

# REQUEST FOR COUNCIL ACTION



**Date Action Requested: May 15, 2023**

Order ☐ Ordinance ☒ Resolution ☐ Motion ☐ Information ☐

No. 2023-2911

Subject: An Ordinance approving an Urban Reserve Area expansion at 31544 NE Corral Creek Road, 30445 NE Fernwood Road, 31095 NE Fernwood Road, 30575 NE Fernwood Road, Yamhill County Tax Lots R3222 02700, R3222 02500, R3222 2800, R3222 02900 and abutting right-of-way minus the 20 acres located outside the Zone 1 Water Service Area

Staff: Doug Rux, Director  
Department: Community Development  
File No. City CPMA21-0002/County PA-01-21

Business Session

Order On Agenda: Public Hearing

Hearing Type: Legislative ☐ Quasi-Judicial ☒ Administrative ☐ Not Applicable ☐

**Is this item state mandated?** Yes ☐ No ☒

**If yes, please cite the state house bill or order that necessitated this action:**

## **Recommendation:**

Adopt Ordinance No. 2023-2911.

## **Executive Summary:**

### **A. SUMMARY:**

Brian and Kathy Bellairs (Applicant), and Bestwick LLC, represented by DOWL, are requesting approval of an amendment to the City of Newberg (City) and Yamhill County (County) Comprehensive Plan Maps to expand the City's Urban Reserve Areas (URAs) to include a 95.3 gross acre area generally located northwest of the intersection of NE Corral Creek Road and NE Fernwood Road. The site consists of four properties and Yamhill County right-of-way. The site currently has Yamhill County zoning of Exclusive Farm Use (EF-20).

Review of the application requires compliance with a variety of State Statutes (ORS 195.143-.145, ORS 197.610 – 626), Oregon Administrative Rules (OAR 660-012, 660-018, 660-021, 660-023), Newberg Comprehensive Plan, Newberg Development Code, Yamhill County Comprehensive Plan, Newberg Development Code, and Newberg Urban Area Growth Management Agreement (NUAGMA).

The Yamhill County staff report to the Newberg Urban Area Management Commission (NUAMC) is included as Attachment 1.

Minutes of the NUAMC meetings are included as Attachment 2. The April 25, 2023 minutes are in draft form and have not been officially approved by NUAMC.

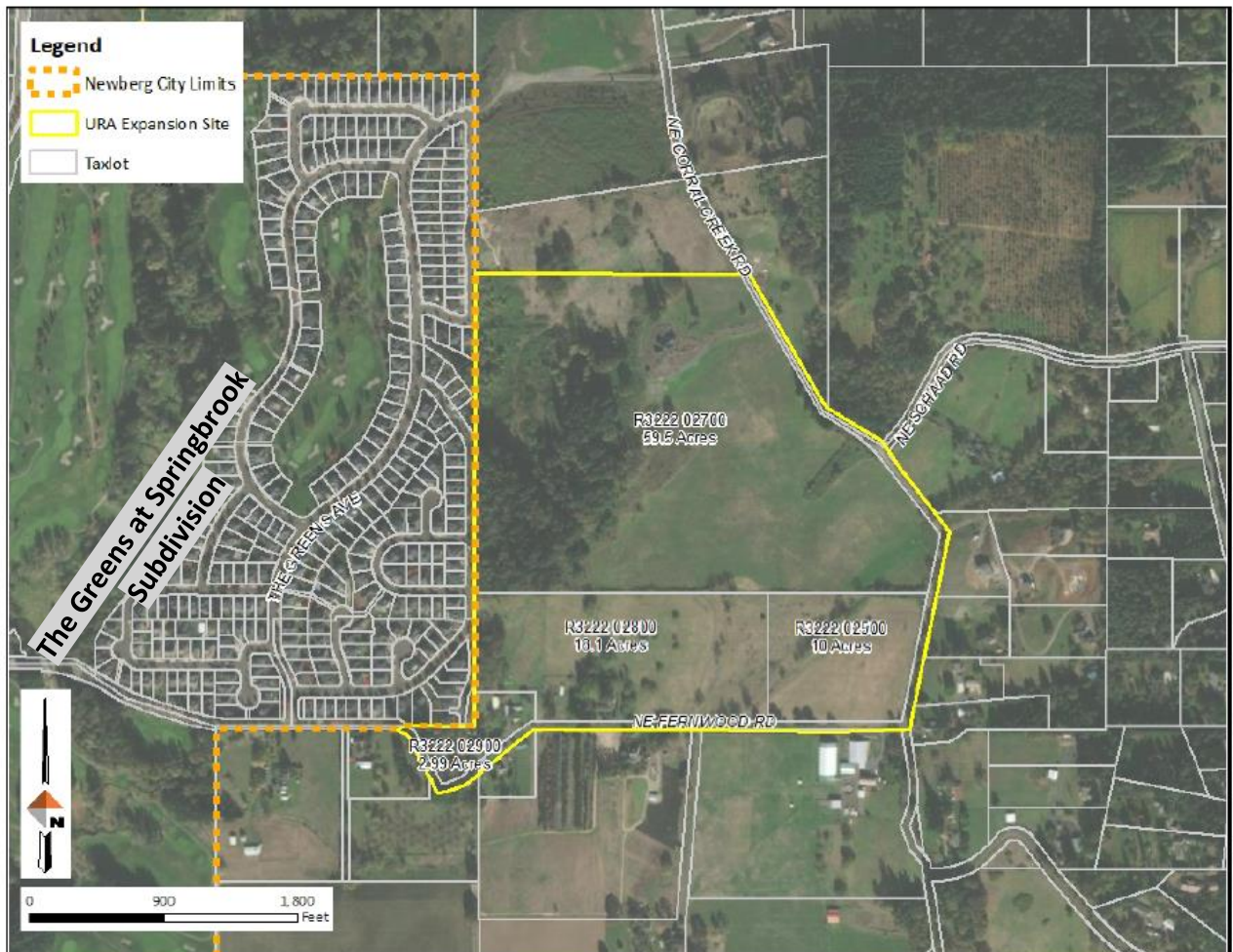
The NUAMC Resolution No. 2023-23 is included as Attachment 20. The adopted Resolution approves the Urban Reserve Area expansion minus the 20 acres located outside the Zone 1 Water Service Area.

