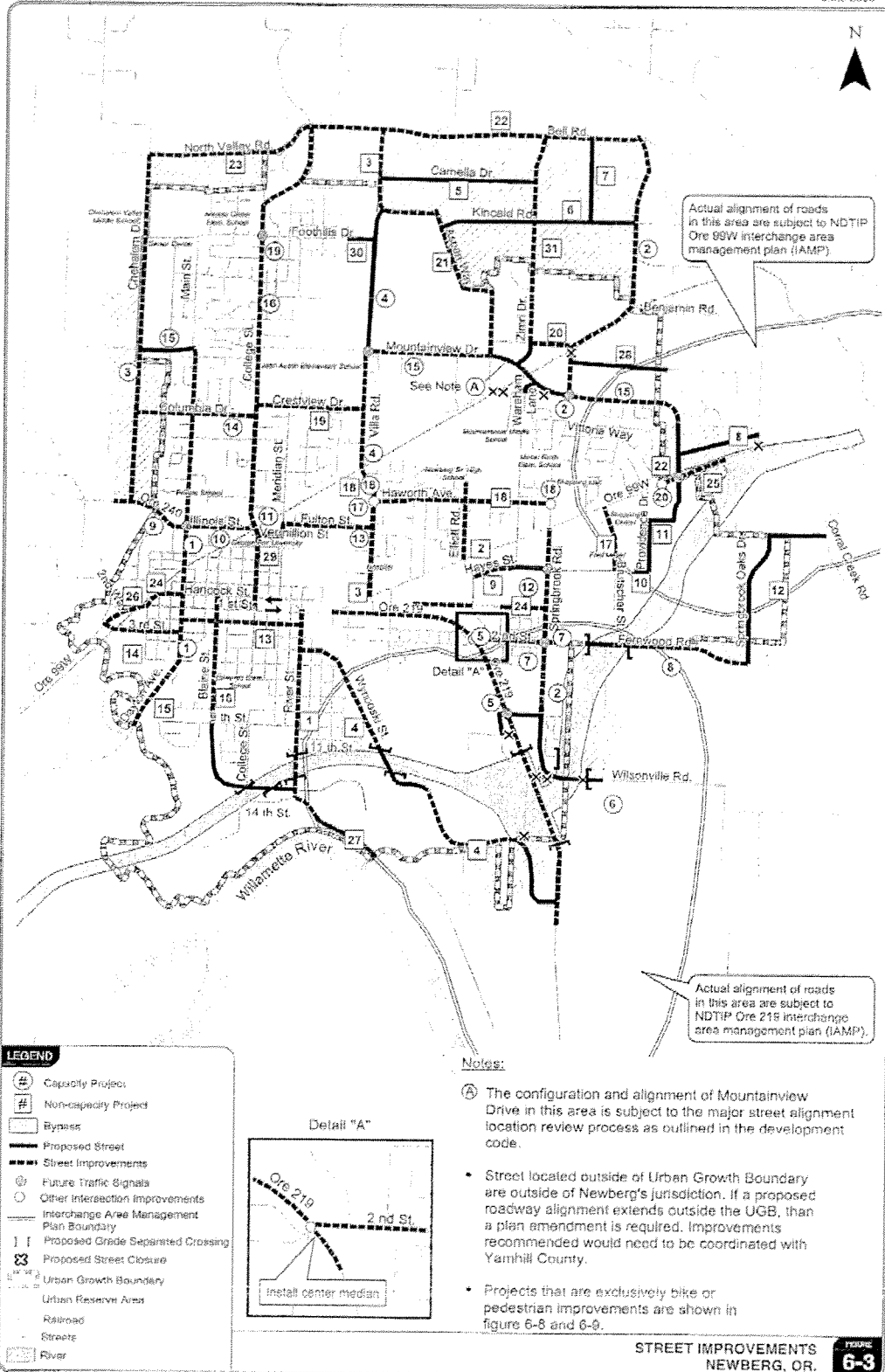
## **CONCLUSION:**

While the property may meet many of the criteria for an Urban Reserve Area amendment, it needs to be evaluated in the larger context of the legislative amendment process now in progress.

