



**TRANSIENT LODGING TAX AD HOC COMMITTEE AGENDA
MARCH 7, 2018, 4:00 PM
NEWBERG CITY HALL, 414 E FIRST STREET**

- I. CALL MEETING TO ORDER**
- II. ROLL CALL**
- III. PUBLIC COMMENTS**
- IV. MINUTES OF THE MARKETING SUBCOMMITTEE – JANUARY 29, 2018**
- V. REVISIT OF DESTINATION DEVELOPMENT-MARKETING GRANT PROPOSAL – WOLVES & PEOPLE**
- VI. MARKETING SUBCOMMITTEE – MARKETING PROPOSAL**
- VII. STATUS OF SMALL GRANT AWARDS FY 2017-2018**
- VIII. TLT MEMBER UPDATES**
- IX. NEXT MEETING APRIL 4, 2018**
- X. ADJOURNMENT**

ACCOMMODATION OF PHYSICAL IMPAIRMENTS: In order to accommodate persons with physical impairments, please notify the Office Assistant II of any special physical or language accommodations you may need as far in advance of the meeting as possible and no later than 48 business hours prior to the meeting. To request these arrangements, please contact the Office Assistant II at (503) 544-7788. For TTY services please dial 711.

**TRANSIENT LODGING TAX AD HOC COMMITTEE
MARKETING SUBCOMMITTEE
January 29, 2018 8:30 am
Newberg City Hall, 414 E. First St.**

The Meeting was called to order by Chair Rob Felton at 8:26am

ROLL CALL:

Members Present: Rob Felton, Chair
Dennis Lewis
Joe Hannan, Ex Officio
Sheila Nicholas
Ashley Lippard

Members Absent: Jessica Bagley, Kyle Lattimer

Staff Present: Doug Rux, Community Development Director

Guests: David Wall and Carr Biggerstaff

APPROVAL OF MINUTES

MOTION: Lewis/Nicholas moved to approve the December 18, 2017 meeting minutes. The motion carried 4 Yes/ 0 No).

TOURISM MARKETING ACTIVITIES – SUBCOMMITTEE PROPOSAL

Member Lewis noted that \$35,000 is spent by the Chamber on marketing. Carr Biggerstaff clarified that \$39,000 out of the \$139,000 contract with the City for marketing. The total marketing spend is \$45,000 which includes some Chamber contribution

Chair Felton outlined the goal for four decisions:

1. Changes at Chamber, go forward or not on the proposal.
2. Megan Carda/Ethan Headly – could their company act as agent for the City on marketing.
3. Chamber video on Travel Oregon grant.

Member Lewis asked if it a grant

Carr Biggerstaff noted it is a grant of \$20,000 of which \$10,000 has been paid, there is a \$15,500 match, the \$15,500 is for two videos with DNA and includes media buy.

4. Domain name – break off from Chamber

Carr Biggerstaff noted someone would need to pick a domain name, take site out of Chamber web, would stand alone. Who pays for it and who manages it is a question.

Chair Felton asked the Subcommittee if the Chamber proposal should be advanced.

CDD Rux explained a possible timeline and dollars in the proposal which includes \$37,000 plus \$83,000 totaling \$120,000 (\$60,000 salary / \$60,000 marketing), two meetings of the Marketing Subcommittee (January and February) to discuss the proposal, the TLT Committee review the proposal in March and Council consideration of the proposal in April.

Member Lewis asked why the Subcommittee should wait to make a recommendation.

Carr Biggerstaff explained the Chamber Director hiring process, crafting a job description to meet Chamber needs, that volunteers running the Chamber until a new Director is hired and that they are looking at the possibility of an Interim Director.

Member Lippard commented that hiring of a marketing person should occur now.

CDD Rux reminded the Subcommittee the marketing person would not be a City employee.

Ex Officio Hannan noted that the TLT is not an entity, asked what happens if TLT goes away, what happens to the person or organization hired to do marketing.

CDD Rux inquired who on who manages the person or organization until a Chamber Executive Director comes on board.

Member Lippard noted tourism dollars are for tourism.

Carr Biggerstaff shared that it is not an issue if a tourism person is hired now. The Chamber has two people working 30 hours week, another is a receptionist and that the Chamber is not in tourism business.

Chair Felton outlined the second decision question on Lifestyle Properties and could they apply to handle the web and media relations. He raised the question if there could be a conflict of interest issue.

Member Lippard shared her concern on conflict of interest and if they have the expertise.

Carr Biggerstaff shared that the website and search engine optimization (SEO) is separate from DNA/FAM tours, conferences, trade shows, etc. The cost of maintain the web site is not in significant. For the SEO the cost currently is \$450 a month. Posting information to Facebook is another issue on time. Need someone with knowledge on ad rate sheets, and marketing.

Member Lippard noted she likes the McMinnville model.

Carr Biggerstaff shared that handling social media posts takes about one hour a week. Karla's time was being taken up with FAM tours and not Chamber membership activities.

Member Lewis inquired how the McMinnville organization operates.

Member Lippard noted she does work for McMinnville. You could have a business do marketing but could cost more. She noted that Jeff in McMinnville makes sure McMinnville looks good, branding, etc.

Dennis Lewis asked if there should be a field trip to McMinnville to talk to them about their marketing program and how does it operate. He noted there is no need to re-create the wheel and that their needs to be a job description for the marketing position.

Member Nicholas inquired if Megan's group would just do the web or also FAM tours. She noted that Newberg has lost another year of marketing opportunities.

Member Lewis reminded the Subcommittee that the focus is shoulder season – off season.

Chair Felton summarized what the group had discussed:

1. Position in Chamber.
2. OK to move forward with posting position after process is worked through and without Executive Director at the Chamber.
3. Some day to day oversight is necessary.
4. May allow agencies to apply for the marketing position. Media relations needs to be pitching in addition to responding.

Member Lewis asked the Subcommittee if it would it be good to meet with McMinnville before moving forward.

Chair Felton queued up the Chamber video restaurant week topic.

CDD Rux – Explained the February 7, 2018 TLT packet material and the full agenda with Small Grant reviews.

Chair Felton suggested bump the Marketing proposal to the March TLT meeting.

Chair Felton asked if DNA is working on the video now.

Carr Biggerstaff indicated that there is a partial script developed. Sheryl Kelsh had reached out to Recipe, Allison Inn & Spa, Tina's, Barlow Room, Palmer House and Painted Lady.

Member Lippard noted its mostly different templates and has to promote an event. She noted that McMinnville is promoting a restaurant week/month program.

Member Nicholas asked if Travel Oregon would take a rain check or do we have to do this in March.

Member Lewis inquired when the Truffle Festival would be held and it was clarified over Presidents weekend. The Camellia Festival will occur in April 2018.

Member Nicholas shared that Newberg wineries are proposing an event in June, maybe expand it to include restaurants.

CDD Rux asked how the restaurant event fits into marketing per TLT Committee focus and the City/Chamber contract on marketing.

Member Lewis indicated he is willing to go and talk to restaurants.

Carr Biggerstaff noted the Travel Oregon agreement is pretty standard, project scope, rain or shine restaurant concept. Michelle Wooder at Travel Oregon is the contact. He is unclear where the match of \$15,500 is to come from. The Chamber has commitments already for other programs. If the Chamber uses a portion of the \$37,000 for marketing for the restaurant then none left for marketing.

Member Lewis noted the TLT Committee has been conservative on awarding grants and holding back to have dollars for future grants and/or marketing.

CDD Rux noted that no contract has been entered into for the Peterson's to do the video discussed last fall.

Member Lippard inquired if the \$5,000 for the Peterson video work could be used for the restaurant video.

Carr Biggerstaff read the Travel Oregon scope of work to the Subcommittee.

Member Nicholas noted that the restaurant event could occur in April.

Chair Felton noted he will call Travel Oregon on adjustments to the project scope.

Chair Felton introduced the Domain Name topic for discussion.

Member Lippard left at 9:44 am.

Chair Felton inquired why Newberg and Dundee have separate websites noting that Dundee has cache and Newberg has cash.

Member Lewis noted that anything promoted people stay in Newberg.

CDD Rux reminded the Subcommittee that TLT grant funds are for the Newberg zip code, but marketing funds can be spent outside the zip code.

Chair Felton shared that tourism is currently buried in Chamber website, need broader reach with Newberg/Dundee.

Member Lewis shared that he agrees with Chair Felton.

Member Nicholas noted Newberg/Dundee would have broader reach.

Carr Biggerstaff shared that there are a half dozen domains available if done through Go Daddy then Biggerstaff has access.

Chair Felton suggested Visit DundeeNewberg.com.

Member Nicholas inquired what the Dundee url is.

Chair Felton indicated it is TravelDundee.com.

Member Nicholas indicated she likes DundeeNewberg.

Carr Biggerstaff read the available urls to the Subcommittee.

Member Nichols noted 50% of content is Dundee.

Carr Biggerstaff shared that if you search wine country Oregon you will pull up sites. Want content to tell story, less about the name. He suggested developing a short list of domain names. You can buy several domain names and hold them. Algorithms take 10-12 months to function correctly.

Member Lewis asked if there should there be a conversation with Dundee on a domain name.

Member Nicholas indicated to talk with Dundee first.

Chair Felton indicated the discussion on a domain name be delayed to the next meeting.

PUBLIC COMMENTS

David Wall thanked the Committee. He suggested linking activities County wide. He also noted Bluegrass festival and that there is a recording studio in town.

Next meeting February 26, 8:30am

ADJOURNMENT: Chair Felton adjourned the meeting at 10:10 a.m.

Approved by the Transient Lodging Tax Ad Hoc Committee Marketing Subcommittee this 26th day of February, 2018.



Rob Felton
TLT Ad Hoc Committee
Marketing Subcommittee Chair



Doug Rux, Community Development Director



Community Development Department
P.O. Box 970 ▪ 414 E First Street ▪ Newberg, Oregon 97132
503-537-1240 ▪ Fax 503-537-1272 ▪ www.newbergoregon.gov

MEMORANDUM

TO: Transient Lodging Tax Ad Hoc Committee
FROM: Doug Rux, Community Development Director
SUBJECT: Reconsideration of Wolves & People Destination Development-Marketing Grant Request
DATE: March 7, 2018

City Council has asked the TLT Ad Hoc Committee to reconsider the Wolves & People proposal and to provide a recommendation to the City Council.

On January 16, 2018 the Newberg City Council reviewed the recommendations from the Transient Lodging Tax Ad Hoc Committee for the 2017-2018 Destination Development-Marketing Grant requests. During the review of the review of the proposals comments in opposition were shared from David Wall, Vicki Sheppard and Tim Fitchett on behalf of Vicki Shepard and Joyce Damman on awarding Wolves & People a \$30,000 grant. The objections are noted as Attachments 1-3. In addition to these objections additional comments have been received from David Wall on January 5, 2018 (Attachment 4), February 7, 2018 (Attachment 5) and February 9, 2018 (Attachment 6).

Based on the submitted comments staff obtained a copy of the Yamhill County Board of Commissioners decision (Board Order 17-74) on Approval of A Permit to Allow up to 18 Agri-tourism/Commercial Events Per Calendar Year on Property located at 30203 NE Benjamin Road, Tax Lot 3215-500. That decision is included at Attachment 7. The Conditional Use Permit for the Brewery and Tasting Room from Yamhill County are included as Attachment 8.

Staff has included as Attachment 9 the Wolves and People application. Attachment 10 is the TLT Destination Development-Marketing Grant application packet. Attachment 11 is the Summary Scores and review information for Wolves & People.

- Attachments:
1. David Wall 1-16-18
 2. Vicki Sheppard 1-16-18
 3. Tim Fitchett 1-16-18
 4. David Wall 2-5-18
 5. David Wall 2-7-18
 6. David Wall 2-9-18
 7. Yamhill County Board of Commissioners Order 17-74
 8. Yamhill County CUP Brewery & Tasting Room
 9. Wolves & People Application
 10. TLT Destination Development-Marketing Grant application packet
 11. Summary Scores

David S. Wall
P.O. Box 756 Newberg, Oregon 97132

January 16, 2018

VIA HAND DELIVERY

Mayor Bob Andrews
Councilor Mark Murray; Councilor Stephen McKinney; Councilor Mike Corey
Councilor Patrick Johnson; Councilor Denise Bacon; Councilor Scott Essin
Newberg City Hall; 414 E. First Street; Newberg, Oregon 97132

[SET 1]

Re: Wolves and People Veins to Steins Trail project: NOT ELIGIBLE FOR GRANT FUNDING.

Dateline: County Desk [Tuesday, (01.16.18)] *Mayor & Councilor Bacon must recuse themselves-Conflict of Interest.*

I am enclosing additional documents for your perusal and usage to assist your deliberative process whether to grant public monies, using the Transient Lodging Tax Designation Development-Marketing Grant Funds (Herein TLT Funds) to the Wolves and People Vines to Steins Trail [**Agenda Item: (IX.a); Attachment 7; Resolution 2018-3429**].

1. THE CIRCUIT COURT OF THE STATE OF OREGON, TWENTY-FIFTH JUDICIAL DISTRICT, YAMHILL COUNTY; Decision on; Damman & Friends of Yamhill County (FYC) v. Board of Commissioners (BOC) & Charles and Ellen McClure, CV08-0225, et al. [November 19, 2008]
2. IN THE COURT OF APPEALS OF THE STATE OF OREGON; & Friends of Yamhill County (FYC) v. Board of Commissioners (BOC) & Charles and Ellen McClure, CV08-0225, A1410191. [Filed March 02, 2011]
3. YAMHILL COUNTY DEPARTMENT OF PLANNING AND DEVELOPMENT (January 27, 2017); [DOCKET No.; E-06-16]; C:“Comments submitted in favor;” Letter from: Newberg City Councilor Denise Bacon District #3; Subject Matter: SUPPORT OF THE WOLVES AND PEOPLE
4. City of Newberg 2017-2018; Transient Lodging Tax-Destination Development and Marketing Promotion Grant Guidelines (Pages 1-3).

Due to the longstanding professional and political relationship between Mayor Bob Andrews & Charles and Ellen McClure; Mayor Bob Andrews must RECUSE himself from participating in any way on:
Agenda Item: (IX.a); Attachment 7; Resolution 2018-3429. [Reference the Court cases]

Due to the vigorous support of Wolves and People by Newberg City Councilor Denise Bacon District #3; with reference to [DOCKET No.; E-06-16]; Councilor Denise Bacon District #3 must RECUSE herself from participating in any way on:
Agenda Item: (IX.a); Attachment 7; Resolution 2018-3429].

Whereas Applicant for Grant funding is ELIGIBLE, to apply, having a Newberg zip code area 97132:[City of Newberg 2017-2018; Transient Lodging Tax-Destination Development and Marketing Promotion Grant Guidelines [ELIGIBLE APPLICANTS (Page 2)].

APPLICANT’S, “PROJECTS, PROGRAMS OR EVENTS PROMOTING TOURISM OUTSIDE OF NEWBERG ARE ACTIVITIES NOT ELIGIBLE FOR FUNDING. Newberg 2017-2018; Transient Lodging Tax-Destination Development and Marketing Promotion Grant Guidelines [ACTIVITIES NOT ELIGIBLE FOR FUNDING (Page 3)]. The applicant’s stated place of business is in Yamhill County-NOT Newberg.

According to Newberg 2017-2018; Transient Lodging Tax-Destination Development and Marketing Promotion Grant Guidelines; a business entity located outside of Newberg, in this case Yamhill County is not eligible to promote its own business activities outside of Newberg. Sure, you can apply if the 97132 area zip code requirement is fulfilled but the business’s “Projects programs or events promoting tourism outside of Newberg-as the Applicant’s business is located in Yamhill County” are not eligible for funding. Applicant’s prayer for “GRANT FUNDING” is to be DENIED on procedural grounds.

*Applicant’s “Agritourism Permit” issued by Yamhill County is up for renewal in March 2018. It could be revoked.

Respectfully submitted,
/s/ David S. Wall

Cc: The Honorable Yamhill County Commissioners



THE CIRCUIT COURT OF THE STATE OF OREGON
TWENTY-FIFTH JUDICIAL DISTRICT
YAMHILL COUNTY

JOHN L. COLLINS

PRESIDING JUDGE

Courthouse

Yamhill County

McMinnville, Oregon 97128

Phone (503) 434-7497

FAX (503) 435-3067

November 19, 2008

For Petitioners Biggerstaff, Damman & Kleikamp
Ms. Isa Anne Taylor
Attorney at Law
7751 Baseline Drive
Mt. Hood, Or 97041

For Respondents McClure
Mr. Andrew R. Gardner
Attorney at Law
900 SW 5th Ave, Suite 2600
Portland, OR 97204

For Petitioners Friends of YC
Mr. Ralph O. Bloemers et al
Attorneys at Law
917 SW Oak Street, Suite 417
Portland, Or 97205

For Respondents Johnson, Abrams and Greggs
Mr. Edward H. Trompke
Attorney at Law
P.O. Box 230669
Portland, Or 97281

For YC Board of Commissioners
Mr. John M. Gray, Jr.
County Counsel
535 NE. Fifth Street
McMinnville, OR 97128

For Respondent Cook
Mr. Charles Hudson
Attorney at Law
601 SW Second Avenue, Suite 2100
Portland, OR 97204-3158

Re: *Biggerstaff v. Board of Commissioners (BOC) & Ralph and Norma Johnson*, CV08-0224
Damman & Friends of Yamhill County (FYC) v. BOC & Charles and Ellen McClure, CV08-0225
FYC v. BOC and Maralynn Abrams, CV08-0232
T.J. Kleikamp & FYC v. BOC & Glenn, Donald and Sharlene Gregg, CV08-0304
FYC v. BOC & Gordon Cook, CV08-0305

Dear Counsel and Parties:

Introduction. These consolidated cases involve review of Measure 49 vesting decisions pursuant to ORS 195.318. The scope of review is set forth in ORS 34.010 *et sec.* Each case involves a decision by the county vesting officer, pursuant to delegation by Yamhill County Board of Commissioners, that the respective landowners had a vested right to pursue development of their property in accordance with waivers obtained pursuant to Measure 37. All of the developments are located on Yamhill County land which became subject to farm or forest use restrictions after the owners acquired the property.

The court ruled, at an earlier hearing in these matters, that all parties have standing to seek judicial review. ORS 34.020. The court has also ruled on motions to strike, agreeing to consider the decisions of other courts only for their value as collateral authority, not binding and not a part of the "whole record" in the case.

The court heard oral argument from the parties and took the matter under advisement in order to more thoroughly study the briefs, arguments and record of the proceeding leading to the vesting decisions. Let me say,

at the outset, that the court considers this a particularly important decision and has studied the cases and considered each of the consolidated cases carefully. It is important for the community, the petitioner neighbors, Friends of Yamhill County, the respondent landowners and the county. It appears that counsel for the parties and the vesting officer whose decisions are under review have demonstrated their similar commitment by providing high quality pleadings, briefs and oral argument responding to carefully drafted, thorough and thoughtful analysis in the vesting officer's written decisions.

Pursuant to ORS 34.010 *et sec*, the issue, broadly speaking, is whether in the exercise of its quasi-judicial function of determining vested rights claims pursuant to Measure 49 and reflected in Yamhill County Ordinance 823, the County,¹ through its vesting officer, appears to have erred in one or more of the following ways:

- (a) Exceeded its jurisdiction;
- (b) Failed to follow the procedure applicable to the matter before it;
- (c) Made a finding or order not supported by substantial evidence in the whole record;
- (d) Improperly construed the applicable law; or
- (e) Rendered a decision that is unconstitutional.

There are common issues to all cases, though there are also aspects that require individual case analysis.

Background. While certainly well known to counsel and the parties in this case, it is useful to review the background leading to this matter. Measure 49 extinguished rights established by Measure 37. It provided three basic options, however, for landowners who choose to seek to continue to develop property previously subject to waivers obtained under Measure 37. Landowners could:

- Obtain express approval to build up to 3 homes (Section 6);
- Obtain approval to develop 4 to 10 homes (Section 7); or
- Seek a determination that the landowner had a common law vested right to continue and complete the improvements to the property (Section 3).

The landowners here have elected the third option. Each has obtained a decision from the county vesting officer that supports their right to continue development of the property in question. Based on a considerable volume of information in each case, the vesting officer ruled that the nonconforming measure 37 use of the property was fully completed by plat approval prior to the effective date of Measure 49 and, therefore, not governed the measure's "vested rights" provision. The vesting officer, however, also ruled that each landowner had established a common law vested right to proceed with development of their property under Measure 49 and county ordinance factors. Petitioners here are neighbors and the Friends of Yamhill County affected by the property developments and seek judicial review of the vesting officer's decisions.

Under the vesting officer's first basis for decision, the following, Measure 49, Section 5(3) is the key provision that applies (with editing and dates inserted for simplicity):

A claimant that filed a claim under Measure 37 on or a before June 15, 2007 is entitled to just compensation as provided in a waiver issued before December 6, 2007, to the extent that the

¹ The decisions of Mr. Sadlo become the decisions of the county, so the court may, as have the parties, refer to the county as the decision maker.

claimant’s use of the property complies with the waiver and the claimant has a common law vested right on December 6, 2007, to complete and continue the use described in the waiver.

OAR 660-041-0060, applicable to DLCD waivers contains similar language (similarly edited):

Any authorization for a Claimant to use Property without application of a DLCD Regulation provided by a DLCD Measure 37 Waiver expired on December 6, 2007, as did the effect of any order of DLCD denying a Claim. A Claimant may continue an existing use of Property that was authorized under Measure 37, or complete a use of Property that was begun prior to December 6, 2007, only if the Claimant had a common law vested right to complete and continue that use on December 6, 2007, and the use complies with the terms of any applicable Measure 37 waiver.

In furtherance of Measure 49, Section 5(3), the County, on December 21, 2007, enacted Ordinance 823 establishing a process whereby Measure 49 vested rights claims were to be reviewed by a duly appointed “County Vesting Officer” to determine if the right to use and/or continue development of a use had become vested. That ordinance delegates exclusive authority to the vesting officer for vested rights decisions. Attorney Todd Sadlo was appointed.

The properties involved are as follows:

Property Owner(s) ² / Case	Subdivision / Location	Planned Development
Ralph and Norma Johnson VEST-01-2007	Ra’ Nor Estates NE Chehalem Drive, Newberg	Up to 41 1-acre residential lots with dwellings, on 49.4 acres.
Charles and Ellen McClure VEST-02-2007	Vineyard Hill Properties Hwy 99W north of Newberg	Up to 40 residential lots w/ dwellings & commercial development of balance on 69 acres.
Maralynn Abrams VEST-12-2008	West Wind Country Estates Hill Rd, west of McMinnville	Up to 50 residential lots with dwellings on 50 acres and commercial development of balance.
Glenn and Diane Gregg et al VEST-34-2008	Fox Hill Farm Parrett Mt Rd & Smith Rd, Newberg	Up to 13 2- to 9.5-acre residential lots with dwellings + equestrian facilities on 78.26 acres.
Gordon F. Cook VEST-31-2008	Albertson Heights Albertson Road, Hillsboro	Up to 10 residential lots with dwellings on 38.8 acres.

There is no dispute that each landowner filed their respective Measure 37 claims before June 15, 2007, and that the respective waivers were issued prior to December 6, 2007.

Background and Preliminary Issues. The stated purpose of Measure 49 is to “modify Ballot Measure 37 (2004) to provide that Oregon law provides just compensation for unfair burdens while retaining Oregon’s protections for farm and forest uses and the state’s water resources.” As described in petitioners’ joint brief, the

² In the McClure and Gregg cases there is an issue as to who is the claimant. The claimant is the person who owned the property when acquired prior to the changes that gave rise to Measure 37. Though Charles McClure and Sharlene and Donald Gregg may not qualify under that definition, it would not appear to make any difference in the outcome, so long as one of the current landowners was qualified under Measure 37.

method by which Measure 49 modified Measure 37 is “not gentle.” All Measure 37 rights were extinguished.³ New options are created which may, or may not, allow use and/or continued development of property the landowners contemplated under Measure 37 waivers.

As stated, the option exercised by each of the landowners here is to seek a determination that the landowner established a common law vested right to continue an existing use of their property that was authorized under Measure 37, or complete a use of that property that was begun prior to December 6, 2007, where that use or completion of that use is consistent with the Measure 37 waivers.

Respondents (landowners and County) assert that the issue here may have Constitutional implications.⁴ Perhaps. Certainly the term “just compensation” comes from constitutional provisions regarding taking of property, and there are often constitutional due process considerations in any taking of property. Petitioners characterize this assertion as a “red herring” – a deliberate attempt to change a subject or divert an argument.⁵ Suffice it to say that it is not necessary for this court to decide this issue. It is sufficient to note that the legislature and voters have recognized that there may be statutory restrictions on specific uses of private property that may impose costs on property owners and have chosen to recognize the fairness of providing just compensation for that impact.⁶

Last week, the United States District Court decision in *Citizens for Constitutional Fairness v. Jackson County, et al*, No 08-3015-PA (November 12, 2008), was brought to the court’s attention. I respectfully disagree with the finding that a Measure 37 waiver is a contract between the County/State and the landowner. I do not see Measure 37 as giving a landowner a right to receive monetary compensation. Such payment is the County/State’s option, not the landowners. Accordingly, a waiver cannot be a contract because the County/State does not receive consideration in the form of giving up the pursuit of monetary compensation. I will not address further issues from this opinion as I do not feel they were fully briefed by the parties here and, for the most part, not applicable within the court’s scope of judicial review.

It is also important at this point to note what else is or is not in issue. This is not a question of whether this court agrees or disagrees with the decision of the vesting officer. This is not an appeal, nor is it *de novo* review where the court has latitude to substitute its own assessment of the facts. It is a judicial review of the vesting officer’s decisions for correct application of the law, jurisdiction and sufficiency of the evidence in support of factual findings or conclusions.⁷

The parties have also raised the preliminary issue of who has the burden of proof in this matter. That the term “burden of proof” is more applicable to trial proceedings where parties present evidence to convince the fact-finder to a certain level of proof – preponderance, clear and convincing or beyond a reasonable doubt. The proponent of a non-conforming use has the burden of persuasion before the vesting officer since non-conforming uses are disfavored.⁸

³ See, *Frank v. DLCD*, 217 Or App 498 (2008); *Corey v. DLCD*, 344 Or 457 (2008).

⁴ U.S. Constitution, Article XI, Section 4; Oregon Constitution, Article 1, Section 18.

⁵ Other definitions of “red herring” include “a technique used in literature to mislead the audience” and “kipper – a fish having been dried, smoked and salted”. Wikipedia. I suspect the definition in the text above is the one meant by the legal argument here.

⁶ See, *Corey v. DLCD*, 344 Or 457 (2008), *Penn Coal v. Mahon*, 260 US 393 (1922), *MacPherson v. DAS* 440 Or 117 (2006).

⁷ “Substantial evidence”, is the “probable cause” of judicial review.. It is an objective standard: “evidence that a reasonable person could accept as adequate to support a conclusion.” *Constant Velocity Corp v. City of Aurora*, 136 Or App 81 (1995).

⁸ See, *Holmes, infra*.

On petition for review, however, “proof” is not so much the issue. One does not “prove” an error of law, though one might have to *persuade* the court that one or more such errors were, or were not, made. One does not “prove” that a fact-finder did not have “sufficient evidence”, though one might persuade the court that findings of fact were or were not supported by evidence from which a reasonable person could make the finding made by the vesting officer. Some authority supports the concept that in judicial review there is no burden of proof *or* persuasion.

I conclude that there is no specific burden of proof *or* persuasion, just review by the court. Each side has opposing arguments: petitioners seek to persuade the court that there was an error of law and/or insufficient evidence to support one or more findings; respondents seek to persuade the court that there was not an error of law and/or sufficient evidence. It is that simple. If I am wrong about this issue, I would say that given the presumption that the law has been followed, that any burden of *persuasion* would at least initially be on petitioners and the court approached the analysis here with the concept that the decision below is presumed valid unless the court is persuaded otherwise.⁹

The court also owes no deference to the tribunal whose decision is under review except insofar as there may be a presumption that the law was followed.¹⁰ This review is not akin to appeal or appeal *de novo* where appellate courts give appropriate deference to lower court findings if supported by the record, especially regarding findings of credibility of witnesses whose testimony was observed by the trial court and not the appellate or reviewing court.

Allegations of Legal Error: Petitioners assert that the vesting officer made the following errors of law:

- 1) Misconstrued the meaning of “use”.
- 2) Effectively transferred non-transferable Measure 37 rights by finding that purchasers from landowners can build dwellings.
- 3) Failed to apply a limiting factor of Measure 49 vesting – that the vested right comply with County and State waivers authorizing the use.

The Meaning of “Use.” Petitioners take the position that “the deepest flaw that permeates all the Decisions is the erroneous and unsupported legal conclusion that the “use” vested by the applicants was the creation of “homesites” established in connection with plat approval. “Use” is not defined in Measure 49 or 37. This is not surprising considering “use” is such a common term in land use (there it goes again) law that no specific or new definition would seem to be needed for application under these measures or, if it was, the legislature would have provided it. Yet, that, in a sense, is what the vesting officer’s application of the word appears to do in these cases – gives it a new meaning.

There is a prescribed method to determine if this misconstrues the law.¹¹ Initially one applies the plain meaning of the text. *Black’s Law Dictionary*¹² defines “use” as “the application or employment of something; *esp.*, a long-continued possession and employment of a thing for the purpose for which it is adapted, as distinguished from a possession and employment that is merely temporary or occasional.” At this level, the

⁹ See also, *Commentary to OEC 305 cited by respondents.*

¹⁰ *Sanchez v. Clatsop County*, 146 Or App 159 (1997); *Clackamas County v. Marson*, 128 Or App 18 (1994). ORS 40.135.

¹¹ *PGE v. BOLI*, 317 Or 606 (1993).

¹² Seventh Edition, 1999.

vesting officer's application of the word would not seem to be in keeping with the plain, albeit legal, general meaning of the word. Equating "use" with plat approval seems more like something that is merely temporary as opposed to a long-continued employment of the land for a residential or commercial use for which it was adapted pursuant to the waivers.

If an ambiguity calls for examination of the context of the word, it is applied in the context of laws regarding zoning classifications such as farm **use**, forest **use**, commercial **use**, residential **use**. At this level the vesting officer's interpretation of the word would also not seem to be in keeping with the context in which it is to be read. Thus "residential use", for example, has a broader context that plat approval which appears to be only a necessary step in the journey toward establishment of a use of the land for residential purposes. Stated otherwise, to utilize the more temporary application of the meaning of the word by equating it with a subdivision is to give the word a new meaning not required by the text or context of the measure.

Further, looking at it from the other end of the tunnel, ORS 92.010(17) defines "subdivision" as either an act of subdividing land or an area or a track of land subdivided." This is not a "use" as viewed in the context of land use law. It is an event in the process leading to residential use.

Measure 49 defines "homesites" as "approval of the subdivision or partition of property or approval of the establishment of a dwelling on property". There is no indication in the text or context of the measure or any legislative history in the record that would support the conclusion that establishment of homesites through approval of a plat map means "use". As argued by petitioners, zoning permits uses. Plat approval only defines the lots that may lead to residential use. There is a significant difference between creating a "parcel", "lot" or "homesite" (a unit of land) and a "dwelling" which creates a residential "use".

Further, if a building permit does not establish an irrevocable right to a use, then certainly plat or subdivision approval, an earlier step in the process under circumstances here of establishing residential use on farm or forest property, does not establish an irrevocable right to complete construction on the property.¹³ Approval of the subdivision approves the land for a new use, but does not authorize or constitute use itself.¹⁴

The fact that opponents did not appeal plat approval does not make this any different, nor does it make this proceeding an impermissible "collateral attack" on the plat approval. An unappealed plat approval may be a "final land use decision."¹⁵ But vesting issues are "just compensation" issues, not "land use" decisions. The final plat approval may define the approved project, but it does not determine whether the right to use the property or

¹³ See, *Twin Rocks Watseco Defense Committee v. Sheets*, 15 Or App 445 (1973).

¹⁴ There are numerous cases where a plat was approved and/or building permits were issued where that did not vest the developing landowner with irrevocable right to complete construction. See, e.g., *Milcrest Corp. v. Clackamas County*, 59 Or App 117 (1982) [unvested 220 acre portion]; *Mason v. Mountain River Estates*, 73 Or App 334 (1985).

¹⁵ This is a concept that is key to the vesting officer's decision that the landowners here had completed the nonconforming use before December 6, 2007, and that, therefore, Measure 49 did not apply as it would if the use were incomplete and therefore subject to the "vested right" to complete the use analysis of Measure 49, *Holmes* and Ordinance 823. It certainly presents a dilemma, easier seen with hindsight than when the plats were approved. Landowners should have the finality of approval of a final, or even preliminary, plat ordinarily establishes. On the other hand, neighbors who, as here, might oppose the development, under the reasoning of the vesting officer, were required to appeal a land use decision to LUBA in order to protect their right to object to the development under a law they had no more reason, at the time, to be assured would become law than did the landowners. Further, even if the appeal were unsuccessful before LUBA, it might be successful here, according to the vesting officer's reasoning, if it delayed finality of the plat approval beyond December 6, 2007. But how could either landowners or neighbors reasonably anticipate that?

pursue or complete that use is vested under common law principles.¹⁶ And this is why it is not surprising that LUBA has deferred vesting decisions to judicial review.

Yet a third way to analyze the vesting officer's interpretation of the word is the logical concept that it means "the use defined in the waiver". This requires a consideration of the language of waivers in each individual case:

Johnson:

County: "to make application to divide the subject property into one acre lots and build a single family dwelling on each undeveloped lot, a use permitted on the subject property at the time claimant acquired the property."

State: "In lieu of paying just compensation under Measure 37, the State of Oregon will not apply the following laws to the Johnsons division of the Property into lots or parcels or to the establishment of a single-family dwelling on each lot or parcel: those provisions of Statewide Land Use Planning Goal 3, ORS 215.780 and OAR 660, division 33 that restricts the division of the Property into lots or parcels or the establishment of a single-family dwelling on each lot or parcel, except for the provision of each of these laws that were in effect when Mr. Hoff acquired his interest in the property on May 1, 1956."

This Court's Summary of Both: To subdivide the 41 acre property into 41 1 acre lots and to build a single family dwelling on each lot.¹⁷

McClure:

County: "to make application to divide the subject property into residential and commercial lots of various sizes of less than one acre to over one acre and, upon the Planning Director's issuance of land division approval, to make applications to establish dwellings or other uses on the newly created lots under land use regulations then in effect on May 15, 1967."

State: "In lieu of compensation under ORS 197.352, the State of Oregon will not apply the following laws to Ellen McClure's division of the 69.18-acre property into a maximum of forty 1-acre parcels or her development of a dwelling on each parcel and to her development of the remaining property for commercial uses: applicable provisions of Goals 3 and 14, ORS 215 and OAR 600, division 33. These land use regulations will not apply to the claimant only to the extent necessary to allow her to use the subject property for the use described in this report, and only to the extent that the use was permitted when she acquired the property on May 15, 1967."

Courts Summary of both waivers: To subdivide the 69.18-acre property in up to forty 1-acre lots and build a single family dwelling on each lot and to develop the remaining property for commercial uses.

Abrams:

County: "to make application to subdivide the subject property into various lot sizes ranging from less than one acre to over one acre for residential and commercial development, a use permitted on the subject property at the time claimant acquired the property."

State: "In lieu of paying just compensation under Measure 37, the State of Oregon will not apply

¹⁶ Even the plat approvals state, as a condition of approval of the plat: "Yamhill County makes no representation or warranties as to the transferability or development of any property rights related to the lots".

¹⁷ It is implicit that the subdivision plan must be approved as required by law and dwellings must meet code requirements. That also, of course, applies to the subdivisions of other landowners.

the following laws to the (sic) Ms. Abrams' requested division of the Property into lots or parcels or to the establishment of single-family residential dwellings or urban type commercial uses on each lot or parcel on each lot or parcel (sic): those provisions of Statewide Land Use Planning Goal 3, applicable provisions of ORS 215, including, but limited to, ORS 215.780, and OAR 660, division 33 that restrict the requested use of the subject property to the extent necessary to allow Ms. Abrams a use of the property permitted at the time she acquired the Property (tax lot 4513-100 on December 19, 1952; tax lot 4418-1000 on January 3, 1955; and tax lot 4418-1100 on November 18, 1968)"

Courts Summary of Both Waivers: To subdivide the property (50 acres) into various lot sizes for residential and commercial development or to build dwellings or urban type commercial uses on each lot.

Gregg: (Second waivers)

County: "to make application to subdivide the subject property into 13 lots and, upon the planning director's issuance of final subdivision approval, to establish single family swellings on undeveloped lots, a use permitted on the subject property at the time the claimant acquired the property."

State: "In lieu of compensation under ORS 197.352, the State of Oregon will not apply the following laws to the claimants' division of the 78.26-acre subject property into 13 2- to 9.5-acre parcels, to their development of equestrian facilities on the remainder of the property: applicable provisions of Goal 3, ORS 215 and OAR 660, division 33, enacted or adopted after each claimant acquired the subject property."

Courts Summary of Both Waivers: To subdivide the 78.26-acre property in up to 13 2- to 9.5-acre lots and to build single family dwellings on each lot and to establish equestrian facilities on the remaining property.

Cook:¹⁸

County: "to make application to divide the subject property into ten lots and, upon the Planning Director's issuance of land division approval, to make applications to establish dwellings on undeveloped lots under land use regulations then in effect on December 3, 1970."

State: "1. In lieu of compensation under ORS 197.352, the State of Oregon will not apply the following laws to Gordon Cook's division of the 38.8-acre subject property into nine 2.69-acre parcels and one 12.4 acre parcel or to his development of a dwelling on each 2.69-acre parcel: applicable provisions of Goals 3 and 4, ORS 215 and OAR 660, divisions 6 and 33. These land use regulations will not apply to the claimant only to the extent necessary to allow him to use the subject property for the use described in this report, and only to the extent that use was permitted when he acquired the property on December 3, 1970.

¹⁸ There appear to be some discrepancies between the county and state waivers regarding the Cook property. The county waiver appears to authorize a dwelling on the 12.4 acre lot but the state waiver does not. I would assume this was intentional and the more restrictive would seem to govern since nonconforming uses are disfavored. Also, the state waiver appears to allow subdividing of the property OR the building of homes, but, by implication, not both. This may be a situation where the discrepancies need to be interpreted in manner that does not create an absurd result. That interpretation would mean the waivers allow both subdivision and home construction. Note, too, that neither waiver limits the waiver to a "single family" dwelling. The county waiver also does not limit the number of dwellings to one per lot (unless they were so limited on December 3, 1970). Perhaps this footnote is "much ado about nothing" and the parties are clear regarding these aspects of the waivers.

2. The action by the State of Oregon provides the state's authorization to the claimant to use the property for the use described in this report, subject to the standards in effect on December 3, 1970."

Court's Summary of Both Waivers: To subdivide the 38.8-acre property into nine 2.69 acre lots and one 12.4 acre lot and build dwellings on each of the smaller lots, but, apparently, not the larger one.

With the exceptions noted, in each case, the waivers approve subdivision into lots and the building of a dwelling or other structure on each lot. The logical interpretation of the use as defined in the waivers is *both* the subdivision AND the building of buildings. If the county and/or state had intended to grant only authority to subdivide and not authority to build they would have said so. Or, they could have said that subdivision established the use which would also have made it clearer that the county and/or state intended to allow the landowners to subdivide and sell the lots and leave it to purchasers to construct, or seek to construct, dwellings or other buildings consistent with a residential or commercial use.

Further, the requirement that the use comply with the terms of the waiver could seem superfluous if the use is limited to the use *described* in the waiver.