## B. BACKGROUND:

### Application Information

#### Location Map

**Figure 1: Vicinity Map**



#### Proposal

Brian and Kathy Bellairs (Applicant), and Bestwick LLC represented by DOWL, are requesting approval of an amendment to the City of Newberg (City) and Yamhill County (County) Comprehensive Plan Maps to expand the City's Urban Reserve Areas (URAs) to include a 95.3 gross acre area generally located northwest of the intersection of NE Corral Creek Road and NE Fernwood Road. The site consists of four properties and Yamhill County right-of-way. The site currently has Yamhill County zoning of Exclusive Farm Use (EF-20). If the application is

approved, urban development on the site could not occur until it is brought into the Urban Growth Boundary and annexed into the City of Newberg.

### **C. PROCESS:**

This is a Type III legislative application for a Comprehensive Plan Map Amendment. The subject site is comprised of four properties and portions of Yamhill County right-of-way associated with NE Corral Creek Road and NE Fernwood Road. The property is currently located in Yamhill County and will affect County lands. A Type III application of this nature is brought to the Newberg Urban Area Management Commission (NUAMC), the body of decision-makers who govern areas established by the Newberg Urban Area Growth Management Agreement (NUAGMA). The staff reports, prepared by the City of Newberg and Yamhill County, were presented to NUAMC on the proposal on August 23, 2022, at 6 p.m., October 25, 2022, at 7 p.m., November 22, 2022, at 7 p.m., January 24, 2023, at 7 pm, March 28, 2023, at 7 p.m., and April 25, 2023 at 7 p.m. at the Newberg Public Safety Building, 401 E Third Street and via Zoom.

The public hearing and decision process for the joint application to the City and County is as follows:

- NUAMC holds the initial public hearing in which the prepared recommendation (via Resolution) is to be sent to the Newberg City Council and Yamhill County Board of Commissioners.
- Both the Newberg City Council and Yamhill County Board of Commissioners hold separate public hearings.
- The Newberg City Council public hearing is first. Newberg City Council adopts an Ordinance with its decision and sends the Ordinance to the Yamhill County Board of Commissioners. Procedures for the City of Newberg public hearing, including public notice, will be consistent with the City of Newberg requirements.
- The Yamhill County Board of Commissioners will hold a public hearing and adopt an Ordinance with its decision. Procedures for the Yamhill County public hearing, including public notice, will be consistent with Yamhill County requirements.
- The City and County decisions will be sent to the Director of the Department of Land Conservation and Development for review and a determination. The DLCD decision is appealable to the Land Conservation and Development Commission.

It is important to note that no specific development plan or zoning designations are being requested at this time. For future development to occur, the site would first need to be included within the Newberg Urban Growth Boundary (UGB), annexed to the City of Newberg, and subsequent land use applications for development and/or a subdivision of the site would need to occur. If this action were to be approved, subsequent applications would be necessary before development could occur.

### **Noticing**

Important dates related to this application for a comprehensive plan amendment/zoning map amendment are as follows:

1. 6/16/21: The Community Development Director deemed the application complete.
2. 7/28/22: The Applicant posted notice on the site.
3. 8/1/22 The City mailed notice to property owners within 500 feet of the subject sites.
4. 8/3/22: The Newberg Graphic published notice of the NUAMC hearing.
5. 8/3 & 8/16/22: The County mailed notice to the property owners within 750 feet of the site.
6. 8/23/22: The NUAMC opened the quasi-judicial hearing to consider the application and continued the public hearing to October 25, 2022, at the request of the Applicant.
7. 10/25/22: The NUAMC continued the public hearing to November 22, 2022, at the request of the Applicant.
8. 11/22/22: The NUAMC held the public hearing, took testimony, and began deliberations. NUMAC continued the hearing to January 24, 2023, with concurrence from the Applicant.
9. 1/24/23: The NUAMC continued the public hearing to March 28, 2023, at the request of the Applicant.
10. 3/28/23: The NUAMC resumed the public hearing, took testimony, and continued deliberations. NUMAC continued the hearing to April 25, 2023, left the record open for 7 days for additional written comment and an additional 7 days for Applicant's written comment.
11. 4/25/23: The NUAMC resumed the public hearing and adopted Resolution No. 2023-23 recommending approval of the application (Attachment 20).
12. 5/3/23: The City mailed notice to property owners within 500 feet of the subject Sites for the City Council public hearing.
13. 5/3/23: The Newberg Graphic published notice of the City Council public hearing.
14. 5/15/23: After proper notice, the City Council held a quasi-judicial public hearing to consider the item.