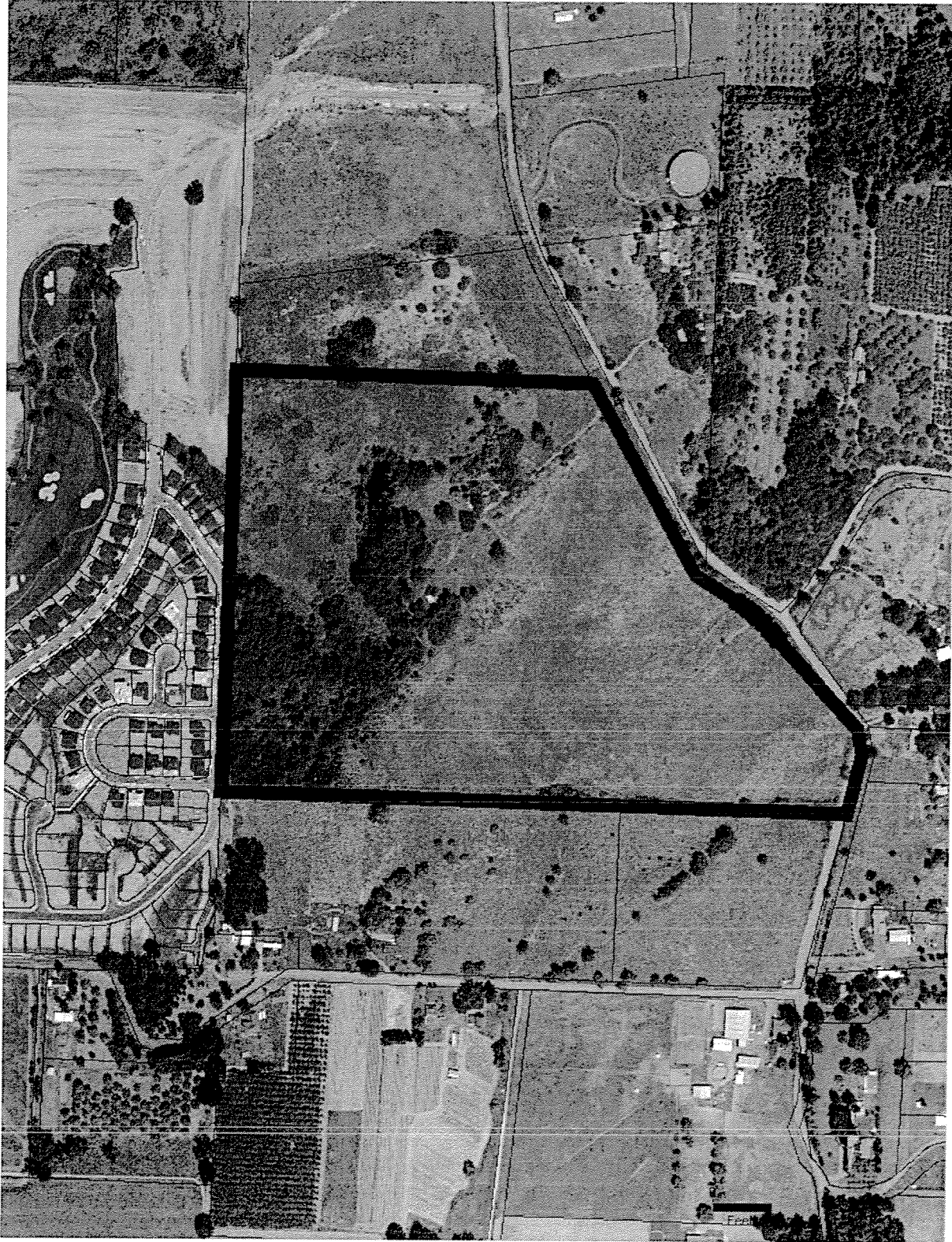
# Attachment 1: Transportation System Plan Map