I conclude that the vesting officer misconstrued the law when he equated "use" with "subdivision of the property and establishment of homesites." The plain meaning of "use" means a "residential use" or "commercial use" and requires actual employment of land for that purpose. That is not to say it requires *completion* of construction of a dwelling or commercial building. That is at the core of the vested rights concept – that a landowner has the right to *complete* construction necessary for that use, if the landowner has met the common law vesting requirements to do so. The text and context of the word "use", does not support the vesting officer's interpretation. "Use" does not mean "subdivision" or establishment of "homesites".¹⁹ If "use" means the use described in the waivers, the vesting officer's interpretation also fails this test. None of the above definitions of the word "use" leads to the conclusion that subdivision and approval of the plat map alone constitutes the "use" contemplated by either Measure 37 or 49.

Transfer of Non-transferable Measure 37 Rights. Without going into lengthy discussion of the spate of litigation on this issue, it is fair to say that Measure 37 rights are not transferrable. A use, however, *completed* prior to December 6, 2007, may be transferrable because it does not fall under Measure 49. But, as discussed above, the use was *not completed* prior to that date in these cases, including the Johnson case which involves a transfer of some of the lots. The fact that individual lots can be transferred after plat approval, does not mean that the new owner has any vested right to use that lot or parcel in a nonconforming way.²⁰

On the other hand, a use fully established prior to the Measure 49 deadline *or* partially completed but vested under common law analysis *is* transferrable as a non-conforming use.²¹ This will be discussed more fully later in

¹⁹ "Platted but undeveloped land is not normally regarded as a 'use' in zoning law for purposes of establishing a prior nonconforming use." *Parks v. Tillamook County Board of Commissioners*, 11 Or App 177, 196 (1972). *Yamhill County v. Ludwick*, 294 Or 778 (1983).

²⁰ See *Parks v. Tillamook County Commission*, 11 Or App 483 (1981). A "vested right" is an incomplete nonconforming use. A nonconforming use relevant here is a use that was lawful at the time the property was acquired – *i.e.*, before the applicable zoning ordinance was enacted and effective.

²¹ See, *e.g.*, more discussion of this in *Letter Opinion in Crook County v. all Electors*, Crook County Case 05CV0015. Also, Measure 49(11)(6) provides that "[a]n authorization to partition or subdivide the property, or to establish dwellings on the property, granted

this opinion letter.

Based on the analysis above, I would conclude that there is substantial evidence in the record to support a finding that the Johnsons had a vested and therefore transferrable interest in the lots in October, 2006

Stated otherwise, the landowners can only transfer what they have that is transferrable. If they have a Measure 37 waiver, it is not transferrable; therefore the transferee did not obtain it and can do no more than perhaps pitch a tent on the property. If the owner had a vested right to complete the residential use of the property, that vested right runs with the land and *is* transferrable. Therefore, if the land was a lot that was transferred at a time when the original owner was vested with the right to complete the property to residential use, then the buyer *did* obtain the right the owner had the right and authority to transfer. The new owner may build a dwelling considerably more enduring and suitable than a tent.

Stated one more time, as is about to be analyzed, if the owner established a vested right to complete the project or use of the land prior to transfer, the vested right *does* run with the land and is transferrable so long as the transferee uses the property in conformance with the vested right and other applicable zoning restrictions.

Compliance with State and County Waivers. Petitioners assert that the vesting officer misconstrued the law by failing to require that the vested right use comply with the State and County waivers authorizing the use. Measure 49 DOES clearly limit the scope of the use that can vest by limiting it to a “use of the property [that] complies with the waiver.” The vesting officer, essentially, found that approval of the preliminary plat and subsequent recording of the final plat “constituted substantial evidence that the applicants’ use of the property complied with the waivers from the State and County.” Petitioners characterize this as a “short-cut” and a misapplication of applicable law. This may *seem* like a shortcut, but as discussed more fully herein, this court finds substantial evidence in the record – explicit or by fair implication -- apart from reliance on approval and recording of the plat to establish compliance to the extent the waivers required establishment or vested right to completion of a residential use. Construction of a dwelling is not necessarily required in order to establish residential use of the overall property. The question is whether there is substantial progress in the overall development that renders the right to start or complete that construction.

It is a fair implication from the approval of the subdivisions that each subdivision complied with the 1959 Yamhill County subdivision ordinance that was in effect when the property was acquired. Hence, using this implication, there is substantial evidence in the record on this aspect.

Common Law Vested Rights: This court has ruled that the vesting officer misconstrued the law in deeming the use fully vested by approval of the subdivision plat. Nonetheless, the landowners may still be entitled to continue and complete development of the residential use of the land consistent with Measure 37 waivers if the landowners have established a vested right to do so under the common law. The vesting officer, albeit as an alternative finding, concluded that each landowner had done so. The question for this court is whether there is substantial evidence to support the conclusion that sufficient common law vesting factors had been established.

The factors are guidelines, not a “checklist”. Though it appears the expenditure factor is the most significant under the circumstances of these cases, no one factor is determinative. The underlying precept is fairness and the question of whether a landowner has proceeded far enough is an issue of fact to be decided on a case-by-case

under section 6, 7 or 9 of this 2007 Act runs with the property and may be either transferred with the property or encumbered by another person without affecting the authorization.”

basis. The commencement of construction must have been substantial or substantial costs toward completion of the project must have been incurred. All the principles just recited and the common law criteria are most attributable to *Clackamas County v. Holmes*, 265 Or 193 (1973), and the factors are also set forth in Ordinance 823.

The factors the vesting officer is to consider, and did consider, are as follows:

- 1) *Expenditures Ratio*: The amount of money spent on developing the use in relation to the total cost of establishing the use.
- 2) *Good Faith*: The good faith of the property owner.
- 3) *Notice*: Whether the property owner had notice of the proposed change in law before beginning development.
- 4) *Adaptability*: Whether the improvements could be used for other uses that are allowed under the new law.
- 5) *Use/location/cost*: The kind of use, location and cost of the development.
- 6) *Mere preparation*: Whether the owner's acts rise beyond mere contemplated use or preparation, such as the leveling of land, boring test holes, or preliminary negotiations with contractors or architects.
- 7) *Other*: Other relevant factors.

Expenditure Ratio: Before more closely addressing this factor, the court must consider whether the vesting officer used the correct denominator in the ratio where one was provided and whether the failure to establish a denominator in the record is fatal to establishment of a vested right to complete development of the residential use.

According to *Holmes*, the denominator in the ratio is the "total cost of establishing the use." As discussed in the earlier portion of this opinion, the "use" is *not* the submission and approval of a subdivision plat. It is the completion of the permitted use. That use must be a residential – or in two cases, commercial -- use permitted at the time the property was purchased and subsequently prohibited by EFU zoning, and it must be consistent with the terms of the Measure 37 waiver that allow the non-conforming use. What that specifically means will vary, of course, according to the specific property. In general terms applicable to the cases here, it means subdivision of the property into smaller lots and establishment of single family dwellings on those lots or, in some instances commercial use. In more specific terms, it is the "Planned Development" summarized in the first chart in this opinion, page 3 and again on page 13, with some refinements discussed below.

I conclude that a specific determination of the denominator in each of these cases is not necessarily required. Further, even if it is, consideration of the other factors may be so favorable to the landowner that the absence of a denominator is simply not fatal to the ultimate conclusion which requires consideration of *all* factors.

The denominator may be more important in other cases where, for example, the total cost of establishing the approved use is lower than in these cases. If the total cost of completing a use is \$50,000 and the landowners have spent \$5,000 that would seem to be a substantial investment, all things else considered (10%). If the total cost is \$50,000,000, even \$50,000 may *not* be a substantial investment (.1 %) – i.e., a reflection of substantial progress toward completing the final use – sufficient to weigh this factor in favor of the landowner. Here, of course, the total costs of perfecting the use are somewhere in between. And, in this court's view, it may be possible to determine that the expenditures and progress is "substantial" without a clearly defined estimate of total cost. Appellate cases appear to have applied, or at least allowed, this approach in the past.²² If the

²² See, e.g., *Webber v. County of Clackamas*, 42 Or App 151(1979). This case does refer to the ratio of expenditures to the projected overall cost of the project and noted that the record contained no such evidence of projected overall cost. However, the court was

landowners have spend what a reasonable person could conclude is a substantial amount of money that would seem to be a substantial investment so long as the fact-finder can at least reasonably infer that it is a substantial expenditure in relationship to the reasonably foreseeable cost of completion.

This court must also address at what point in time the expenditures no longer count in this factor. For reasons discussed below under the “Notice” factor, I conclude that expenditures made up until December 6, 2007, count, so long as they were made in furtherance of establishing a completed residential use of the property.

Also at issue in some of the cases is whether expenditures by persons or entitles other than the landowners counts toward the expenditure factor. The records support the vesting officer’s inclusion of expenditures paid by third parties. The vesting officer could reasonably conclude that third parties were acting as agents of the landowners and/or that the landowners would, by contract, be sooner or later, financially responsible for the expenditures.

In the case of the Johnsons, there is the matter of the buildings variously described as “homes”, “placeholder buildings”, or “shacks”. Even the vesting officer noted that the construction of these buildings at least “has a bad faith quality to it.” I conclude that whether or not they were constructed in a bad faith effort to acquire a vested right in completion of residential use of the lots, they were not built in furtherance of the residential use.²³ The record does not demonstrate that these small buildings – I will use the term “sheds” were intended for gardening or some other use arguably adjunct to the dwelling and residential use of the lot. Rather it appears they were built as temporary “dwellings”, with plumbing and electricity solely for purposes of advancing the extent of expenditure on dwellings. While neither the vesting officer nor this court should speculate, it is nearly impossible to envision those buildings becoming the dwellings the residential use contemplated. Moreover, they fail to meet the CC&Rs requirements for size.²⁴ The most likely scenario is that they will be used for what they are – sheds -- on site or separately sold and removed as garden or utility sheds.

I conclude that the cost of these buildings should not be considered in the expenditures of the landowners to be considered in the expenditure factor. It misconstrued the law by not requiring the expenditure to have been made in furtherance of the use or completion of the use and/or it was an error of fact to count it as part of the expenditures. The sheds were, at best, built in furtherance of an effort to obtain vested rights, but there is no evidence in the record to suggest they were built in furtherance of the permitted, though nonconforming, residential use of the property. They are not the “single family dwellings” referred to in the waivers.

satisfied that the project of construction of 250 houses is “obviously a multimillion dollar proposition, and that the ratio of prior expenditures to the total cost of the project is far less favorable to the vested right than the 1:14 ratio in *Holmes*....” *Id.*, at 155. Note, too, that this case appears to reject the landowners position that because they intended to sell bare lots, the project was virtually completed, so the “denominator” should be their total expenditures as of plat approval. This would be at or near a 1:1 ratio, clearly beyond substantial. That is much like the position taken here, but rejected in *Webber*.

²³ This might be a good time to remind counsel and parties that this is not a question of whether this court might find construction of the buildings as bad faith. It is only a question of whether there is substantial evidence supporting the vesting officer’s finding or, more accurately, conclusion that they were *not* built in bad faith. Or, whether, regardless of this single good faith factor, there is sufficient evidence in the record to support the overall conclusion that collectively the *Holmes* factors weighed persuasively in favor of sufficient effort and investment into the establishment of residential use that the right to complete construction and development has become vested. *See also, Union Oil Company v. Clackamas County*, 81 Or App 1, 7-8 (1983).

²⁴ Johnsons argue that the CC&Rs are not applicable to them, only persons who purchase the lots. Technically, this may be true. But it does reinforce the notion that these sheds will never be used by the present landowner or any subsequent purchaser because they are of vastly inadequate size.

The record nonetheless provides substantial evidence, excluding the cost of the sheds, from which the vesting officer could find that the Johnsons expended sufficient funds and resources to meet the expenditure test. The vesting officer in fact found that they had spent enough as of the time the plat was finally approved and recorded, a time prior to the construction of the sheds, and there is sufficient evidence in the record to support that conclusion.

The vesting officer found the respective expenditures, based evidence in the record and work performed as summarized in the chart at the top of the next page.

PLANNED DEVELOPMENT²⁵

EXPENDITURES

ESTIMATED TOTAL WITH HOUSES

SUMMARY OF IMPROVEMENTS RELATED TO USE AS DESCRIBED IN WAIVERS

Johnsons	McClures	Abrams	Gregg	Cook
Up to 41 1-acre residential lots with dwellings, on 49.4 acres.	Up to 40 residential lots w/ dwellings & commercial development of balance on approx 69 acres.	Up to 50 residential lots with dwellings on 50 acres and commercial development of balance.	Up to 13 2-9.5 acre residential lots with dwellings + equestrian facilities on 78.26 acres.	Up to 10 residential lots with dwellings on 38.8 acres.
\$300,000+ to complete and record the final plat; \$1,472,657 prior to 11/6/07.	\$1,600,000 prior to 12/6/07	\$1,000,000 prior to 11/6/07, approx. \$2,000,000+ total	\$412,000+ before 11/6/07; \$488,000 before 12/6/07.	\$136,000 before 11/6/07; \$155,000 before 12/6/07
Total with houses approx \$2,300,000 ²⁶	\$3,700,000; \$15,404,796 by FYC estimate	27	27	27
Legal, planning, surveying and other plat preparation, electric service, gas, telephone cable and water systems, septic systems and roads. [Sheds not counted]	Road construction, subdivision, improvements to access road, landscaping, trails, annexation and city service, plan design. Binding agreements with the City of Newberg and Yamhill	Electric, gas, telephone cable, paved streets, wells and water systems, roads and septic system approvals. construction of homesites and single family dwellings	Surveying, engineering, obtained waivers and approvals, 13 septic systems, paved roads, 13 building permits, 1 well, roadway and site drainage.	Engineering, excavation, installation of utilities, some roads and septic systems, agreements with water cooperative and county

25 The summary of the planned development is repeated here to give perspective to the dollar amounts and work – not unlike the kind of perspective that might be provided by a specific dollar amount as denominator.

26 This may be somewhat flawed by inclusion of a \$15,610 cost per dwelling (total \$640,000). Perhaps that is the cost of the sheds. Even if the cost of houses is doubled, though, there is sufficient evidence to make this factor favorable to the landowners.

27 The court is unable to locate figures for total construction, including houses. The vesting officer states that in most cases this is speculative in any event. Perhaps I have simply not found more specific figures. As stated, this may not be fatal. However, if any of the parties think it might be, the court would receive additional written argument as to whether this matter should be remanded the case to the vesting officer for that finding.

	County.			
--	---------	--	--	--

It is not necessary here to further consider the details of evidence regarding expenditures in each case. It is sufficient that this court, as a court of review and not initial impression, determine whether the facts taken as a whole present sufficient evidence to support the conclusion of the vesting officer.

I conclude that the whole record provides substantial evidence in support of the vesting officers finding that each landowner, in good faith, made significant expenditures in furtherance of their planned development in comparison to total project cost including dwellings.²⁸ Where a denominator for total project cost is not specific, it is, as in *Webber*, reasonably inferred from the record.

The vesting officer had substantial evidence from which to conclude that this factor weighs in favor of vesting in each case.

Good Faith Factor: The only substantial issue of good faith is the Johnsons construction of sheds on the properties. As indicated above, there is sufficient evidence to support the vesting officer's finding that they were not built in bad faith. Nonetheless, as indicated above, because they were not constructed in furtherance of the residential use and are not single family dwellings described in the waivers they do not count toward the Johnsons investment in the overall project regardless of whether they were built in good faith.²⁹

In the case of the McClures, their good faith claim is further bolstered by the extensive communication and work done in consultation with the City of Newberg. The fact that all claims were advanced in open communication with the county and state further supports the good faith nature of their actions. No landowner in these cases was proceeding without openly obtaining the necessary approvals.

This factor, then, is supported by sufficient evidence in the record and favors vesting of the development in each case.

Notice Factor: This factor is much debated by the parties. It is, in this context, important not to impute one's own perception of the amount of publicity regarding potential restriction of Measure 37 to come out of the legislature and subsequent vote³⁰ It is about what these landowners perceived and/or a reasonable person would perceive or should be aware of in diligent prosecution of the development of property under these circumstances. The question, once again, on this factor is not whether the court might reach a different conclusion, but rather whether there is substantial evidence in the record to support the conclusions of the vesting officer.

The vesting officer's conclusion regarding this factor is supported by sufficient evidence in the record and favors vesting of the development in each case.

In addition to that, it seems to this court that Measure 49 presents something of what I will call a "yellow light/green light dilemma." That is, landowners with Measure 37 waivers were placed by Measure 49 in a position not unlike a driver approaching an intersection and observing BOTH a yellow traffic light and a green

²⁸ With regard to the Johnsons, this would appear to still be the case even after disregarding the cost of the sheds.

²⁹ Compare, *Holmes, supra*, where owners were proceeding without permits.

³⁰ Measure 37 was poorly written, to boot, making the form of revision, or even if it would be revised, contributed to the uncertainty. Also, I am not sure if it is in the record, but the court takes judicial notice that Measure 37 passed by a wide margin.

traffic light. Does the driver proceed ahead on authority of the green light or endeavor to stop safely as signaled by the yellow light? The yellow light was shining brightly on the highway of residential development of farm/forest property pursuant to Measure 37 waivers. Something dramatic could change in the law. But what that change *could* be was not clear until the bill was passed out of the legislature. And then, the probability that the bill embodied in Measure 49 would pass was in considerable doubt – certainly not the kind of probability on which to make sound business decisions.

The green light in the metaphor is the provision in the bill and the Measure that gave landowners until December 6, 2007, to establish a vested right to complete or continue their development. The end result is more like the lame interpretation of the meaning of a yellow light: “Hurry up and make it if you can, before the light turns red.”

I conclude that the notice factor does not negate any otherwise qualified expenditures incurred (even if bills paid later) before December 6, 2007. Even if the date is November 7, 2007, the result does not change.

Adaptability Factor: The issue here is whether the work performed on the properties could be adapted to a conforming use, or one of the two alternatives established by Measure 49 -- express approval to build up to 3 homes or somewhat more complicated approval to develop 4 to 10 homes. Landowners must show before the vesting officer that the restrictions would deprive them of any opportunity to derive reasonable economic value from their investment.³¹ It is significant that what we are talking about in each case is significantly more than the limited development established by Measure 49. The infrastructure established in each case – streets, utilities, septic systems, dwellings, *etc.* -- is considerably more consistent with a much larger number of lots and dwelling subdivision than even a 10 lot and dwelling project. The raw number of dwellings contemplated in the Gregg and Cook developments is closer to the 10 house option offered by Measure 49, but the vesting officer and the court must consider all the expenditures, not simply the number of intended dwellings. Even where fewer dwellings are contemplated, the investment in infrastructure and progress toward completion of the intended use amply establishes use more consistent with the intended development than with any agricultural use or more limited Measure 49 use.

I find overall that there is sufficient evidence in the record from which the vesting officer could conclude that the construction and expenditure in each case is significantly more consistent with each intended development than it is with a conforming use or a limited development allowed by Measure 49. This factor, then, also weighs in favor of vesting in each case.

Use/Location/Cost Factor: The kind of use, location and cost involved in each development varies somewhat. All are near existing infrastructure, just outside urban growth boundaries. The McClure property is especially positioned near surrounding housing, as opposed to open farm land. The Abrams property is right across Hill Road from other housing.

There is nothing in the record that would make this factor weigh against vesting as found by the vesting officer.

Mere preparation Factor: I conclude that there is ample evidence in each case for the vesting officer to have

³¹ If the vesting officer so finds, then the question for this court is whether there is substantial evidence to support that finding and, when considered together with all the other factors a common law vested right has been established.

concluded that the landowners had gone well beyond mere preparation, such as the leveling of land, boring test holes, or preliminary negotiations with contractors or architects. Substantial infrastructure was involved in each case. No one was waiting around a bare plot of land with, at best, a shovel, some string and stakes and a set of plans. All had progressed significantly further than that and the evidence in the record supports that conclusion.

The record supports the vesting officer's conclusion that this factor weighs in favor of vesting in each case.

Other Factor(s): All parties agree that the list of factors in *Holmes*, Measure 49 and Ordinance 823 is not exclusive. Petitioners however, argue that the vesting officer considered an additional factor that is not consistent with the overall fairness factor contemplated by the vested rights concept. Specifically, the vesting officer considered the additional factor of "the nature of the change in law". The court cannot say that, as a matter of law, this is an inappropriate additional factor. Certainly, the vicissitudes of this very significant change in land use law initiated by Measure 37 may be a factor to consider, keeping in mind that the ultimate goal is fairness. This is a spectrum apart from adjusting some building code requirement. It is perhaps the most major change in land use law since 1972. The law indeed changed dramatically for persons with long-time ownership of farm and forest property and, it should not be forgotten, for their neighbors. It was neither a simple change nor one lending itself to simple application. It often involved clearly competing interest between neighbors and impact on water supplies affecting even larger areas. It was a change qualitatively different than the less complex situations outlined in appellate cases dealing with common law vested rights.

I do not conclude that consideration of this additional factor is legally inappropriate or "misconstrued the law", and that is the only question for this court on review. Moreover, the vesting officer qualifies this factor as being one that would not change the vesting officer's overall conclusion. Accordingly, consideration of this factor appears to be harmless error at best.

Overall Consideration: I conclude that there is substantial evidence in the record to support the conclusion that the factors taken collectively establish a vested common law right to complete the residential use of the property as described in the waivers.

Summary of Rulings on Matters of Law. The vesting officer misconstrued the law in each case by concluding that the right to complete construction on the properties was completed when the landowners gained plat approval. Plat approval is a step in the process, not a completion. The developments were not, as a matter of law, completed by plat approval and therefore fully vested – or otherwise a completed use -- prior to implementation of Measure 49. The fundamental error behind the misapplication of the law is application of the incorrect meaning of the word "use". Plat approval fails to meet the definition of "use" by any of the possible definitions discussed above. In this context, the "use" is a residential or commercial use as more specifically defined in each case by the Measure 37 waivers that are the basis for the nonconforming use.

The vesting officer also misapplied the law in concluding that the Johnson lots were transferrable when the plat was approved. They may have been transferrable when sold, but only if the Johnsons had a vested right in development of the property prior to the transfer – *i.e.*, a transferrable vested right as opposed to a nontransferrable Measure 37 waiver. I conclude that there is substantial evidence in the record to support the conclusion that the Johnsons had, prior to the transfers, a common law vested right that ran with the land and therefore was transferred to the purchasers.

The vesting officer based his decision on alternative theories. As indicated above, the vesting officer

misconstrued the law on the issues described above. The vesting officer's alternative analysis nonetheless is supported by substantial evidence in the record and results in rights vesting with the landowners pursuant to the common law.

Summary of Ruling as to Vested Rights: The record supports the conclusion that the landowners here relied in good faith on the waivers granted by the County and State and the plat approved by the county and not appealed. They acted on that good faith in pursuing local necessary permits and approvals and in investing substantial effort and financial resources in to making progress toward completion of the residential use defined in their projects. Uncertainties of the Measure 49 revisions do not impute clear notice to the parties any sooner than November 6, 2007, and the provisions of Measure 49 further give the landowners until December 6, 2006, to establish a common law right to complete.

The record also supports the conclusion that the investments made are more suited for the development contemplated by the parties as opposed to a conforming use or one of the Measure 49 alternatives.

Overall, then, the record supports the vesting officer's conclusion that, considering *all* the relevant common law factors, each property owner has a vested right to complete construction necessary to complete the residential use consistent with the Measure 37 waivers.

Judgment: The decisions of the county through its duly appointed vesting officer are annulled in part and affirmed in part. Insofar as the decisions are based on a misapplication of the law in concluding that the property became fully vested, or was not subject to Measure 49 at the point of plat approval, the decisions are annulled.

Insofar as the decisions are based on findings that the landowners have a vested right to complete development of the property under principles of common law, they are affirmed.

Separate judgments as to each case should be prepared. Counsel for each of the landowners should prepare the judgment. A draft, of course, should be sent for approval as to form by the county and to the petitioners before submission to the court.

Sincerely,

JOHN L. COLLINS
Presiding Judge

FILED: March 02, 2011

IN THE COURT OF APPEALS OF THE STATE OF OREGON

JOYCE A. DAMMAN,
an individual;
GARY W. DAMMAN,
an individual;
and FRIENDS OF YAMHILL COUNTY, INC.,
an Oregon non-profit corporation,

Petitioners-Appellants,

v.

BOARD OF COMMISSIONERS OF YAMHILL COUNTY,
an Oregon municipal corporation;
CHARLES J. MCCLURE and ELLEN R. MCCLURE,
Trustees of the Charles J. McClure and Ellen R. McClure Trust,

Respondents-Respondents.

Yamhill County Circuit Court
CV080225
A141019

John L. Collins, Judge.

Argued and submitted on January 13, 2010.

Ralph O. Bloemers argued the cause and filed the briefs for appellants.

Steven W. Abel argued the cause for respondents Charles J. McClure and Ellen R. McClure. With him on the briefs were Charles F. Hinkle, Sarah Stauffer Curtiss, and Stoel Rives LLP.

John M. Gray, Jr., waived appearance for respondent Board of Commissioners of Yamhill County.

Before Sercombe, Presiding Judge, and Wollheim, Judge, and Riggs, Senior Judge.

SERCOMBE, P. J.

Reversed and remanded.

This case concerns issues similar to those decided in *Friends of Yamhill County v. Board of Commissioners*, 237 Or App 149, 238 P3d 1016 (2010), *rev allowed*, 349 Or 602 (2011). That case evaluated the legal standards that a court uses to determine whether a claimant has a

"common law vested right * * * to complete and continue" property development under section 5(3) of Measure 49, the referendum that replaced Measure 37 and altered its remedies for reduction in property value caused by a land use regulation. Here, the issue again is whether the circuit court applied the correct legal standards in its review of a county vested rights determination. The county determined that respondents Charles McClure and Ellen McClure (the McClures) had vested rights to continue residential uses in an approved subdivision under section 5(3) of Measure 49. A reviewing court upheld the vested rights determination, albeit on different reasoning than that used by the county. On appeal to this court, petitioners Damman and Friends of Yamhill County claim that the reviewing court erred in applying the legal standards that govern whether a land use right has vested. The McClures defend the court's decision, and also argue that vested rights exist under a theory rejected by the reviewing court. We conclude that the court erred in applying the applicable law in its review of the county decision and that the court should have remanded, rather than sustained, the county approval. Accordingly, we reverse and remand this case for further proceedings.

The legal context of this case is set out in *Friends of Yamhill County*, 237 Or App at 151-53. The case arises in the context of an original law and its replacement, both adopted by the voters, that provide remedies to property owners whose property values are adversely affected by land use regulations. The original law, Measure 37, was adopted through the initiative process in 2004 and was initially codified at ORS 197.352 (2005). The law was subsequently amended, Or Laws 2007, chapter 424, section 4, and, in 2007, it was renumbered as ORS 195.305. Measure 37 required state and local governments to provide "just compensation" to a property owner when a governmental entity enacted or enforced a post-acquisition land use regulation that restricted the use of the property in ways that reduced its fair market value. *Former* ORS 197.352(1) (2005). Under the measure, that regulatory effect allowed an affected property owner to demand just compensation from the government. If a claimant qualified for relief, the governmental entity could respond in one of two ways: by paying the claimant the amount of the reduction of the property's value, *former* ORS 197.352(2) (2005), or by deciding to "modify, remove, or not to apply the land use regulation * * * to allow the owner to use the property for a use permitted at the time the owner acquired the property," *former* ORS 197.352(8) (2005). In the subsequent adjudication of Measure 37 claims, the option to exempt property from otherwise applicable regulations and allow a specified use became known as a "Measure 37 waiver."

As we explained in *Kleikamp v. Board of County Commissioners*, 240 Or App 57, 60, ___ P3d ___ (2010) (quoting *Friends of Yamhill County* 237 Or App at 152), "Measure 37, however, was controversial. 'The potential disruptive effect of [Measure 37] development, together with a lack of clarity in Measure 37's provisions, led to calls for a revision of the measure.'" The 2007 Legislative Assembly referred a substitute statute to the voters, Measure 49, legislation that narrowed the effects of Measure 37, including a reduction in the degree of residential development allowed under a Measure 37 waiver. The voters approved Measure 49, and it became effective on December 6, 2007.

Measure 49 redefined the adjudicatory processes, approval standards, and extent of relief for two classes of Measure 37 claims: those filed on or before June 28, 2007, and those filed thereafter. As to the former class of claims, section 5 of the measure limited the number of residential dwellings allowed under a granted waiver and otherwise allowed just compensation to a claimant as follows:

"(3) A waiver issued before [December 6, 2007] to the extent that the claimant's use of the property complies with the waiver and the claimant has a common law vested right on [December 6, 2007] to complete and continue the use described in the waiver."

We have construed that provision and the meaning of "common law vested right" in a number of opinions, beginning with *Friends of Yamhill County*. In that case, we concluded that the factors used to determine the existence of a vested right to complete and continue a land development project were set out in *Clackamas Co. v. Holmes*, 265 Or 193, 198-99, 508 P2d 190 (1973), and included (1) the ratio of project expenditures to the total project cost; (2) the good faith of the landowner in making the expenditures; (3) the relationship of the expenditures to the project as opposed to other uses of the property; and (4) the nature, location, and ultimate cost of the project. After a survey of vested rights cases, we determined that the case law

"establish[es] that all of the *Holmes* factors are material to the determination of a vested right and that they are interrelated. The inquiry is equitable in nature, requiring an evaluation of the progress of land development at the time of the downzoning, either in terms of a substantial start of construction of the vested use itself or substantial expenditures toward that particular end (as distinguished from expenditures for an otherwise lawful use of the property). The adaptability of expenditure factor is more significant * * * when the change of law does not entirely preclude the intended use. The degree of construction or expenditures necessary to be substantial depends on the proportion of those efforts or costs to the total project buildout or budget. Given the interrelatedness of the factors, the degree of construction or expenditure necessary to be substantial may be affected by the other *Holmes* factors (good or bad faith of landowner, size of project, the location of project with respect to other uses) and other equities, including the past conduct of the zoning authorities. Similarly, the degree to which a particular factor is material to a determination of vested rights is affected by the strength or weakness of the equities that result from the application of the remaining factors."

Friends of Yamhill County, 237 Or App at 165.

The issue in this case is whether the McClures have a vested right to complete and continue the residential development of their property that was allowed under the issued Measure 37 waivers. Since 1967, the McClures have owned two adjacent parcels of land located near the urban growth boundary of the City of Newberg. County zoning and state policies regulate the allowed land uses of the property. The McClures obtained Measure 37 waivers from the state and the county to use their property subject to the land use regulations in effect in 1967. The state waiver allowed "division of the 69.18-acre property into a maximum of forty 1-acre parcels [f]or * * * development of a dwelling on each parcel and * * * [allowed] development of the remaining property for commercial uses." The county waiver authorized the McClures to apply "to divide the subject property into residential and commercial lots of various sizes of less than one acre to over one acre and * * * to establish dwellings or other uses on the newly created lots."

The McClures began residential development of a portion of the properties subject to the Measure

37 waivers. They sought and obtained preliminary subdivision approval for a residential subdivision of 51 acres. The preliminary plat laid out 37 residential lots and two open space tracts. The McClures planned to develop the remainder of the property with a winery and a retirement home.

Following preliminary subdivision approval, the McClures entered into a development agreement with the City of Newberg. Under that agreement, the city agreed to extend water services to the properties and the McClures agreed to develop the properties with roads, water lines, and sewerage facilities constructed according to city standards and to support annexation of the properties to the city. The McClures also executed a performance agreement and irrevocable letter of credit with the county. That agreement obligated the McClures to complete road and utility improvements for the subdivision property, and to secure performance of that commitment with a \$989,777 letter of credit from a bank. The letter of credit allows the county the right to use the funds to complete the improvements if the McClures default on their obligations. Largely on the basis of improvements to a perimeter road to the subdivision and the commitment and security to build subdivision public improvements, the McClures obtained final subdivision approval. They recorded the final plat of 36 residential lots on November 6, 2007. By December 6, 2007, the McClures had incurred \$189,778 in expenditures for street and utility costs, and \$416,087 in "soft costs" (planning, legal, engineering, and survey costs, costs of permits, and interest on borrowed money) toward development of the subdivision.

The McClures applied for and obtained certification of their vested rights to complete the residential subdivision under Measure 49 from a county hearings officer. The hearings officer concluded that the McClures' expenditures were "substantial" under the *Holmes* factors without regard to the proportion of those expenditures to the total project costs of developing the properties with homes. (1) On review, the circuit court upheld the vested rights determination.

Petitioners seek review of the circuit court judgment. Petitioners argue that the court erred in affirming the vested rights determination by the hearings officer. Petitioners claim that initiation of construction of the homes is necessary in order to vest that residential use under section 5(3) of Measure 49 and that the hearings officer should have assessed the ratio of countable expenditures to total project costs in order to determine the substantiality of the McClures' expenditures toward the proposed vested use. Petitioners assert that the vested rights determination should have been annulled by the circuit court because the potential ratio of expenditures was low, particularly in light of the purported bad faith of the McClures in making expenditures during the Measure 49 referral process.

This case was decided by the reviewing court together with four other vested rights review proceedings. We have issued opinions in three of those companion cases: *Friends of Yamhill County, Kleikamp*, and *Biggerstaff v. Board of County Commissioners*, 240 Or App 46, 245 P3d 688 (2010). Those opinions resolve petitioners' contentions on review. In *Friends of Yamhill County*, we rejected petitioners' assertions, reiterated in this case, that a claimant must start physical construction of residences in order to vest a residential use and that expenditures after the referral date of Measure 49 are necessarily made in bad faith and are not relevant to consideration of the expenditure ratio factor. 237 Or App at 166-68, 172. Those conclusions were echoed in *Kleikamp*, 240 Or App at 64. We reject them here as well.

In all three cases, however, we agreed with petitioners' more fundamental point--that, under these facts, consideration of the ratio of expenditures made to the total project costs is necessary in order to determine the existence of a vested right to develop the residential subdivision. As we put it in *Biggerstaff*:

"In *Friends of Yamhill County*, we reasoned that, in determining whether a vested right exists in this context, consideration of the expenditure ratio is 'necessary.' 237 Or App at 178. More recently, in *Kleikamp* * * *, we reiterated the fundamental underpinnings of our directive in *Friends of Yamhill County*. More specifically, we noted that, in all but the most exceptional case, 'a landowner's proof of "substantial expenditures" is the *sine qua non* of a vesting determination' and that '[f]or vesting purposes, we understand that the concept of "substantial expenditures" * * * requires an examination of both the absolute amount expended and the percentage yielded by the expenditure ratio.' *Kleikamp*, 240 Or App at 66."

240 Or App at 54.

The McClures argue that any error by the county in failing to calculate and assess the expenditure ratio is harmless because the county record shows that the total project expenditures, including the letter of credit commitment, was 11 percent of the costs of developing the subdivision and building homes of average cost, and that that ratio is sufficient, as a matter of law, to support the vested rights determination. Petitioners contend that the letter of credit obligation is not an "expenditure" and should not count in calculating the numerator of the expenditure ratio, and that the actual expenditures represent only four percent of the costs of developing a subdivision with average homes. We conclude that there is insufficient evidence in the county record to establish the project costs, *i.e.*, the costs of the development contemplated by the McClures on December 6, 2007, and that further evidence is needed to determine the denominator of the expenditure ratio. Similarly, whether the letter of credit obligation qualifies as an expenditure also requires factual determinations by the county. Given those uncertainties about both the numerator and the denominator of the expenditure ratio, we cannot say that the failure by the county to address the expenditure ratio factor in assessing the existence of a vested right was inconsequential or harmless.

The project costs in this case would not include the costs of average homes. The McClures contemplated developing the project, according to the development agreement with the city,

"to enhance the Newberg area and provide an attractive and suitable entrance to the City and provide opportunities for housing and other uses not currently available in Newberg [and] * * * to develop the Property in a manner that offers exceptional quality and design while * * * providing a superior quality of residential environment unequaled in the area."

As we observed in *Kleikamp*,

"a cogent assessment of total project cost (and, concomitantly, the expenditure ratio) will, in turn, require particular identification of the development that the property owner sought to vest as of December 6, 2007. For example, a 15-lot residential subdivision, depending on lot sizes and applicable zoning, could include anything from

modest homes to mansions, with consequent substantial differences in the total cost of construction. Thus, it is incumbent on the property owner to establish the likely total project cost in relation to the size and character of the structures that the owner contemplated building in compliance with a Measure 37 waiver as of December 6, 2007."

240 Or App at 66-67. It was necessary, then, for the county to determine the cost of the contemplated residential development in order to assess the McClures' vested rights.⁽²⁾

The McClures may be correct, however, in advocating that the letter of credit obligation qualifies as a project "expenditure" under the *Holmes* analysis. The *Holmes* case references the test as "substantial costs toward completion of the job must have been incurred." 265 Or at 197. The opinion later refers to "expenditures incurred," *id.* at 198, and "expenses incurred," *id.* at 201. The meaning of "incur" is straightforward--"to meet or fall in with (as an inconvenience) : become liable or subject to : bring down upon oneself." *Webster's Third New Int'l Dictionary* 1146 (unabridged ed 2002). "Expend" means "to pay out or distribute : SPEND," *id.* at 799; whereas "expenditure" means "the act or process of expending" and can mean, in accrual basis accounting, "an outlay or the creation of a liability for an asset or expense item," *id.* at 800. The ordinary meaning of an "incurred expenditure" includes a certain liability in the process of expending or paying out money where the spending is likely to occur.

As we observed in *Friends of Yamhill County*, the common-law vested rights "inquiry is equitable in nature, requiring an evaluation of the progress of land development at the time of the downzoning." 237 Or App at 165. The equities of allowing vesting to a developer on the basis of cash outlays differ little from those created when a developer assumes an irrevocable financial obligation. Whether the letter of credit qualifies, then, as an "incurred expenditure" depends upon its similarity to a payout--to the certainty of the McClures' liability, whether it is revocable or contingent, and the likelihood of the spending, measured as of the vesting date of December 6, 2007.⁽³⁾ The actual letter of credit is not in the county record, making that assessment difficult on appellate review. Rather, that assessment can be made on remand.

Thus, the hearings officer and the reviewing court determined that it was unnecessary to establish the denominator (the total project costs) of the expenditure ratio in evaluating the substantiality of the McClures' expenditures for purposes of vesting. That was error, and the reviewing court must remand the proceedings back to the county for that evaluation. In that evaluation, more focused findings are required on the numerator and denominator of the expenditure ratio factor.

The McClures cross-assign error to the reviewing court's rejection of their contention that the McClures' "right to complete and continue the use described in their Measure 37 waivers vested as a matter of law when the County granted final plat approval." In essence, the McClures contend that their final subdivision approval was not affected by the subsequent enactment of Measure 49 and that the lot division was sufficient to vest residential development of the property.

As to the retroactive effect of Measure 49 on Measure 37 waivers and actions taken under those waivers, the Supreme Court has explained, "[a]n examination of the text and context of Measure 49 conveys a clear intent to extinguish and replace the benefits and procedures that Measure 37

granted to landowners." *Corey v. DLCD*, 344 Or 457, 465, 184 P3d 1109 (2008). The court further noted that "Measure 49 by its terms deprives Measure 37 waivers--and *all* orders disposing of Measure 37 claims--of any continuing viability, with a single exception [of the vested rights determination under section 5(3)]." *Id.* at 466-67 (emphasis in original). Thus, Measure 49 precludes prospective residential development allowed by waivers granted under Measure 37. Moreover, it is not clear that subdivision lot approval by the county carries with it any vested right to develop the lots for a particular use or at any specific density of development. Because the McClures' Measure 37 waivers no longer are effective, current zoning and the residential use allowances under Measure 49 control residential development and building permits for the subdivision. The McClures did not explain how subdivision lot approval precludes the operation of those zoning controls to land use development of the subdivision and the reviewing court did not err in failing to supply that reasoning in its oversight of the county decision. *Cf.* ORS 92.040(2) (laws in effect at time of subdivision application govern subsequent construction on property for land within urban growth boundaries); *Pete's Mountain Homeowners Assn. v. Clackamas Cty.*, 227 Or App 140, 204 P3d 802 (2009) (Measure 37 waivers and the application of the "goal-post statute," requiring application of standards existing at time of application to permit or zone change, superseded by Measure 49).