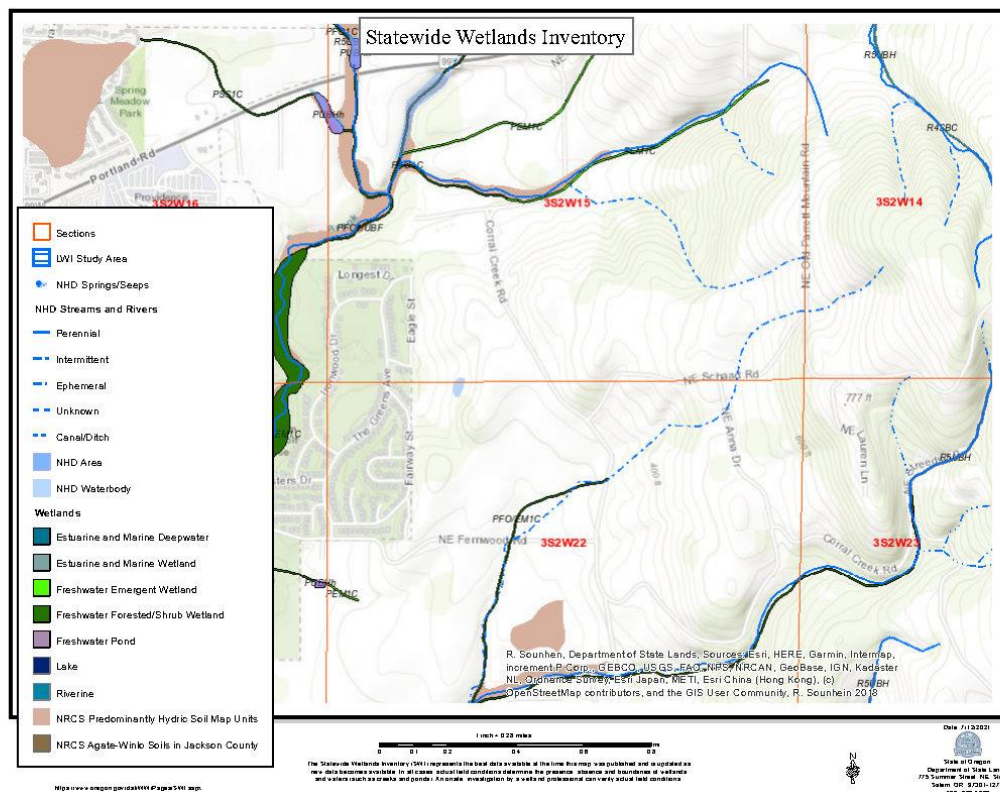


## D. STAFF/AGENCY COMMENTS:

### Agency Comments

The application was routed to several public agencies for review and comment. As of the writing of this report, the City received comments from the following agencies (Attachment 3d):

- Department of State Lands: Fortunately, from DSL removal-fill program point of view this area seems favorable with no wetlands, a few waters, and no predominantly hydric soil map units within the proposed expansion area. Please find a print of the Statewide Wetlands Inventory attached.
- Police: Reviewed, no conflict.
- Public Works Director: Comments. Costs for the necessary upgrades to city utility systems to meet serviceability needs of this proposed development shall be the responsibility of the developer.
- TVF&R: Reviewed, no conflict.
- Ziply Fiber: Reviewed, no conflict.
- Building Official: Reviewed, no conflict.
- Finance Department: Reviewed, no conflict.
- City Manager: Reviewed, no conflict.
- Public Works Maintenance Superintendent: Reviewed, no conflict.
- Public Works Operations: Reviewed, no conflict.



## **Special Districts**

As of the writing of this report, the City received comments from the following Special Districts (Attachment 3e):

- Newberg School District: Reviewed, no conflict.
- TVF&R: Reviewed, no conflict.
- Other taxing districts did not respond to the notice delivered to them.

## **E. PUBLIC COMMENTS**

### **Public Comment**

As of the writing of this staff report, the City has received thirty (106) verbal and written public comments (Attachments 4, 18 and 19). Comments were received from:

- Kathy Cook (opposition)
- Kevin Young, Department of Land Conservation and Development (opposition)
- Mike Grubbe – 2 letters (support)
- Elizabeth and Greg Heath (opposition)
- Gary and Kelly Kapp (opposition)
- Jill Katis and Shawn Bayer (opposition)
- Kurt and Julia Kightly (opposition)
- Arnie and Karen Kirkham (opposition)
- Ron Knox (support)
- Maureen Kuhlman (opposition)
- Carrie Palmore (support)
- Janice and Dennis Pierce (support)
- Joseph Yoder (support)
- Michael Rossman (opposition)
- Mary and Terry Scott (opposition)
- Roger and Sanda Schaad (support)
- Gary Shuler (support)
- Vance Stimler (opposition)
- Terry and Cynthia Palmer (opposition)
- Dominique and Pat Toews (support)
- Friends of Yamhill County/1000 Friends of Oregon (opposition)
- Ginevra Blake (support)
- Darren Blass (opposition)
- Molly Eacret Blass (opposition)
- Gary Owen, The Greens at Springbrook Homeowners Association (opposition)
- Gregg and Chelsea Rossi (support)
- Barbara and Linn Whitaker (opposition)
- Annette Cooley (opposition)
- Cole Presthus, Ladd Hill Neighborhood Assn. (opposition)

At the November 22, 2022, public hearing additional comments were received verbally or in writing from:

- Brian Bellairs – Applicant (support)
- Dowl – Read Stapelton & Joe Gaon of Schwabe Williamson & Wyatt (support)
- Beau Svendsen (opposition)
- Michael Kringlen (support)
- Gary Bowen (support)
- Delaine Bowen (support)
- Don Clements (support)
- Ron Knox (support)
- Lynden Hansen (support)
- Charles Woodward (opposition)
- Joe Hughes (opposition)
- Arnie Kielcham (opposition)
- David Moyle (support)
- Dayne Ingram (support)
- Vance Stimler (opposition)

The comments and submitted material are included in Attachment 4, and the minutes of November 22, 2022, in Attachment 2.

Mr. Bellairs, Mr. Knox, Mr. Hughes, and Mr. Ingram in their testimony referred to past URA applications or City URA efforts in the area. The following information clarifies those past activities. An Urban Reserve application in 2006 was filed by Pacific Lifestyle Investment for the property at 31544 NE Corral Creek Road (R3222 02700) which went before NUAMC. NUAMC adopted Resolution 2006-16 denying the request (Attachment 5). The Newberg City Council adopted Order No. 2007-0004 denying the request (Attachment 6). The Yamhill County Board of Commissioners ordinance denying the request (Attachment 7).

A citywide effort to expand the URAs began in 2005 and was adopted by NUAMC by Resolution No. 2007-20 (Attachment 8). Subsequently the Newberg City Council adopted Ordinance No. 2008-2697 approving the URA proposal (Attachment 9). The Yamhill County Board of Commissioners adopted Ordinance 828 (BO-08-500) (Attachment 10) approving the URA proposal. The URA decisions were remanded by the Department of Land Conservation and Development (DLCD) Director on April 10, 2009 (Attachment 11), was appealed by parties to the Land Conservation and Development Commission (LCDC) and was remanded by LCDC on April 22, 2010 (Attachment 12). Ordinance No. 2008-2697 was repealed by the City Council on November 16, 2015, by Ordinance No. 2015-2792 (Attachment 13).