City of Newberg Transportation System Plan

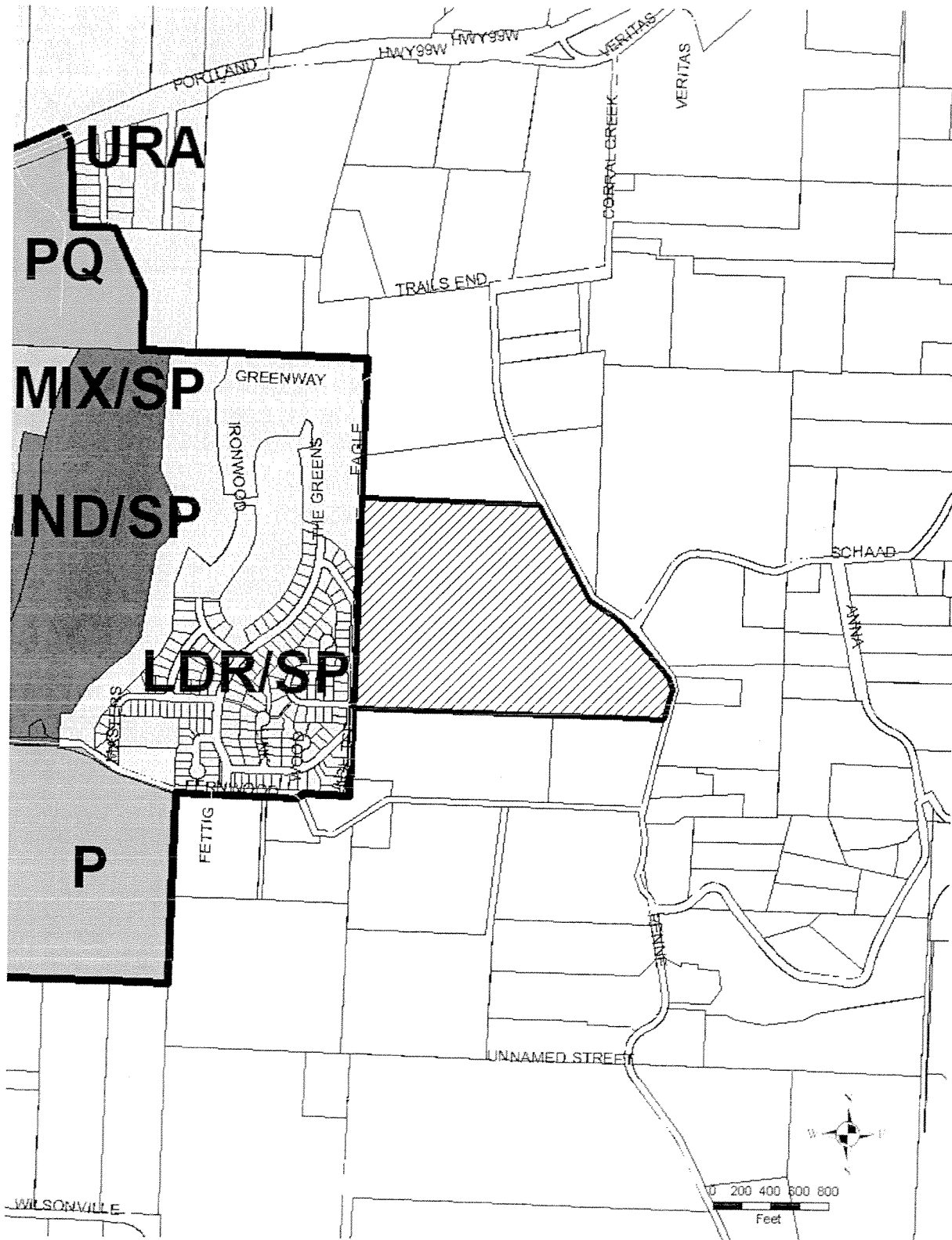
June 2005



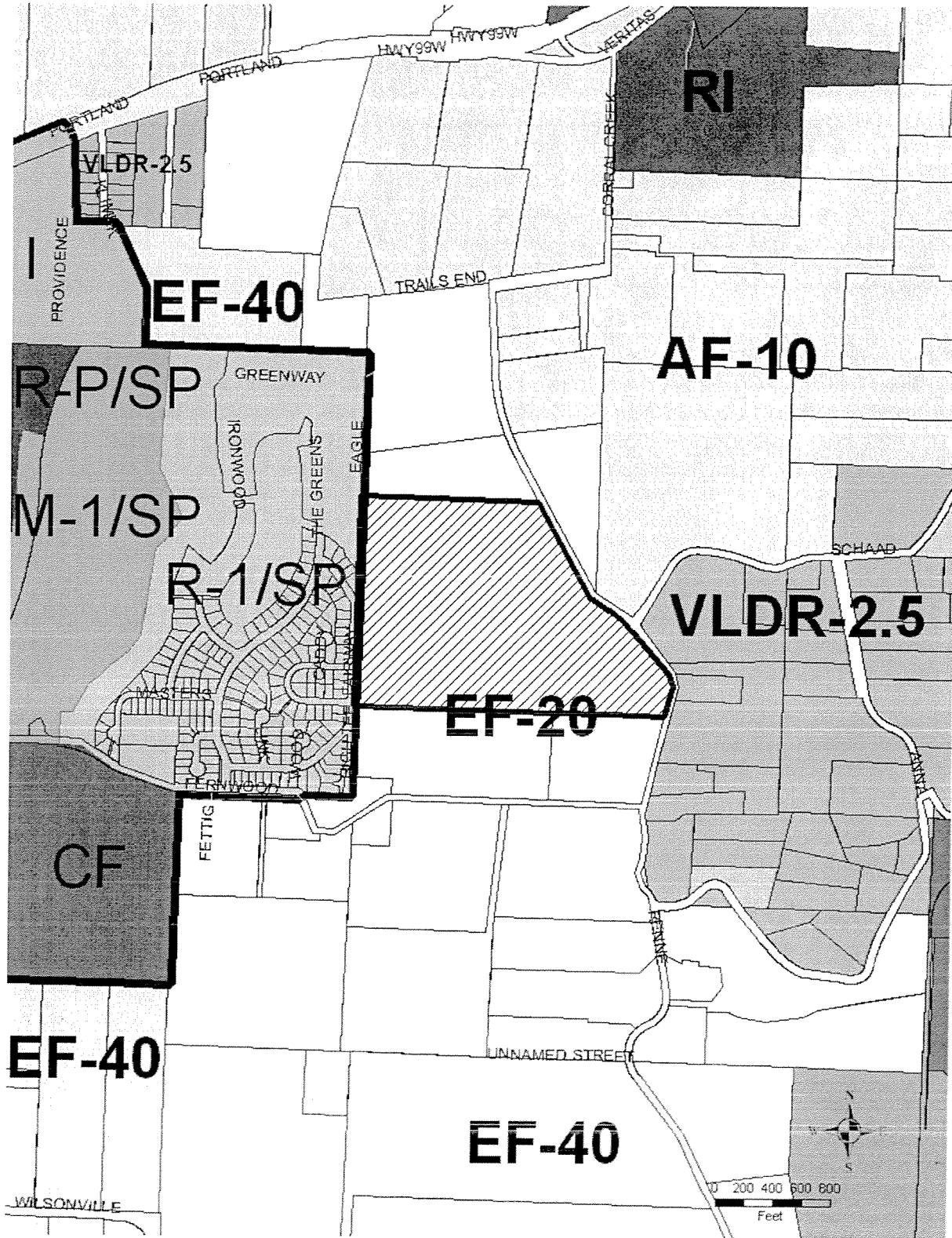
## Attachment 2: Aerial Photo



# Attachment 3: Current Comprehensive Plan Map



# Attachment 4: Current Zoning Map





# Attachment 5: Contour Map