Reversed and remanded.

1. The hearings officer reasoned:

"The issue of whether the applicants' expenses should be compared to a 'completed use' as homesites or as completion of every single dwelling permitted by Yamhill County, is discussed throughout these findings. If the cost of constructing all of the proposed homes is the measure, there is the additional question of whether to consider the cost of the types of homes the applicant is contemplating, the cost of a legal, habitable dwelling, an 'average cost' or some other measure.

"This is a speculative analysis that may be necessary in other cases in which this factor deserves to be given more weight, but is not necessary to properly address [the ratio test] in this case."

[Return to previous location.](#)

2. The hearings officer, reviewing court, and the parties assume that the relevant project, for vesting analysis, is the residential subdivision. Given the contentions of the parties, we have no occasion to disturb that assumption. We note, however, that section 5(3) of Measure 49 pertains to "a common law vested right * * * to complete and continue the *use described in the waiver*." (Emphasis added.) The use described in the McClures' waiver is for residential and commercial development. On the other hand, the allowed just compensation under section 5(3) is "as provided in: * * * [a] waiver * * * *to the extent that*" the claimant's property use complies with the waiver and a common-law vested right exists, perhaps implying that some degree of the use provided in the waiver can be allowed. (Emphasis added.) We need not decide if section 5(3) permits a partial vesting or not, given the circumstances of this case.

[Return to previous location.](#)

3. At the time of final plat approval, a letter of credit can substitute for the actual provision of water or sewer services to the subdivision lots when the letter of credit is "irrevocable" and assures "that a domestic water supply [or 'sewage disposal'] system will be installed by or on behalf of the subdivider to the lot line of each and every lot depicted in the proposed subdivision plat." ORS 92.090(4)(b) (water supply system); ORS 92.090(5)(b) (sewage disposal system). Thus, as a matter of subdivision law, the unconditional nature of the letter of credit and the inevitability of the improvement are important as well.

[Return to previous location.](#)



Yamhill County

DEPARTMENT OF PLANNING AND DEVELOPMENT

525 NE FOURTH STREET • McMinnville, Oregon 97128

Phone: (503) 434-7516 • Fax: (503) 434-7544 • TTY 800-735-2900 • Internet Address: <http://www.co.yamhill.or.us/planning>

January 27, 2017

MS ___ SP ___ RO ___ TS ___

MEMORANDUM

To: Board of Commissioners

From: Stephanie Armstrong, Associate Planner

Re: **Docket E-06-16, Applicant: Christian DeBenedetti, Appellant: David Wall**
(The hearing is an appeal of the Planning Director's approval to allow up to 18 agri-tourism events per calendar year)

Enclosed are the comments submitted during the first open record period (January 19 – January 26). The contents of the record are as follows:

- A. Comments submitted in opposition
- B. Comments submitted by the applicant
- C. Comments submitted in favor

C. Comments submitted in favor

Docket # E 06-16

Dear Commissioners:

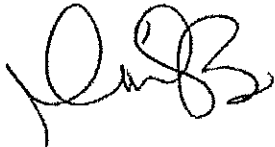
It deeply saddens me that once again we find ourselves being harassed by the outside influences that come into the area without a real understanding of the needs of the county and our citizens, and decide they have the right to change the decisions that we have already made without consideration for the bigger community.

I found Wall's testimony an insult to our intelligence and an attack on the staff who serves us all.

Wolves and People is a great establishment-- well run, family friendly, and a great community partner (I have seen donations from them at almost every community event I have attended). We are desperately in need of the kind of chef events in question. As a county have been unable to provide manufacturing due to our serious lack of available lands for industry and housing alike, and have been forced to rely on tourism to meet the employment needs of our local citizens due to this same kind of opposition. 1000 Friends has often told us that farming is good employment, and through the work of people like Christian-- he is able to use HIS farmland in a way that not only provides employment using an agricultural product, but a new wave of entertainment for the tourists we invite here to spend their money enjoying our local agricultural tourist events.

I congratulate you on your prior decision and I hope that you determine that Mr. Well's and his buyer remorse are not really our concern.

Denise Bacon

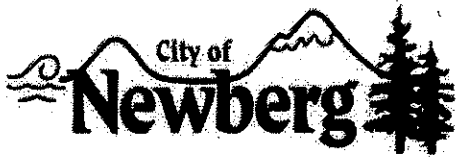


Newberg City Councilor District #3

1015 S. Pacific Street

Newberg, OR 97132

503-840-5023- Cell



**City of Newberg 2017 - 2018
Transient Lodging Tax – Destination Development and
Marketing Promotion Grant Program Guidelines**

INFORMATION FOR GRANT APPLICANTS

PURPOSE:

This grant program is intended to aid organizations and businesses that further the Newberg Strategic Tourism Plan adopted in June 2016 for destination development and marketing promotion activities, <http://www.newbergoregon.gov/economicdevelopment/page/newberg-strategic-tourism-plan>, by advancing the adopted goals of:

- 1: Tourism bolsters Newberg economy in measurable ways.
2. Newberg is a destination of artisan makers and doers.
3. Tourism funding and industry partners catalyze downtown development and creation of new experiences for target audiences.
4. The tourism organization and strategy engage and energize local tourism partners and demonstrate healthy partnership between the private sector and city.
5. Moon Shots – tourism encourages sustainable development that benefits the local community and enhances the visitor experience.

DEFINITIONS:

The City of Newberg utilizes the state definition of tourism which is aligned with Oregon's legal definition: "Tourism" means economic activity resulting from tourists.

"Tourist" is a person who, for business, pleasure, recreation, or participation in events related to the arts, heritage or culture, travels from the community in which that person is a resident to a different community that is separate, distinct from, and unrelated to the person's community of residence, and that trip:

- a. Requires the person to travel more than 50 miles from the community of residence; or
- b. Includes an overnight stay in a paid accommodation in Newberg, Oregon.

"Tourism promotion" (as it relates to this grant application) means any of the following activities:

- a. Advertising, publicizing, or distributing information for the purpose of attracting and welcoming tourists;
- b. Conducting strategic planning and research necessary to stimulate future tourism development;
- c. Operating Tourism promotion agencies; and
- d. Marketing special events and festivals designed to attract tourists.

"Tourism Related Facility" is:

- a. A conference center, convention center, or visitor information center; and

- b. Other improved real property that has a useful life of 10 or more years and has a substantial purpose of supporting tourism or accommodating tourist activities.

FUNDING:

Funding for this program is up to \$430,000 which may be disbursed to multiple organizations or businesses. The minimum grant amount is \$10,001 and the maximum is based on funds available for that fiscal year. The funds are made available from the City of Newberg transient lodging taxes that are assessed to hotels, motels, bed and breakfasts, and vacation rentals for guests in the City of Newberg.

ELIGIBLE APPLICANTS:

Eligible applicants include governmental entities, 501(c)(3) and (6) non-profit organizations, and for-profit private entities with a project, program, or event in the Newberg zip code area of 97132 aimed at destination development or marketing promotion that promotes local tourism attractions, brings visitors or has the potential to bring visitors, to Newberg that will create overnight stays in Newberg's commercial lodging properties in furtherance of the Newberg Strategic Tourism Plan goals.

Multiple grant applications per year will be considered for any one organization or business. If an organization or business has previously been awarded a tourism grant by the City of Newberg, it will only be considered for a grant if all previously awarded grants complied with grant agreement requirements and procedures, including filing progress reports. Since grants are funded from revenues from lodging tax, recipients are asked not to request discounts from Newberg lodging properties for the proposed project, program, or event.

GRANT APPLICATION PROCESS:

In order to be considered for grant funds from the City of Newberg:

- 1) A completed application must be delivered to the Community Development Director. Application forms are available at <https://www.newbergoregon.gov/economicdevelopment/page/2017-2018-transient-lodging-tax-destination-development-marketing-grant> or by contacting the Community Development Director, doug.rux@newbergoregon.gov. If you have multiple projects, programs, or events, separate applications will need to be submitted. The exception would be if the project, program, or event had multiple dates over the course of the fiscal year.
- 2) All application forms **MUST** be typed and sent to the Community Development Director. **No hand written forms will be accepted. Failure to abide will result in application disqualification.**
- 3) All applicants will be notified of funding approvals no later than January 31, 2018.
- 4) Progress and Final Reports on activity, spending, and results are to be submitted to the Community Development Director.

TYPES OF PROJECTS/PROGRAMS/EVENTS TO BE CONSIDERED:

Below is a sample list of grant projects, programs or events; actual projects are not limited to only what is listed below.

- 1) Projects, programs, or events which generate or encourage overnight stays in Newberg.
- 2) Projects, programs, or events that increase visitor spending.
- 3) Projects, programs, or events that enhance shoulder and off season visitation.
- 4) Projects, programs, or events that create unique wine country experiences that distinguish Newberg from nearby destinations.

ACTIVITIES NOT ELIGIBLE FOR FUNDING:

- 1) General administrative costs;
- 2) Membership fees;
- 3) Projects, programs or events promoting tourism outside of Newberg;
- 4) Project directed solely at the residents of Newberg;
- 5) Used as match for other City of Newberg funding awards;
- 6) Salaries;
- 7) Operating costs;
- 8) Travel and mileage;
- 9) Architectural engineering studies;
- 10) Apparel for volunteers and/or staff; or
- 11) Advertisements in Newberg or CVCC guides/brochures, local Chambers of Commerce publications, and local publications (print, radio, television) that are not distributed at least 50 miles outside of Newberg.

MATCHING REQUIREMENT:

The Destination Development and Marketing Promotion Grant Program requires a minimum 1:1 match ratio from the applying organization or business:

- 1) Non-Profit/Governmental: 1 (applicant) and includes in-kind or cash / 1 (City of Newberg)
- 2) For-Profit: 1 (applicant) cash match / 1 (City of Newberg)

Match funds must be documented and must be committed prior to the distribution of funds. The higher the cash or in-kind match ratio will enhance the application scoring.

EVALUATION CRITERIA:

The City of Newberg Transient Lodging Tax Ad Hoc Committee will review applications and make a recommendation to the Newberg City Council on awards according to the purpose and evaluation criteria of the grant program. The Newberg City Council will make the final award decision.

Eligibility Requirements

- | | |
|--|--------|
| 1) Aligns with Transient Lodging Tax regulations (Tourist, Tourism Promotion, Tourism Promotion Agency, Tourism related facility) | Yes/No |
| 2) Promote or create experiences for: Outdoor recreation visitor, Experiential arts, Wayfinding, Downtown enhancement | Yes/No |
| 3) Appeals to designated audiences in the Newberg Strategic Tourism Plan (Wine Country Adventures, Millennial Explores, George Fox Network, and Luxury Wine Travelers) | Yes/No |
| 4) The project will create or enhance an experience for shoulder or off-season visitors | Yes/No |
| 5) Does it align with other tourism activities in the community | Yes/No |
| 6) Builds on existing assets | Yes/No |
| 7) Leverages funding | Yes/No |
| 8) Entities that have a bankruptcy or other financial corruption within The past five years are ineligible | Yes/No |

Criteria

- | | |
|--|-------|
| 1) What is the projected return on investment | |
| a. Predicted number of tourists attracted/overnight guests | 0 - 5 |

January 16, 2018
RE: Resolution 2018-3429
Attachment 7 Wolves & People Vines to Steins trail

City Council Meeting
Date: 1/16/18
Re: _____
Topic: HT Grants

Newberg City Council Members,

I am here in opposition to the Vines to Steins funding project for Wolves and People Brewery.

Tavern, bar, brewery call this business what you may; various alcoholic beverages containing 3.0-8.5% alcohol by volume are routinely served. This business entity does not belong in a neighborhood or on land that is designated EF-20 agriculture.

The Applicant will assert the majority of neighbors like coming to the brewery. This assertion is absolutely untrue. ***The Applicant routinely uses and relies upon social media to garner mass support used in the various permitting processes.***

The application for funding states, under Goal 3: **“Funding will steer visitors to restaurants and other related business in Newberg.”** The Applicant, in his application, has said nothing of the food carts that are regularly at the brewery. He may say the carts are from businesses in Newberg but, is that true?

Do you recognize the following food trucks: “Wild Hunt PDX, Bernard's Farms, Park Kitchen of Portland, Storrs Smokehouse, Bearded Buddies Food Truck , Pastrami Zombies” from Portland or Tournant? How can the applicant help the restaurant business in Newberg?

These food trucks serve food regularly at the tavern and are competing with your Newberg restaurants that are paying your city taxes and fees. Is it really fair to give the money to a business outside of the city that clearly states they will use \$5000 for advertising their business? **Where is the benefit to the city of Newberg?** And what happens to the taverns, bars and Growler businesses in Newberg? Wolves and People now sell Growlers and additional competing products. Wolves and People undermine your local businesses. I am sure many of your local taverns, bars and restaurants would like similar financial assistance.

I have read comments by Councilor Denise Bacon to the Yamhill County Commissioners regarding [Docket No. E-06-16]. She states, "I have seen donations from them at almost every community event I have attended." I have to ask, why wouldn't the Applicant not give a donation? It is a great way to advertise their product and the business of selling beer. Was it wise to invite three (3) large school buses and a red double decker bus to the tavern full of young people? The aforementioned vehicles, due to their size, cannot navigate safely on NE Benjamin Road-they must always cross the “double yellow lines” and are always a threat to all who travel on this road.

The building of trails on agricultural land is just ludicrous. Chemicals from vine operations and nearby filbert orchards are used in this area. People walk on the trails and this is not safe. It is foreseeable patrons will be drunk or even high and fall down. Does the city not see the potential for lawsuits; health and safety injuries, lowered property values and other injuries by providing “Grant monies” to this type of business activity?

The Applicant's permit approval, from the Yamhill County Commissioners [Docket No. E-06-16] clearly states in subsection (e); **“No new permanent structures are proposed, nor is the construction of any new permanent structure allowed by this Order.”** Why is the applicant applying to build a new Pavilion?

The usage of this agriculture land, other than for the purposes intended, will be appealed to the Yamhill County Commissioners when the Applicant seeks to renew his Agritourism permit with Yamhill County and to the Land Use Board of Appeals (LUBA) if necessary.

**It is premature for the city to grant the applicants request at this time.
There are too many what if's for you to waste your taxpayers money on.
This grant request needs to be denied.**

Respectfully,
Vicki Shepherd
30230 NE Benjamin Rd
Newberg, OR 97132

January 16, 2018

RE: Resolution 2018-3429 Attachment 7, Wolves & People Vines to Steins trail

Tim Fitchett, Attorney at law

On behalf of Vicki Shepherd and Joyce Damman

City Council Meeting

Date: 1/16/18

Re: Wolves & People

Topic: IT Grant Awards

Wolves and Peoples Brewery's request for funding from the city to build an interpretive walking trail between A to Z Wineworks and their Brewery should be denied. The City should not expend funds on a walking path that may very well prove to be useless in a matter of months.

Mr. DeBenedetti is currently being allowed to operate his brewery under the auspices of an agritourism permit, a permit that must be renewed by March 9 of this year. His absolute failure to comply with the rules of the permit will mean that his renewal of that permit will be denied, either by the City or on appeal to LUBA. While the merits of the permit and renewal process are not specifically at issue this evening, if the permit is not renewed, as it shouldn't be, then the money approved this evening would be for a moot purpose.

The permit approved by the Board of County Commissioners last year states that it expires one year after approval, but "may be renewed for a four year period subject to a renewal application *and compliance with the above conditions of approval and the standards of Section 1013 of the Yamhill County Zoning Ordinances.*" The approval allowed Wolves and People to operate their brewery for 18 "Agritourism" events each year. However, under that permit, Wolves and People has essentially run a normal brewery operation in direct contradiction to the terms of the permit.

First, the events were not to exceed the hours of operation of Friday 4-9pm, Saturday 2-10pm, and Sunday 12-5pm. However, on their website, Wolves and People states that their hours of operation are 12pm to 8pm on Saturdays and Sundays in clear contradiction to the permit requirement. My clients can confirm that they have, indeed, been open before 2pm on Saturdays and after 5pm on Sundays. In addition, they have been opening after work hours on Thursdays, starting around 5pm and continuing until around 9pm. Not only is this outside the scope of their permit, it also exceeds the 72-hour maximum for any single event.

Second, Wolves and People has far exceeded the 18 weekends that they are allowed. Wolves and People has been open every weekend, barring some incidental closures due to weather, since before the permit was even approved. Even assuming that they began operating when the permit was approved, they have been open at least 40 out of 45 weekends since that approval.

Third, many weekends that they have been open, they have had a food cart on the premises, sometimes more than one. The exact number likely exceeds the 18 food cart events and the number of food carts they are allowed.

Fourth, it is likely that attendance has exceeded 250 people in a single day, as multiple busses have been seen pulling into the brewery and dropping people off.

Fifth, the agritourism events also fail to comply with Yamhill County Zoning Ordinance 1013.01(A)(4) as required by the permit. That section requires that agritourism events be "incidental and subordinate to

existing commercial farm use” and “necessary to support the commercial farm uses”. The use of the barn as a brewery and tasting room fails in both respects.

While the hazelnut farm is the predominant use of the land by acre, we believe it is clear by DeBenedetti’s actions, including the request for this interpretive trail, the comments made therein, and the number of visitors now coming to the brewery, that he sees using the land as a brewery as the predominant and future use of the property. The brewery is thus not subordinate to the hazelnut farm, nor is it incidental to hazelnut production. Instead, the brewery has become a standalone entity in no substantive way connected to the existing hazelnut farm.

Additionally, agritourism use must also be “necessary to support the commercial farm use” which the brewery here is not. There is no indication that the hazelnut farm was failing and required the introduction of a brewery and agritourism events to keep itself afloat. Nor is there any clear indication that the “agritourism” events are in any way actually supporting the hazelnut farm. Neither the agritourism application nor this grant request make any reference to supporting the hazelnut farm, but instead, both talk about how many more tourists will come to the brewery to drink beer.

For all of those reasons, we believe that the agritourism permit renewal will ultimately be declined and thus funds expended on a walking trail to the brewery would be misspent.

Thank you for your time.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tim Fitchett', with a stylized flourish extending to the right.

Tim Fitchett

David S. Wall
P.O. Box 756 Newberg, Oregon 97132

February 5, 2018

VIA HAND DELIVERY

Mayor Bob Andrews
Councilor Mark Murray; Councilor Stephen McKinney; Councilor Mike Corey
Councilor Patrick Johnson; Councilor Denise Bacon; Councilor Scott Essin
Newberg City Hall; 414 E. First Street; Newberg, Oregon 97132

[SET 2]

Re: Wolves and People Veins to Steins Trail project: Where is the Public benefit?

Dateline: County Desk [Monday, (02.05.18)] *All TLT Grant Funded Awards should have a demonstrable Public Benefit.*

I am enclosing additional documents for your perusal and usage to assist your deliberative process whether granting public monies, using the Transient Lodging Tax Designation Development-Marketing Grant Funds (Herein TLT Funds) to the Wolves and People Vines to Steins Trail **[Resolution 2018-3429]** *is justified.*

You all should be concerned with the decisions made by your Transient Lodging Tax Ad hoc Committee. Specifically, the Rating Criteria and how Rating Scores are justified.

The issue of "Public Benefit" for the City of Newberg, arising from the grant process and award should be clearly defined, justified with accounting measures in place to monitor the success and or failure of any and all projects funded by the TLT. Illusory projections and grandiose claims of unsubstantiated successes should be considered unreliable.

The Wolves and People Vines to Steins Trail is a "Private Trail." Access to the "Trail" is conditioned by having a "Passport." The "Passport" issue should be fully vetted by the TLT Ad Hoc Committee and the Newberg City Council.

"Letters of Support" for a particular project should not be accepted into the record and or as criteria in the Rating process from family members of Applicants and or the Applicants themselves.

TLT Committee Members should not be permitted to monies to their respective businesses arising from any and all "Grant Awards."

Membership criteria and resulting appointment to serve on the TLT Ad Hoc Committee should not be made by one member of the Newberg City Council. Background checks should be made and made public records.

Review the voting record of TLT Ad Hoc Committee Members McKinney and departed Member Kelsh. *****Note** the extreme opposites of the scores. This is an indicator of a flawed Rating System.

The TLT Grant Application itself requires review. TLT Grant Applications should have a disclosure to alert the Rating Process that the Applicant has; a Conditioned Land-Use / Agritourism and any and all conditioned Permits issued by Yamhill County Commissioners and or the Land Use Board of Appeals (LUBA). No TLT Grants should be issued to any Applicant who might lose their specific conditioned permit, resulting in a material reduction in the benefit of the investment by the City of Newberg.

The TLT Ad Hoc Committee should be afforded the Agritourism Permit issued by Yamhill County as referenced and incorporated into **[DOCKET NO.: E-06-16]**.

Respectfully submitted,
/s/ David S. Wall

///
///
///

Cc: The Honorable Yamhill County Commissioners

Summary White Board Evaluation

	1 = Highest Ranking			6 = Lowest Ranking			Lippard	Louis	Parish	Total	Rank	Grant Request	Award	
	Lewis	McKinney	Bagley	Carda	Felton	Lattimer							Recommendation	
Hoover-Minthorn	5	2	4	6	3	6	5	4	6	41	4	\$ 30,000	\$ -	
Downtown Wineries Association	1	4	2	2	6	3	3	1	2	24	2	\$ 20,500	\$ 20,000	
Cultural Center Culinary Kitchen	2	1	1	1	2	1	2	3	1	14	1	\$ 250,000	\$ 250,000	
CPRD Sports Lighting	6	5	6	4	1	5	4	6	4	41	4	\$ 225,000	\$ -	
Cultural District Wayfinding	4	3	5	5	5	4	6	5	5	42	6	\$ 73,500	\$ -	
Wolves & People	3	6	3	3	4	2	2	2	3	28	3	\$ 45,000	\$ 30,000	

SUMMARY DESTINATION DEVELOPMENT - MARKETING GRANT SCORES

	Grant Request Amount	Total Points Possible	Total Points	Average
Hoover-Minthorn House Museum Roof/Gutters/Electrical	\$ 30,000	504	215	17.92
Newberg Downtown Wineries Association	\$ 20,500	462	348	31.64
Chehelam Cultural Center Culinary Enrichment Center	\$ 250,000	504	368	30.67
CPRD Darnell Wright Sport Complex Lighting	\$ 225,000	504	182	15.17
City of Newberg Cultural District Wayfinding	\$ 73,500	504	221	18.42
Wolves & People Vines to Steins Trail	\$ 65,000 - \$ 80,000	504	251	20.92

	Grant Request Amount	Total Points Possible	Total Points	Average
Newberg Downtown Wineries Association	\$ 20,500	462	348	31.64
Chehelam Cultural Center Culinary Enrichment Center	\$ 250,000	504	368	30.67
Wolves & People Vines to Steins Trail	\$ 65,000 - \$ 80,000	504	251	20.92
City of Newberg Cultural District Wayfinding	\$ 73,500	504	221	18.42
Hoover-Minthorn House Museum Roof/Gutters/Electrical	\$ 30,000	504	215	17.92
CPRD Darnell Wright Sport Complex Lighting	\$ 225,000	504	182	15.17

Wolves & People Vines to Steins Trail

Funding Request \$65,000 - \$80,000

Criteria	Score Range	Lewis	Nicholas	McKinney	Bagley	Carda	Felton	Keish	Lattimer	Lippard	Louis	Love	Parrish
1. What is the projected return on investment.													
a. Predicted number of tourists attracted/overnight guests	0-5	1	3	0	3	1	2	5	2	0	5	1	3
b. Will it have lasting impact and utility	0-5	2	3	0	4	3	2	5	2	3	5	4	2
2. Demonstrated history of attracting tourists/overnight guests	0-3	1	3	0	3	1	2	3	1	0	3	2	3
3. Does it engage and energize local tourism partner(s)	0-3	2	0	0	2	1	3	3	2	1	3	3	3
4. Does it enhance Newberg as a destination	0-5	1	0	0	4	2	4	5	3	2	5	2	2
5. Does it enhance Newberg as a location for Makers and Doers	0-3	1	3	0	2	2	1	3	2	0	3	1	2
6. Does it catalyze downtown development	0-3	0	0	0	1	0	0	3	2	2	1	0	2
7. Is it likely to increase visitor spending	0-5	0	0	0	2	1	1	5	2	1	5	1	1
8. Does it enhance tourism from October - May or any Sunday - Thursday Visitation	0-5	1	2	0	1	0	3	5	2	1	5	0	1
9. Does this project align with at least one of the four target audiences (Wine Country Adventurers, Millennial Explorers, George Fox Network, Luxury Wine Travelers)	0-5	3	5	0	4	3	5	5	4	1	5	5	4
Total	42	12	19	0	26	14	23	42	22	11	40	19	23

Total Points Possible 504
 Total Points 251
 Average 20.92

**TRANSIENT LODGING TAX AD HOC COMMITTEE
MARKETING SUBCOMMITTEE
September 18, 2017 8:30 am
Chehalem Valley Chamber of Commerce
2119 Portland Road**

The meeting called to order by Chair Ashley Lippard at 8:30 a.m.

ROLL CALL:

Members Present:	Ashley Lippard, Chair	Rob Felton, Vice Chair
	Sheila Nicholas	Sheryl Kelsh
	Jessica Bagley	Dennis Lewis
	Kyle Lattimer	

Staff Present:

Guests:

TOURISM MARKETING MATERIAL:

Chair Lippard opened the discussion and passed out a refined list of possible shot locations for the video and photos. Looking for sites that would reflect a contrast between New & Hip verses established. Stephanie and Laurie Peterson were introduced. They are the George Fox University students that will be producing the videos. It is unknown how many videos will be produced but probably two or three from 15 seconds to no more than a minute.

The Marketing Subcommittee discussed the best use of videos including social media, online, distribution to media, and distribution to local tourism partners to post on their websites. The Subcommittee also discussed that the target market audience is 50+ miles from Newberg. The discussion additional included three concepts for the videos of by the numbers, Doers and Makers, and the typical all the things you can do video. The Subcommittee identified the concept of Doers and Makers as the theme.

There was a general discussion of the shot list with committee members assigned to contact.

1. Brickhouse Winery – Member Nicholas
2. The Painted Lady – Member Bagley
3. Ruddick/Wood – Member Lattimer
4. Vista Balloons – Member Kelsh
5. The Allison Inn & Spa – Member Kelsh
6. AN Artist – Chair Lippard will contact Loni Parrish. Possible Romona Younquist could be the artist.
7. Chehalem Cultural Center – Member Lewis
8. Wolves & People – Member Lattimer
9. JK Carrier Winery – Member Nicholas
10. Chehalem Ridge Bed & Breakfast – Member Nicholas
11. Adventure Shot – Dewey Neilsen – Member Lattimer or Chair Lippard will contact.

Wolves & People Vines to Steins Trail

Request amount: \$65,000 - \$80,000

Required Application Materials

YES NO NOTES

	YES	NO	NOTES
1) Completed application Cover Sheet	X		
2) Budget for project/program/event being funded that lists all anticipated income and expenses.	X		States \$65,000 request, Application states \$80,000 request, need to clarify
3) Board or Owner approved financial statement for most recently completed fiscal year of the organization or business responsible for the project/program/event.	X		Private entity confidential information
4) Letter signed by officers of the Organization's Board of Directors or Business Owners authorizing this application.		X	Signed Certification Letter in application but no separate letter
5) Documentation of organization or business existence: Current, valid Oregon Secretary of State Corporation Division registry filing.	X		2017 Annual Report
6) Documentation that no bankruptcy or other financial corruption has occurred within the past five years.		X	Confidential financial information submitted does not indicate a bankruptcy
7) Letters of support.	X		2 letters
8) Past grant recipient.		X	

Eligibility Requirements

YES NO NOTES

	YES	NO	NOTES
1) Aligns with Transient Lodging Tax regulations (Tourist, Tourism Promotion, Tourism Promotion Agency, Tourism related facility)	X		Tourist, Tourism Promotion, Tourism Related Facility. The trail is a grey area according to legal counsel review.
2) Promote or create experiences for: Outdoor recreation visitor, Experiential arts, Wayfinding, Downtown enhancement	X		Outdoor recreation visitor, wayfinding, and indirectly downtown enhancement
3) Appeals to designated audiences in the Newberg Strategic Tourism Plan (Wine Country Adventures, Millennial Explores, George Fox Network, and Luxury Wine Travelers)	X		Wine Country Adventures, Millennial Explores, George Fox Network, and Luxury Wine Travelers
4) The project will create or enhance an experience for shoulder or off-season visitors	X		Both Shoulder and off-season
5) Does it align with other tourism activities in the community	X		Winery tours, restaurants,
6) Builds on existing assets	X		Vineyards, winery, brewery
7) Leverages funding		X	2:1 for Phase 1; .33:1 for Phase 2; .7:1 combined Phase 1 & 2 does not meet 1:1 requirement
8) Entities that have a bankruptcy or other financial corruption within the past five years are ineligible		X	None

David S. Wall
P.O. Box 756 Newberg, Oregon 97132

February 7, 2018

VIA HAND DELIVERY

Newberg TLT Ad Hoc Committee Members: Dennis Lewis, Chair; Shelia Nicholas; Vice Chair; Rob Felton; Megan Carda; Jessica Bagley; Brian Love; Robert Griffin; Loni Parrish; Kyle Lattimer; Ashley Lippard; Lori Louis
Ex Officio Members: Mayor Bob Andrews; City Manager Joe Hannan
Staff: Doug Rux, Community Development Director; Matt Zook, Finance Director
WASTEWATER TREATMENT PLANT, 2301 WYNOOSKI ROAD Newberg, Oregon 97132 [SET 3]

Re: Wolves and People Vines to Steins Trail project: Where is the Public benefit? Where is the justification?

Dateline: County Desk [Wednesday, (02.07.18)] *Is the shady business of doling out taxpayer dollars afoot?*

I am very concerned whether granting taxpayer dollars, using the Transient Lodging Tax Designation Development-Marketing Grant Funds (Herein TLT Funds) to the Wolves and People Vines to Steins Trail [Resolution 2018-3429] *is justified*. Does such an Award, if granted "as is," rise to the level of "Gifting and or Gambling" with taxpayer dollars?

I am very concerned with the decisions made by the Transient Lodging Tax Ad Hoc Committee. Specifically, the Rating Criteria and how Rating Scores are justified. To what degree is accountability built into this system, if any?

The issue of "**Public Benefit**" for the City of Newberg, arising from the grant process and award should be clearly defined, justified with accounting measures in place to monitor the success and or failure of any and all projects funded by the TLT. ***Illusory projections and grandiose claims of unsubstantiated successes are unreliable and unacceptable.***

The Wolves and People Vines to Steins Trail is a "Private Trail." Access to the "Trail" is conditioned by having a "Passport." The "Passport" issue should be fully vetted by the TLT Ad Hoc Committee and the Newberg City Council.

"Letters of Support" for a particular project should not be accepted into the record and or as criteria in the Rating process from family members of Applicants and or the Applicants themselves. *****Letters of Support** from other entities being considered or have been awarded TLT Grant Awards should also NOT be accepted into the record and or as Criteria in the Rating process. *****It is my opinion**, the category of "Letters of Support" should be stricken from the Rating Criteria and ALL Rating Processes. **These "Letters of Support" are easily manipulated and are NOT an accurate measure for any legitimate objective analysis.** An Applicant could easily sit at home on social media like Facebook and solicit "Letters of Support" to "dupe" the Ad Hoc Committee into giving a higher Rating Score.

TLT Committee Members respective businesses should not be permitted to profit arising from any and all "Grant Awards." At least one (1) Ad Hoc Committee Member has profited from a prior Grant Award to an Applicant.

Membership criteria and resulting appointment to serve on the TLT Ad Hoc Committee should not be made by one member of the Newberg City Council. Background checks should be made and made public records.

Review the voting record of TLT Ad Hoc Committee Members McKinney and departed Member Kelsh. *****Note** the extreme opposites of the scores on the Wolves and People Vines to Steins Trail project (enclosed herein). This is an indicator of a flawed Rating System. Are there are other competing factors influencing these particular Ratings?

The TLT Grant Application itself requires review. TLT Grant Applications should have a disclosure to alert the Rating Process that the Applicant has; a Conditioned Land-Use / Agritourism and any and all conditioned Permits issued by Yamhill County Commissioners and or the Land Use Board of Appeals (LUBA). NO TLT Grants should be issued to any Applicant who might lose their specific conditioned permit, resulting in a material reduction in the benefit of the investment by the City of Newberg.

The TLT Ad Hoc Committee should be afforded the Agritourism Permit issued by Yamhill County as referenced and incorporated into [DOCKET NO.: E-06-16]. Yamhill County Commissioners should have provided this information to you.

It is my opinion, the entire TLT Ad Hoc Committee Members should be excused from further service. A reformulation of membership must include members from the public and direction be given to a new TLT Ad Hoc Committee vetted by the entire Newberg City Council during a Public meeting and not "stacked" with local business owners who have competing conflicts of interests. There are too many current TLT Ad Hoc Committee Members who sit on other "Boards of Directors" whose entities either support a particular Applicant for a TLT Grant Award or possibly receive one. This is unacceptable.

The influences by Yamhill County Commissioners on the aforementioned current TLT Ad Hoc Committee has not escaped detection and is also under review.

Respectfully submitted,
/s/ David S. Wall

Cc: The Honorable Yamhill County Commissioners / Newberg City Council

Wolves & People Vines to Steins Trail

Funding Request \$65,000 - \$80,000

Criteria	Score Range	Lewis	Nicholas	McKinney	Bagley	Carra	Felton	Keish	Lattimer	Lippard	Louis	Love	Parrish
1. What is the projected return on investment	0 - 5	1	3	0	3	1	2	5	2	0	5	1	3
a. Predicted number of tourists attracted/overnight guests	0 - 5	2	3	0	4	3	2	5	2	3	5	4	2
b. Will it have lasting impact and utility	0 - 3	1	3	0	3	1	3	3	1	0	3	2	3
2. Demonstrated history of attracting tourists/overnight guests	0 - 3	1	0	0	2	1	3	3	2	1	3	3	3
3. Does it engage and energize local tourism partner(s)	0 - 5	2	0	0	2	2	4	5	3	2	5	2	2
4. Does it enhance Newberg as a destination	0 - 5	1	0	0	4	2	4	5	3	2	5	2	2
5. Does it enhance Newberg as a location for Makers and Doers	0 - 3	1	3	0	2	2	1	3	2	0	3	1	2
6. Does it catalyze downtown development	0 - 3	0	0	0	1	0	0	3	2	2	1	0	2
7. Is it likely to increase visitor spending	0 - 5	0	0	0	2	1	1	5	2	1	5	1	1
8. Does it enhance tourism from October -- May or any Sunday -- Thursday Visitation	0 - 5	1	2	0	1	0	3	5	2	1	5	0	1
9. Does this project align with at least one of the four target audiences (Wine Country Adventurers, Millennial Explorers, George Fox Network, Luxury Wine Travelers)	0 - 5	3	5	0	4	3	5	5	4	1	5	5	4
Total	42	12	19	0	26	14	23	42	22	11	40	19	23

Total Points Possible 504
 Total Points 251
 Average 20.92

David S. Wall
P.O. Box 756 Newberg, Oregon 97132

RECEIVED

FEB - 9 2018

February 9, 2018

VIA HAND DELIVERY

Initial: _____

Mayor Bob Andrews
Councilor Mark Murray; Councilor Stephen McKinney; Councilor Mike Corey
Councilor Patrick Johnson; Councilor Denise Bacon; Councilor Scott Essin
Newberg City Hall; 414 E. First Street; Newberg, Oregon 97132

Re: Wolves and People Veins to Steins Trail project: Where is the Public benefit? Where is the justification?

Dateline: County Desk [Friday, (02.09.18)] *Four (4) members of the Public were denied "Comments" at Public Meeting.*

I attended the Transient Lodging Tax Ad Hoc Committee meeting on; [Wednesday, (02.07.18)].

Mayor Andrews was in attendance but left sometime during the meeting. Councilor Murray was absent.

Enclosed herein you will find a two (2) page document entitled:

"Wolves and People Veins to Steins Trail project: Where is the Public benefit? Where is the justification?"

Dated: [Wednesday, (02.07.18)]

Since there was NO PUBLIC COMMENT on the aforementioned Meeting Agenda, you did not receive the documents in a timely manner. Personally, I do not understand why a PUBLIC MEETING held in a PUBLIC BUILDING that is OPEN to the PUBLIC does not have a PUBLIC COMMENT section on the agenda; hence the late delivery of the aforementioned documents.

As you can see from a date-stamped copy, the documents were hand-delivered and received the next day [Thursday, (02.08.18)] by the Yamhill County Planning Department. The Honorable Yamhill County Commissioners received copies of the documents during their regular business meeting, earlier the same day along with my report. The documents speak for themselves.

The TLT Ad Hoc Committee should obtain a copy of the Agritourism Permit issued by Yamhill County as referenced and incorporated into [DOCKET NO.: E-06-16]; prior to any discussions of Applicant's prayer for TLT Grant Award monies for a dubious investment of taxpayer dollars by the City of Newberg.

Today [Friday, (02.09.18)] I discovered a material conflict of interest with one (1) Member of the TLT Ad Hoc Committee who has a direct relationship with Wolves to People. This person should have recused them self from any rating and scoring to justify a TLT Grant Award for Wolves and People. This person's business also profited directly from a TLT Grant Award entity.

In my opinion, you have serious flaws on many levels with the TLT Ad Hoc Committee.

Respectfully submitted,
/s/ David S. Wall

///
///
///

Cc: TLT Ad Hoc Committee Members / Honorable Yamhill County Commissioners

Wolves & People Vines to Steins Trail

Funding Request \$65,000 - \$80,000

Criteria	Score Range	Lewis	Nicholas	McKinney	Bagley	Carida	Fatson	Kelsh	Lattimer	Lippard	Louis	Love	Parvish
1. What is the projected return on investment	0-5	1	3	0	3	1	2	5	2	0	5	1	3
a. Predicted number of tourists attracted/overnight guests	0-5	2	3	0	4	3	2	5	2	3	5	4	2
b. Will it have lasting impact and utility	0-3	1	3	0	3	1	2	3	1	0	3	2	3
2. Demonstrated history of attracting tourist/overnight guests	0-3	2	0	0	2	1	3	3	2	1	3	3	3
3. Does it engage and energize local tourism partner(s)	0-5	1	0	0	4	2	4	5	3	2	5	2	2
4. Does it enhance Newberg as a destination	0-3	1	3	0	2	2	1	3	2	0	3	1	2
5. Does it enhance Newberg as a location for Makers and Doers	0-3	0	0	0	1	0	0	3	2	2	1	0	2
6. Does it catalyze downtown development	0-5	0	0	0	2	1	1	5	2	1	5	1	1
7. Is it likely to increase visitor spending	0-5	1	2	0	1	0	3	5	2	1	5	0	1
Thursday Visitation													
8. Does this project align with at least one of the four target audiences (Wine Country Adventurers, Millennial Explorers, George Fox Network, Luxury Wine Travelers)	0-5	3	5	0	4	3	5	5	4	1	5	5	4
Total	42	12	19	0	26	14	23	42	22	11	40	19	23

Total Points Possible 504
 Total Points 251
 Average 20.92

REC
FEB 08 2018
YAMHILL COUNTY PLANNING

BEFORE THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of Upholding the Planning)	
Director's Approval and Denying the Appeal)	
of Docket E-06-16; Approval of a Permit to Allow)	
up to 18 Agri-tourism/Commercial Events per)	Board Order 17-74
Calendar Year on Property located at 30203 NE)	
Benjamin Road, Tax Lot 3215-500, Applicant:)	
Christian DeBenedetti)	

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) sat for the transaction of county business on March 9, 2017, Commissioners Stan Primozich, Mary Starrett and Richard L. "Rick" Olson being present.