At the March 28, 2023, continued public hearing additional comments were received verbally or in writing from:

- Dawn Paulson (opposition)
- Cole Presthus (opposition)
- Kurt Kightly (opposition)
- Joe Hughes (opposition)

- Roger Kuhlman (opposition)
- Joseph Gaon (support)
- Dana Farver (opposition)
- Brian Bellairs (support)
- Read Stapleton (support)
- Paul Schytz (opposition)
- Don Clements (support)
- Vance Stimler (opposition)
- Chris & Kathy Cook (opposition)
- Lyndon Hansen (support)
- Maria Lauson (support)
- Dorothy & Robert Roholt (opposition)
- Karen Kirkham (opposition)
- Arnie Kirkham (opposition)
- Kurt & Julia Kightly (opposition)
- David & Teresa Klepinger (opposition)
- Jenni Jeronimo (opposition)
- David & Corinne Waterbury (opposition)
- Leann Bennett (opposition)
- Jennifer & Ron Hapke (opposition)
- Sally Royston (opposition)
- Andrea & Jason Fields (neutral)
- Darrin Blass (opposition)
- Charles W Woodward, IV (opposition)
- Brad Johnson (opposition)
- Mary Ann Scholz (opposition)
- Gregg Scholz (opposition)
- Josh Dillard (opposition)
- Tad Szulc (opposition)
- Anthony & Emily Anderson (opposition)
- Grace Shaad (opposition)

Minutes of March 28, 2023 are included in Attachment 2.

NUAMC left the record open for an additional 7-days for public comment which ended at midnight on April 4, 2023. Written comments were received from:

- Brian Bellairs (support)
- David & Teresa Klepinger (opposition)
- Anthony & Emily Anderson (opposition)
- Jenni Jeronimo (opposition)
- Tad Szulc (opposition)
- Andrea & Jason Fields (neutral)
- Read Stapleton (support)
- Cole Ghizzone (support)
- Dayne Ingram (support)



- Patti Jensen (support)
- Jenni & Michael Jeronimo (opposition)
- Kathleen Kessinger (support)
- Ron & Linda Knox (support)
- Roger Kuhlman (opposition)
- Todd Mobley (support)
- Mary Walker (support)
- Terry & Cynthia Palmer (opposition)
- Cole Presthus (opposition)
- R.G. Kessinger (support)
- Sally Royston (opposition)
- Cliff Rutan (support)
- Roger & Sanda Schaad (support)
- Tasiya Sirimongkarakorn (support)
- Vance Stimler (opposition)
- William & Debra Svendsen (opposition)
- Andrew Walker (support)
- Sam Weber (support)

The comments are included in Attachment 18.

NUAMC left the record open for a 2<sup>nd</sup> 7-day period for Applicant's comment which ended at midnight on April 11, 2023. Comments were received from:

- Brian Meunier representing the Applicant Brian Bellairs (support)

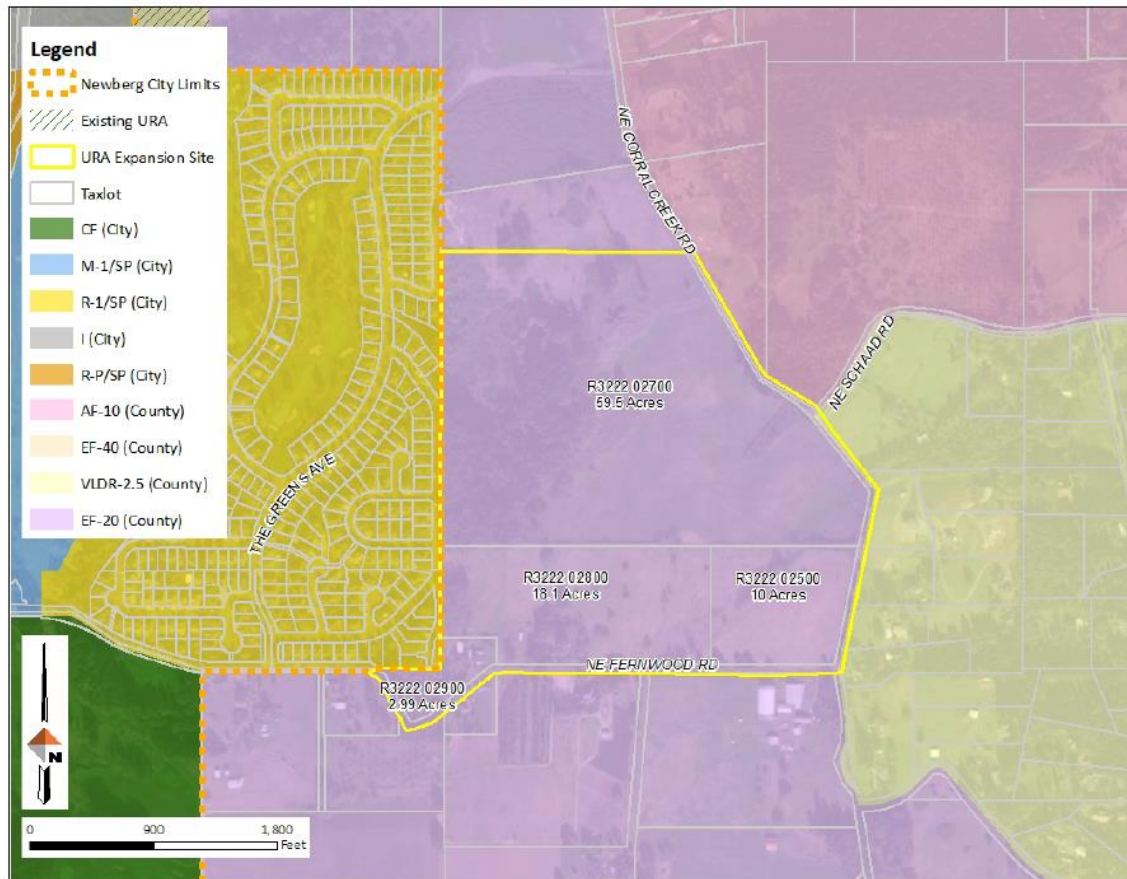
The comments are included in Attachment 19.

## **F. DISCUSSION:**

### **Zoning Map**

Note: Currently, only the Yamhill County Comprehensive Plan designation and Zoning is currently applied to the subject site. There are no City of Newberg Zoning or Comprehensive Plan designations applied to the site.

**Figure 1. Zoning Map**



## Site Information

The subject site consists of four properties and a section of right-of-way on NE Fernwood Road, and NE Corral Creek Road. The parcels and their uses are shown in Table 1 below. In total they are 95.3 acres, 4.7 of that are right-of-way. The site consists of an estimated 68 buildable acres. The entire site is zoned EF-20 (Yamhill County zoning).

**Table 1. Requested URA Expansion Site Parcels**

Tax Lot	Owner	Area (ac.)	Use
R3222 02500	Bestwick LLC	10	Vacant
R3222 02700	Brian & Kathy Bellairs	59.5	Rural residential
R3222 02900	Bestwick LLC	2.99	Rural residential
R3222 02800	Bestwick LLC	18.1	Rural residential
Right-of-Way	Yamhill County	4.7	NE Fernwood Road, NE Corral Creek Road

### Surrounding uses:

Table 2 demonstrates uses and zoning surrounding the site. It is primarily vacant or agricultural land, except for The Greens at Springbrook subdivision located west of the subject area.

***Table 2. Surrounding Uses***

	<b>Zoning</b>	<b>Use</b>
North	EF-20 (County)	Vacant land, Schaad Park (Chehalem Park & Recreation District)
South	EF-20 (County)	Agricultural uses
East	VLDR-2.5 (County), AF-10 (County)	Rural residential, agricultural uses
West	R-1/SP (City)	Single-family residential (The Greens at Springbrook subdivision)

### Existing conditions:

The requested URA expansion site consists of four parcels generally located northwest of the intersection of NE Corral Creek Road (minor collector County designation) and NE Fernwood Road (minor collector County designation) within unincorporated Yamhill County. All four parcels are currently zoned Exclusive Farm Use (EF-20) and have a County Comprehensive Plan designation of Agriculture/Forestry Large Holding (AFLH). Newberg's city limits and UGB are coterminous with the requested URA expansion site's western boundary, with a single-family residential subdivision located immediately to the west (The Greens at Springbrook).

The site contains three residences but is otherwise largely vacant, with minimal active agricultural/farm uses. The site generally slopes towards the west, with a high point in the site's northeast corner adjacent to NE Corral Creek Road, and a low point in the far northwest corner adjacent to Schaad Park and N Eagle Street. The site contains scattered vegetation and trees and is comprised of a mixture of Class I, II, III, and IV soils. A preliminary reconnaissance of the site's wetlands was completed by Pacific Habitat Resources in December 2020, which found the presence of potential wetlands on the site.

## **Issues & Analysis Summary**

### ***1) What is the purpose of an Urban Reserve Area?***

URAs are land, located outside the UGB, whose purpose is to reserve land for future expansion of the UGB. Pursuant to OAR 660-021-0030(1), the URAs should include land needed 10 to 30 years beyond the 20-year horizon used to establish the UGB. The Newberg Comprehensive Plan echoes the established planning horizon for the Newberg URAs, setting a 30-to-50-year supply. The Newberg Urban Area Growth Management Agreement established that the Newberg Urban Area Management Commission (NUAMC) would review and recommend Comprehensive Plan amendments that would identify Urban Reserve Areas (Attachment 14).

In 1995, the City of Newberg and Yamhill County jointly established the first set of Newberg URAs; at that time, they were large enough to accommodate Year 2020 growth needs.<sup>1</sup> Ten Urban Growth Boundary amendments have been approved since 1995 for lands designated URAs.

A citywide effort to expand the URAs began in 2005 and was adopted by Ordinance No. 2008-2697. The decision was remanded by the Department of Land Conservation and Development (DLCD) Director on April 10, 2009, appealed by parties to the Land Conservation and Development Commission (LCDC) and was remanded by LCDC on April 22, 2010, and Ordinance No. 2008-2697 was repealed by the City Council on November 16, 2015, by Ordinance No. 2015-2792. For that effort, the City of Newberg and Yamhill County prepared the 2007 Urban Reserve Area Justification & Findings Report (herein referenced as the 2007 URA Report). The 2007 URA Report has been used by the Applicant in this current case to address certain elements of the analysis used for their requested URA expansion. Currently, there are approximately 556 gross acres remaining in the Newberg URAs within four areas, they are:

- North Hills URA – approximately 409 gross acres located north/northeast of the city limit/UGB boundary.
- Klimek Lane URA – approximately 29 gross acres located east of the city limit/UGB boundary.
- Wynooski Road URA – approximately 49 gross acres located southeast of the city limit/UGB boundary.
- Springbrook Road South URA – approximately 69 gross acres located southeast of the city limit/UGB boundary.

OAR 660-021-0030(1) provides guidance to the City regarding URA planning periods as noted below. The City is not required to expand their URA at this time as there is sufficient designated URA land for a 20-year period.