IT APPEARING TO THE BOARD as follows:

A. By application dated August 30, 2016, Christian DeBenedetti requested county approval of a permit to allow up to 18 agri-tourism/commercial events per year at his existing, previously permitted brewery in an historic barn located at 30203 NE Benjamin Road, Newberg. The property, also identified as Tax Lot 3215-500, is approximately 21.53 acres and is zoned EF-20;

B. On October 25, 2016, following notice and an opportunity for interested persons to submit written comments, the Planning Director approved the application, with conditions. A timely appeal was filed, and a hearing was held before the Board on January 19, 2017. The hearing was then continued to February 16, 2017 for deliberation, following a three-week period in which the record remained open for additional written testimony and evidence, rebuttal, and the applicant's 'final word'; and

C. On February 16, 2017, following receipt of a staff recommendation to approve the application, the Board voted 3-0 to uphold the Planning Director's decision, and to deny the appeal, with staff directed to prepare written findings for final adoption on March 9, 2017; NOW THEREFORE,

IT IS HEREBY ORDERED BY THE BOARD AS FOLLOWS:

Section 1. The Planning Director's decision to approve Docket E-06-16 is hereby upheld, and the appeal filed in this matter is denied.

Board Order 17- 74
Page 1

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

DONE this 9th day of March, 2017 at McMinnville, Oregon.

ATTEST:

YAMHILL COUNTY BOARD OF COMMISSIONERS

BRIAN VAN BERGEN

County Clerk

By: *Crystal Cox*
Deputy Crystal Cox

FORM APPROVED BY:

T. Sadlo
Timothy S. Sadlo
Senior Assistant County Counsel

Chair

Stan Primozich
STAN PRIMOZICH

Commissioner

Mary Starrett
MARY STARRETT

Commissioner

Richard L. Olson
RICHARD L. "RICK" OLSON

**EXHIBIT A – BOARD ORDER 17-74
FINDINGS FOR APPROVAL AND CONDITIONS**

DOCKET NO.: E-06-16

REQUEST: To allow up to 18 agri-tourism/commercial events per calendar year on property located at 30203 NE Benjamin Road.

APPLICANT: Christian DeBenedetti

OWNER: Charles J. McClure

TAX LOT: 3215-500

LOCATION: 30203 NE Benjamin Road, Newberg

ZONE DESIGNATION: EF-20, Exclusive Farm use

REVIEW CRITERIA: Section 1013.01(A)(4) of the Yamhill County Zoning Ordinance and Oregon Revised Statute 215.296

FINDINGS:

A. Background Facts

1. *Lot Size:* 21.53 acres
2. *Access:* NE Benjamin Road, a paved County road.
3. *On-Site Land Use:* The parcel currently has a brewery and tasting room, a residence, guest house and a hazelnut orchard.
4. *Surrounding Land Use and Zoning:* The surrounding properties to the north, south and east are all zoned EF-20 Exclusive Farm District and are generally farm parcels that contain orchards, vineyards and forested areas. Properties to the southwest are in the City of Newberg and zoned for commercial or residential uses. Properties to the west and northwest are zoned VLDR 2.5 and contains rural residential uses.
5. *Water:* Provided by an on-site well.
6. *Sewage Disposal:* There is an on-site septic system serving the dwelling. The applicant is in the process of expanding the existing septic system for two indoor bathrooms in the brewery. The County Sanitarian has approved this system for up to five employees and 50 tasters, any more than 50 tasters requires portable toilets.
7. *Fire Protection:* Newberg Rural Fire District.
8. *Previous Actions:* The property has an extensive list of previous land use actions that are in the tax lot file. The most relevant land use decisions include an approval for the

establishment of a winery in the barn, which now houses the applicant's brewery and tasting facility (Docket C-05-00/SDR-06-00) and the approval for the brewery and tasting room (Docket C-10-14). Docket C-16-89 allowed for a home occupation bed and breakfast on the property that is no longer operating.

9. *Applicant's Request:* Page 2 of the application states: "These events will bring customers of all ages to the farm brewery to enjoy beers brewed on-site and catered foods prepared to go with them, often using farm produce and local produce whenever possible. Currently, lacking the availability of food options, the farm brewery cannot serve minors. These events will support the brewery operations by increasing visitor durations and allowing families with children to visit and enjoy our products."

B. Ordinance Provisions and Analysis

1. The county's decision to issue the requested permit was based on the applicant's demonstration of compliance with the review criteria in section 1013 of the Yamhill County Zoning Ordinance. Subsection 1013 was adopted through Yamhill County Ordinance 871, and allows "agri-tourism" and "other commercial" events in farm zones, in a manner that reflects authority granted to the county to approve such events by ORS 215.283(4). Section 1013 states:

"Agri-tourism and other commercial events or activities related to and supportive of agriculture may be approved in an area zoned for exclusive farm use subject to the standards and criteria in this section. Any permitted event or activity is personal to the applicant and is not transferred by, or transferrable with, a conveyance of the tract."

The subject property is 21.53 acres. The predominant use of the property is as a hazelnut orchard. The previously- approved brewery and tasting room are contained in an existing historic barn, with some seating outside, adjacent to the barn. The applicant is requesting permission to serve food, catered and/or from a food cart, for up to eighteen 72-hour periods, during which the brewery will typically be open for a total of 18 hours. (Operating hours for the events are Friday, 4-9 p.m., Saturday, 2-10 p.m. and Sunday, 12-5 p.m.) Food service is a "commercial" event or activity and in this case, may also be characterized as an "agri-tourism" event or activity, due to the location of the brewery (in an historic barn adjacent to a filbert orchard) and because the applicant has indicated that the events are for beer tasting, with a food truck (or other caterer) to provide food. The brewery produces beer made with recipes that include ingredients grown on-site such as hops, fruits, filberts, conifer and strains of wild yeast. Outside seating adjacent to the barn and facing the filbert orchard showcases the natural beauty of rural Yamhill County and presumably encourages patrons from outside the county to return for other agri-tourist events or to visit other agri-tourist venues. In this way, the proposed events are "related to" and "supportive of" agriculture.

EXHIBIT A – Board Order 17-74
Findings for Approval
and Conditions of Approval
Page 2

The application was made under Subsection 1013.01(A)(4) of the Yamhill County Zoning Ordinance, which states:

"4. In the alternative to 1, 2 and 3 above, up to 18 events on a tract may be permitted in a calendar year subject to the following:

a. The events or activities are incidental and subordinate to existing farm use on the tract and are necessary to support the commercial farm uses or the commercial agricultural enterprises in the area and;"

2. The events will be held in conjunction with the tasting of beer produced on site in an historic barn and in a seating area adjacent to the barn. Testimony received by the county that questioned whether the property is in farm use is rejected by the county as not credible. The county finds credible, and accepts, the applicant's statements and other testimony in the record indicating that the property contains a filbert orchard and that other crops grown on the site by the applicant and/or the owner include hops, fruits, filberts, conifer and wild yeasts that are used in the production of beer. The property is currently employed for the primary purpose of obtaining a profit in money by raising, harvesting and selling hazelnuts as well as a variety of other farm products that can be, and are, used to make and flavor beer.

The statute and county ordinance allow "events" or "activities" that are "incidental" in relation to the "existing farm use on the tract." Like the dictionary, the county considers "incidental" to mean "subordinate, nonessential, or attendant in position or significance: as * * * occurring as a minor concomitant" (Webster's Third New International Dictionary). Events or activities that are incidental to existing farm uses would be those that are less important, and subordinate to the existing farm uses on the tract.

The county finds that the proposal to have a single food cart operating on the site, for no more than 72 hours per "event," no more than 18 times per year, is unquestionably incidental to the existing farm uses taking place on the property. The hours of operation for the events at the brewery are Friday, 4-9 p.m., Saturday, 2-10 p.m. and Sunday 12-5 p.m., meaning that the food cart will operate fewer than the 72 hours allowed under the statute and ordinance. Under the approval granted by the county, the applicant can only operate the food cart over the course of 54 days out of the 365 available. Farm uses take place on the property 365 days per year. By infrequency alone, the operation of the food cart as allowed under the approval is incidental to the farm use of the property. The infrequency of operation also supports the county's conclusion that operation of the food cart is a "minor concomitant" when compared to the continued predominant use of the property to produce filberts and the other crops identified by the applicant.

As noted above, the dictionary definition of "incidental" contains the phrase "subordinate to." There are degrees of subordination, ranging from 'extremely minor' in comparison

EXHIBIT A – Board Order 17-74
Findings for Approval
and Conditions of Approval
Page 3

to the main use, or 'just barely' less, or less important, than the main use. The county interprets "subordinate" as used in the statute and ordinance to mean that the events or uses are clearly less important or less dominant than the main use. The approval allows service by a caterer or food cart at the site of an existing, approved brewery adjacent to a filbert orchard, for up to eighteen-72 hour periods per year, during which the events will take place for no more than 18 hours during the 72-hour period. Both the previously approved brewery and the service of food at the level approved by this Order are clearly subordinate to the existing farm uses on the 21-acre site. The "commercial farm uses" on the property include the filbert orchard, along with other fruits and vegetables raised on the property that are sold or used in the production of beer. The brewery is a permitted 'commercial use in conjunction with farm use' that cannot be collaterally attacked in this proceeding. The "commercial agricultural enterprises in the area" include the production of crops, including filberts and grapes. Other agriculturally related uses, including wineries, benefit from visitors to the county, who might come to sample beer at the brewery, and from their visit decide to return and visit other locations in Yamhill County that make wine or sell other farm products or market direct 'farm to table' or 'farm to fork' dining. The intent of the applicant is to feature, in the food served, locally produced food products. The applicant also indicated that spent grain from the brewery is provided to an area farmer who raises high quality pigs and produces bacon and other specialty pork products. He also stated that he plans to grow more of the ingredients used to make and flavor beer as the business grows, such as peaches, apricots, cherries and additional hops. Extensive testimony was received by the county in support of the brewery, from persons who live within, and outside of Yamhill County, suggesting that the brewery is already benefitting the agri-tourism industry in the county, and thus the agricultural industry in the county. At the same time, the applicant and others indicated that starting and maintaining a small business is difficult and tenuous. It is appropriate that the county do what it can, under statutory and ordinance authority, to allow small business/agricultural producers to promote the agricultural economy of the county and the natural beauty and products of the county's farms, when it can be done with minimal impact to surrounding uses.

"Necessary" generally means "absolutely needed." The applicant presented testimony that agri-tourism generally, and events promoting agriculture at the proposed site specifically, are necessary to support commercial farm uses taking place on the property, and/or are necessary to support the commercial agricultural enterprises in the area. The county interprets the term "necessary" to be more than merely "convenient." At the same time, a literal interpretation of the requirement could very well result in the inability of any agri-tourism or commercial use to qualify for approval. The intent of the statute and of the ordinance is to provide an opportunity for farm owners to make economic use of their farms by sponsoring events of the kind that wineries can already sponsor and conduct. Considering the especially limited, low-impact request being made in this instance, there is no basis for interpreting "necessary," as used in the statute and in the county's ordinance, in a manner that makes the standard impossible to meet. The county finds that the 18 proposed events are necessary for the applicant and landowner to continue to make a profit in money from farm uses taking place on the property. The county also finds that agri-

EXHIBIT A – Board Order 17-74
Findings for Approval
and Conditions of Approval
Page 4

tourism is, and will continue to be, an essential component of commercial agricultural enterprises in most areas of the county, and even more so at the point where a major state highway enters the county from the Portland metropolitan area.

In this case, the applicant has demonstrated that the proposed 18 food service events to take place in conjunction with operation of his previously approved brewery are incidental and subordinate to existing farm use on the tract and are necessary to support the commercial farm uses or the commercial agricultural enterprises in the area.

"b. Shall comply with Section 1013.01 (A)(3)(b) through (h) outlined below;

Section 1013.01 (A)(3);

(b) Shall not, individually, exceed 72 consecutive hours;"

Subsection (b) is not an approval standard. None of the events approved under this Order exceed 72 hours and, given the allowed hours of operation are not expected to occupy more than 18 hours of each 72 hour "event."

"(c) One of the six events may allow the artificial amplification of voice or music from 8 a.m. to 10 p.m"

Subsections (c) is not an approval standard. The county interprets the limitation of this section as referring to outdoor amplified music capable of traveling off-site. It does not limit the amplified music that might be played inside the barn/brewery or from small 'bookshelf'-style speakers in the outdoor seating area that are played quietly and in a manner that is not projected off of the site. A condition of approval limits the type of amplified music limited by this subsection to a single event per year during the hours of 8 a.m. to 10 p.m., and which is further limited by the hours of operation.

"(d) Shall comply with ORS 215.296;"

ORS 215.296 requires that the local governing body approve uses listed in ORS 215.283(4) only if it finds that the use will not:

"(a) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or

(b) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use."

Subsection (2) of ORS 215.296 states:

EXHIBIT A – Board Order 17-74
Findings for Approval
and Conditions of Approval
Page 5

“(2) An applicant for a use allowed under ORS 215.213(2) or (11) or 215.283(2) or (4) may demonstrate that the standards for approval set forth in subsection (1) of this section will be satisfied through the imposition of conditions. Any conditions so imposed shall be clear and objective.”

Under this standard, the county is required to identify the accepted farm and forest practices occurring on surrounding farm and forest lands, and to then consider whether the proposed use will force a significant change in, or significantly increase the cost of, those practices. The “surrounding lands devoted to farm or forest use” include all of the abutting farm parcels east of Benjamin Road. For the purpose of this analysis, it is not necessary to consider farm and forest uses taking place south of Highway 99W, because the highway corridor isolates the farm parcel where the events will take place from lands to the south. There is no scenario under which the proposed events could have an impact on farms south of Highway 99W, significant or otherwise.

All of the land west of Benjamin Road is zoned by the county for residential uses, or by the City of Newberg for residential or commercial uses. This analysis therefore focuses on abutting lands that are east of Benjamin Road and north of Highway 99W.

The area of consideration includes, predominantly, orchards, vineyards, and forested hills. Property to the north, like the subject property, contains a large filbert orchard. To the east are vineyards and a large winery. The owner of the vineyards and winery submitted testimony into the record in support of the applicant.

ORS 215.203 defines “farm use,” and contains the following definition of “accepted farming practice” that is appropriate to reference in this circumstance. ORS 215.203(2)(c) states:

“As used in this subsection, ‘accepted farming practice’ means a mode of operation that is common to farms of a similar nature, necessary for the operation of such farms to obtain a profit in money, and customarily utilized in conjunction with farm use.”

Generally, automated machinery and farm labor maintain vineyards and orchards in the area, and that includes the filbert orchard on the subject property. Disking of filbert orchards can create dust, and the use of pesticides and herbicides can create problems for nonfarm uses. No conflicts have been identified that will be caused by the proposed events and that have the potential to impact any farm or forest use or practice in the area.

The proposed use will take place adjacent to a county road and rural residential uses. The use (catered food service) is otherwise buffered on three sides by the farm on which the brewery is located. Approval of the event permit, in this case, will not “force” any of the adjacent or nearby farm users to change any of their farm practices. Benjamin Road is a county road that is capable of accommodating farm and rural residential uses, and to also

EXHIBIT A – Board Order 17-74
Findings for Approval
and Conditions of Approval
Page 6

provide access to neighborhoods in the City of Newberg. The proposed events will not create sufficient traffic to interfere with existing use of the county road or to hinder in any significant way the movement of farm equipment or farm labor on the county road. The applicant's efforts to run a successful brewery on the site, in part by staging events that will bring people onto the site, is evidence that the presence of such people at such events will not interfere, significantly or at all, with the accepted farm practices associated with the operation of a filbert orchard. In like manner, the fact that the brewery operates adjacent to a filbert orchard and that the owner favors events that will likely bring more people onto the site is evidence that the events will not increase the costs of growing and harvesting filberts on the site or elsewhere. The owner of the neighboring vineyard and winery submitted testimony in support of the proposed events, suggesting that no off site impacts are anticipated at the vineyard that might stem from the occasional serving of food at the existing brewery next door. The winery's testimony is that "having food accompany tastings enhances a visitor's experience, [and] showcases our local produce and community * * *." In this instance, the location of the proposed events almost guarantees that there will be no impact whatsoever to off-site agricultural practices or the cost of those practices. This is not a close case. Not only were no impacts alleged to farm practices or costs during the proceedings to consider whether to allow the requested events—there is no reasonable basis for concluding that the events, to take place in an area adjacent to a rural residential area and the City of Newberg to the west; adjacent to a major state highway to the south; and surrounded by on-site filbert orchards to the north and east, will have any impact whatsoever on agricultural practices or the costs of those practices on surrounding lands.

"(e) Shall occur outdoors, in temporary structures, or in existing permitted structures. Shall not require or involve the construction, use or occupancy of a new permanent structure in conjunction with the activities or events;"

Subsection (e) is not an approval standard. The events will take place both indoors, in the existing brewery and tasting room, as well as in an existing outdoor seating area adjacent to the brewery. No new permanent structures are proposed, nor is the construction of any new permanent structure allowed by this Order.

"(f) Shall comply with any applicable health and fire and life safety requirements;"

The proposed events will take place in compliance with all health, fire and life safety requirements, as follows:

Sanitation: The applicant currently has approval from the county sanitarian for two indoor bathrooms connected to a septic system and the applicant is currently working on installing these facilities, which will be inspected by the county. The applicant has noted that the existing portable toilets will be removed, but may be returned for certain events as needed, because the septic system is approved for up to 50 tasters. The county sanitarian has stated

EXHIBIT A – Board Order 17-74
Findings for Approval
and Conditions of Approval
Page 7

that four portable toilets would be required for up to 250 people. A condition of approval states: "During events in which the applicant anticipates that more than 50 person will be on site at the same time, the applicant shall provide four portable toilets with a hand-wash station."

Food handling and alcohol service: The applicant is aware of his responsibility to obtain all necessary permits from the OLCC and the Public Health Department. Conditions of approval ensure compliance with these requirements, by requiring that the applicant obtain approval from the OLCC for the service of alcohol, and requiring that "Any food service provided shall be prepared from an approved source that is licensed and inspected by the Public Health Department."

Parking and Access: There are currently 150 parking spaces available at the brewery, and the maximum expected attendance for the events is 250 people. The amount of parking now available is more than adequate to accommodate the maximum attendance. A condition of approval limits the maximum number of persons that may be on the site during an event to no more than 250. Another conditions states: "The maximum number of vehicles at any one time shall not exceed 125 vehicles and an area to provide up to 125 parking spaces shall be maintained during the events. No on-street parking is allowed." It is feasible for the applicant to park up to 125 vehicles on the site, and the conditions of approval help to ensure that adequate parking areas will be provided. The single access to the brewery was approved by the Public Works Department and the Fire Marshall prior to the opening of the brewery. There are no other allowed access points to the existing brewery, where the events will take place.

Traffic Safety: The property is accessed by NE Benjamin Road, from its nearby intersection with Highway 99W. The entrance to Benjamin Road from the east has good sight distance. A median lane allows safe entry to Benjamin Road from the west. Benjamin Road is narrow and without adequate shoulders, just like almost every other County Road, but sight distance at the entrance to the brewery is also good. Testimony was received indicating that Benjamin Road is unsafe, but evidence in the record supports a conclusion that the level of traffic anticipated to be generated by the proposed events is insignificant, and will have no impact on the safety of NE Benjamin Road. There have not been any traffic accidents related to the brewery or its parking lot entrance since the brewery and its tasting room opened. The county also accepts as credible the applicant's statements regarding the seriousness with which his employees take legal requirements prohibiting service of alcohol to anyone who is visibly intoxicated. The levels of additional traffic anticipated to be generated by the proposed events is *de minimis*, and not anticipated to affect the safety of the public using NE Benjamin Road.

"(g) Shall not, in combination with other agri-tourism or other commercial events or activities in the area, materially alter the stability of the land use pattern in the area; and"

EXHIBIT A – Board Order 17-74
Findings for Approval
and Conditions of Approval
Page 8

For purposes of this analysis, the "area" includes the land surrounding the barn and outdoor seating area where food service events will take place, and extending approximately one-half mile in every direction. The area could be extended further, but extending it would only bring in additional farm and forest land that is much like the subject property, and additional urban areas. As noted elsewhere in these findings, the area includes land zoned EFU (EF-20) along Benjamin Road to the north and east, containing forested hills, filbert orchards and vineyards. The area under consideration also includes a section of Highway 99W, a four-lane highway with a center median lane and shoulders. There are also forested and farmed hills, agricultural buildings and residences to the south of, and adjacent to 99W, and some of that area is zoned AF-10. The area south of the highway is effectively separated from the proposed use by a very busy transportation corridor. Immediately across Benjamin Road to the west are single family, rural residential dwellings, on lands zoned VLDR-2.5. Also just across Benjamin Road are lands within the City Limits of the City of Newberg that are zoned residential and commercial.

The brewery is in an historic barn, and part of a "farm ensemble" that is on The National Register of Historic Places. There is also a residence and guesthouse, a pond, fruit trees and fruit/vegetable/herb gardens in the southwest corner of the property, but the predominant use of the 21.53-acre property is as a filbert orchard. There are forests, filbert orchards, vineyards and a major winery with a tasting room (A to Z Wineworks, zoned Resource Industrial) in the area under consideration for this analysis. A significant level of commercial events and activities take place at the winery, and once constructed, it is presumed that commercial events and activities will take place in areas zoned for those uses in the City of Newberg.

The "land use pattern in the area" is decidedly mixed, including extensive, established farm uses (mostly filberts and grapes) along with rural residential uses and commercial and residentially zoned land within the City of Newberg. While mixed, the uses appear to be "stable," in that they are all established or expected to take place in existing zones.

The proposal, once again, is for a use that is not permanent and is limited by conditions of approval. It involves what can only be described as the "occasional" service of food, catered or from a food cart, at an existing, permitted brewery located in an historic barn. Eighteen 72-hour events are allowed, that are further constrained by the hours of event operations during the proscribed 72-hour period (totaling 18 hours). The permit can be terminated after one year, or renewed at that time for four years. Given the already mixed nature of the uses in the area, between urban and rural, it is reasonable for the county to conclude that allowing the service of food in this way within or adjacent to an existing structure where brewing and tasting beer are allowed, will have no direct, material, substantial, economic, causal effect on any use in the area, and will have no impact whatsoever on the economic stability of the area.

The county predicts that no uses (zero acres) in the study area will potentially change if food is served in a barn and seating area adjacent to a barn, up to 18 times per year, at the

EXHIBIT A – Board Order 17-74
Findings for Approval
and Conditions of Approval
Page 9

site. Benjamin Road is suitable for use by both farm equipment and by residents and brewery patrons, and there is no other conceivable interference that the proposed events will cause to farm or residential uses in the area. "Material" means that some significant level of alteration will occur. It is perhaps conceivable that the success of Wolves and People will encourage the creation of other "farmhouse" breweries, somewhere in the county, serving food under an "event" permit, but creation of the brewery in the first place would require an application for a conditional use permit, and the consideration of potentially conflicting uses.

The county is also considering the cumulative effect of historical, current and projected nonfarm development in the area to conclude that issuance of the requested event permit will not materially alter the stability of the land use pattern in the area. If there is any "trend" taking place in the area, it is toward the development of more intensive urban uses. Issuance of the event permit in this case will have a negligible impact, especially in comparison to the changes anticipated development within the city will likely bring.

In conclusion: the impacts of issuing the requested permit are negligible with regard to the stability of the land use pattern in the area, over both the short and long term. There is no immediate, significant short-term threat to the stability of the area, and no long-term threat, considering development trends and possible cumulative impacts. The standard is met.

(h) Must comply with any conditions established for:

(i). The types of events or activities that are authorized during each calendar year, including the number and duration of events and activities, the anticipated daily attendance and the hours of operation;

(ii). The location of existing structures and the location of proposed temporary structures to be used in connection with the events or activities;

(iii). The location of access and egress and parking facilities to be used in connection with the events or activities;

(iv). Traffic management, including the projected number of vehicles and any anticipated use of public roads; and

(v). Sanitation and solid waste.

Subsection (h) does not contain standards for approval of an event permit. The applicant has indicated a willingness and ability to comply with all established conditions of approval, including those referenced in subsection (h).

EXHIBIT A – Board Order 17-74
Findings for Approval
and Conditions of Approval
Page 10

c. Shall occur on a lot or parcel that complies with the acknowledged minimum lot or parcel size;

The minimum lot size applicable to the subject property is 20 acres, and the subject parcel is 21.53 acres. The application meets this requirement.

d. Permits approved under this subsection expire one year from the date of approval;

e. Such permits may be renewed at four year intervals subject to:

(i). An application for renewal;

(ii). Public notice and public comment as part of the review process;
and

(iii). Demonstration of compliance with conditions of approval and the standards of this subsection.

Under a condition of approval, the permit being issued will expire one year from the date of approval. The county's consideration of a renewal request will be subject to the requirements of subsection e., above.

CONDITIONS OF APPROVAL:

Based upon the above findings and conclusions, the request by Christian DeBenedetti for permission to have a food cart or caterer present for up to eighteen "agri-tourism events" per year in conjunction with beer tasting at his existing brewery on Tax Lot 3215-500, is hereby approved with the following conditions:

1. The events shall not, individually, exceed 72 consecutive hours and shall not exceed the hours of operation as noted in the application, which are: Friday 4-9 p.m., Saturday 2-10 p.m. and Sunday 12-5 p.m.
2. The maximum number of persons that may be on the site during an event shall not exceed 250.
3. The maximum number of vehicles at any one time shall not exceed 125 vehicles and an area to provide up to 125 parking spaces shall be maintained during the events. No on-street parking is allowed.
4. The artificial amplification of voice or music is allowed for one yearly event only between the hours of 8 a.m. to 10 p.m.

EXHIBIT A – Board Order 17-74
Findings for Approval
and Conditions of Approval
Page 11

5. The applicant shall obtain approval from the Oregon Liquor Control Commission (OLCC) for the service of alcohol.
6. One food cart is allowed for the 18 approved events per calendar year. Any food service provided shall be prepared from an approved source that is licensed and inspected by the Public Health Department.
7. During events in which the applicant anticipates that more than 50 persons will be on site at the same time, the applicant shall provide four portable toilets with a hand-wash station.
8. This approval is personal to the applicant and is not transferred by, or transferrable with conveyance of the tract.
9. This approval shall expire one year from the date of this letter but may be renewed for a four-year period subject to a renewal application and compliance with the above conditions of approval and the standards of Section 1013 of the YCZO.

EXHIBIT A – Board Order 17-74
Findings for Approval
and Conditions of Approval
Page 12

DEPARTMENT OF PLANNING AND DEVELOPMENT

525 NE FOURTH STREET • McMINNVILLE, OREGON 97128

Phone:(503) 434-7516 • Fax:(503)434-7544 • TTY: (800) 735-2900 • Internet Address: <http://www.co.yamhill.or.us/plan/>

COPY

June 23, 2014

Christian DeBenedetti
30295 NE Highway 99W
Newberg, OR 97132

Re: **Docket No. C-10-14, Tax Lot 3215-500**

Dear Mr. DeBenedetti:

In reference to your application for a conditional use and site design review for a commercial activity in conjunction with farm use for a brewery and tasting facility to be constructed in a barn on a parcel identified as Tax Lot 3215-500, the planning staff has reviewed your application and finds that it complies with the requirements of the Yamhill County Zoning Ordinance. Your application has been approved with the following conditions:

1. The facilities shall substantially conform to the site map submitted with the application. Prior to operation of the brewery or tasting room, any required building and septic permits and inspections shall be obtained from the Yamhill County Building Department.
2. No on-site tasting activities may be conducted prior to the construction of the tasting room. The tasting room may be open for daily tastings for the primary purpose of promoting and selling the beer made from the products harvested on-site and in the local area.
3. Events such as weddings, cooking classes and corporate retreats, etc. are not included with this approval. Agri-tourism and other commercial events or activities beyond those specified in condition 2 may be applied for through Section 1013 – Agri-Tourism Use Permits, of the Yamhill County Zoning Ordinance.
4. Prior to operation of the facility, the building and access will be required to meet the Newberg Rural Fire Department standards.
5. Parking shall be provided so that there is a minimum of one car per 100 square feet of floor area plus one space for each employee on maximum working shift. No on-street parking is allowed.
6. The use may have one on premise sign of not more than 24 square feet.
7. The use of outdoor amplified music or sound is not permitted.
8. Any food service shall conform to ORS 624.010 a “limited service restaurant” which means a restaurant serving only individually portioned prepackaged foods prepared from an approved source by a commercial processor and nonperishable beverage or shall be prepared off-site by a commercial caterer that is licensed and inspected by the Public Health Department.
9. Prior to operation of the facility, the applicant shall obtain all permits required by the Oregon Liquor Control Commission (OLCC) and the Oregon Department of Agriculture (ODA).

10. Prior to operation of the tasting room, the applicant shall obtain a statement from the Public Works Director, or his representative, that the proposed development complies with Yamhill County Ordinance 787.
11. The number of persons allowed in any portion of the tasting room shall not exceed the maximum number of persons allowed pursuant to the occupancy permit for such portion of the tasting room, if applicable.
12. Prior to initiation of the operation, the landowner shall sign an affidavit acknowledging the following declaratory statement and record it in the deed and mortgage records for Yamhill County:

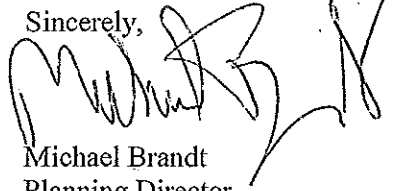
"The subject property is located in an area designated by Yamhill County for agricultural uses. It is the county policy to protect agricultural operations from conflicting land uses in such designated areas. Accepted agricultural practices in this area may create inconveniences for the owners or occupants of this property. However, Yamhill County does not consider it the agricultural operator's responsibility to modify accepted practices to accommodate the owner or occupants of this property, with the exception of such operator's violation of state law."

13. This approval shall expire two years from the date of this letter unless the use has been initiated.
14. This approval shall be deemed personal to the current property owner and shall not run with the land.
15. Modification of any of the above conditions requires approval under Section 1202.05 of the Yamhill County Zoning Ordinance. Violation of any of the above conditions may result in revocation of the conditional use permit with the process detailed in Section 1202.07 and 1202.08 of the Yamhill County Zoning Ordinance.

This decision is based on findings and conclusions as contained in the staff report. The Yamhill County Zoning Ordinance provides for appeal of any action or ruling of the Planning Director to the Board of Commissioners within fifteen (15) days of the decision on a proposed action. Anyone wishing to appeal the Director's decision must file an appeal form, together with a \$250.00 fee, with this department no later than 5:00 p.m., July 9, 2014. If no appeal is filed, the Director's decision will be final and this letter will serve as your official notice of approval of your application.

If you have any questions, please contact this office.

Sincerely,



Michael Brandt
Planning Director

cc: Board of Commissioners
Assessor
Public Works
Newberg Rural Fire District
Department of Agriculture
Cynthia Buswell-Development Review, ODOT Region 2, 455 Airport Rd SE, Bldg B, Salem OR 97301-5397
SPOs

STAFF REPORT
YAMHILL COUNTY DEPARTMENT OF PLANNING AND DEVELOPMENT

DATE: June 17, 2014

DOCKET NO.: C-10-14

REQUEST: Conditional use and site design review for a commercial activity in conjunction with farm use to establish a brewery and tasting room in an existing barn.

APPLICANT: Christian DeBenedetti

TAX LOT: 3215-500

LOCATION: 30295 NE Highway 99W, Newberg

ZONE: EF-20 Exclusive Farm use

REVIEW CRITERIA: Sections 402.04(G), 402.07(A), 402.10(B), and 1202.02 of the *Yamhill County Zoning Ordinance*. Comprehensive Plan policies may also be applicable.

COMMENTS: *Watermaster* - No response.
Yamhill County Public Works – No response.
Newberg RFD – Submit full set off plans to Newberg Fire for review. Building must meet all Oregon Fire Code requirements.
SWCD - No response.
Oregon Department of Agriculture – See Letter dated May 27, 2014.
OLCC – No response.
Sanitarian – No response.
City of Newberg – No response.
ODOT – See e-mail of June 11, 2014.
Denise E. Reilly, 13660 NE Lake Shore Drive – See comments received June 3, 2014.
Vicki Shepherd, 30230 NE Benjamin Road, Newberg – See comments received June 6, 2014.
Frances P. Svendsen, 30170 NE Benjamin Road, Newberg - See letter dated June 6, 2014.

FINDINGS:

A. Background Facts

1. *Lot size:* 21.53 acres.
2. *Access:* Benjamin Road, a paved County road. (Note: Although the home on the property is addressed from Highway 99W, the barn is accessed from Benjamin Road.)
3. *On Site Land Use:* The parcel currently has a barn, residence, guest house and a hazelnut orchard. The applicant proposes to use the barn for the brewery and tasting room.

4. *Surrounding Zoning and Land Use:* The surrounding properties to the north, south and east are all zoned EF-20 Exclusive Farm District and are generally farm parcels which contain orchards, vineyards and forested areas. To the southwest the property is in the city limits of Newberg. Property to the northwest is zoned VLDR 2.5 and contains rural residential uses.
5. *Soils:* The parcel is predominantly non-high-value farmland.
6. *Water:* Provided by an on-site well.
7. *Sewage Disposal:* The dwelling is served by a septic system. The barn has been used in the past as a winery, but has not had a tasting room. The tasting room may need a new septic system which will be required to be evaluated by the County Sanitarian.
8. *Overlay Zones:* The subject parcel is not located in an area which is designated as sensitive wildlife habitat, nor is it in the Willamette River Greenway, a floodplain or airport overlay district. The property is within the Parrett Mtn. Groundwater Limited Area.
9. *Previous Actions:* The property has an extensive list of previous land use actions which are in the file but will not all be listed here. The most relevant land use decision was Docket C-05-00/SDR-06-00 which approved the use of the barn as a winery in the year 2000.
10. *Fire Protection:* Newberg Rural Fire Department.

B. Conditional Use Provisions and Analysis

- 1 Section 402.04(G) lists commercial activities that are in conjunction with farm use as a conditional use and a site design review. These uses are defined in Section 402.10(B) which lists "*Retail sales and promotion of agricultural products, supplies and services directly related to the production, harvesting, and processing of agricultural products. Such uses include, but are not limited to, the following. . .*". Yamhill County has determined that a brewery and tasting room fall under this definition.
2. The conditional use criteria of YCZO Section 1202.02 are as follows:
 - (A) *The use is listed as a conditional use in the underlying zoning district;*
 - (B) *The use is consistent with those goals and policies of the Comprehensive Plan which apply to the proposed use;*
 - (C) *The parcel is suitable for the proposed use considering its size, shape, location, topography, existence of improvements, and natural features.*
 - (D) *The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or prevents the use of surrounding properties*

for the permitted uses listed in the underlying zoning district.

- (E) *The proposed use is appropriate, considering the adequacy of the public facilities and services existing or planned for the area affected; and*
- (F) *The use is or can be made compatible with existing uses and other allowable uses in the area.*
3. As noted above, the applicant is requesting a brewery and a tasting room. Yamhill County Zoning Ordinance 402.04(G) lists these uses as a commercial activity in conjunction with farm use, subject to conditional use and site design review standards. The barn had a previous site design review so that is not being required. The request is consistent with criterion (A).
 4. Regarding criterion (B), Yamhill County goals and policies do not provide specific standards or review criteria for review of breweries or tasting rooms. The subject parcel is not located in an area which is designated as sensitive wildlife habitat, nor is it in the Willamette River Greenway, a floodplain or airport overlay district. The County Comprehensive Plan states that agriculture and forestry play a dominant role in the County's economy, and calls for preserving that role while increasing economic diversification and employment. The applicant's proposal appears to comply with that goal.
 5. Regarding criterion (C), the application needs to demonstrate that the parcel is suitable for the proposed use considering its size, shape, location, topography, existence of improvements, and natural features. Nothing in the record appears to indicate that the parcel is not suitable considering the size, shape, location or topography. The subject parcel is 21.53 acres which is large enough to support the proposed use and is located directly off of a public road. The applicant is not proposing to change any existing natural features and the brewery will be located inside the existing barn, located near the western property line.
 6. Regarding criteria (D), the permitted uses in the immediate area around the barn are primarily farm and rural residential uses. The proposed use will be for the processing and promotion of a product that is grown and harvested in the local area. The nearest residence to the proposed tasting room is a little over 100 feet to the northwest, across Benjamin Road. Comments were submitted from adjoining property owners which will be addressed in Finding B.8 below. However, the concerns from the neighbors do not appear to be related to interference with farm or forestry operations, rather they appear to be focused on traffic and potential interference with existing rural residential uses. It is the County policy to protect agricultural operations from conflicting land uses in such designated areas. Among the accepted farming practices of the area are many that could be in conflict with this use. Some examples are spraying pesticides, burning fence lines and plowing fields which create large amounts of dust. To make the operators of the tasting facility aware of the potential conflicts the landowner will be required to sign an affidavit and record it in the deed records for the County that acknowledges accepted farming and

forestry practices on adjacent parcels. With conditions, the request satisfies the criteria of 1202.02(D).

7. Regarding criterion (E), the area is currently served by the Newberg Rural Fire District; they have responded with requests to review the brewery and tasting room plans and assure that the building satisfies the fire code. This will be made a condition on any approval. The property is accessed directly off of Benjamin Road, which is a County road. No adverse comments were submitted by the Public Works Department. The road concerns voiced by the neighbors will be discussed in the following finding.
8. Regarding criterion (F), there were four letters submitted with concerns. Some of the concerns are addressed in the above criteria. Others are not. Issues not addressed by the review criteria are divided into categories and discussed below:

Traffic Safety/Access: Traffic safety and access on any road in the county is always a concern and the proposed additional access onto Benjamin Road is no exception. When the winery was established in the year 2000, the County Engineer did state that he had no objections but that any new or changed road access onto a County Road would require a permit and inspection from their office. The application was again referred to the County Engineer and he reviewed it and had no conflicts with the applicant's request. He noted in a phone conversation that the neighborhood had requested review of the speed along the road and the recommendation had been returned to reduce the speed to 40 MPH. Since this access had been used as a winery for a number of years, it does not appear that a brewery with a tasting room would be of significant difference to warrant additional traffic safety improvements. However, County Ordinance 787 review is required and an evaluation from a traffic engineer is warranted due to the concerns of neighboring property owners. Ordinance 787 deals with on-site and off-site traffic safety improvements in connection with commercial development. The results of the review can require payments for road improvements. An Ordinance 787 review will be required to be conducted prior to the use of the tasting room.

Property value: A neighbor was concerned about the effect of the use on property value. Property value is not an approval criterion.