*OAR 660-021-0030. Determination of Urban Reserve*

*(1) Urban reserves shall include an amount of land estimated to be at least a 10-year supply and no more than a 30-year supply of developable land beyond the 20-year time frame used to establish the urban growth boundary. Local governments designating urban reserves shall adopt findings specifying the particular number of years over which designated urban reserves are intended to provide a supply of land.*

OAR 660-021-0030(1) allows urban reserves to include estimated land needs 10 to 30 years beyond the 20-year time frame used to establish the UGB. As discussed in detail later in this report, the Applicant's land need forecast determined there is sufficient land in the existing URAs to meet land needs into 2041 (Based on the 2021 Housing Needs Analysis (HNA), 2021 Economic Opportunities Analysis (EOA), and 2021 Public and Semi-Public Land Need 2021-2041 analysis; these documents have been accepted but not adopted by City Council or acknowledged by DLCD, and DLCD has indicated in their written testimony that the documents cannot be used for the requested URA analysis under consideration, and the Applicant must use the existing analysis contained in the Newberg Comprehensive Plan. Notably, a local government can rely on an unacknowledged HNA, Public and Semi-Public Land Need, and EOA so long it confirms the

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<sup>1</sup> Source: Newberg Ordinance 95-2397



conclusions in the adopted and acknowledged EOA, Public and Semi-Public Land Need, and HNA. *See Shamrock Homes LLC v. City of Springfield*, 68 Or LUBA 1 (2013). As discussed herein, the HNA Public and Semi-Public Land Need and EOA relied on by the Applicant include more conservative population forecast figures than the adopted and acknowledged HNA, Public and Semi-Public Land Need and EOA and as such confirm the conclusions of the City's adopted and acknowledged HNA, Public and Semi-Public Land Need and EOA.

In addition, ORS 195.033 requires Portland State University Population Research Center to conduct population forecasts to be used for planning purposes and “**shall**” apply the current final population forecast when changing the comprehensive plan or a land use regulations of the local government. (Emphasis added). Thus, it is mandatory for the City to utilize the PSU population forecast numbers for this request for a URA expansion. ORS 197.296 defines Needed Housing and the use of the Portland State University Population Research Center for housing within an Urban Growth Boundary. Given that land needs to 2041 represent a 20-year land supply, which is within the parameters established by OAR 660-021-0030(1), the City may expand the URA at its discretion. The Applicant has provided information identifying a shortfall in land supply after 2041 based on the 2021 Housing Needs Analysis, 2021 Economic Opportunities Analysis and 2021 Public and Semi-Public Land Need 2021-2041 (not adopted by the City or acknowledged by DLCD) and is requesting the addition of certain properties to the City's URAs. These documents were prepared using current population forecasts from the Portland State University Population Research center as required by ORS 195.033 for planning purposes. This staff report addresses the Applicant's (DOWL) request and evaluates the request for compliance with statewide regulations based on the 2021 Housing Needs Analysis, 2021 Economic Opportunities Analysis and 2021 Public and Semi-Public Land Need 2021-2041 (these documents have been accepted but not adopted by City Council or acknowledged by DLCD). Current acknowledged land need projections are contained in the Newberg Comprehensive Plan, V. Land Need and Supply with a horizon of 2005 – 2025 and projections of 2026 – 2040 and are discussed below. The Applicant did not provide an analysis related to the DLCD acknowledged Comprehensive Plan Land Need and Supply numbers; however, Staff has outlined the Land Need and Supply numbers in the Comprehensive Plan below in accordance with the requirements of *Shamrock Homes LLC* cited above. This analysis indicates that the projections relied on by the Applicant are more conservative than the acknowledged DLCD numbers.

## **2) *What is Newberg's land needs based on 2051 forecasts?***

The complex nature of the Applicant's request requires an in-depth analysis of the forecasted land needs for the City of Newberg. First, the City's land needs for the current UGB must be recognized. The Newberg Comprehensive Plan, V. Land Need and Supply identifies a planning period of 2005 – 2025 and projections of 2026 – 2040. In 2021, ECONorthwest completed a Buildable Land Analysis (BLI), Housing Needs Analysis (HNA), Economic Opportunity Analysis (EOA), and a Public and Semi-Public Land memorandum for Newberg. The reports were only accepted by the Newberg City Council and not officially adopted and acknowledged by DLCD. Those reports are based on the most recent population forecasts from Portland State University Population Research Center, published in June 2020, as required by ORS 197.303 for planning purposes. These studies, completed between February and July of 2021, show that in looking to 2041, there is a land deficiency within the City's existing UGB (not including URAs) of approximately 192 acres. Residential has a surplus of 31 acres factoring in employment uses and public/semi-public needs in Low Density Residential (LDR) land, a deficiency of 37 acres

factoring in employment uses and public/semi-public needs in Medium Density Residential (MDR) land, and a deficiency of 44 acres factoring in employment uses, public/semi-public and group quarter needs in High Density Residential (HDR) land. Commercial has a surplus of 22 acres factoring in public/semi-public needs, and industrial has a deficit of 164 factoring in public/semi-public needs.

The current acknowledged Comprehensive Plan, V. Land Need and Supply has the following table on residential land need.

**Table V- 1. Buildable Residential Land Needs vs. Supply**

<b>Plan Designation</b>	<b>Buildable Acres Needed 2005-2025</b>	<b>Buildable Acres in UGB (2004)</b>	<b>Surplus (Deficit) for 2005-2025</b>	<b>Buildable Acres Needed 2026-2040</b>
<b>LDR</b>	612	359	(253)	735
<b>MDR</b>	173	142	(31)	191
<b>HDR</b>	89	13	(76)	83
<b>Total</b>	<b>874</b>	<b>514</b>	<b>(380)</b>	<b>1009</b>

The Commercial land need in the Comprehensive Plan, V. Land Need and Supply identifies the following.

**Table V- 2. Commercial Land Need and Supply**

<b>Commercial Land Need 2005-2025 (acres)</b>	<b>Commercial Land in UGB (2004)</b>	<b>2025 Surplus (Deficit) (acres)</b>	<b>Commercial Land Need 2026-2040 (acres)</b>
111	105	(6)	109

The Industrial land need in the Comprehensive Plan, V. Land Need and Supply identifies the following.