C. EF Conditional Use Standards

Section 402.07(A) requires that prior to establishment of a conditional use; the applicant shall demonstrate compliance with the following criteria:

1. *The use will not force significant change in accepted farming or forest practices on surrounding lands devoted to farm or forest use.*
2. *The use will not significantly increase the cost of accepted farming or forest practices on surrounding lands devoted to farm or forest use.*

The parcel will continue to be used for farm and forest uses. While there were many

comments received from neighbors, they did not object based on interference or changes in farm or forest uses. As discussed above, the brewery and tastings are not expected to generate any adverse impacts upon surrounding lands that would lead to changes or increased costs in farming practices.

CONCLUSIONS:

1. The request is for a conditional use for a commercial activity in conjunction with farm use for a brewery and tasting facility.
2. With conditions, the request complies with criteria listed in Sections 1202.02 and 402.07(A) of the Yamhill County Zoning Ordinance.
3. The request complies with the goals and policies of the Yamhill County Comprehensive Plan.

DECISION:

Based upon the above findings and conclusions, the request by Christian DeBenedetti for a conditional use approval for a brewery and tasting facility on a parcel identified as Tax Lot 3215-500 is approved with the following conditions:

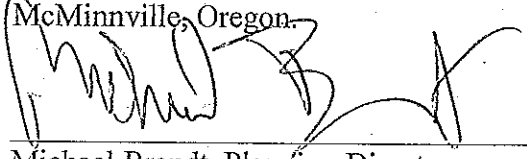
1. The facilities shall substantially conform to the site map submitted with the application. Prior to operation of the brewery or tasting room, any required building and septic permits and inspections shall be obtained from the Yamhill County Building Department.
2. No on-site tasting activities may be conducted prior to the construction of the tasting room. The tasting room may be open for daily tastings for the primary purpose of promoting and selling the beer made from the products harvested on-site and in the local area.
3. Events such as weddings, cooking classes and corporate retreats, etc. are not included with this approval. Agri-tourism and other commercial events or activities beyond those specified in condition 2 may be applied for through Section 1013 – Agri-Tourism Use Permits, of the Yamhill County Zoning Ordinance.
4. Prior to operation of the facility, the building and access will be required to meet the Newberg Rural Fire Department standards.
5. Parking shall be provided so that there is a minimum of one car per 100 square feet of floor area plus one space for each employee on maximum working shift. No on-street parking is allowed.
6. The use may have one on premise sign of not more than 24 square feet.
7. The use of outdoor amplified music or sound is not permitted.

8. Any food service shall conform to ORS 624.010 a "limited service restaurant" which means a restaurant serving only individually portioned prepackaged foods prepared from an approved source by a commercial processor and nonperishable beverage or shall be prepared off-site by a commercial caterer that is licensed and inspected by the Public Health Department.
9. Prior to operation of the facility, the applicant shall obtain all permits required by the Oregon Liquor Control Commission (OLCC) and the Oregon Department of Agriculture (ODA).
10. Prior to operation of the tasting room, the applicant shall obtain a statement from the Public Works Director, or his representative, that the proposed development complies with Yamhill County Ordinance 787.
11. The number of persons allowed in any portion of the tasting room shall not exceed the maximum number of persons allowed pursuant to the occupancy permit for such portion of the tasting room, if applicable.
12. Prior to initiation of the operation, the landowner shall sign an affidavit acknowledging the following declaratory statement and record it in the deed and mortgage records for Yamhill County:

"The subject property is located in an area designated by Yamhill County for agricultural uses. It is the county policy to protect agricultural operations from conflicting land uses in such designated areas. Accepted agricultural practices in this area may create inconveniences for the owners or occupants of this property. However, Yamhill County does not consider it the agricultural operator's responsibility to modify accepted practices to accommodate the owner or occupants of this property, with the exception of such operator's violation of state law."
13. This approval shall expire two years from the date of this letter unless the use has been initiated.
14. This approval shall be deemed personal to the current property owner and shall not run with the land.

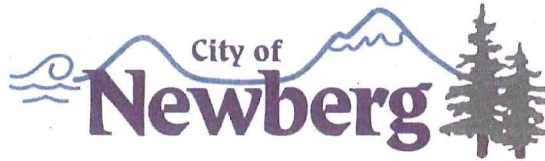
15. Modification of any of the above conditions requires approval under Section 1202.05 of the Yamhill County Zoning Ordinance. Violation of any of the above conditions may result in revocation of the conditional use permit with the process detailed in Section 1202.07 and 1202.08 of the Yamhill County Zoning Ordinance.

DATED AND SIGNED this 28th day of June, 2014, at
McMinnville, Oregon.



Michael Brandt, Planning Director
Yamhill County Planning and Development

MB:kf



RECEIVED

OCT 09 2017

Initial: DR

**City of Newberg 2017 - 2018
Transient Lodging Tax – Destination Development and Marketing
Promotion Grant Program Application Cover Page**

Project Title: The Vines-to-Steins Trail

Applicant Name: Wolves & People Farmhouse Brewery

Mailing Address: 30203 NE Benjamin Rd. Newberg OR 97132
Street City State Zip

Contact Name: Christian DeBenedetti, founder/owner/head brewer

Phone: 503-487-6873 Email: christian@wolvesandpeople.com

Amount of total Funding Requested: \$65,000

Please note: Funds not spent on the approved project must be returned to the City of Newberg by check with the Final Report due 30 days after completion of the project, program or event.

Project, Program or Event Detail:

- A. To apply, attach a completed application to this cover sheet along with any required supporting materials.
- B. Submit an updated Project, Program or Event Detail as your Progress Report.
- C. Within 30 days after project, program or event is complete submit a Final Report. Attach receipts/paid invoices for monies spent and a check to the City of Newberg for any unspent funds.

Any changes to your project must have prior approval to receive funding.

I agree to all terms described on this application and verify that the information provided on this cover sheet is true and accurate.

Print Name: Christian DeBenedetti

Signature: CDB 

Title: Founder/Owner/Head Brewer

Date: 10/9/17

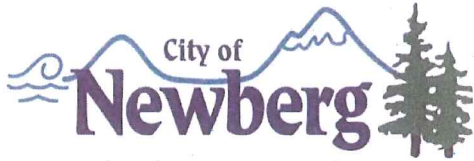
*****FOR OFFICE USE ONLY*****

APPROVED/NOT APPROVED/REVISED (ATTACH DETAILS) _____

Progress Report Received: _____

Final Report received: _____

Funds returned, received on: _____



**City of Newberg 2017 - 2018
Transient Lodging Tax – Destination Development and Marketing
Promotion Grant Program Application**

THE FOLLOWING ITEMS MUST BE INCLUDED WITH YOUR APPLICATION:

- ❖ Completed application Cover Sheet.
- ❖ Budget for project/program/event being funded that lists all anticipated income and expenses.
- ❖ Board or Owner approved financial statement for most recently completed fiscal year of the organization or business responsible for the project/program/event.
- ❖ Letter signed by officers of the Organization's Board of Directors or Business Owners authorizing this application.
- ❖ Documentation of organization or business existence: Current, valid Oregon Secretary of State Corporation Division registry filing.
- ❖ Documentation that no bankruptcy or other financial corruption has occurred within the past five years.
- ❖ Letters of support.

Project Title: Vines-to-Steins Interpretive Walking Trail & Visitor Pavilion

Applicant Name: Springbrook Beer LLC DBA Wolves & People Farmhouse Brewery

Mailing Address: 30203 NE Benjamin Rd. Newberg OR 97132
Street City State Zip

Contact Name: Christian DeBenedetti

Phone: 503-487-6873 Email: Christian@WolvesandPeople.com

Website Address: www.wolvesandpeople.com

Secretary of State Business Registry Number: 917658-92

Non Profit _____ Government _____ For-Profit _____

Amount of total Funding Requested: \$80,000 (Phase One: \$15,000; Phase Two: \$65,000)

Please note: Funds not spent on the approved project, program or event must be returned to the City of Newberg by check with the Final Report due 30 days after completion of the project, program or event.

Classify how funds will be used for your project/program/event: *check all that apply*

New Project New Program New Event

Existing Project Existing Program Existing Event

Has this project, program or event received these grant funds in the past?

No.

If so when and for how much?

Prior year grant award through this program does not guarantee additional funding in subsequent years. All returning projects, programs or events must reapply and are subject to approval. This program has limitations of funding available in the fiscal year in total amount of funds requested. All required reports must be in good standing at the time of application for future funding by a past grant recipient.

Budget Summary (this format must be used):

Project/Program/Event Budget: This budget provides the detail of the project, program or event that the grants funds would be applied to. This should include how the funds from this grant will be spent. Expenses must be explicitly defined. Please include in-kind and cash match.

Fiscal Year: 2018 to 2019

APPLICANT'S NOTE: The project will proceed in **two phases**: PHASE ONE, a joint effort with A to Z Wineworks and Wolves & People to establish and mark a tourist-friendly, interpretive walking trail between our tasting rooms. PHASE TWO will be the construction of a visitor pavilion to be designed and built by Wolves & People as a separate project, also seeking funding from the Large Grant Program, but not from A to Z.

Income Sources	Amount
Wolves & People Brewery	\$15,000 Phase ONE
A to Z Wineworks	\$15,000 Phase ONE
Large Grant Program Matching Funds	\$15,000 Phase ONE
Wolves & People	\$15,000 Phase TWO
Large Grant Program Matching Funds	\$50,000 Phase TWO
Total Project/Program/Event Income	\$110,000

Expenses – Must be explicitly defined.	Amount

GOAL: Create an interpretative walking trail between two premier Newberg agritourism destinations.

PHASE ONE, Excavation: Working with local excavators and A to Z Wineworks, a simple footpath route will be delineated and constructed along the neighboring farm properties from the shared property line at Benjamin Road Eastward toward A to Z's lower vineyards, then continuing North and East toward A to Z Wineworks HQ. Visitors will walk through the scenic hazelnut orchard and neighboring vineyards, with views of the Chehalem Valley toward the Coastal Mountains. The parking and footpath will take out zero working farmland, utilizing a road previously constructed and broad tractor paths already existing in the vineyards. Traversing the trail in one direction on foot (with no unauthorized motorized vehicles allowed) will take approximately 15-20 minutes. Additional gravel parking on fallow farmland will accommodate visitors. The path will be free of charge. Visitors will walk the path at their own risk. The path will be open only during business hours of both businesses.

Phase ONE Excavation and Trail Preparations \$25,000

<p>Signage: we will commission durable interpretive signage explaining the route itself along with several key historical aspects such as 1) the significance of hazelnuts to Newberg and Oregon 2) the importance of Pinot noir and other grape cultivation in Newberg and its surrounding areas 3) the history of the Rex pioneer community 4) the history of the Southern Pacific Railroad and Red Electric train which were located immediately Northeast of both properties 5) the importance of Newberg's founding pioneer Sebastian Brutscher as the path will pass just a few feet North of the NE corner of the Donation Land Claim on which Brutscher and his wife Mary Everest originally farmed hops, wheat, and oats starting in 1850 in 6) the importance of preserving and protecting farmland as well as native flora and fauna like Douglas Fir, red tail hawks, Great Blue Heron, and other organisms native to the ecosystem 7) with great views of town, the early history of Newberg itself 8) the importance of Parrett Mountain and its pristine aquifer from which the brewery's water is drawn 9) the geologic history of The Chehalem Mountains and Coast Range visible to the North and West and how the local geology relates to viticulture 10) a brief history of each farm property. The signage will be carefully vetted for historical and scientific accuracy.</p>	<p>Phase ONE, Ten Permanent Signs Creation and Placement \$15,000</p>
<p>Media & Marketing: In months prior to the trail's dedication in Spring 2018, a local public relations professional will be hired to work with the teams at A to Z and Wolves & People to publicize this new community offering as an attraction that greatly enhances Newberg's reputation as having among Oregon's (and the nation's) best agriculture, winemaking, and brewing. This tourism marketing outreach will focus on regional and national media attention, and ideally partnership with Travel Oregon and local DMOs to broaden the reach. Additional information on budget can be provided.</p>	<p>Phase ONE Marketing \$5,000</p>

<p>PHASE TWO: Pavilion. Working under the direction of Wolves & People, local builders Griffins Gardens will construct a 72x20 pavilion structure near the trail's starting point on Springbrook Farm and Wolves & People Farmhouse Brewery (\$41,000 plus excavation, electrical, assorted finish work and masonry). This will be either the starting and ending or midway point of walkers (who begin the trail at the winery) and will function as a community gathering spot in addition to shade and shelter for visitors and customers. The pavilion will be ADA-accessible, built from rough-hewn cedar and offer impressive year-round views of Parrett Mountain, vineyards, and the Chehalem Mountains. The pavilion will be tasteful, inviting, and low-profile, with a gravel area and outdoor firepit.</p>	<p>Phase TWO - Pavilion \$65,000</p>
<p>Total Project/Program/Event Expense</p>	<p>PHASE ONE: \$45,000 PHASE TWO: \$65,000 TOTAL \$110,000</p>

Organization Budget: This budget shows how this project, program or event fits into your organization. Your project, program or event should be shown as a line in this budget.

Fiscal Year: 2018 to 2019

Income Sources	Amount
----------------	--------

Total Organization Expense	

Project Narrative:

1. Project description: Newberg is home to some of the best wineries, farms, and breweries in the state, nation, and indeed the world. With the successful launch of our brewery in 2016, the Vines-to-Steins Trail was conceived of as a joint venture between A to Z Wineworks, Wolves & People Farmhouse Brewery, and Ellen & Charles McClure, property owners of Springbrook Farm where Wolves & People brewery is established. Newberg’s fame as a destination for discerning wine, food, and beer lovers is growing day by day, and the applicants feel this walking path connecting their two businesses will only enhance that reputation, offering a free, original, safe, low-impact, interpretive/informational/educational attraction for visitors of all ages. To our knowledge, there is no similar trail in the world connecting a world-class winery business with an upstart brewery that is rapidly reaching the same world-class status, which will make for a compelling reason to visit Newberg and its culture of excellence in the field of fermentation. Visitors to Yamhill County’s prestigious wineries are increasingly interested in the emerging local craft brewing scene. We are uniquely situated, with bordering properties and historic-register buildings, to build a one-of-a-kind agritourism experience in Newberg. Our brewery is already family-friendly, and the interpretive trail will be an attractive draw for families and out-of-town visitors.
- 2.

Goal Number One is, “Tourism bolsters Newberg economy in measurable ways.” In seventeen months of operation, Wolves & People has drawn visitors from across the city, region, nation, and overseas. A to Z Wineworks, one of the state’s biggest (if not *the* biggest players in Oregon wine, has a global reputation for quality and a showpiece new winery. By linking our businesses in this way we will attract visitors eager to experience the best Newberg has to offer in a healthy and zero-cost way.

Goal Number 2. “Newberg is a destination of artisan makers and doers.” Both Wolves & People and A to Z exemplify the spirit of artisanship. By pursuing their passions to share with the world,

both businesses have realized their dreams of creating unique and valuable additions to their respective industries and the local community. Both were founded with elbow grease and uncompromising vision, and both employ and cultivate “doers” in their operation, dedicated to a wholesome pursuit of excellence in wine and beer forms.

As for Goal 3, “Tourism funding and industry partners catalyze downtown development, and creation of new experiences for target audiences,” this trail will impact downtown development indirectly by steering visitors to the other restaurants and related businesses in the downtown core. It will also draw visitors from Portland to the area who seek a family day out with a walk, some history, and fabulous views.

Regarding Goal #4, “The tourism organization and strategy engage and energize local tourism partners and demonstrate healthy partnerships between the private sector and city,” we feel this concept is highly marketable to travel and food/drink/beer/wine journalists around the world, and we would look forward to working with local tourism partners to get the word out. The wine/beer trail will be a unique experience that will draw additional visitors to the area; it is our experience that visitors to wineries are also interested in artisanal beer- we will build a unique connection between the two. (Much of our beer is aged in wine barrels- the connection is real.)

As for Goal 5, “Moon shots - tourism encourages sustainable development that benefits the local community and enhances the visitor experience,” we feel this idea is original, exciting, and unusual enough to greatly enhance Newberg’s reputation as a world-class destination for travelers and quality of life for aspiring home owners.

3. How does your project, program or event align with Transient Lodging Tax regulations (Tourist, Tourism Promotion, Tourism Promotion Agency, or Tourism related facility)?

We believe the trail and pavilion would closely align with the regulations as they are written.

4. What is the projected return on investment? We would hope that the amount of coverage and enjoyment generated by the trail and pavilion would be substantial enough to impact the city directly by drawing out of town visitors and their holiday budgets to Newberg. Each business would see an upturn in visitors to the respective tasting rooms. In a 2013 study by the Oregon Wine Board, the state’s industry brings in \$3.3B to the economy. The beer industry in Oregon brings \$4.49B to the state. Our project budget would amount to just 0.00142% of this combined number and we believe the increased tax revenue to Newberg and Yamhill County will be more than offset. The payback may well occur in the first year of operation. Further, according to the Yamhill County Agri-Business Economic and Community Development Plan of 2009, “facilities to support outdoor tourism are lacking – including trail systems, bicycle paths, riverfront parks, and campgrounds...” This trail directly responds to well-identified needs and goals by Newberg and the county. That 2009 study is packed with urgent recommendations for local businesses and government to support increased tourism options that “connect the dots” between local producers, the wine and farming industries, maker culture, outdoor recreation, and hospitality.

5. Predicted number of tourists' attracted / overnight guests? It is difficult to say at this time, but we would conservatively estimate an upturn in our number of visitors of 10-20% over 2017 levels.
6. Will it have lasting impact and utility? The trail and pavilion will be long lasting and useful for decades to come.
7. How does your project, program or event leverage funding? PHASE ONE is 200% matched by our own respective funds. In PHASE TWO Wolves & People is able to support approximately 15% of the budget.
8. What is the ratio at which Transient Lodging Tax funds will be matched? PHASE ONE: 2:1. PHASE TWO: 1:6.
9. What is your demonstrated history of attracting tourists? Since opening our doors in May 2016, we have welcomed many thousands of guests, and the percentage of visitors from Portland and beyond the state is quite substantial. There were visitors from California, Washington, and the Midwest on our opening day. We have generated positive media coverage from local to national print publications including *Travel + Leisure*, *Sunset*, *USA Today*, and a nationally-televised Japanese documentary program, among others. Our website keeps a tally of coverage, with over 30 significant editorial stories on our business in 17 months. Comparing the periods of opening day in May 2016 to May-October 2017, we show a 68% rise in sales, indicating we are on a path to prosperity.

10. Does your project, program or event engage and energize local tourism partner(s)?

This is a prime opportunity to get local entities together to promote a walking path between our winery and brewery. We foresee working with many partners locally to get the word out and cross promote like-minded restaurants and hotel partners like the Allison, which itself is walking-distance from our two properties. Winery tour operators would be interested in the unique nature of this idea to create more visitor traffic to Newberg.

11. Does your project, program or event enhance Newberg as a destination? If so how?

In my former professional I was a professional travel writer based in New York and took the liberty of called Newberg the "Napa of the North" in an article for *Departures Magazine*. While no one wants to see suffocating levels of tourism with buses and crowds, we at the brewery and winery feel that we have a compelling story to share with the world and even more compelling products, made from local ingredients with local know-how and a deep respect for area history and traditions. We are drawing a coveted type of tourist: educated, affluent, tasteful, exploratory, and energetic.

12. Does your project, program or event enhance Newberg as a location for Makers and Doers? If so how? We will employ local contractors to get this project done for starters, and the trail itself will stand as a testament to the idea that Newberg fosters a culture of making and doing. Both businesses were started as passion projects that have evolved into viable efforts that have drawn many visitors and fans. People who walk the trail will experience a small brewery and major winery, and feel they've accomplished something in the process. The walk will be healthful and invigorating.

13. Does your project, program or event catalyze downtown development? If so how?

While Wolves & People aspires to expand to downtown Newberg, this project will indirectly impact downtown. As we do presently, we will continue to direct visitors to the downtown core in order to enjoy Newberg's great restaurants, shops, and walking areas. We are located adjacent to Newberg, just a mile from the Allison Hotel & Spa, and will be one more reason for people to visit and shop in the area.

14. Does your project, program or event enhance offseason (October – May or Sunday – Thursday Visitation), or shoulder season visitation? Explain how. We think this can be an almost year-round attraction (with the possible exception of snowy days in January and February). Guests will be able to warm up in the pavilion and venture out on the path rain, sleet, or shine (but preferably around sunset for the views). We enjoy walking in our respective hazelnut farm and vineyards year-round.

15. Does this project align with at least one of the four target audiences (Wine Country Adventurers, Millennial Explorers, George Fox Network, or Luxury Wine Travelers)?

All four. We believe wine country adventurers, Millennial explorers, George Fox families, and luxury wine travelers will all be attracted by this concept. Currently we at Wolves & People get many guests from the Allison Inn & Spa, for example, and we are in the process of developing tour packages and perhaps even a special beer for the hotel. We are also pairing up with The Vintages in Dayton on a brewery tour package, which shows our appeal to Millennial Explorers.

16. What is the timeframe for completion of your project, program or event? We could break ground on the Pavilion and Vines-to-Steins Trail within a month of grant approval or perhaps sooner if schedules and weather allow. We have contacted builders and excavators to create bids and timeframes. With approval by January 31st, 2018, we think both the trail and pavilion could be ready for an opening in late Spring, 2018 (i.e. May/June).

Signature and Certification Letter:

I hereby certify that all facts, figures and representations made in this application, including all attachments, are true and correct. This application is made with the written approval of my Board of Directors or Owners, which is attached to this application.

I agree that all publicity, press releases, publications, materials and or media advertising produced as part of this proposed project/program/event will acknowledge the grant program as follows:

"This project/program/event is made possible in part by a grant from Newberg transient lodging taxes and the City of Newberg."

A agree to carry out this project/program/event as outlined within the application. Further, I understand that failure to do so will invalidate this agreement and necessitate the immediate return of all Transient Lodging Tax grant monies to the City of Newberg.



Signature of Authorizing Official

10/9/17

Date

Christian DeBenedetti
Print Name of Authorizing Official

AMENDED ANNUAL REPORT



Corporation Division
www.filinginoregon.com

E-FILED
Jan 25, 2017
OREGON SECRETARY OF STATE

REGISTRY NUMBER

91765892

REGISTRATION DATE

02/22/2013

BUSINESS NAME

SPRINGBROOK BEER LLC

BUSINESS ACTIVITY

BREW PUB

MAILING ADDRESS

WOLVES AND PEOPLE FARMHOUSE BREWERY
30203 NE BENJAMIN RD
NEWBERG OR 97132 USA

TYPE

DOMESTIC LIMITED LIABILITY COMPANY

PRIMARY PLACE OF BUSINESS

30203 NE BENJAMIN RD
NEWBERG OR 97132 USA

JURISDICTION

OREGON

REGISTERED AGENT

CHRISTIAN DEBENEDETTI

SPRINGBROOK FARM
30203 NE BENJAMIN RD
NEWBERG OR 97132 USA

If the Registered Agent has changed, the new agent has consented to the appointment.

MEMBER

DANIEL SHELTON

PO BOX 486
BELCHERTOWN MA 01007 USA

MEMBER

JOHN F KRESKGE

1030 NW 12TH AVE
PORTLAND OR 97209 USA



MANAGER

CHRISTIAN DEBENEDETTI

SPRINGBROOK FARM
30203 NE BENJAMIN RD
NEWBERG OR 97132 USA

By my signature, I declare as an authorized authority, that this filing has been examined by me and is, to the best of my knowledge and belief, true, correct, and complete. Making false statements in this document is against the law and may be penalized by fines, imprisonment, or both.

By typing my name in the electronic signature field, I am agreeing to conduct business electronically with the State of Oregon. I understand that transactions and/or signatures in records may not be denied legal effect solely because they are conducted, executed, or prepared in electronic form and that if a law requires a record or signature to be in writing, an electronic record or signature satisfies that requirement.

ELECTRONIC SIGNATURE

NAME

CHRISTIAN DEBENEDETTI

TITLE

FOUNDER

DATE SIGNED

01-25-2017

AMY PROSENJAK
President
A to Z Wineworks • REX HILL
30835 N. Hwy 99W Newberg, OR 97132
503.550.0912 (cell)
Amy@AtoZwineworks.com
AtoZwineworks.com • REXHILL.com

A to Z Wineworks is excited to be working with our neighbors and friends at Wolves & People Farmhouse Brewery to establish the "Vine to Stein" trail connecting our establishments. We feel that this is a way for us to bring education and fun to the community of Newberg, while celebrating its history and creating new connections for its future. Our picturesque neighboring properties used to be conjoined and we often partner to elevate visitor experiences.

Signed,

AMY PROSENJAK
President



Oct. 9, 2017

To The Committee,

As Newberg residents since 1967 and enthusiastic supporters of the local wine—and more recently, beer—industries, we wish to write in full support of the nature trail to be constructed along our shared property lines with Rex Hill/A to Z Wineworks. We have enjoyed many decades of warm relations with our winemaking neighbors to the Northeast of Springbrook Farm, and we are also staunch supporters of the farmhouse brewery our son Christian opened on our property in May, 2016. We believe this walking path will greatly enhance the memorable experiences of visitors to Newberg, offering a safe and salutary diversion between samples of world-class wine and beer.

Regards,

Charles & Ellen McClure,
Owners, Springbrook Farm
30295 N. HWY. 99W.
Newberg, OR 97132



TOURISM & AGRITOURISM CENTRIC

- possibly a "world's first"
- two pathbreaking Newberg-based businesses
- promotes "heads in beds": the trail will attract out-of-town and potentially overseas visitors
- gentle 1.5 to 2 mile walking route is low-impact & family friendly, safe, healthy, educational, fun
- a paid tourist attraction, not a free public park; a "passport" for admission; but no alcohol on the trail
- coordinated media strategy with local, regional, national, international outreach
- long history of goodwill and cooperation between neighbor businesses

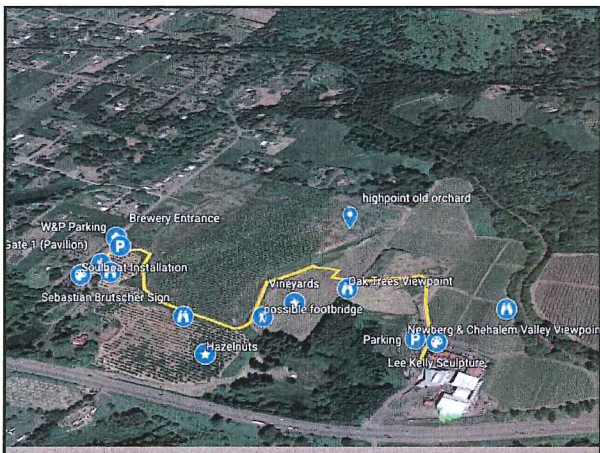
A to Z breaks new ground in Oregon wine as a 'Hot Brand'

Forbes / Food & Agriculture / #WineAndDine
Sustainability From A To Z, With A SIP And Dow Jones

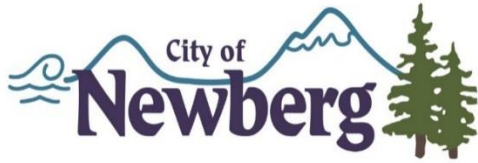
A to Z Wineworks becomes one of Oregon wine's biggest sellers: Top Workplaces 2015

A to Z Wineworks has been named a B Corp "Best for the World" company









City of Newberg 2017 - 2018 Transient Lodging Tax – Destination Development and Marketing Promotion Grant Program Guidelines

INFORMATION FOR GRANT APPLICANTS

PURPOSE:

This grant program is intended to aid organizations and businesses that further the Newberg Strategic Tourism Plan adopted in June 2016 for destination development and marketing promotion activities, <http://www.newbergoregon.gov/economicdevelopment/page/newberg-strategic-tourism-plan>, by advancing the adopted goals of:

- 1: Tourism bolsters Newberg economy in measurable ways.
2. Newberg is a destination of artisan makers and doers.
3. Tourism funding and industry partners catalyze downtown development and creation of new experiences for target audiences.
4. The tourism organization and strategy engage and energize local tourism partners and demonstrate healthy partnership between the private sector and city.
5. Moon Shots – tourism encourages sustainable development that benefits the local community and enhances the visitor experience.

DEFINITIONS:

The City of Newberg utilizes the state definition of tourism which is aligned with Oregon’s legal definition: “Tourism” means economic activity resulting from tourists.

“Tourist” is a person who, for business, pleasure, recreation, or participation in events related to the arts, heritage or culture, travels from the community in which that person is a resident to a different community that is separate, distinct from, and unrelated to the person’s community of residence, and that trip:

- a. Requires the person to travel more than 50 miles from the community of residence; or
- b. Includes an overnight stay in a paid accommodation in Newberg, Oregon.

“Tourism promotion” (as it relates to this grant application) means any of the following activities:

- a. Advertising, publicizing, or distributing information for the purpose of attracting and welcoming tourists;
- b. Conducting strategic planning and research necessary to stimulate future tourism development;
- c. Operating Tourism promotion agencies; and
- d. Marketing special events and festivals designed to attract tourists.

“Tourism Related Facility” is:

- a. A conference center, convention center, or visitor information center; and

- b. Other improved real property that has a useful life of 10 or more years and has a substantial purpose of supporting tourism or accommodating tourist activities.

FUNDING:

Funding for this program is up to \$430,000 which may be disbursed to multiple organizations or businesses. The minimum grant amount is \$10,001 and the maximum is based on funds available for that fiscal year. The funds are made available from the City of Newberg transient lodging taxes that are assessed to hotels, motels, bed and breakfasts, and vacation rentals for guests in the City of Newberg.

ELIGIBLE APPLICANTS:

Eligible applicants include governmental entities, 501(c)(3) and (6) non-profit organizations, and for-profit private entities with a project, program, or event in the Newberg zip code area of 97132 aimed at destination development or marketing promotion that promotes local tourism attractions, brings visitors or has the potential to bring visitors, to Newberg that will create overnight stays in Newberg's commercial lodging properties in furtherance of the Newberg Strategic Tourism Plan goals.

Multiple grant applications per year will be considered for any one organization or business. If an organization or business has previously been awarded a tourism grant by the City of Newberg, it will only be considered for a grant if all previously awarded grants complied with grant agreement requirements and procedures, including filing progress reports. Since grants are funded from revenues from lodging tax, recipients are asked not to request discounts from Newberg lodging properties for the proposed project, program, or event.

GRANT APPLICATION PROCESS:

In order to be considered for grant funds from the City of Newberg:

- 1) A completed application must be delivered to the Community Development Director. Application forms are available at <https://www.newbergoregon.gov/economicdevelopment/page/2017-2018-transient-lodging-tax-destination-development-marketing-grant> or by contacting the Community Development Director, doug.rux@newbergoregon.gov. If you have multiple projects, programs, or events, separate applications will need to be submitted. The exception would be if the project, program, or event had multiple dates over the course of the fiscal year.
- 2) All application forms **MUST** be typed and sent to the Community Development Director. **No hand written forms will be accepted. Failure to abide will result in application disqualification.**
- 3) All applicants will be notified of funding approvals no later than January 31, 2018.
- 4) Progress and Final Reports on activity, spending, and results are to be submitted to the Community Development Director.

TYPES OF PROJECTS/PROGRAMS/EVENTS TO BE CONSIDERED:

Below is a sample list of grant projects, programs or events; actual projects are not limited to only what is listed below.

- 1) Projects, programs, or events which generate or encourage overnight stays in Newberg.
- 2) Projects, programs, or events that increase visitor spending.
- 3) Projects, programs, or events that enhance shoulder and off season visitation.
- 4) Projects, programs, or events that create unique wine country experiences that distinguish Newberg from nearby destinations.

ACTIVITIES NOT ELIGIBLE FOR FUNDING:

- 1) General administrative costs;
- 2) Membership fees;
- 3) Projects, programs or events promoting tourism outside of Newberg;
- 4) Project directed solely at the residents of Newberg;
- 5) Used as match for other City of Newberg funding awards;
- 6) Salaries;
- 7) Operating costs;
- 8) Travel and mileage;
- 9) Architectural engineering studies;
- 10) Apparel for volunteers and/or staff; or
- 11) Advertisements in Newberg or CVCC guides/brochures, local Chambers of Commerce publications, and local publications (print, radio, television) that are not distributed at least 50 miles outside of Newberg.

MATCHING REQUIREMENT:

The Destination Development and Marketing Promotion Grant Program requires a minimum 1:1 match ratio from the applying organization or business:

- 1) Non-Profit/Governmental: 1 (applicant) and includes in-kind or cash / 1 (City of Newberg)
- 2) For-Profit: 1 (applicant) cash match / 1 (City of Newberg)

Match funds must be documented and must be committed prior to the distribution of funds. The higher the cash or in-kind match ratio will enhance the application scoring.

EVALUATION CRITERIA:

The City of Newberg Transient Lodging Tax Ad Hoc Committee will review applications and make a recommendation to the Newberg City Council on awards according to the purpose and evaluation criteria of the grant program. The Newberg City Council will make the final award decision.

Eligibility Requirements

- | | |
|--|--------|
| 1) Aligns with Transient Lodging Tax regulations (Tourist, Tourism Promotion, Tourism Promotion Agency, Tourism related facility) | Yes/No |
| 2) Promote or create experiences for: Outdoor recreation visitor, Experiential arts, Wayfinding, Downtown enhancement | Yes/No |
| 3) Appeals to designated audiences in the Newberg Strategic Tourism Plan (Wine Country Adventures, Millennial Explores, George Fox Network, and Luxury Wine Travelers) | Yes/No |
| 4) The project will create or enhance an experience for shoulder or off-season visitors | Yes/No |
| 5) Does it align with other tourism activities in the community | Yes/No |
| 6) Builds on existing assets | Yes/No |
| 7) Leverages funding | Yes/No |
| 8) Entities that have a bankruptcy or other financial corruption within The past five years are ineligible | Yes/No |

Criteria

- | | |
|--|-------|
| 1) What is the projected return on investment | |
| a. Predicted number of tourists attracted/overnight guests | 0 - 5 |

- b. Will it have lasting impact and utility 0 - 5
- 2) Demonstrated history of attracting tourists/overnight guests 0 - 3
- 3) Does it engage and energize local tourism partner(s) 0 - 3
- 4) Does it enhance Newberg as a destination 0 - 5
- 5) Does it enhance Newberg as a location for Makers and Doers 0 - 3
- 6) Does it catalyze downtown development 0 - 3
- 7) Is it likely to increase visitor spending 0 - 5
- 8) Does it enhance tourism from October – May or any Sunday – Thursday Visitation? Explain how. 0 - 5
- 9) Does this project align with at least one of the four target audiences (Wine Country Adventurers, Millennial Explorers, George Fox Network, Luxury Wine Travelers) 0 - 5

PROMOTIONAL MATERIAL:

All funded projects, programs or events involving promotional materials and websites must be reviewed by the Community Development Director at the draft stage and will need to include the www.newbergoregon.gov/cd/page/tourism web address and a link to www.newbergoregon.gov/cd/page/tourism in the case of a website.

All grant support should be referenced as; **“This project/program/event is made possible in part by a grant from Newberg transient lodging taxes and the City of Newberg.”**

UNUSED FUNDS:

In the event that awarded funds remain and were not completely used for the project, program, or event intended, the unused funds shall be returned to the City of Newberg.

GRANT CONTRACT:

All grant award recipients must enter into a Destination Development and Marketing Promotion Grant Contract with the City of Newberg. A sample contract is included in the application material.

REPORTING PROCESS:

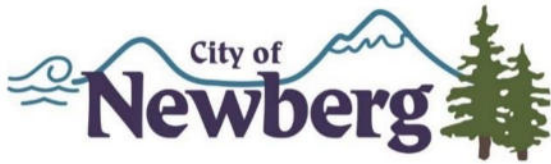
Applicants that are awarded grant funding are required to submit both a Progress Report on a date to be determined and a Final Report within 30 days after the project, program or event to the Newberg Community Development Director.

RECORD KEEPING:

It is requested that all grantees maintain records for the minimum required amount of time set forth by the IRS, including receipts, and make the records available to the City of Newberg upon request for audit purposes.

PERMITTING AND LICENSING:

The award of grant money through this program does not supersede the need for proper permitting and licensing with the City of Newberg and / or other governing agents. Proof of all necessary permits and licenses is required before grant funds can be dispersed.



**City of Newberg 2017 - 2018
Transient Lodging Tax – Destination Development and Marketing
Promotion Grant Program Application Cover Page**

Project Title: _____

Applicant Name: _____

Mailing Address: _____
Street City State Zip

Contact Name: _____

Phone: _____ Email: _____

Amount of total Funding Requested: \$ _____

Please note: Funds not spent on the approved project must be returned to the City of Newberg by check with the Final Report due 30 days after completion of the project, program or event.

Project, Program or Event Detail:

- A. To apply, attach a completed application to this cover sheet along with any required supporting materials.
- B. Submit an updated Project, Program or Event Detail as your Progress Report.
- C. Within 30 days after project, program or event is complete submit a Final Report. Attach receipts/paid invoices for monies spent and a check to the City of Newberg for any unspent funds.

Any changes to your project must have prior approval to receive funding.

I agree to all terms described on this application and verify that the information provided on this cover sheet is true and accurate.

Print Name: _____

Signature: _____

Title: _____

Date: _____

*****FOR OFFICE USE ONLY*****
APPROVED/NOT APPROVED/REVISED (ATTACH DETAILS) _____

Progress Report Received: _____

Final Report received: _____

Funds returned, received on: _____

Classify how funds will be used for your project/program/event: *check all that apply*

_____ New Project

_____ New Program

_____ New Event

_____ Existing Project

_____ Existing Program

_____ Existing Event

Has this project, program or event received these grant funds in the past?

If so when and for how much?

Prior year grant award through this program does not guarantee additional funding in subsequent years. All returning projects, programs or events must reapply and are subject to approval. This program has limitations of funding available in the fiscal year in total amount of funds requested. All required reports must be in good standing at the time of application for future funding by a past grant recipient.

6. Will it have lasting impact and/or utility?

7. How does your project, program or event leverage funding?

8. What is the ratio at which Transient Lodging Tax funds will be matched?

9. What is your demonstrated history of attracting tourists?

10. Does your project, program or event engage and energize local tourism partner(s)?

11. Does your project, program or event enhance Newberg as a destination? If so how?

12. Does your project, program or event enhance Newberg as a location for Makers and Doers? If so how?

13. Does your project, program or event catalyze downtown development? If so how?

14. Does your project, program or event enhance tourism from October – May or any Sunday – Thursday Visitation? Explain how.

15. Does this project align with at least one of the four target audiences (Wine Country Adventurers, Millennial Explorers, George Fox Network, or Luxury Wine Travelers)?

16. What is the timeframe for completion of your project, program or event?

Signature and Certification Letter:

I hereby certify that all facts, figures and representations made in this application, including all attachments, are true and correct. This application is made with the written approval of my Board of Directors or Owners, which is attached to this application.

I agree that all publicity, press releases, publications, materials and or media advertising produced as part of this proposed project/program/event will acknowledge the grant program as follows:

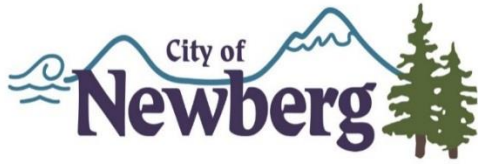
“This project/program/event is made possible in part by a grant from Newberg transient lodging taxes and the City of Newberg.”

A agree to carry out this project/program/event as outlined within the application. Further, I understand that failure to do so will invalidate this agreement and necessitate the immediate return of all Transient Lodging Tax grant monies to the City of Newberg.

Signature of Authorizing Official

Date

Print Name of Authorizing Official



**City of Newberg 2017 - 2018
 Transient Lodging Tax – Destination Development and Marketing
 Promotion Grant Program Reports**

To be completed and returned: Progress Report by _____.

To be completed and returned by _____: Final Report 30 days after project, program or event.

Attach receipts, paid invoices for monies spent and a check to the City of Newberg for an unspent funds.

Project Title: _____

Name of Organization requesting funds: _____

Mailing address: _____

Contact name: _____

Phone: _____ Email: _____

1. Detail of Income and Expenses as compared to budget submitted (must be as detailed as possible)

NOTE: Please attach receipts or a spreadsheet that documents both income and expenses

Budgeted Income Sources	Amount	Actual Income Sources	Amount
Total Budgeted Project/Program/Event Income		Total Actual Project/Program/Event Income	

Budgeted Expenses	Amount	ACTUAL EXPENSES	Amount
Total Budgeted Project/Program/Event Expenses		Total Actual Project/Program/Event Expenses	

2. Do you have unused City funds remaining? If so how much?

3. Date project, program or event was (or will be) completed:

4. Results achieved with project, program or event. Did you reach your target audience or goal? Discuss your measurement of success.

5. Please include data that supports how many tourists and room nights you believe this project, program or event helped generate based on collected zip codes of attendees.

SAMPLE CONTRACT ONLY

**CITY OF NEWBERG
TRANSIENT LODGING TAX
DESTINATION DEVELOPMENT AND
MARKETING PROMOTION GRANT CONTRACT**

This Grant Contract is made and entered into by and between the City of Newberg ("CITY") and _____ ("RECIPIENT").

RECITALS

Whereas, in 1976 the City of Newberg implemented a transient lodging tax (TLT) of 6%;

Whereas, in 2014 the City of Newberg increased its TLT to 7.5%;

Whereas, in 2015 the City of Newberg increased its TLT to 9%TLT;

Whereas, HB 2267 in 2003 requires increases in the TLT after July 2, 2003 dedicate 70% of collected tax be used for tourism promotion or tourism related facilities;

Whereas, the funds provided under this Grant Contract were derived from TLT funds and designated for use on tourism promotion, or tourism related facilities;

Whereas, the City of Newberg has reviewed RECIPIENT'S application, submitted on _____ (the "Application") and determined the Project, Program or Event, as hereafter defined, is feasible and merits funding.

NOW THEREFORE, the parties agree as follows:

1. Contract. This Grant Contract shall include the following, which in the event of any inconsistency are to be interpreted in the following order of precedence:
 - A. This Grant Contract without any Exhibits.
 - B. Special Conditions of Award, attached as Exhibit A.
 - C. A description of the Project, Program or Event approved by the CITY (the "Project"), attached as Exhibit B.
 - D. Approved Project budget showing a breakdown of sources of funds, attached as Exhibit C. This Exhibit supersedes the Project budget submitted in RECIPIENT'S Application; and
 - E. RECIPIENT'S application, which by this reference is incorporated herein.

2. Grant. In reliance upon RECIPIENT'S Application and covenant to comply with all local, state and federal laws, rules and regulations and terms of this grant as set forth herein, the CITY agrees to provide the RECIPIENT'S funds in the amount of \$_____, the use of which shall be expressly limited to the Project and the activities described in Exhibit B. The use of these funds shall also be subject to the approved Project budget in Exhibit A, if any.

Subject to the terms and conditions of this Grant Contract, the CITY shall disburse the grant funds to RECIPIENT according to the attached Exhibit D (such as 50% at signing of Grant Contract and remaining funds per the schedule in Exhibit D).

3. Project Completion Date. The approved grant activities must be completed by _____ from the date of this Grant Contract (“Project Completion Date”). By the Project Completion Date, all Project activities must be completed, including submission of the Project Final Report 30 days after the Project Completion Date.
4. Recipient’s Covenants – Compliance with Laws.
 - A. The RECIPIENT agrees to comply, and cause its agents, contractors and subgrantees to comply, with all applicable local, state and federal laws, regulations, policies, guidelines and requirements with respect to the use of and the administration, distribution and expenditure of the funds provided under this Grant Contract.
5. Default and Remedies.
 - A. Default. RECIPIENT shall be in default under this Grant Contract upon occurrence of any of the following events:
 - (1) Key RECIPIENT actions are not completed in accordance with the Project Schedule or CITY’s approval of a Progress Report provided for in this Grant Contract.
 - (2) Any representation, warranty or statement made by RECIPIENT herein or in any documents or reports relied upon by CITY is untrue in any material respect when made.
 - (3) Any other significant breach of the terms and conditions of this Grant Contract.
 - B. Remedies upon Default. If RECIPIENT’S default is not cured within a reasonable term, as defined by CITY, or such longer period as CITY may authorize at its sole discretion, CITY may pursue any remedies available under this Grant Contract either at law or in equity. Such remedies include, but are not limited to, termination of this Grant Contract.
6. Termination.
 - A. CITY reserves the right to terminate this Grant Contract immediately upon notice to the RECIPIENT:
 - (1) if RECIPIENT fails to perform or breaches any of the terms of this Grant Contract; or
 - (2) if the RECIPIENT is unable to commence the Project within _____ () months from the date of this Grant Contract; or
 - (3) if federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the grant made pursuant to the terms of this Grant Contract or payments to be made hereunder are prohibited.
 - B. CITY and RECIPIENT may mutually agree in writing to terminate this Grant Contract.
 - C. In the event of termination prior to Project completion, CITY will have no further obligations or liabilities under this Grant Contract, including that it will not reimburse any Project costs incurred by RECIPIENT.
7. Indemnification. To the extent permitted by the Oregon Constitution and the Oregon Tort Claims Act, RECIPIENT shall indemnify, defend, and hold harmless CITY and its officers, employees, and agents from all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature resulting from, arising out of or relating to the activities of the RECIPIENT or RECIPIENT’S officers, employees, sub-contractors, or agents under this Grant Contract.
8. Miscellaneous.
 - A. This Grant Contract shall be null and void if this Grant Contract is not executed and

returned to CITY by the RECIPIENT by _____ (Date).

B. CITY and the RECIPIENT are the only parties to this Grant Contract and are the only parties entitled to enforce its terms. Nothing in this Grant Contract gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individuals identified by name herein and expressly described as intended beneficiaries of the terms of this Grant Contract.

C. Except as otherwise expressly provided in this Grant Contract, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, facsimile, or mailing the same, postage prepaid, to CITY or the RECIPIENT at the address or number set forth on the signature page of this Grant Contract, or to such other addresses or numbers as either party may hereafter indicate. Any communication or notice so addressed and mailed shall be deemed to be given five (5) days after mailing. Any communication or notice delivered by facsimile shall be deemed to be given when receipt of the transmission is generated by the transmitting machine.

D. This Grant Contract shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between CITY and RECIPIENT that arises from or relates to this Grant Contract shall be brought and conducted solely and exclusively within the Circuit Court of Yamhill County for the State of Oregon; provided however, if a Claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon.

E. This Grant Contract and attached exhibits constitute the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Grant Contract. No waiver, consent, modification or change of terms of this Grant Contract shall bind either party unless in writing and signed by both parties and all necessary CITY approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of CITY to enforce any provision of this Grant Contract shall not constitute a waiver by CITY of that provision or any other provision.

This Grant Contract is hereby executed by the Parties on the dates set forth below.

CITY OF NEWBERG

RECIPIENT

By: _____

By: _____

Date: _____

Date: _____

Address: 414 E. First Street
Newberg, OR 97132

Address: _____

By Authority of Resolution No. _____

ATTEST AS TO LEGAL FORM

Truman A. Stone, City Attorney

Exhibit A – Special Conditions of Award

Exhibit B – Project Description

Exhibit C – Approved Project Budget

Exhibit D – Grant Fund Disbursement Schedule

SAMPLE CONTRACT ONLY

Destination Development - Marketing Grant	Funding Request	Funding Request
Hoover-Minthorn House Museum Roofing	\$ 30,000.00	\$ 30,000.00
Newberg Downtown Wineries Assoc	\$ 20,500.00	\$ 20,500.00
Chehalem Cultural Center Culinary	\$ 250,000.00	\$ 250,000.00
CPRD Sports Complex Lighting	\$ 225,000.00	\$ 225,000.00
City of Newberg Cultural District Wayfinding	\$ 73,500.00	\$ 73,500.00
Wolves & People Vines to Steins Trail	\$ 65,000.00	\$ 80,000.00
TOTAL	\$ 664,000.00	\$ 679,000.00
Funding Available (up to)	\$ 430,000.00	
Minimum Funding Request	\$ 10,001.00	

Summary White Board Evaluation

	1 = Highest Ranking			6 = Lowest Ranking			Lippard	Louis	Parish	Total	Rank	Grant Request	Award Recommendation
	Lewis	McKinney	Bagley	Carda	Felton	Lattimer							
Hoover-Minthorn	5	2	4	6	3	6	5	4	6	41	4	\$ 30,000	\$ -
Downtown Wineries Association	1	4	2	2	6	3	3	1	2	24	2	\$ 20,500	\$ 20,000
Cultural Center Culinary Kitchen	2	1	1	1	2	1	2	3	1	14	1	\$ 250,000	\$ 250,000
CPRD Sports Lighting	6	5	6	4	1	5	4	6	4	41	4	\$ 225,000	\$ -
Cultural District Wayfinding	4	3	5	5	5	4	6	5	5	42	6	\$ 73,500	\$ -
Wolves & People	3	6	3	3	4	2	2	2	3	28	3	\$ 45,000	\$ 30,000

SUMMARY DESTINATION DEVELOPMENT - MARKETING GRANT SCORES

	Grant Request Amount	Total Points Possible	Total Points	Average
Hoover-Minthorn House Museum Roof/Gutters/Electrical	\$ 30,000	504	215	17.92
Newberg Downtown Wineries Association	\$ 20,500	462	348	31.64
Chehelam Cultural Center Culinary Enrichment Center	\$ 250,000	504	368	30.67
CPRD Darnell Wright Sport Complex Lighting	\$ 225,000	504	182	15.17
City of Newberg Cultural District Wayfinding	\$ 73,500	504	221	18.42
Wolves & People Vines to Steins Trail	\$ 65,000 - \$ 80,000	504	251	20.92

	Grant Request Amount	Total Points Possible	Total Points	Average
Newberg Downtown Wineries Association	\$ 20,500	462	348	31.64
Chehelam Cultural Center Culinary Enrichment Center	\$ 250,000	504	368	30.67
Wolves & People Vines to Steins Trail	\$ 65,000 - \$ 80,000	504	251	20.92
City of Newberg Cultural District Wayfinding	\$ 73,500	504	221	18.42
Hoover-Minthorn House Museum Roof/Gutters/Electrical	\$ 30,000	504	215	17.92
CPRD Darnell Wright Sport Complex Lighting	\$ 225,000	504	182	15.17

Wolves & People Vines to Steins Trail

Funding Request \$65,000 - \$80,000

Criteria	Score Range	Lewis	Nicholas	McKinney	Bagley	Carda	Felton	Kelsh	Lattimer	Lippard	Louis	Love	Parrish
1. What is the projected return on investment													
a. Predicted number of tourists attracted/overnight guests	0 - 5	1	3	0	3	1	2	5	2	0	5	1	3
b. Will it have lasting impact and utility	0 - 5	2	3	0	4	3	2	5	2	3	5	4	2
2. Demonstrated history of attracting tourists/overnight guests	0 - 3	1	3	0	3	1	2	3	1	0	3	2	3
3. Does it engage and energize local tourism partner(s)	0 - 3	2	0	0	2	1	3	3	2	1	3	3	3
4. Does it enhance Newberg as a destination	0 - 5	1	0	0	4	2	4	5	3	2	5	2	2
5. Does it enhance Newberg as a location for Makers and Doers	0 - 3	1	3	0	2	2	1	3	2	0	3	1	2
6. Does it catalyze downtown development	0 - 3	0	0	0	1	0	0	3	2	2	1	0	2
7. Is it likely to increase visitor spending	0 - 5	0	0	0	2	1	1	5	2	1	5	1	1
8. Does it enhance tourism from October – May or any Sunday – Thursday Visitation	0 - 5	1	2	0	1	0	3	5	2	1	5	0	1
9. Does this project align with at least one of the four target audiences (Wine Country Adventurers, Millennial Explorers, George Fox Network, Luxury Wine Travelers)	0 - 5	3	5	0	4	3	5	5	4	1	5	5	4
	42												
Total		12	19	0	26	14	23	42	22	11	40	19	23

Total Points Possible 504
Total Points 251
Average 20.92

Wolves & People Vines to Steins Trail

Request amount: \$65,000 - \$80,000

Required Application Materials

YES NO NOTES

1) Completed application Cover Sheet	X		
2) Budget for project/program/event being funded that lists all anticipated income and expenses.	X		States \$65,000 request, Application states \$80,000 request, need to clarify
3) Board or Owner approved financial statement for most recently completed fiscal year of the organization or business responsible for the project/program/event.	X		Private entity confidential information
4) Letter signed by officers of the Organization's Board of Directors or Business Owners authorizing this application.		X	Signed Certification Letter in application but no separate letter
5) Documentation of organization or business existence: Current, valid Oregon Secretary of State Corporation Division registry filing.	X		2017 Annual Report
6) Documentation that no bankruptcy or other financial corruption has occurred within the past five years.		X	Confidential financial information submitted does not indicate a bankruptcy
7) Letters of support.	X		2 letters
8) Past grant recipient.		X	

Eligibility Requirements

YES NO NOTES

1) Aligns with Transient Lodging Tax regulations (Tourist, Tourism Promotion, Tourism Promotion Agency, Tourism related facility)	X		Tourist, Tourism Promotion, Tourism Related Facility. The trail is a grey area according to legal counsel review.
2) Promote or create experiences for: Outdoor recreation visitor, Experiential arts, Wayfinding, Downtown enhancement	X		Outdoor recreation visitor, wayfinding, and indirectly downtown enhancement
3) Appeals to designated audiences in the Newberg Strategic Tourism Plan (Wine Country Adventures, Millennial Explores, George Fox Network, and Luxury Wine Travelers)	X		Wine Country Adventures, Millennial Explores, George Fox Network, and Luxury Wine Travelers
4) The project will create or enhance an experience for shoulder or off-season visitors	X		Both Shoulder and off-season
5) Does it align with other tourism activities in the community	X		Winery tours, restaurants,
6) Builds on existing assets	X		Vineyards, winery, brewery
7) Leverages funding		X	2:1 for Phase 1; .33:1 for Phase 2; .7:1 combined Phase 1 & 2 does not meet 1:1 requirement
8) Entities that have a bankruptcy or other financial corruption within the past five years are ineligible		X	None



Community Development Department
P.O. Box 970 ▪ 414 E First Street ▪ Newberg, Oregon 97132
503-537-1240 ▪ Fax 503-537-1272 ▪ www.newbergoregon.gov

MEMORANDUM

TO: Transient Lodging Tax Ad Hoc Committee
FROM: Doug Rux, Community Development Director
SUBJECT: Transient Lodging Tax Ad Hoc Committee Marketing Subcommittee Marketing Proposal
DATE: March 7, 2018

The Transient Lodging Tax (TLT) Ad Hoc Committee Marketing Subcommittee (Marketing Subcommittee) has been discussing a proposal for marketing activities since February of 2017. Activities have included assessment of marketing materials for both electronic media and hard copy materials along with personnel resources to advance a marketing program. In October of 2017 the Marketing Subcommittee concluded that assistance was necessary in the form of an individual or organization to assist in developing and promoting tourism marketing activities. In response the Chehalem Valley Chamber of Commerce (Chamber) engaged in discussions with the Marketing Subcommittee on the concept of the Chamber possibly providing additional marketing services beyond the marketing services they currently provide under a contract with the City of Newberg for Visitor Center and Destination Marketing Services. The Marketing Subcommittee prepared a proposed marketing strategy which is included as Attachment 1.

The Marketing Subcommittee met on February 26, 2018 and discussed five possible alternatives for marketing services which include:

1. Chehalem Valley Chamber of Commerce Proposal (Attachments 2 and 3). Under this proposal a person would be hired by the Chamber to prepare a marketing strategy and implement the strategy. The Chamber would provide management oversight and the individual would coordinate with the Marketing Subcommittee and the TLT Ad Hoc Committee on marketing activities. Fund for the position would come from the approximately \$40,000 the City provides to the Chamber for Destination Marketing Services and approximately \$80,000 from TLT Funds the TLT Ad Hoc Committee provides recommendation on to the City Council for grants. Under this alternative the amount of funds for the Destination Development-Marketing Grant program would need to be reduced by \$80,000. Attachment 4 is a budget concept of what this alternative would provide for marketing services and grants.
2. Visit McMinnville Model. This alternative would create a separate non-profit. To implement this alternative a separate nonprofit would have to be established and would have an independent Board of Directors to oversee marketing activities. Attachment 5 is a financial model the City Council looked at in the fall of 2016 with estimated costs. With this model there would be a significant reduction in the grant program funding.
3. Independent non-profit like Newberg Downtown Coalition. This alternative would be similar to the Visit McMinnville model but would utilize an existing organization that is established in Newberg.

4. City Staff Personnel. This alternative would hire a person as a City employee to administer tourism marketing. The staff person would attend all TLT Ad Hoc Committee and Marketing Subcommittee meetings. Attachment 6 is a financial model that City Council reviewed in the fall of 2016.
5. Outside Contractor. This alternative would be under a contract for services with the City of Newberg to provide marketing services for strategy development and implementation. The contractor could be an individual or an organization.

The Marketing Subcommittee discussed the five options and focused in on a Visit McMinnville/Independent Non-Profit or an Outside Contractor as the preferred alternative. Either alternative comes with pros and cons related to cost to implement, impacts on the grant programs, where does the individual or organization reside, coordination with the City of Newberg and long-term impacts on the type of Visitor Center services that could or should be provided in the future.

The TLT Ad Hoc Committee will discuss the Marketing Subcommittee proposal at your meeting on March 7, 2018. If agreement can be reached on a proposed alternative then a recommendation would be forwarded to the City Council for consideration.

- Attachments:
1. Marketing Subcommittee Marketing Strategy Concept
 2. Chamber Proposal
 3. Chamber 2017-2018 Destination Marketing Plan
 4. Budget based on Chamber Proposal
 5. Financial Model for Independent Organization Fall 2016 – Attachment D
 6. Financial Model City Staff Personnel Fall 2016 – Attachment B

Proposed Marketing Strategy: **Newberg**

Excluding the George Fox audience, the typical Newberg tourist (those from more than 50 miles or overnight guests) comes for wine tasting. One of our primary differentiators from our local competition is our proximity to Portland, where most tourists will be beginning their visits.



BRAND PROMISE

The best place to start your Oregon wine country vacation

TAGLINE

The first destination in Oregon wine country

BRAND ATTRIBUTES

PROXIMITY TO PORTLAND - Willamette Valley's closest wine region to Portland

WINE - Growing international reputation for Pinot Noir, dozens of tasting rooms and wineries

RECREATION - Hot air balloon adventures, golf, 99W Drive In, Willamette river, ropes course, disc golf, skate park, Evergreen Aviation Museum, Farmers Market, Chehalem Cultural Center, George Fox University festivals/events, Champoeg and Dundee trails,

FRIENDLY - Small town community feel

HISTORICAL - Hoover-Minthorn Museum, Champoeg,

CULINARY - JORY, Painted Lady and other acclaimed restaurants

ART - Art Elements, Cultural Center, The Allison, George Fox

MARKETING GOALS

- To increase visitor volume, visitor spending and the economic impact of tourism in Newberg
- Influence the long-term development of Newberg as a destination and its brand
- Increase leisure visitor volume, visitor spending, meeting, tours and group markets to the Newberg area through effective promotion with media and the travel trade
- Promote the importance of business and government investment in tourism

AUDIENCES

Target Audiences

- Wine tasting visitors
- George Fox Audience

Top geographic markets

- Portland
- Seattle
- San Francisco

STRATEGIES

Newberg has less staff and resources than many of our competition. We need to be strategic in the use of our time and budget. The majority of our marketing effort should be spent where we can reach the largest portion of our target audience...online.

ONLINE MARKETING

WEBSITE

- Break out site from CVCC subdomain
- Market the attractions of the broader Newberg-Dundee Region

- Heavy on visuals
- Highlight Newberg accommodations and restaurants
- Feature travel itineraries, new travel partners, visitor testimonials, seasonal specials, family reunion planning information, photos, maps and more

Sample: <http://www.visitcalifornia.com/support-wine-country>

SEO

Target Keywords: Oregon Wine Country, Dundee wine tasting, wine tasting near Portland, Oregon wine tasting, vacations near Portland, vacations in Oregon

SEARCH ENGINE MARKETING (GOOGLE, BING)

Target keywords that are difficult to rank organically for

REMARKETING ADS

Create display ads to remarket to previous visitors to the site

SOCIAL MEDIA

- Create separate Facebook and Instagram channels from CVCC (different audiences need different content)
- Highlight positive media coverage
- Share high-quality local content with emphasis upon engagement metrics over special interest
- Instagram

SOCIAL MEDIA ADVERTISING

- Target Facebook fans of regional wineries
- Target Twitter followers of travel writers

MEDIA RELATIONS

- Could be handled in-house or outsourced to freelancer
- Press trips—Host regional, national and international travel writers and editors on individualized and/or group press trips
- Media leads—Continue to respond to leads, and forward leads to members from Travel Oregon and the Willamette Valley Visitors Association
- Pre-publication editing & fact checking
- Media kit - Develop an electronic media kit that highlights the outstanding tourism assets in Newberg and the surrounding area
- Build a more expansive photo and video library that is available for media requests, ads, and our website.

FAM TOURS

OREGON WINE TRAIL W/ DUNDEE/NEWBERG

- Hire wine writer to create Oregon Wine Trail similar in concept to the Romantic Road in Germany. Trail starts in Newberg/Dundee.
- Create Web site
- Promote via media relations, SEO and advertising

See <https://tualatinvalley.org/forest-grove-wine-trail/>

DOWNTOWN BANNERS

"The first destination in Oregon Wine Country"

PRINT

Evaluate current pieces for cost effectiveness

- Rack piece/brochure
- Newberg city/Yamhill County map
- Monthly event brochure
- Chehalem Valley Field Guide
- Group travel brochure

TOURISM TRAINING

- Create class for front-line employees to educate on tourism assets of Newberg and the surrounding community.

SECONDARY MARKETING PROJECTS

SIGNAGE

Seek funding and permission for decorative road signage for 99W (e.g. similar to Lake Oswego or McMinnville's third street).

RACE TOURISM

Support efforts to market running races (e.g. Wine Country Half Marathon)

NEWBERG HISTORIC WALKING TOUR

Create plaques/markers for a Newberg historic walking tour. The Newberg Downtown Coalition already has the bones of a tour created here.

PROMOTION OF CONFERENCES

Support efforts by Newberg hotels and organizations (Allison, Windrose, A-dec, George Fox) to bring out-of-town groups to town for conferences

NOTE ABOUT GEORGE FOX AUDIENCE

This plan does not address the George Fox audience, which may have more economic impact on the city than the wine tourism audience. The parents of prospective undergraduates often spend the night and eat most meals off campus. When 700 or so of those freshmen chose to enroll at George Fox, they each spend \$5,500+ a year in town on food, rent and other services) and support the university's \$70 million budget - which includes \$45+ million in taxable salaries and benefits. Some - especially the Chinese students - buy cars here. As these students go through 2-6 years of school, they attract even more visitors to Newberg (family weekends, sports and arts events, graduation, etc...) George Fox's Graduate students probably spend even more in Newberg since they often bring family to live here. Enhancing the prospective student visit experience can pay off for everyone.

From: Chehalem Valley Chamber of Commerce
 To: City of Newberg Transient Lodging (TLT) Tax Ad- Hoc Marketing Subcommittee
 Re: Tourism (Destination Marketing Services) for Chehalem Valley

About the Chamber, its Visitor Center, and Tourism

- In 1996, the Chamber of Commerce, at the request of the City, added the Visitor Center. A living kiosk, the Chamber and its staff drop everything when visitors walk through the door to ask advice about events and hospitality, get directions, book hotel rooms, etc. They leave with maps, rack cards and brochures from our many Chehalem Valley businesses. *Over the past 36 months, our metrics show an average of 1,000 people per month use the Visitor Center.*
- The Visitor Center became the “Tourism Center” in 2006. That’s when the Chamber began to deal with regional tourism needs and got involved with destination marketing in addition to staffing the Visitor Center. The Chamber CEO joined Travel Yamhill Valley and was elected to represent Yamhill County on the Board of the Willamette Valley Visitors Association (WVVA). The WVVA Board, in collaboration with Travel Oregon, orchestrates destination marketing for the region between Yamhill County and Eugene Oregon.
- In 2009, the Chamber began to spend the surplus TLT funds, over and above the Visitor Center expenses, on Display Advertising in targeted publications including the Official Travel Oregon visitor guide, Travel Portland Visitor Guide, NW Travel and Life Magazine and more, a visitor website, social media and familiarization tours.
- By 2010, especially with the advent of The Allison, tourism promotion opportunities took on a whole new life. Media requests for information, photography and familiarization tours grew at an exponential rate. Instead of fielding media requests at a rate of 1 or 2 per month the Chamber started receiving 5 or 10 requests per week.
- As TLT dollars grew, the Chamber funds for both the Visitor Center operations and subsequent tourism promotion were capped by the City in July 1, 2015 at \$137K:
 - Per the quarterly reports provide to the City since the last contract renewal in 2015, the Visitor Center’s share of facilities, equipment, insurance, accounting, etc. (i.e. allocated overhead) is approximately \$50K.
 - The cost of staffing for the Visitor Center, allocated across Chamber and including additional staff (i.e. for weekend and seasonal purposes) is approximately \$50K.
 - That leaves approximately \$37K for tourism promotion that the Chamber budgets and spends on destination marketing. Additionally, the Chamber usually contributes additional funds (over and above the \$37).

Moving Forward: Promoting Tourism in Chehalem Valley

- With the percentage increase in TLT dollars, the City found itself with an approximate surplus of \$225K over the \$137K provided by contract to the Chamber. This surplus is estimated to remain around \$225K/year until additional lodging accommodations move into Newberg.

- The City retained tourism consultants in 2015, who recommended that the City create an independent Destination Marketing organization at some point in time.
- The result was that the City of Newberg created a TLT Ad-hoc Committee, and its Marketing Subcommittee, to determine how best to use the surplus.
- The TLT Committee (T-C) has been meeting monthly since its inception in December 2016.
- The T-C has created a grant program that may award up to \$200k of funds of the \$225K
- The T-C may make recommendations to Newberg City Council to use fewer funds for the grant program and more funds for destination marketing.
- The Marketing Subcommittee's charter is to direct the use of TLT funds that remain after the funds budgeted the grant program

Issues Currently Under Discussion by the Marketing Committee

- What is the current scope of marketing activities that the Chehalem Valley Chamber of Commerce addresses in their Destination Marketing Plan?
- Should the Ad Hoc committee engage in a potential rebranding of marketing materials, including the Visitor (tourism) website, using Newberg instead of the Chehalem Valley as the stated destination?
- Is there a need for a more expansive Destination Marketing plan that is inclusive of the Chehalem Valley Chambers existing plan, but which also includes additional marketing activities to be funded by the Ad Hoc Committee's marketing funds?
- What is the best way to create a marketing plan that addresses the marketing activities of both the Chehalem Valley Chamber and the Ad Hoc committee?
- The contract with two GFU students by the ad hoc committee to create a video that will market Newberg as a destination. Who is the project audience and how will the video be distributed?
- How can we increase our investment of time and money in Public Relations activities that will result in more familiarization tours and earned media coverage?
- What is the best way to eliminate the Ad Hoc Committee's frustration over the inability to manage tourism marketing projects that are discussed in an efficient and effective manner (recognizing that everyone on the committee is serving as a volunteer.
- Could the Ad Hoc committee be more successful by hiring a Tourism Coordinator that could create an all-encompassing Destination Marketing plan for Newberg?
- How much more could be accomplished if Newberg had a full-time person dedicated to marketing the area?
- Until area TLT dollars increase to an amount that affords Newberg and its surroundings to have a stand-alone Destination Marketing organization, how can we use the funds and resources at our disposal the most efficient way?

Proposed Interim Approach

Newberg can phase into a fully-functional Destination Marketing organization by combining the resources of the Chamber and the TLT Ad Hoc Committee by hiring a Full-time *Tourism Coordinator (Tourism Coordinator)*. This person can office at the Chamber and report to both the TLT Ad Hoc committee and the Chamber CEO. Since facility and overhead costs would be

provided by the Chamber, the expense to the Committee and Chamber would be the salary and benefits of the Tourism Coordinator. A sample Tourism Coordinator job description as provided by the Willamette Valley Visitor's Association below.

- Costs:
 - Based on market data, the estimated salary and benefits for the Tourism Coordinator would be \$60-70K
 - Cost for the hire could be shared by the Committee and the Chamber - approximately \$35K each
- Benefits:
 - The TLT Ad Hoc Marketing Committee, and the broader committee, would have a dedicated resource for developing the Destination Marketing plan, incorporating elements of the Chamber's plan as needed
 - Additionally, this person would be responsible for other deliverables such as:
 - Providing content for the Visitor (tourism) Website, social media, online advertising, and SEO
 - Create the "Naked" map
 - Activities associated with the re-branding, the logo, etc.
 - Public Relations and FAM tours
 - Video and other media content development and placement
- The Tourism Coordinator could hit-the-ground running since s/he could take advantage of the processes, contacts and knowledge that the Chamber has acquired - in particular, the CEO, who has been supporting tourism marketing for the past 12 years
- Chamber staff would provide back-up for the Tourism Coordinator if they are out of the office (i.e. vacation, sick leave, etc.)
- The Tourism Coordinator's salary and benefits would be incorporated into the Chamber payroll process (along with any other legal or personnel-related services)
 - Performance evaluation could be conducted by a small compensation committee consisting of two Ad Hoc Committee members and the Chamber CEO

SAMPLE JOB DESCRIPTION (from the Willamette Valley Visitor's Association)

Position Title: Tourism Coordinator

Supervisors: CEO, Chehalem Valley Chamber of Commerce & TLT Ad Hoc Committee Representative

Position: Regular Full-Time. May be required to work weekends and holidays

General Statement of Duties:

This position is responsible for identifying industry related tourism markets and related programs. Assist in developing and implementing strategies to increase the awareness of the culture, history, attractions, and special events to enhance the visibility of the City of Newberg, resulting in increased tourism.

Examples of duties and responsibilities:

- Create the annual Destination Marketing Plan
- Plan and implement effective and aggressive tourism promotion programs
- Develop strategies for new markets and advertising materials Newberg
- Implement the Destination Marketing plan in collaboration with Newberg Transient Lodging Tax Ad Hoc Committee
- Facilitate the development of a master brand for Newberg
- Develop and maintain the Newberg Visitors Bureau Website and coordinate a local Calendar of Events
- Manage online advertising campaigns and social media (FB, Instagram, Twitter)
- Manage Familiarization tours with Media and members of the Travel Trade
- Provide monthly and annual reports for Chamber BOD, Newberg Tourism Ad Hoc Committee and Newberg City Council
- Conduct and analyze area tourist surveys
- Develop strong working relationship with key personnel from all lodging, meeting and convention facilities. Maintain a well-informed working knowledge of all hotels attractions and services available in the area
- Coordinate and collaborate with Newberg event and activities organizers to help them promote their events
- Assist in developing and supervise the production of marketing collateral needed to successfully promote tourism
- Write and distribute press releases for approval of supervisor for events and activities and respond in a timely fashion to negative press
- Represent Newberg's interest as appropriate with local, state and federal organizations associated with tourism
- Maintain and oversee the compilation of tourism data and statistical information that may be helpful in designing a marketing strategy
- Attend tourism related workshops, conference and training seminars to keep abreast of new strategies and marketing techniques available to destination marketing organizations volunteer and full-time staff

Education:

- Bachelor degree in Marketing or related field

Minimum Tourism Skills and Experience Required:

- At least three years of recent progressive tourism experience which includes the following skills and abilities:
- Considerable knowledge of the tourism industry including tour operations, meeting/convention planners, and FIT (Free Independent Traveler) markets
- Working knowledge of the principles of volunteer management and strategic planning
- Strong communication and public relation skills coupled with the ability to influence others in a positive manner

- Knowledge of publication layout, design and graphics as well as related editing and writing skills
- Knowledge of Media Relations - public/community/news - accessible and open to all media
- Social media management experience (FB, Instagram, Twitter)
- Ability to establish and maintain strong working relationships with city staff, the public, and business community and to present ideas effectively, verbally and in writing
- Ability to do community outreach; comfortable giving speeches and presentations
- Interested in people; possesses a positive self-image; confident but not arrogant; approachable; a team player; respects people; understand the importance of first impressions

Additional Requirements:

- Possess a valid driver's license
- Knowledge of standard office practices and procedures, office record keeping and recording, and office machines.
- Calculator, typing/word processing, data entry skills for computer, and attention to detail.
- Good vision and hearing.
- Employee is required to be able to lift and/or move up to 45 pounds.



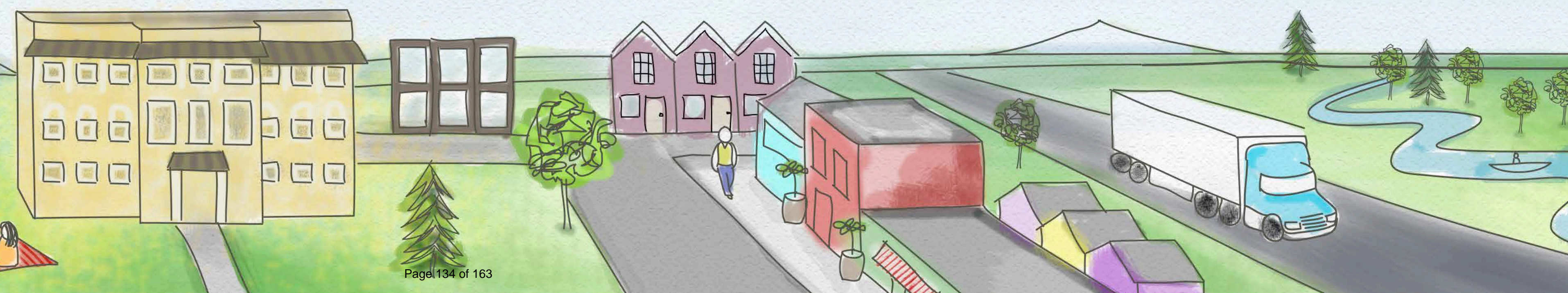
Chehalem Valley 2017-18 DESTINATION MARKETING PLAN

Executive Summary

The Chehalem Valley Chamber of Commerce (CVCC), through a marketing service agreement with The City of Newberg, works in partnership with many community stakeholders to grow tourism in the Newberg Community. Together, we deliver programs and activities that enhance visitor experiences, encourage overnight stays and improve the quality of life for residents.

An effective destination development and marketing program benefits and enhances the quality of life for residents and provides a healthy return on the investment of the transient room tax since visitors are often attracted to a destination by the same types of services, amenities and activities that enhance resident lifestyle. The additional spending by visitors in local communities results in a positive economic impact.

In addition to the Destination Marketing Contract that the City of Newberg signed with the CVCC in 2015, the City created a Transient Lodging Tax Ad Hoc Committee to manage Transient Lodging Tax funds that are dedicated to tourism over and above the contract with the CVCC. While that committee has been active in creating a small and large grant application procedure that funds tourism events and facilities they are also looking at ways to collaborate with the existing CVCC Destination Marketing plan to create and define the Newberg brand and apply those changes to the existing website and marketing vehicles. A secondary discussion has started about the value of contracting with a Public Relations professional to manage media relations and familiarization tours also in collaboration with the CVCC efforts.

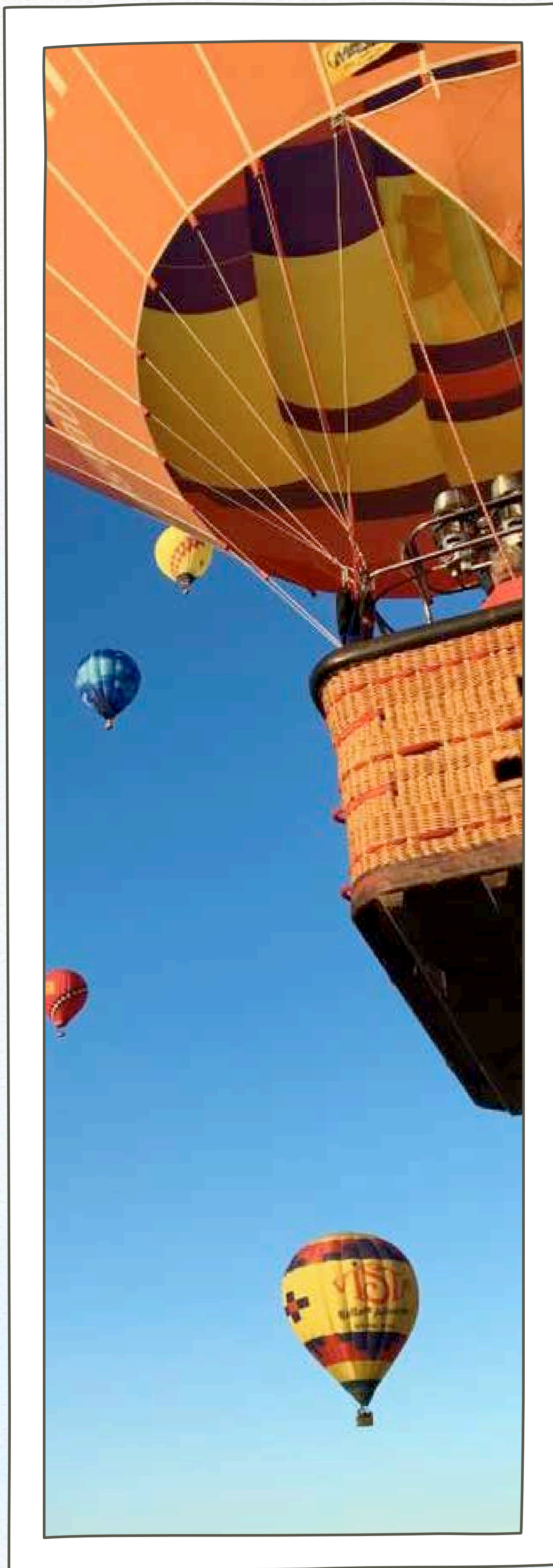


EXECUTIVE SUMMARY, *Continued*

It should be noted that because the CVCC contract is “fixed”, there is limited funding to market the community of Newberg over and above staffing and operating the Newberg Visitor’s Center on an annual basis. The City of McMinnville, a regional competitor to the Newberg area, funds Tourism marketing at \$496,000 per year. (Staffing is an additional \$125,000 and overhead is \$90,000). The CVCC Destination Marketing Budget for Newberg is \$42,500. While the CVCC continues to look for ways to expand our marketing reach by applying for grants and leveraging relationships with Travel Oregon, it is impossible to make up the difference in the destination marketing budget. Newberg requires additional funding for destination marketing to maintain a competitive edge and to keep and attract local small businesses that are supported through tourism.

Tourism continues to grow on a regional, statewide and national basis. Americans have more discretionary income for travel than they have had since 2007. Newberg offers an amazing array of desirable tourism attractions with Wine and Culinary assets at the very top. The recent recognition for the Willamette Valley as Wine Enthusiasts Wine Region of the year has garnered unprecedented attention to this beautiful area. We have an excellent opportunity to compete effectively for the Baby Boomer and Millennial markets if we invest and budget additional marketing dollars to promote and support the wonderful businesses and people in the great town of Newberg.





National Outlook for Travel and Tourism

The US Travel Industry Association is predicting a healthy increase for domestic and international travelers to the United States.