**Table V- 3. 2025 Industrial Land Supply and Need**

<b>Industrial Site Size</b>	<b>2025 Need</b>	<b>Supply</b>	<b>Surplus/(Deficit)</b>
Small/Medium sites (< 20 ac)	50 ac	99 ac	49 ac
Large sites (20+ ac)	100 ac	60 ac	(40) ac

**Table V- 4. 2026-2040 Industrial Land Supply and Need**

<b>Industrial Site Size</b>	<b>2026-2040 Need</b>
Small/Medium sites (< 20 ac)	37 ac
Large sites (20+ ac)	120 ac

The Institutional land need in the Comprehensive Plan, V. Land Need and Supply identifies the following.

**Table V- 5. Summary of Institutional Land Needs (acres)**

Category	2025	2040
Schools	85 acres	105 acres
Parks	85 acres	115 acres
Other	79 acres	128 acres
<b>Total</b>	<b>249 acres</b>	<b>348 acres</b>

Based on the ECONorthwest studies, the Applicant’s representative, DOWL, completed an analysis of the land needs for the URAs, for 2051 or a 30-year horizon. The City supports the Applicant’s findings in the 2051 Buildable Lands Inventory & Lands Need Assessment (herein referred to as 2051 BLI) found in Attachment 15, Exhibit G because it builds on the ECONorthwest Buildable Land Analysis (BLI), and the Portland State University Population Research Center, Yamhill County 2020 – 2070 Coordinated Population Forecast. Because DOWL has limited its analysis to a 30-year horizon and has not extended that analysis to a 50-year time frame, the findings of the report should be considered a conservative assessment of future land needs. Using the same methodologies as the ECONorthwest studies, the 2051 BLI (completed by DOWL) determined there is a need for 475 buildable acres within the URAs in the 2051 horizon, 242 acres for residential land, 170 acres for employment land, and 63 acres for public/semi-public uses.

However, since the City’s February 2021 HNA, which the Applicant based their analyses on, the City has identified capacity for an additional 3% from production of middle housing in residential zones where OAR Division 46 applies, pursuant to OAR 660-046-0330(4)(c). The City revised the HNA to reflect middle housing production, which resulted in a reduction of 3 acres of residential land need in medium density residential zones, and addition of 4 acres to the surplus of low density residential. A comparison of the original HNA to the middle housing revised analysis are shown in Table 3.

**Table 3. Middle Housing HNA Comparison Within Existing Newberg UGB**

Report	Forecasted Land Need: Low Density Residential	Forecasted Land Need: Medium Density Residential	Forecasted Land Need: High Density Residential
City of Newberg February 2021 HNA	surplus 31 acres	deficit 37 acres	deficit 44 acres
City of Newberg June 2021 Amended HNA	surplus 35 acres	deficit 34 acres	deficit 44 acres

With the new middle housing provisions, the 2051 land needs DOWL identified are modified slightly. The assumption of the DOWL analysis building on the existing HNA (February 2021), should add 4 acres to Low Density Residential and subtract 3 acres from the Medium Density Residential land and need established in the DOWL 2051 BLI. Therefore, the buildable land need for the 2051 horizon is 474 buildable acres versus the 475 buildable acres identified by the applicant.

Comprehensive Plan	Surplus (Deficit) for 2005-2025	Buildable Acres Needed 2026-2040	HNA/EOA/PSP Surplus/Deficit 2021-2041
LDR	(253) ac	735 ac	35 ac <sup>1</sup>
MDR	(31) ac	191 ac	(34) ac <sup>2</sup>
HDR	(76) ac	83 ac	(44) ac <sup>3</sup>
Commercial	(6) ac	109 ac	18 ac
Industrial			
Small/Medium sites (< 20 ac)	49 ac	37 ac	
Large sites (20+ ac)	(40) ac	120 ac	
Less than 1 to 25 ac			(117)
25 ac to 50 ac or more			(35)
Institutional/Public- Semi Public	249 ac	348 ac	120.5 ac

<sup>1,2,3</sup> include the subsets for Public/Semi-Public

As represented above, using the existing Comprehensive Plan numbers for residential the land need is significantly higher out to 2040 than compared to the 2021 HNA numbers. For commercial the 2040 land need is significantly higher than the 2021 EOA. Industrial land need is comparable between the 2040 and 2021 EOA numbers in overall acreage. Finally, for Institutional/Public-Semi Public the 2040 land need is significantly higher than the number in the 2021 Public and Semi-Public Need analysis. It needs to be noted that the population projections in the Comprehensive Plan related to the land supply/deficit are under a different methodology than the Portland State University Population Research Center forecast for 2020 - 2070. The methodology for the period 2005 - 2025 and projections of 2026 – 2040 shows a greater population growth than is currently forecasted per the current Portland State University Population Research Center. **As required by ORS 197.303, the current Portland State University Population Research Center forecast must be used.**

Ordinance 2008-2697 (July 7, 2008)

	2005	2025	2030	2035	2040
Newberg (Urban Growth Area)	21,132	38,352	42,870	48,316	54,907

Coordinated Population Forecast 2020-2070, Yamhill County, Population Research Center

	Pop. (2020)	Pop. (2025)	Pop. (2030)	Pop. (2035)	Pop. (2040)	Pop. (2045)	Pop. (2050)	Pop. (2055)
Newberg	24,877	26,557	28,432	30,576	32,780	34,929	37,247	39,907

Newberg Comprehensive Plan (December 2021)

	2000	2005	2010	2025	2030	2035	2040	2045	2050
Newberg	18,438 <sup>a</sup>	21,132	22,068 <sup>b</sup>	26,557	28,432	30,576	32,780	34,929	37,247



<sup>a</sup> 2000 Population is the U.S. Census estimate for Newberg plus the estimate of population outside City limits but within the UGB.

<sup>b</sup> 2010 Population in the U.S. Census estimate for Newberg.

The 2020 US Census population number for Newberg is 25,138. This has not been adopted by the City Council and incorporated into the Comprehensive Plan and acknowledged by DLCD.