Spending on travel by U.S. residents has bounced back to pre-recession levels. Purchasing decisions regarding travel are changing as well, which indicates that after a couple years of last-minute trip planning, travelers are once again beginning to plan and book vacations well in advance of their travel dates. The booking window is lengthening toward three-to-six months out, giving destination marketers more time to reach their customers.

2017 promises to be a banner year for travel with nearly one-third of American adults saying they are more likely to take time off this year compared to 2016, according to a recent AAA survey.

Overall, 42 percent of Americans are planning to take a vacation in 2017 – with most planning trips to the warm weather destinations in the U.S. and abroad. And while flight prices are predicted to be 8 percent higher than last year, they are still down 9 percent compared to two years ago.

As the economy and family budgets have improved, U.S. adults have returned to taking fewer and longer leisure trips, resulting in a decline in the average number of leisure trips taken each year. However, research indicates that travel expectations and interest in travel for the coming year are at their highest levels since February 2008.

USTA also reports personal finances available for travel are at their highest point since March 2007, suggesting that price, deals and discounts are considered among the least important determinates on current travel plans.

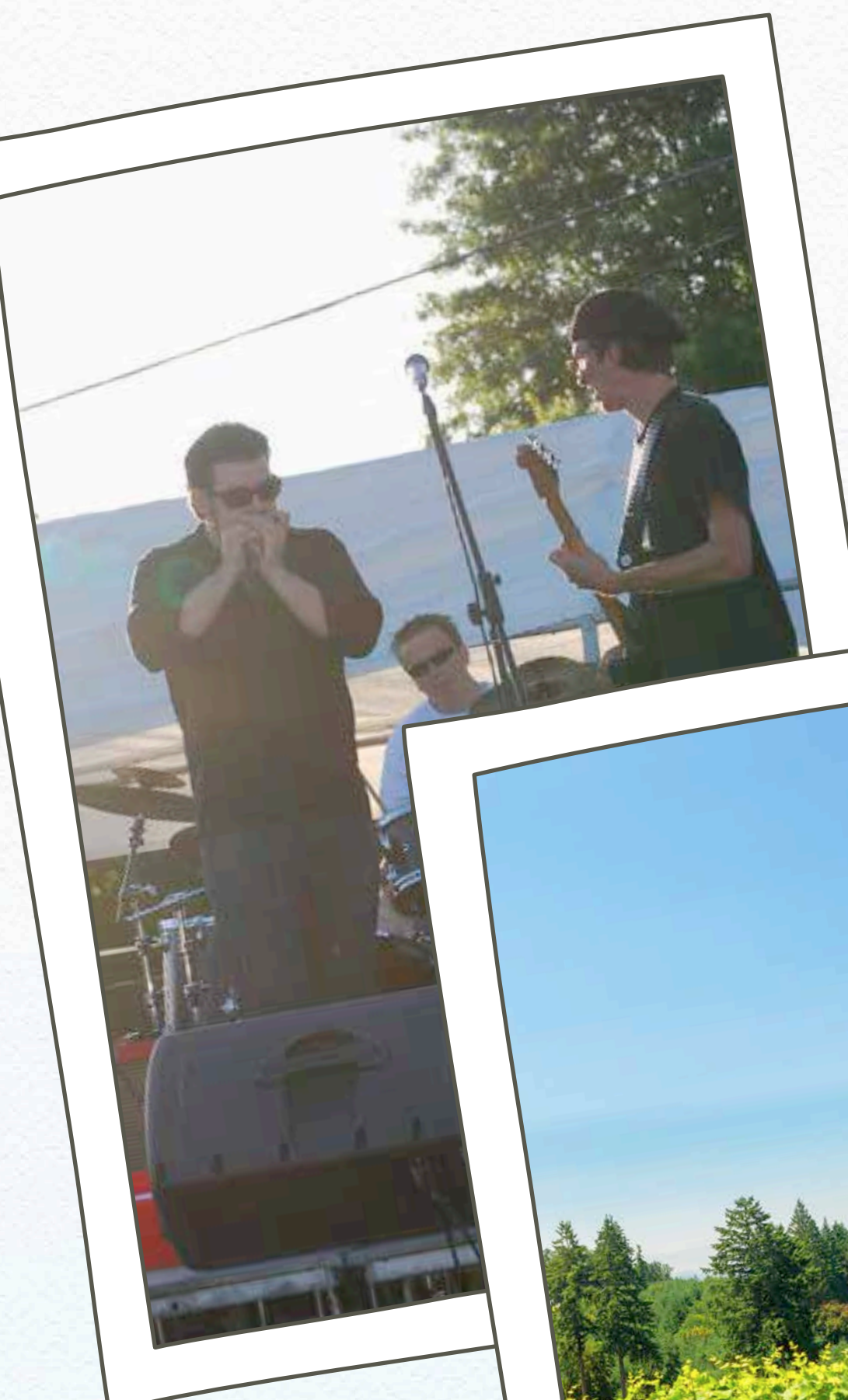
(Source AAA and US Travel Industry Association)

Oregon Travel Trends

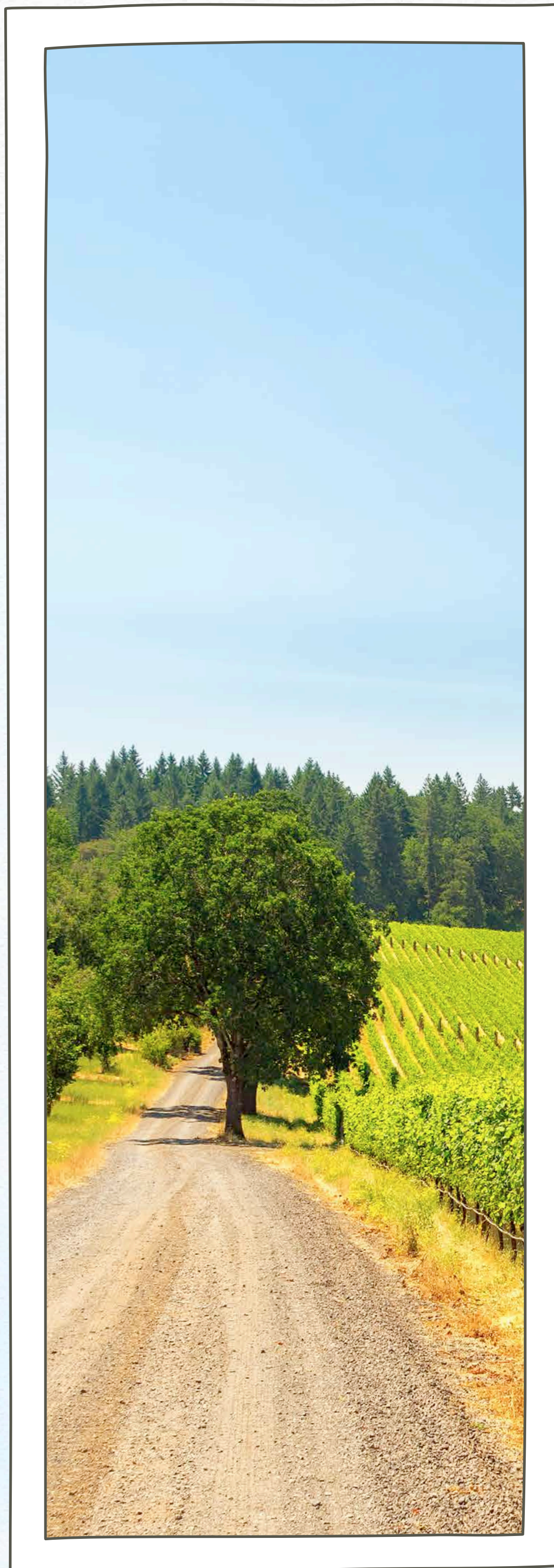
According to the 2015 Longwood's study travelers on overnight trips to Oregon were more likely to travel in their own car and less likely to arrive by plane than the national average. Travelers on overnight trips to Oregon were most likely to engage social media by reading travel reviews, posting photos online and looking at travel photos online. Oregon travelers, as a whole, use social media to plan travel at a higher rate than the national average.

The top states of origin for overnight trips were Oregon, Washington, California and Idaho. The states of Virginia, New York, Florida and Texas follow in that order. The top DMA's of origin were Portland, Seattle, Eugene, Medford-Klamath Falls, Los Angeles and San Francisco. The top five main reasons travelers made overnight trips to Oregon were Touring, Outdoors, Special Events, City Trips and Resorts the top two trip planning information sources were referrals from relatives and friends and destination websites.

Direct Travel Spending in Yamhill County in 2015 reached \$104.2 Million reflecting a 5.8% increase over the prior year and an all-time high for the region.



Newberg ... is target central of Oregon's wine country"
- The Oregonian



Wine Drives Local Tourism Economy

Since the first grapes were planted in the state 50 years ago, Oregon is now recognized as one of the world's elite winemaking regions. With 18 designated wine growing areas located in four diverse regions, Oregon boasts more than 700 wineries producing wine from dozens of grape varieties.

Oregon has more than 500 wine tasting rooms with the majority of wineries only a short drive from Newberg.

All of this made wine touring one of Oregon's top draws. In 2013 (the most recent year for which statistics are available), wine-related tourism contributed an estimated \$207.5 million in revenues to the Oregon economy. (Oregon Wine Board)

Companies located outside of Oregon have made headlines with substantial investments in the state since 2013. Firms that have expanded their vineyard holdings in recent years include:

Ste. Michelle Wine Estates of Woodinville, Washington for **Erath** in Dundee, Oregon

Domaine Drouhin Oregon in the Dundee Hills region of the Willamette Valley, Oregon

Precept Wine of Seattle, for **Primarius** in the Willamette Valley, Oregon

Battle Creek Vineyards' for **Unconditional**, in the Willamette Valley, Oregon

Jackson Family Wines of Santa Rosa, California purchased a winery and vineyards in Oregon, adding several Willamette Valley Pinot Noirs to its **La Crema** line

Maison Louis Jadot of Burgundy, France acquired a vineyard in the Yamhill-Carlton region of the Willamette Valley and unveiled **Résonance Pinot Noir**, the company's first venture outside of France.

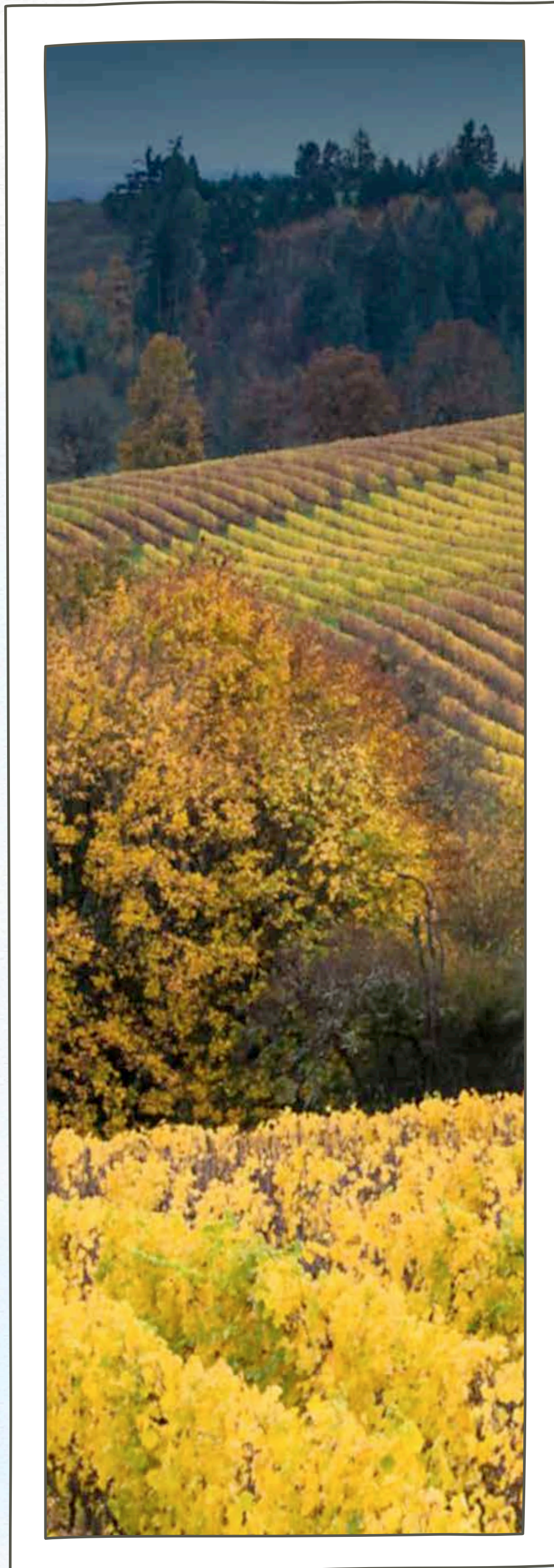
Joe Wagner's Copper Cane Wines & Provisions—based in Rutherford, California and known for launching the Meiomi label, now owned by Constellation Brands—debuted the Oregon-sourced wine **Elouan**.

Healdsburg, California's Foley Family Wines acquired **The Four Graces** in the Willamette Valley

Judy Jordan—founder and former owner of Russian River Valley's J Vineyards—purchased a Chehalem Mountain vineyard for her new Santa Rosa, California-based The Capra Co.

As the supply of land shrinks, Oregon-based wineries are also snapping up vineyards.

(MarketWatchMag, February 2016)

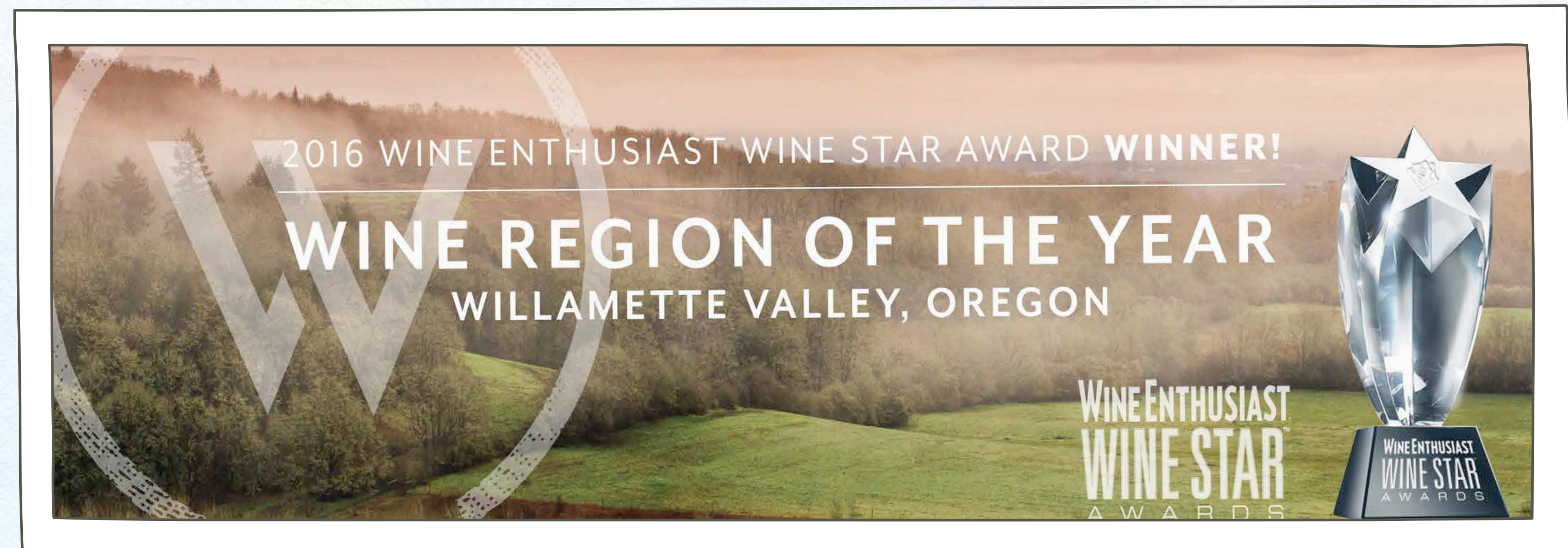


WINE DRIVES LOCAL TOURISM ECONOMY, *Continued*

As local investment in the wine industry swells so has other tourism-driven business in the area. Jason Lett is credited with planting the first grapes in Yamhill County in 1965 and soon others followed with a vision of growing and making exceptional Pinot Noir.

The late Joan Austin, great philanthropist and matriarch of the Newberg based A-dec Dental Manufacturing Company should be credited with driving the vision of a world-class resort in Newberg that would serve the demand of the luxury wine travelers. The Allison Inn and Spa, built in 2009 continues to garner world-wide acclaim as a destination resort and spa in the heart of Oregon Wine Country in Newberg Oregon.

Other bullish investors have followed suit. Steve Down invested millions in the Fall Event Center formerly Evergreen Aviation Museum. McMinnville also recently announced the opening of a new, 36 room luxury hotel that will open downtown on 3rd street in Spring of 2018. New restaurants are popping up around the county. Building vacancy in downtown Newberg is at an all-time low.





Top Travel Trends

Specialization

Luxury Travel Exchange International (LTX) suggests that becoming more niche focused in your destination marketing will be beneficial. Niches to focus on include weddings and honeymoons, “volun-tourism” (a form of tourism in which travelers participate in voluntary work, although this is typically for charity we have an opportunity to develop opportunities to volunteer in local wineries), spa and wellness, family/multi-generational travel, adventure/sports and meetings/conferences. By designing custom and unique niche packages for travelers, the Chehalem Valley area can differentiate itself, creating a reputation in specialization.

Technology

With anticipated new devices, like the Apple Watch, more people will be accessing the Internet on the go, making mobile device apps, responsive websites and mobile-friendly booking more important than ever. It is predicted that over 35% of online travel bookings will take place on a mobile device by 2018.

Authenticity

The modern traveler is becoming more and more interested in experiencing their chosen destination authentically. This means they want to interact with locals, avoid tourist traps, go where the locals go, and do what the locals do. One way to market to authentic travelers is through storytelling. Travelers looking for a truly authentic experience will be emotionally driven to explore a destination if there is a great story attached to it.

Experiential Travel

According to Terry Dale, President and CEO of the United States Tour Operators Association, today’s traveler continues to crave culturally immersive experiences and experiential tour packages remain in high demand. Nearly three-fourths (71%) of USTOA members provide travel and tour packages that offer art and culture, with 64% offering culinary and more than half (57%) providing adventure-focused packages. Vacationers want to broaden their experiences. Museum passes, show tickets, dining packages and helicopter tours are all great examples of offerings for the experiential traveler.



Top Travel Trends, CONTINUED

Millennials Lead the Way

Millennials are one of the most important demographics in travel today. As the largest generation to date, they are helping to define what the major trends and tastes of the coming decades will be. Millennials have grown up in the Digital Age. Online booking options are crucial, while online reviews and user-generated content on social media are part of the research process for most millennials. Destinations that attract millennial travelers make their online presence a priority and emphasize user-generated content.

Don't Leave Out the Boomers

Baby Boomers (born between 1946 and 1964) are traveling more than ever. Bucket list experience is the high-ranking motivator for travel among Boomers, meaning they're looking to invest in activities rather than simply relaxation. They will be influenced by good value, as budget can be a factor for those with a fixed income. Like Millennials, they are looking for experiences that are authentic and high-quality.

Food Tourism

Food has always been a huge part of travel, but seeking out authentic food experience has increasingly become a motivator for travel. Food experiences don't exclusively refer to "dining out", food markets, tasting sessions, cooking lessons and visits to farms or vineyard now make up 95% of all food experiences.

(Source: JackRabbit, Travel Trends and Treksoft Trend Report 2017)

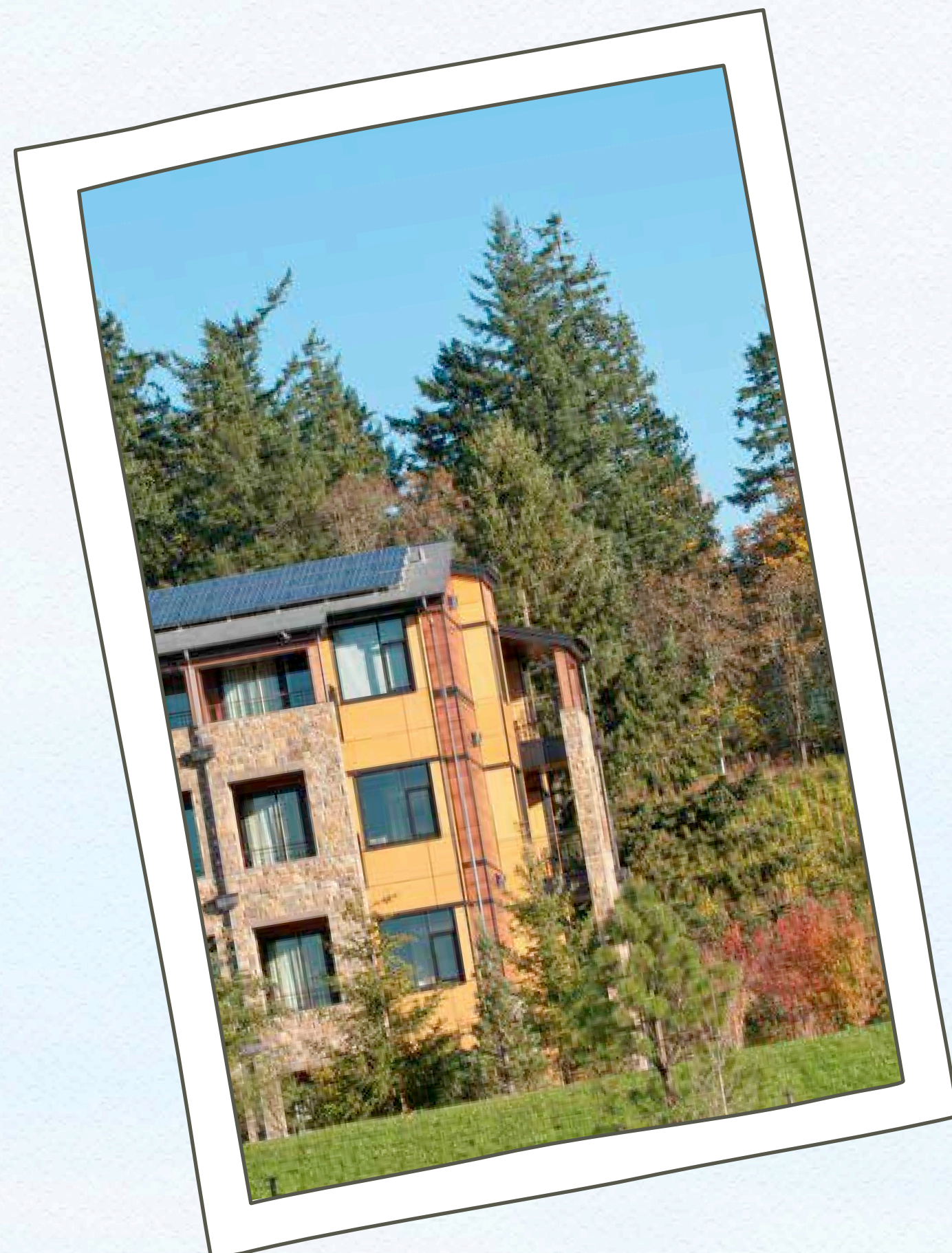
Situation Analysis

Tourism Product

Newberg's overarching "reason to visit" is its location at the epicenter of Oregon Wine Country, which draws travelers from around the world.

Other unique offerings include:

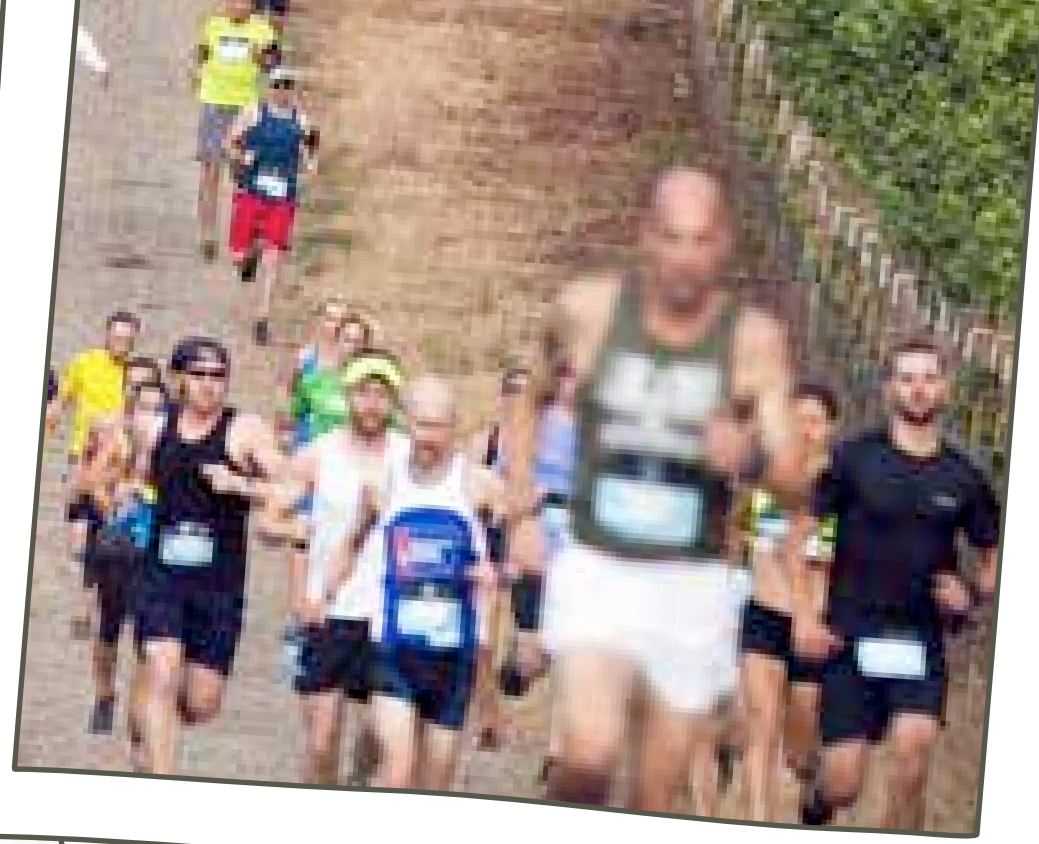
- World-Class Resort and Spa: The Allison Inn & Spa
- World-Class Dining: The Painted Lady and JORY at The Allison Inn & Spa
- Unique wine country touring adventures such as horseback riding, helicopters, hot air balloons and the trolley
- Widely acclaimed 18-hole public golf course
- One of three remaining Drive-In theaters in the State
- Growing cultural opportunities through The Chehalem Cultural Center and area galleries and shops

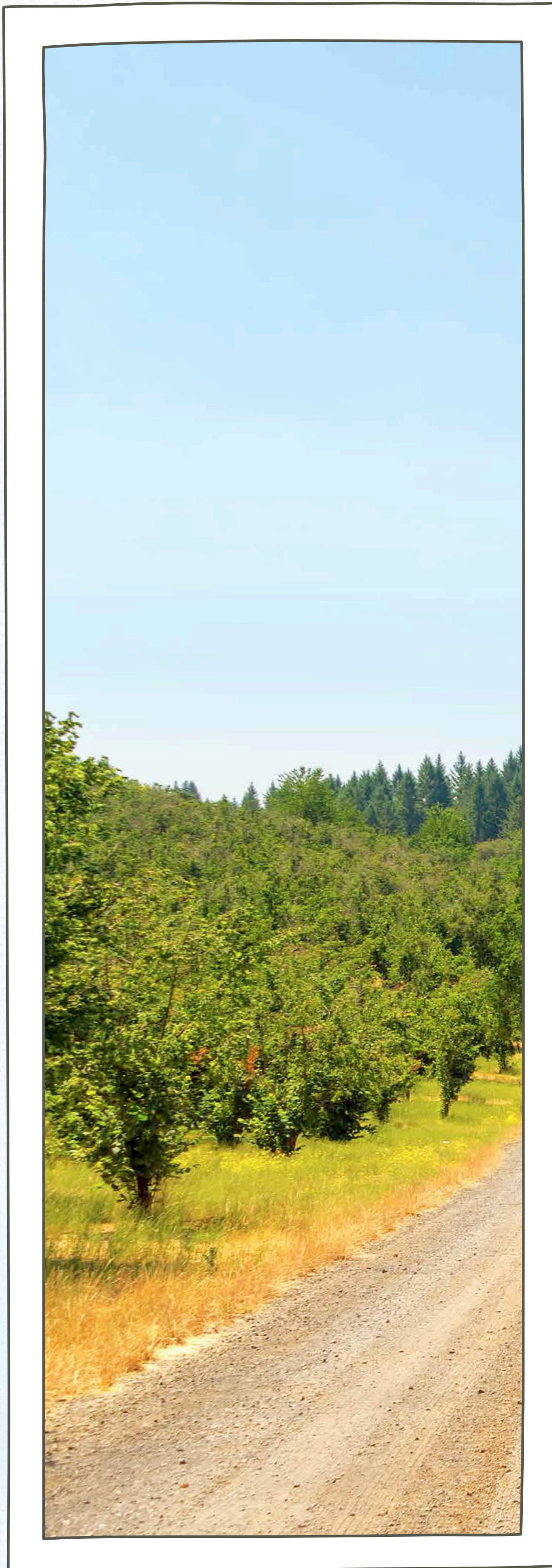


SITUATIONAL ANALYSIS • S.W.O.T. ANALYSIS
(Strengths, Weaknesses, Opportunities, Threats)

Strengths—present advantages

- National interest in Pinot Noir and the Willamette Valley
- The Allison—Already attracting luxury travelers
- Easily accessible within State and to Portland
- Small Town—Scenic Americana Profile
- Friendly town
- Chehalem Cultural Center
- Home of George Fox University (Sports, Lecture Series & Music)
- En-route to Oregon Coast
- Several Annual Festivals /events (Memorial Day Wine Tasting Weekend, Memorial Day Boat Races, St. Paul Rodeo, Old Fashioned Festival, Tunes on Tuesday, Brews & BBQ, First Friday Art Walk, Camellia Festival)
- Proximity to regional historical sites (Hoover-Minthorn House, Champoeg Park)
- Outdoor Recreation (Hot Air Ballooning, Skate Park, Chehalem Glenn Golf Course, Champoeg Biking/Hiking Trails, Bicycle Wine Country)
- Sportsman Airpark
- Key Attractions (Spruce Goose and Omnimax Theater, Spirit Mountain Casino)
- Knowledgeable staff at the Visitor Center
- Temperate and low-precipitation summer climate





SITUATIONAL ANALYSIS • S.W.O.T. ANALYSIS (Strengths, Weaknesses, Opportunities, Threats)

Weaknesses—present disadvantages

- Although the downtown is improving there are still deteriorating building facades and a business mix that is too heavily non-retail
- Downtown is not pedestrian friendly (Loud trucks, one-way traffic, traffic volume).
- Lack of additional routes to/from Portland and Hwy 99 Traffic
- Some downtown homes and businesses falling into disrepair
- Lack of variety of restaurants
- Absence of evening entertainment
- Low resident awareness and support of tourism
- Lack of retail shops
- Lack of downtown retail space
- Shortage of buildable land
- Lack of affordable housing
- Lack of safe cycling routes or outfitters
- Limited Public Transportation
- Limited Meeting Space
- Fragmentation of tourism effort throughout Yamhill County

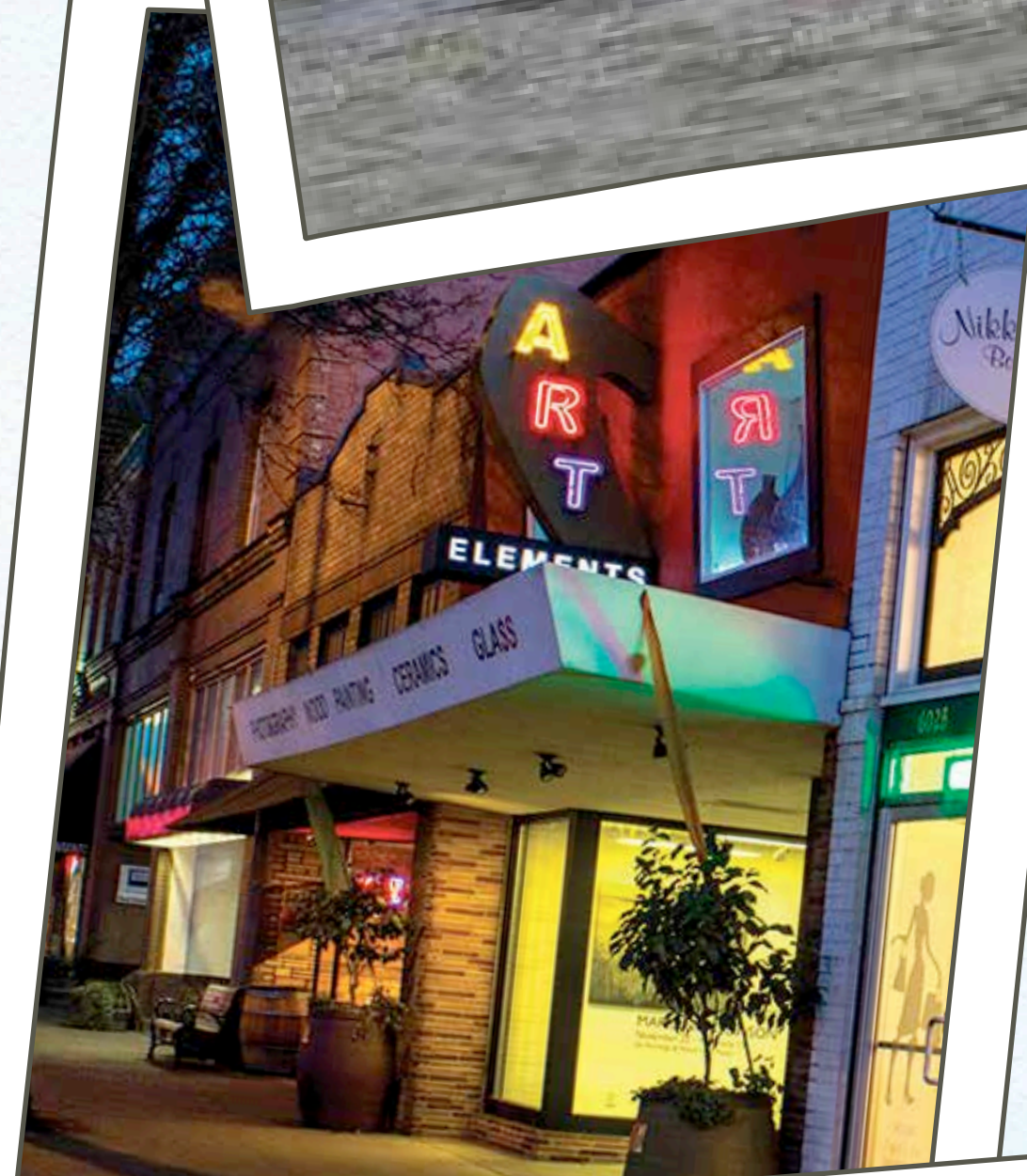
*"This former pass-through town now has the quality food, sips, and art you used to find only deeper inside the Willamette Valley."
—Sunset Magazine*

SITUATIONAL ANALYSIS • S.W.O.T. ANALYSIS
(Strengths, Weaknesses, Opportunities, Threats)

Opportunities – potential advantages

- Completion of the Bypass
- Austin 450-acre development
- Riverfront development
- Alternative lodging
- Mid-tier hotel recruitment
- Public accessibility to Willamette River
- Downtown Re-development
- Expand shoulder season events
- Capitalize on Portland convention market:
pre- and post-event connection and meeting planners in Portland
- Completion of the Aquatic Center
- Completion of the Chehalem Trail System
- Expand cross-marketing with GFU audience
- Expanded “engagement” of visitor experiences
(outdoors, vineyards, culinary classes)

SITUATIONAL ANALYSIS • S.W.O.T. ANALYSIS • BRAND STRATEGY



(Strengths, Weaknesses, Opportunities, Threats)

Threats—potential disadvantages

- Community congestion due to traffic on 99W
- Insufficient Dining Choices
- Lack of retail development
- Shortage of lodging during peak season
 - Lack of mid-range lodging choices
 - Limited Destination Marketing Budget
 - Competition from other destinations—significant expansion in competitors' destination marketing budgets

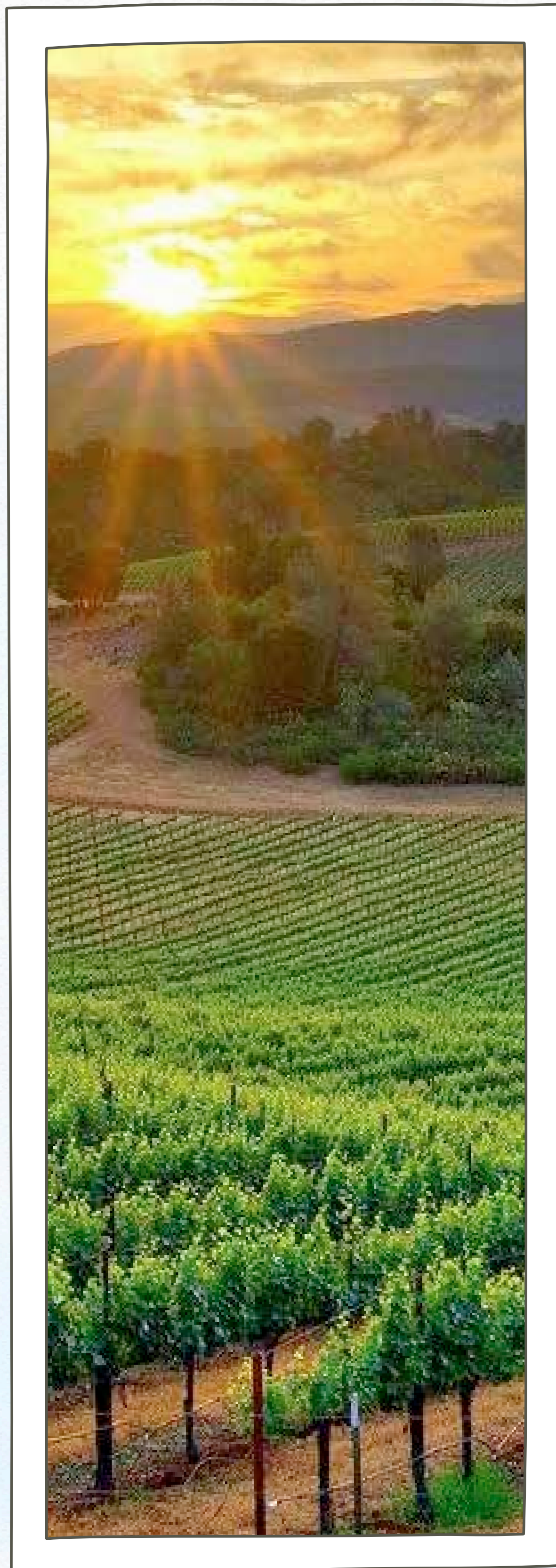
Brand Strategy

To determine Newberg's position it is important to first identify its uniqueness, differentiation from the competition and value to the customer. In doing this, Newberg is set apart from other wine destinations that are vying for the business of the same traveler/target audience.

The Chehalem Valley Chamber of Commerce (CVCC) is currently working collaboratively with the Newberg Transient Lodging Tax Ad Hoc Committee's Marketing Subcommittee to define Newberg's brand strategy. The CVCC will work closely with the Newberg Transient Lodging Tax Ad Hoc Committee to implement that strategy through our existing marketing channels once that work has been completed.



Perhaps Redmond can be an example of what will happen in downtown Newberg, once the initial phase of the Newberg Dundee Bypass is complete in 2016... If anything, downtown Newberg has the potential to blossom even brighter than Redmond.
—The Oregonian



Competition for Out-of-State Visitors to other Wine Regions

Napa

Sonoma

Walla Walla

San Luis Obispo

Santa Barbara County

Texas Hill Country

Finger Lakes New York

Competition for In-State Visitors and Visitors to this Region

Portland

Bend/Redmond

McMinnville

Carlton

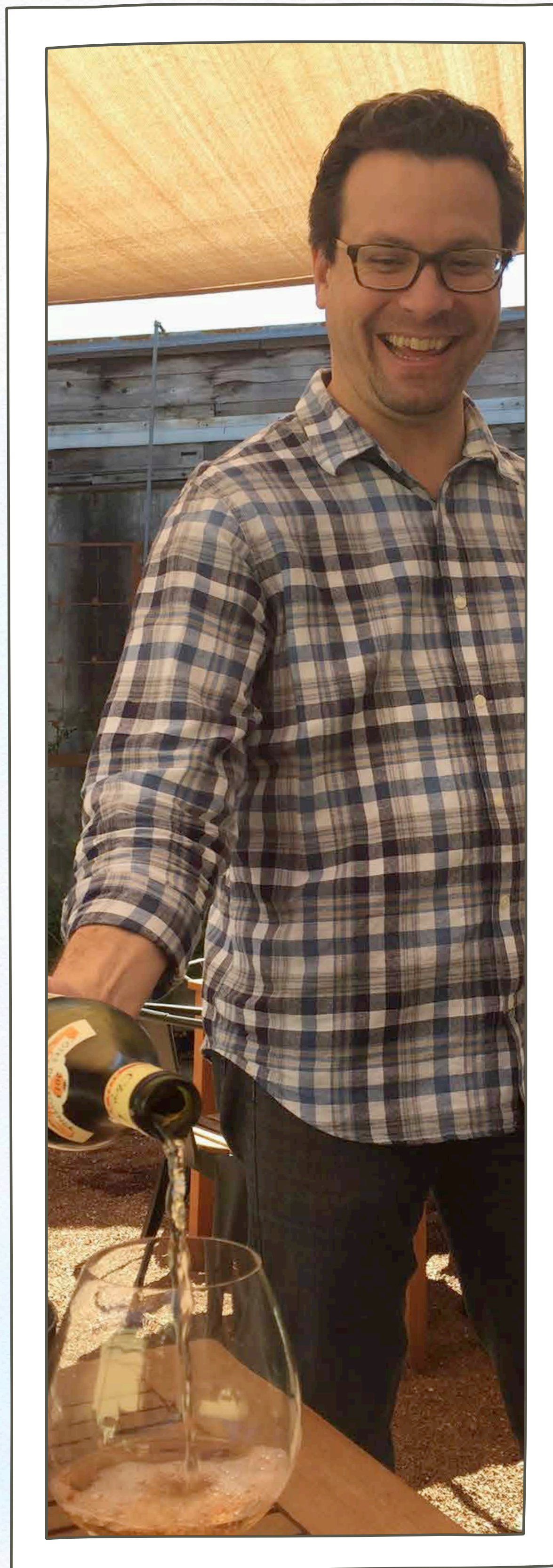
Salem

Eugene

Grants Pass

Ashland

Columbia Gorge/Hood River



Target Audience • Personas

According to the recently commissioned Newberg Tourism Strategy, Newberg's Target Audience can be defined as:

Wine Country Adventurers

Are we ready for them? Somewhat

- Need trail connectors, integrating parks & tourism, river access

Millennial Explorers

Are we ready for them? Somewhat

- Need consistent business hours and more variety downtown
- Develop / Integrate classes from cultural center with local tasting rooms & craft makers (e.g., chocolate shop to feature culinary classes)

George Fox Network

Are we ready for them? Yes, except ...

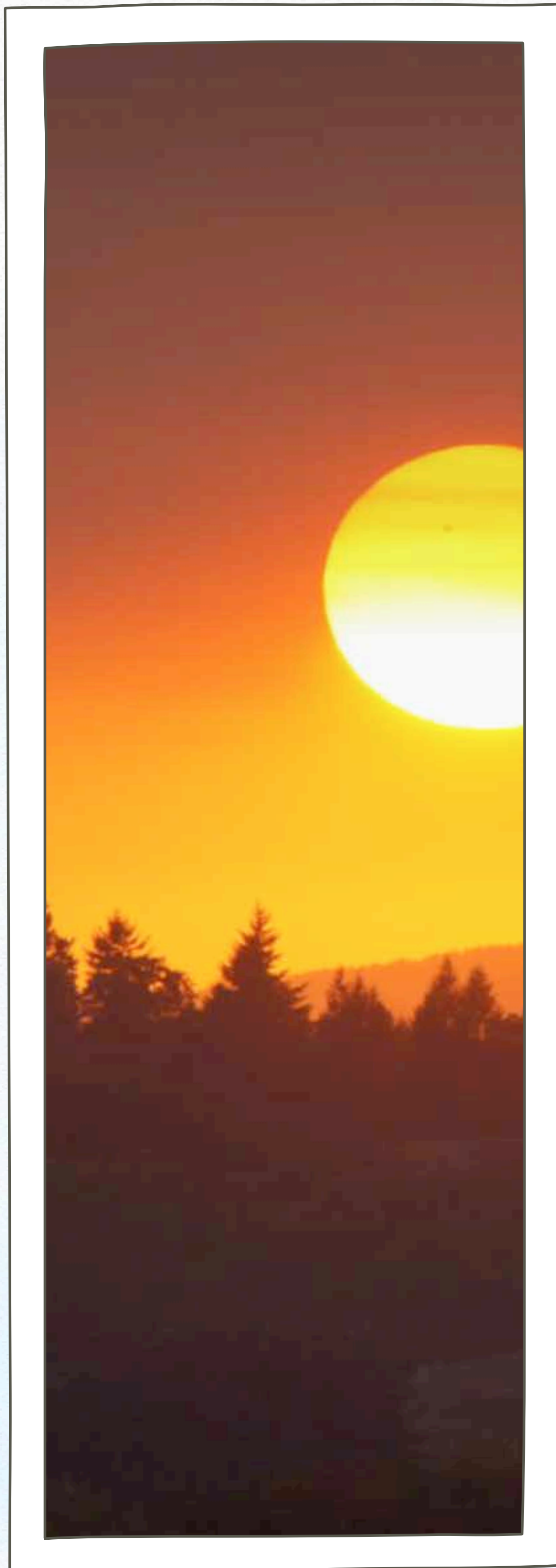
- Need upper/mid-level independently owned hotel downtown

The Luxury Wine Travelers

Are we ready for them? ... Not yet

- Newberg area already attracts this traveler to The Allison, & they tour the exceptional wineries nearby
- BUT downtown Newberg needs additional experiences that meet these traveler's desires: boutiques, more local restaurants, culinary classes, robust arts scene

Unfortunately, the Target Audience is weighted toward a future audience since the consultants themselves indicate that Newberg as a destination is not completely ready for these travelers.



Target Audience • Geographic

Utilizing the 2015 Longwood's report on Visitor Behavior for the Willamette Valley, our Primary markets include travelers from major cities in:

Oregon Washington

California Idaho

Secondary markets include major cities in:

Virginia New York

Florida Texas

Target Audience • Demographics

Focus on the visitors that represent the largest audience. We know based on research that the largest number of travelers in 2017 will be Boomers and Millennials. Utilize traditional advertising methods (i.e. visitor guides, travel magazines & social media to target the Baby Boomer crowd. Utilize social media and third party content to reach the Millennials).

The Allison is already marketing and reaching the Luxury Wine Traveler. Our marketing plan will seek ways to leverage their existing marketing and Public Relations but will not invest in specific programs to reach this audience.

This marketing plan will apply the same approach to reaching the GFU Network. More research needs to be done to determine how the Newberg Destination Marketing Plan can leverage the marketing that GFU is already doing to reach their alumni and family of students.

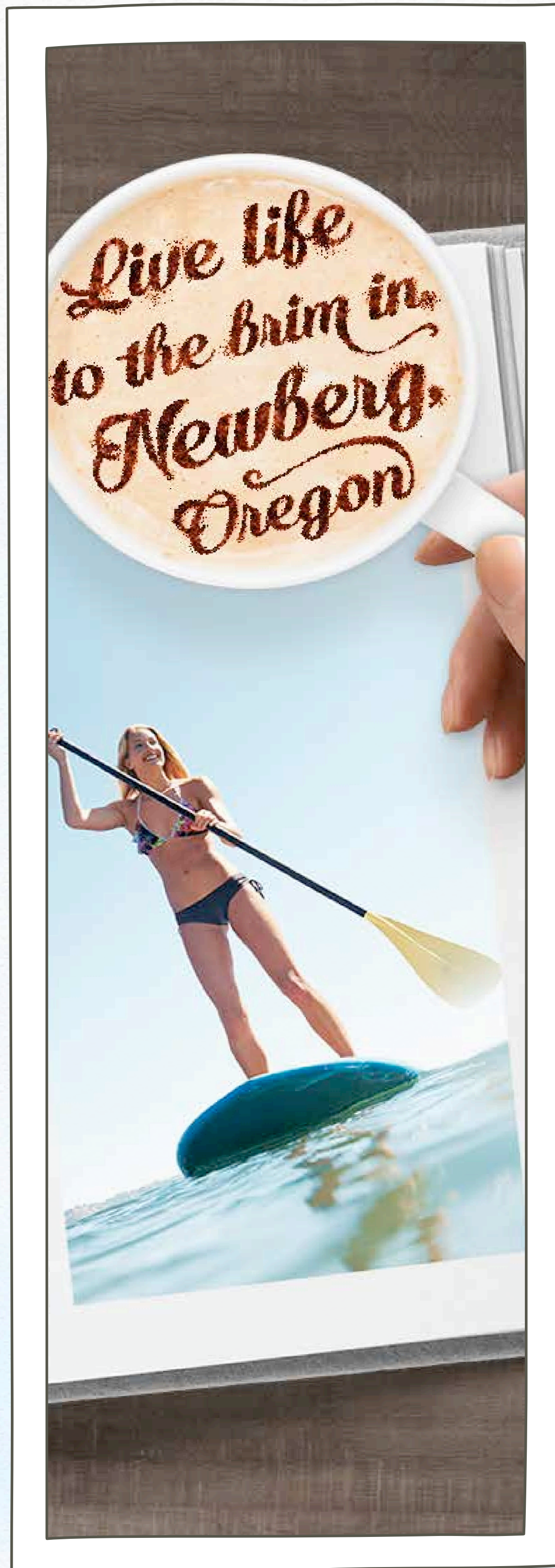


Key Destination Marketing Goals

- To increase visitor volume, visitor spending and the economic impact of tourism in Newberg
- Influence the long-term development of Newberg as a destination and its brand
- Increase leisure visitor volume, visitor spending, meeting, tours and group markets to the Newberg area through effective promotion with media and the travel-trade
- Inspire repeat visitors and word-of-mouth marketing through exceptional visitor center services
- Foster high-value relationships with our stakeholders
- Promote the importance of business and government investment in tourism

Key Destination Marketing Strategies

- Continue to improve our website as our key marketing tool in the areas of navigation, usability and content
- Collaborate with the Newberg Transient Lodging Tax Ad Hoc Committee to design and develop a high impact Newberg brand
- Integrate the “refreshed” Newberg brand into all existing marketing channels
- Enhance the efficiency of targeting digital media
- Continue to leverage the CVCC’s role in the travel decision-making process by focusing on generating target market awareness via marketing and media relations
- Increase knowledge of Newberg visitors through research



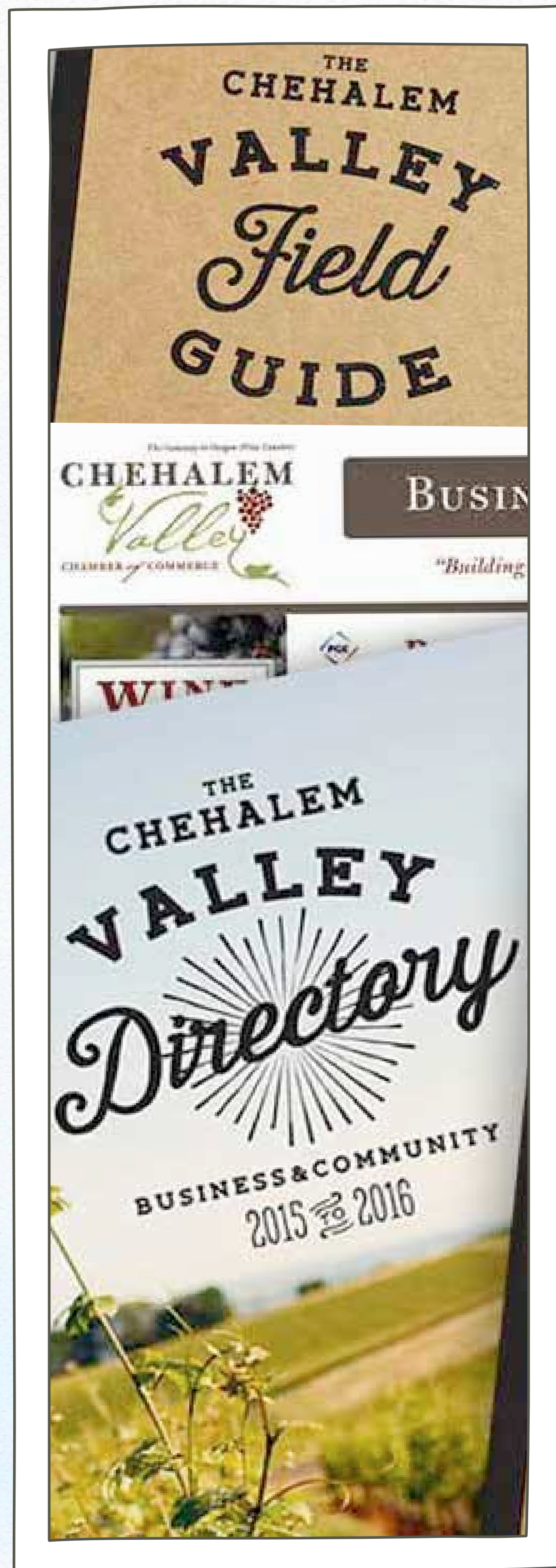
Key Destination Marketing Tactics

Website: visit.chehalemvalley.org

- Search Engine Optimization (SEO)—Continue to optimize our website with key search words/terms and content for major search sites including Google, Bing, MSN, Yahoo, etc.
- Continue to update and enhance our website weekly with blogs featuring interesting travel itineraries, new travel partners, visitor testimonials, seasonal specials, family reunion planning information, photos, maps and more
- Tracking – Expand use of Google Analytics to track visits, unique visits, users, referrers, page views, etc.
- Landing Pages – Utilize special landing pages in order to track ad campaigns and promotions

Social Media

- Continue consistent posting strategy on Facebook and Twitter. Expand social media activity to include Instagram, Pinterest and YouTube
- Use effective social media tactics to build relationships with leisure travelers and media. Tactics include “share,” “like,” “forward,” “retweets,” contests, etc.
- Encourage and assist local tourism partners on effective social media strategies for their business
- Serve content in a timely, consistent manner, using content calendars, and advance post scheduling
- Highlight positive media coverage about Newberg



Public Relations

(Suggest that this is funded outside the existing contract)

Collaborate with Newberg Transient Lodging Tax Ad Hoc Committee to contract with a Public Relations Professional to manage the following media relation activities:

- Press Trips—Host regional, national and international travel writers and editors on individualized and/or group press trips
- Media Leads—Continue to respond to leads, and forward leads to members from Travel Oregon and the Willamette Valley Visitors Association
- Pre-publication editing & fact checks—Offer to edit articles and guidebook sections for accuracy
- Distribution of semi-annual e-newsletter—Select media that highlights what is new and interesting in the Newberg area
- Media Kit – Develop an electronic media kit that highlights the outstanding tourism assets in Newberg and the surrounding area
- Build a more expansive photo and video library that is available for media requests, ads, and our website.

Publications

- Publish and distribute 19,000 Chehalem Valley Field Guide (tourism magazines)
- Publish Newberg City/Yamhill County map
- Publish Group Travel Brochure
- Publish monthly event brochure for visitors (also distributed to area lodging partners)



Leverage Partner Relations

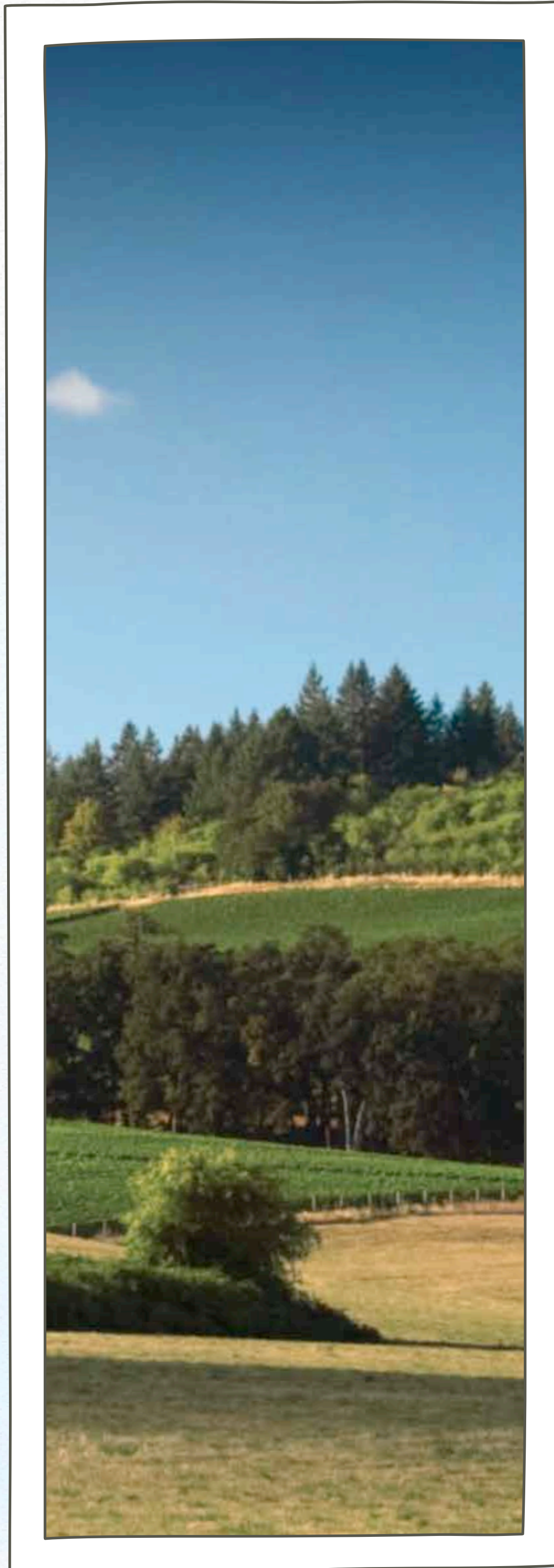
- Promote local tourism events through Willamette Valley Visitors Association, Travel Yamhill Valley and Travel Oregon’s websites

Event Sponsorship & Support

- Transportation and Volunteer Sponsor for the Oregon Truffle Festival in January; In addition, the CVCC took over management of Sunday’s Truffle Marketplace
- Presenting Sponsor for the Annual Camellia Festival in April
- Event organizer for Brews & BBQ in July

Visitor Services

- Maintain well-stocked Visitor Center with over 1,000 different maps and brochures of Newberg and the surrounding area
- All CVCC staff is Q-certified (Travel Oregon Customer Service Training) within 90 days of employment
- CVCC staff stays current with new/closed businesses and tourism partners through weekly outbound calls and staff “Familiarization Tours”
- CVCC staff receives ongoing hospitality training (Customer Service seminars, Governors Conference on Tourism, Western Association of Chamber Executives)
- CVCC staff assists all walk-in and telephone visitors with complimentary itinerary planning
- Email and telephone requests for visitor information are fulfilled within one work-day
- Publish a monthly events publication for visitors
- Visitor Center is open and staffed 7 days per week from Memorial Weekend to the last weekend in September and 5 days per week October 1st up to Memorial Weekend
- Local and state maps and visitors magazines are stocked in 24-hour access location at the entrance to the Visitors Center



Meetings/Retreats

- Continue to promote Newberg as a destination for small meetings or pre- and post-convention trips from the Portland Convention market
- Continue to support efforts of The Allison Inn & Spa's group sales team through the collaboration of a group travel brochure for the Newberg area

Workforce Development

- Continue to develop the workforce for the wine industry through the expansion of classes at the Oregon Wine Education Center; the Oregon Wine Education Center has trained over 150 Tasting Room Associates in the last 18 months
- Create a class for front-line employees to educate them on the unique tourism assets of Newberg and the surrounding community

Community & Government Relations

- Present at area service clubs on the importance of the local tourism industry
- Submit news releases to local media regarding CVCC tourism activities
- Continue to actively participate and collaborate with the Newberg Transient Lodging Tax Ad Hoc Committee on activities to advance Newberg tourism
- Member of Newberg Economic Development Committee with responsibilities for Newberg Tourism

Industry Relations

- Serve on Newberg’s Transient Lodging Tax Ad Hoc Committee
- Serve on Board of Travel Yamhill County
- Serve on Board of Willamette Valley Visitors Association and represent interests of Yamhill County
- Member of Oregon Destination Marketing Association
- Member of Travel Portland



Newberg is a Gem of a Town, One of the Best of Its Size (22,000) in the Northwest" by Jerry Richard - The Oregonian



Newberg in the News Click on a quote to view article

“Where to Eat in Oregon Wine Country Right Now” by Michael Russell —*The Oregonian*

“Newberg is a Gem of a Town, One of the Best of Its Size (22,000) in the Northwest” by Terry Richard —*The Oregonian*

“Beginning in the town of Newberg and extending south to the capital city of Salem, Oregon’s Willamette Valley is characterized by rolling hills and lush valleys. This is Oregon’s principal wine region, and while it may not be as well known around the world as California’s Napa Valley, it is no less breathtaking.” —*USA Today*

“This former pass-through town now has the quality food, sips, and art you used to find only deeper inside the Willamette Valley.” —*Sunset Magazine*

“This gateway to Yamhill County wine country is only 30 minutes south of Portland, but there’s so much to do along Newberg’s main drag of East First Street that you may not get to any actual wineries. No matter, since there are plenty of tasting rooms and restaurants where you can sample classic Oregon pinot noir.” Quick Day Trips by Grant Butler —*The Oregonian*

“(Pulp & Circumstance) which opened in June, is another effort by Loni Austin Parrish’s attempt to turn downtown Newberg into the hippest place in Oregon.” —*The Oregonian*

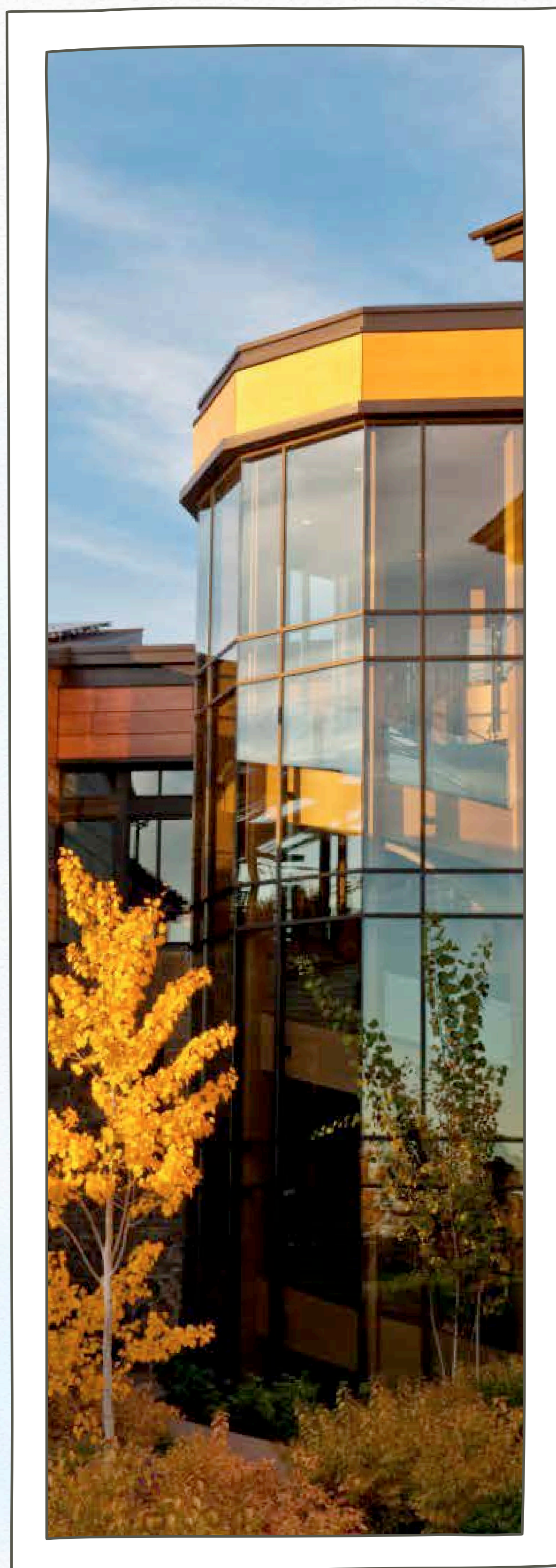


The First Destination in Oregon Wine Country Click on a quote to view article

“Newberg ... is target central of Oregon’s wine country” —*The Oregonian*

“California’s Napa Valley isn’t the only place in the country to find great wineries. Oregon has some up-and-comers that will give wine aficionados a reason to head north.” Wineries in Newberg & Dundee, Oregon —*USA Today*

“McMinnville and Newberg regularly vie for the title of top wine-country town . . . While McMinnville typically has shined brightest in size—and in scope of eating and shopping options—Newberg and Dundee have boasted the lion’s share of wineries and tasting rooms. Recent additions to both towns’ arsenal of attractions, though, have evened the field.” A Toast of Two Cities —*Portland Monthly*



The Allison Inn and Spa (Newberg) [Click on a quote to view article](#)

“Besides having some of the best lodging in Yamhill wine country, indeed in all of Oregon, the inn has become a popular day visit for Portlanders for its spa services and its JORY Restaurant.” —*The Oregonian*

“So what about that Allison Inn? Since it opened in 2009, it has cemented its reputation as one of the premier luxury resorts in Oregon, even earning a rare national recognition for quality of lodging in the state. Travel + Leisure magazine’s October issue will name the Allison as the top hotel spa in the continental United States ... Newberg also has three restaurants right up there in quality with the best of Portland.” —*The Oregonian*

TripAdvisor.com names The Allison Inn one of the top 10 pet friendly places to stay in the U.S. —*Oregon Public Broadcasting*

“Oregon is perhaps best known for its pinot noirs. You can sample many of these by the glass at the 85-room Allison Inn & Spa restaurant in the heart of the wine-producing Willamette Valley.” — The Big Six: Wine country hotels —*The Independent (UK)*

“You can get a good taster in a day visit, but it’s more rewarding if you hire a car and spare three days or so to work your way down the bucolic valley, cherry-picking the best producers. Leave Portland on Route 99W and head south towards Newberg. This is where the real wine country starts.” Tuscany? Provence? No – it’s Oregon. —*The London Sunday Times*

“The birthday girl’s husband had booked our group at The Allison based on magazine and Internet accolades and because of its location in Newberg, a central base from which to explore the region’s 200-plus wineries. He chose wisely. The Allison Inn and Spa opened in September 2009 and in a little over two short years has become the place to stay when wine touring in Oregon. It made Condé Nast Traveler’s 2010 Hot Hotels and Hot Spas list and CNN named The Allison and Oregon Wine Country as one of the Top 9 Spots in the World for Savvy Luxury Travellers.” —*Ottawa Citizen*



The Opportunity for Downtown Click on a quote to view article

“Perhaps Redmond can be an example of what will happen in downtown Newberg, once the initial phase of the Newberg-Dundee Bypass is complete in 2016... **If anything, downtown Newberg has the potential to blossom even brighter than Redmond.**

—*The Oregonian*

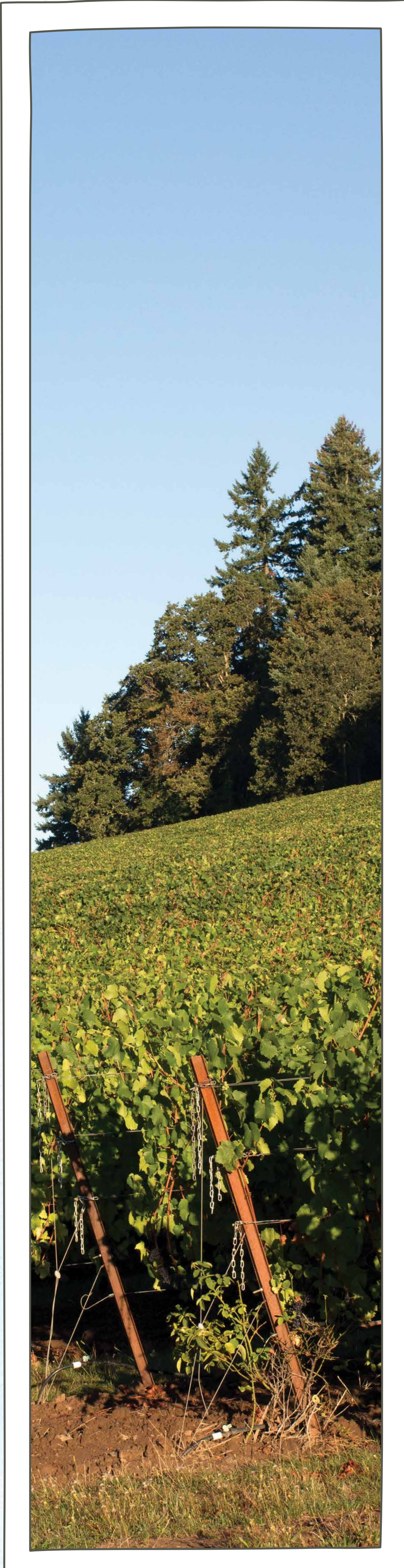
“Downtown Newberg will still be busy, because it will remain on Oregon 99W and the bypass will be routed as Oregon 18. **But Newberg will get its chance to fully embrace its location in the heart of Oregon’s wine country.**” —*The Oregonian*

“... if you live in Newberg or Dundee, **the best thing about the new bypass — 25 years in the making — is that it gives you the chance to rethink, rebuild or recover the charm of your wine-country town.** Now that the first phase of the bypass is a reality, it opens up possibilities for each city and allows the conversation to begin — or accelerate — about the shape of the future. For Newberg, the opportunity to reclaim its remarkably intact and historic downtown in a lasting and meaningful way is another building block in its ongoing growth and revitalization. Even without the bypass, Newberg has great potential; even with the traffic, we are seeing a resurgence,” he says. **“Downtown has great potential. It’s got great buildings and density”** Mike Ragsdale, On the Road —*Oregon Business Magazine*

“Work is under way on one of northwest Oregon’s long-awaited and most-highly anticipated highway projects, the Newberg-Dundee Bypass.” —*The Oregonian*

“It will get truck traffic and significant auto traffic out of Dundee and Newberg and give the downtowns back to the communities,” Torres said. —*The Oregonian*

“Newberg spruces up downtown to coax some of that traffic to stop” —*The Oregonian*



2017-18 Budget

REVENUE:

City of Newberg	\$139,886.00
City of Dundee Contribution	\$2,500.00
TOTAL REVENUES:	\$142,386.00

EXPENSES:

Personnel	\$62,000.00
CEO Wine Education Center Manager & Instructors Office Administrator Visitors Center Coordinator Visitors Center – Seasonal Help Benefits – Health Insurance & Retirement Taxes Allocated by percentage of time spent on Visitor Center or Tourism Promotion Activities	
Marketing	\$42,000.00
Print Advertising Social Media Marketing Chehalem Valley Field Guide Travel Yamhill Valley Tourism Guide Ad Willamette Valley Visitors Association—Co-op Ad Opportunities Governors Conference on Tourism—Oregon Destination Marketing Conference First Friday Artwalk participation/Trolley Sponsorship Camellia Festival Presenting Sponsor Newberg Christmas Lights Seasonal Electricity Event Marketing—Camellia Festival, Tunes on Tuesday, Brews & BBQ Website Modifications SEO Fees Travel Oregon Tourism Guide Ad Familiarization Tour Expenses Contingency Marketing Dollars Set-Aside for Unique Opportunities	
Shared	\$47,979.00
Calculated as 1/3 of overhead in Chamber Budget applicable to tourism Includes: Dues/Subscriptions, Bank Fees, Insurance, Internet/Web Miscellaneous, Supplies, Postage, Leases, Printing, Rent, Capital Improvements, Repair/Maintenance, Telephone, Utilities Professional Fees Mileage	
TOTAL EXPENSES:	\$151,979.00
DIFFERENCE:	-\$9,593.00

Chehalem Valley Chamber funds any negative balance per contract.

BUDGET TLT MARKETING SUBCOMMITTEE PROPOSAL

Revenue	FY 16/17	FY 17/18	FY 17/18	FY 18/19	FY 19/20	FY 20/21	FY 20/21
	Budget	Budgeted	Supplemental Budget	Projection	Projection	Projection	Projection
Gross Operator Receipts	11,994,410	12,220,625	12,220,625	12,587,244	12,964,861	13,353,807	13,754,421
Beginning Fund Balance	207,113	250,000	343,718	115,214	0	0	0
Tax Revenue -Restricted for Tourism	359,617	365,703	366,399	377,390	388,712	400,373	412,385
Tax Revenue City Services	665,905	679,160	678,465	698,819	719,748	741,377	763,618
Interest Revenue-Restricted for Tourism	897	897	897	897	897	897	
Interest Revenue- City Services	1,667	1,667	1,667	1,667	1,667	1,667	
Estimated Additional Funds							
Total	1,235,199	1,297,427	1,391,146	1,193,987	1,111,024	1,144,314	1,176,003
Expenses							
Transfers out General Fund	665,905	680,132	678,465	698,819	719,748	741,377	763,618
Visitor Center/Destination Marketing Contract	137,548	139,886	139,886				
Visitor Center Contract				105,901	109,078	112,350	115,721
Destination Marketing Contract				120,000	120,000	120,000	120,000
Unallocated Tourism Activity	431,746	477,409	572,795	269,267	162,198	170,587	176,664
Consultant							
Staff - Meetings, Travel, Networking		2,000	2,000	2,000	2,000	2,000	2,000
Tourism Marketing		14,787	109,622	0	0	0	0
Fundraising (Grant Match)		10,000	10,000	10,000	10,000	10,000	10,000
Subtotal		26,787	121,622	12,000	12,000	12,000	12,000
Tourist Related Facilities (Large Grant)	313,774	430,622	431,173	237,267	130,198	138,587	144,664
Small Grant Program (pilot program)	20,000	20,000	20,000	20,000	20,000	20,000	20,000
Total	1,235,199	1,297,427	1,391,146	1,193,987	1,111,024	1,144,314	1,176,003
Ending Balance Restricted for Tourism		0	0	0	0	0	0

* The \$250,000 for the Tourist Related Facilities (Large Grant) originally budgeted will not be expended by June 2016 and becomes the Beginning Fund Balance for FY 17/18

Assumptions

Visitor Center Contract escalator of 1.7% annually (Actually tied to CPI-W)

26.5% of Visitor Center Contract for Marketing Services

73.5% of Visitor Center Contract for Visitor Center Operation

\$120,000 for Marketing Services (\$60,000 salary/\$60,000 implementation of marketing/FAMs/web/public relations)

\$120,000 for Marketing Services drawn from 26.5% of Visitor Center Contract and reduction of funding for Tourist Related Facilities

TLT NEW ORGANIZATION MODEL

Revenue	FY 16/17	FY 17/18	FY 18/19	FY 19/20	FY 20/21
Transient Lodging Tax	1,025,522	1,056,288	1,087,977	1,120,616	1,154,234
Beginning Fund Balance (2016/17)	149,857				
Estimated Additional Funds					
Interest	2,564	2,580	2,600	2,620	2,640
Total	1,177,943	1,058,868	1,090,577	1,123,236	1,156,874
Expenses					
Transfers out General Fund	665,905	685,883	706,460	727,653	749,482
Visitor Center Contract	137,548	141,674	145,924	150,302	154,811
Tourism Promotion (undefined)	374,490	228,731	235,593	242,661	249,941
Tourism Consultant	40,000				
Tourism Director - Salary ¹	55,000	56,100	57,222	58,366	59,534
Tourism Director - Taxes, Insurance (18%)	9,900	10,098	10,300	10,506	10,716
Tourism Manager - Admin Support ²	4,100	4,182	4,266	4,351	4,438
Tourism Director - Recruitment	1,000				
Tourism Director - Meetings, Travel, Networking	5,000	5,000	5,000	5,000	5,000
Tourism Marketing	10,000	10,000	10,000	10,000	10,000
Fundraising	10,000	10,000	10,000	10,000	10,000
Office Space Lease/Utilities ³	18,000	20,700	23,805	27,376	31,482
Furniture/Desk/Computer/Phone	10,000	500	500	500	500
Office Supplies	1,500	1,500	1,500	1,500	1,500
Secretary of State filings	100	100	100	100	100
Subtotal	164,600	118,180	122,693	127,699	133,270
Audit (ongoing)	2,000	2,000	2,000	2,000	2,000
Tourist Related Facilities	187,890	91,131	93,500	95,582	97,311
Small Grant Program (pilot program)	20,000	20,000	20,000	20,000	20,000
Total	1,177,943	1,058,868	1,090,577	1,123,236	1,156,874

¹ 2% annual COLA

² 2% annual COLA

³ 1,500 sft at \$1.00 sft at 1.5% annual increase

TLT CITY MODEL

Revenue	FY 16/17	FY 17/18	FY 18/19	FY 19/20	FY 20/21
Transient Lodging Tax	1,025,522	1,056,288	1,087,977	1,120,616	1,154,234
Beginning Fund Balance (2016/17)	149,857				
Estimated Additional Funds					
Interest	2,564	2,580	2,600	2,620	2,640
Total	1,177,943	1,058,868	1,090,577	1,123,236	1,156,874

Expenses	FY 16/17	FY 17/18	FY 18/19	FY 19/20	FY 20/21
Transfers out General Fund	665,905	685,883	706,460	727,653	749,482
Visitor Center Contract	137,548	141,674	145,924	150,302	154,811
Tourism Promotion (undefined)	374,490	228,731	235,593	242,661	249,941
Tourism Consultant	40,000				
Tourism Manager - Salary ^{1,2}	59,600	60,792	62,008	63,248	64,513
Tourism Manager - Benefits (health, retirement, etc.) (18%) ³	43,000	47,300	52,030	57,233	62,956.3
Tourism Manager - Recruitment	1,000				
Tourism Manager - Meetings, Travel, Networking	5,000	5,000	5,000	5,000	5,000
Tourism Marketing	10,000	10,000	10,000	10,000	10,000
Computer/Phone	600				
Fundraising	10,000	10,000	10,000	10,000	10,000
Subtotal	169,200	133,092	139,038	145,481	152,469
Tourist Related Facilities	185,290	78,219	79,155	79,800	80,112
Small Grant Program (pilot program)	20,000	20,000	20,000	20,000	20,000
Total	1,177,943	1,058,868	1,090,577	1,123,236	1,156,874

¹ Range 163, Step 1

² 2% annual COLA

³ 10% annual increase