### ***3) Can the land currently within URAs meet the 2041 land needs?***

The City's existing URAs consist of 556 gross acres of land. DOWL's 2051 BLI shows that there are approximately 320 net acres of buildable land within the City's existing URAs.<sup>2</sup> Given the total deficit of land within the City's UGB for the 2021 to 2041 period is 245 acres, existing URAs can meet the projected UGB needs into 2041.

No analysis was provided by the Applicant related to the currently adopted and acknowledged Land Need and Supply numbers in the Comprehensive Plan to analyze. Based on the data in the Comprehensive Plan there is a need from 2026 – 2040 for:

Residential – 1,009 acres  
Commercial – 109 acres  
Industrial – 157 acres  
Institutional/Public-Semi Public – 348 acres  
Total – 1,623 acres

Again, these are under a different population forecast and a slightly different forecast horizon, but it shows the existing URAs consisting of 556 gross acres of land would be insufficient to meet the need identified in the Comprehensive Plan by 1,067 acres.

### ***4) Can the land currently within URAs meet the 2051 land needs?***

Based on the DOWL analysis the City will need 472 net buildable acres of land to satisfy the total land need projected for the 10-year period between 2041 to 2051. Of this projected need of 472-acres, 75 acres may be met through available buildable land within the City's current URAs. Therefore, 397 buildable acres of new land are needed in URAs within the 2041 to 2051 horizon. In order to meet Newberg's 2051 land needs, the URA must be expanded.

If the existing data in the Comprehensive Plan is used, it can be concluded that the land need would be larger than 379 buildable acres. Again, these are under a different population forecast, which projected Newberg's population by 2040 to be 54,907, well above the current Portland State University population projection of 32,780. Thus, the forecasts relied upon by the Applicant are more conservative and confirm the population forecasts and data in the Comprehensive Plan.

### ***5) What land should be included in the URAs to meet the 2051 land needs?***

The Applicant has requested their subject area, 95.3 gross acres and approximately 68 buildable acres, adjacent to the UGB, be incorporated into the URAs. The Urban Reserve Rule (OAR 660

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<sup>2</sup> Note: The URAs buildable land amount does not account for future public infrastructure and rights-of-way.

Division 21) establishes priorities for urban reserves and requires a comparative evaluation of alternative areas. It also outlines the hierarchy of lands for inclusion into a URA. There are two key land classifications described in the hierarchy, they are:

- Exception Lands are rural lands for which an exception to Statewide Planning Goals 3 or 4, or both, as defined in ORS 197.732 and OAR 660-004-0005(1), has been acknowledged.
- Resource Lands are lands subject to the statewide planning goals listed in OAR 660-004-0010(1)(a) through (g), except subsections (c) and (d). They include farm and forest land, as designated by Statewide Planning Goals 3 and 4.

OAR 600-0021-0030(3) describes the following priority hierarchy for inclusion of land into the URAs:

1. **Exception land that is “reasonably serviceable” (OAR 660-021-003(3)(a) + (4)(a)):**  
Exception Lands are areas with an exception to farm and forest land requirements. The OAR states that land that is not “reasonably serviceable” can be reduced in priority due to physical or topographical characteristics. Lands that are deemed not reasonably serviceable should be eliminated from the discussion of Exception Lands suitable for the URAs. The OAR does not clearly define “reasonably serviceable,” leaving some discretion in where the threshold is set.

The Newberg Engineering Division (see Attachment 3a) suggests the following definition of “reasonably serviceable” – *“the provision of public facilities to an exception area is unreasonable if the value of benefits derived from developing that land beyond the costs are demonstrably less than the value of the benefits of developing lower priority lands beyond the costs.”* As stated above this is a suggested definition for use in a comparative analysis to comply with OAR 660-021-0030. In the communication from the Applicant dated November 15, 2022, they have raised objections to the definition by the Newberg Engineering Division (Attachment 16) indicating the definition is flawed. In the November 15, 2022 letter, the Applicant identified that their comparative site analysis *“used anticipated infrastructure costs as a proxy to determine whether or not the land is considered reasonably serviceable”*. Evidence provided by the Applicant contradicts the Newberg Engineering Division memo, which concludes that certain public facilities costs should not be considered if they would be necessary for any newly developed area, including water distribution lines, wastewater conveyance, capacity upgrades, and transportation facilities. The Newberg Engineering Division’s memo considers sanitary sewer pump stations and water storage reservoirs and the memo concludes that these are the facilities that primarily differentiate costs.

NUAMC and City Council has reviewed materials provided by the Applicant and the Newberg Engineering Division’s memo and concludes that, while it is true that there are common facilities necessary for the urbanization of *any* land, the extent to which they are required and their associated costs can be vastly different depending on the topography and conditions of the land. Further, the OAR does not identify that only costs borne by the

public should be considered. Consistent with evidence provided by the Applicant, improvements paid for by developers could still impact the developability of land if facility costs are extremely high. Therefore, NUAMC and City Council ultimately agrees with the Applicant that discounting the costs of water distribution lines, wastewater conveyance, capacity upgrades, and transportation facilities could result in an incomplete assessment of the serviceability of the land and the likelihood that it develops to meet identified demands for housing or other uses. As a result, NUAMC and City Council ultimately agrees with the Applicant's findings regarding the extent to which lands are reasonably serviceable and the conclusions of the Applicant's Comparative Site Analysis.

2. **Marginal land (OAR 660-021-003(3)(b)):** Yamhill County does not designate marginal lands. Therefore, this factor is not applicable.
3. **Intervening Resource Land (OAR 660-021-003(3)(c)+(4)(b)):** Intervening Resource Land is Resource Land that is needed to connect the existing UGB to Exception Land. To reach the Exception Land for URAs inclusion in a contiguous manner, the Resource Land in between would also need to be included.
4. **Resource Land (OAR 660-021-003(3)(c)):** Resource land that is not intervening Resource Land is the lowest priority land for inclusion. Within land designated as Resource Land there is a hierarchy, where land with lower class soils (Class IV – VI) are prioritized above land with higher class soils (Class I, II, and III).

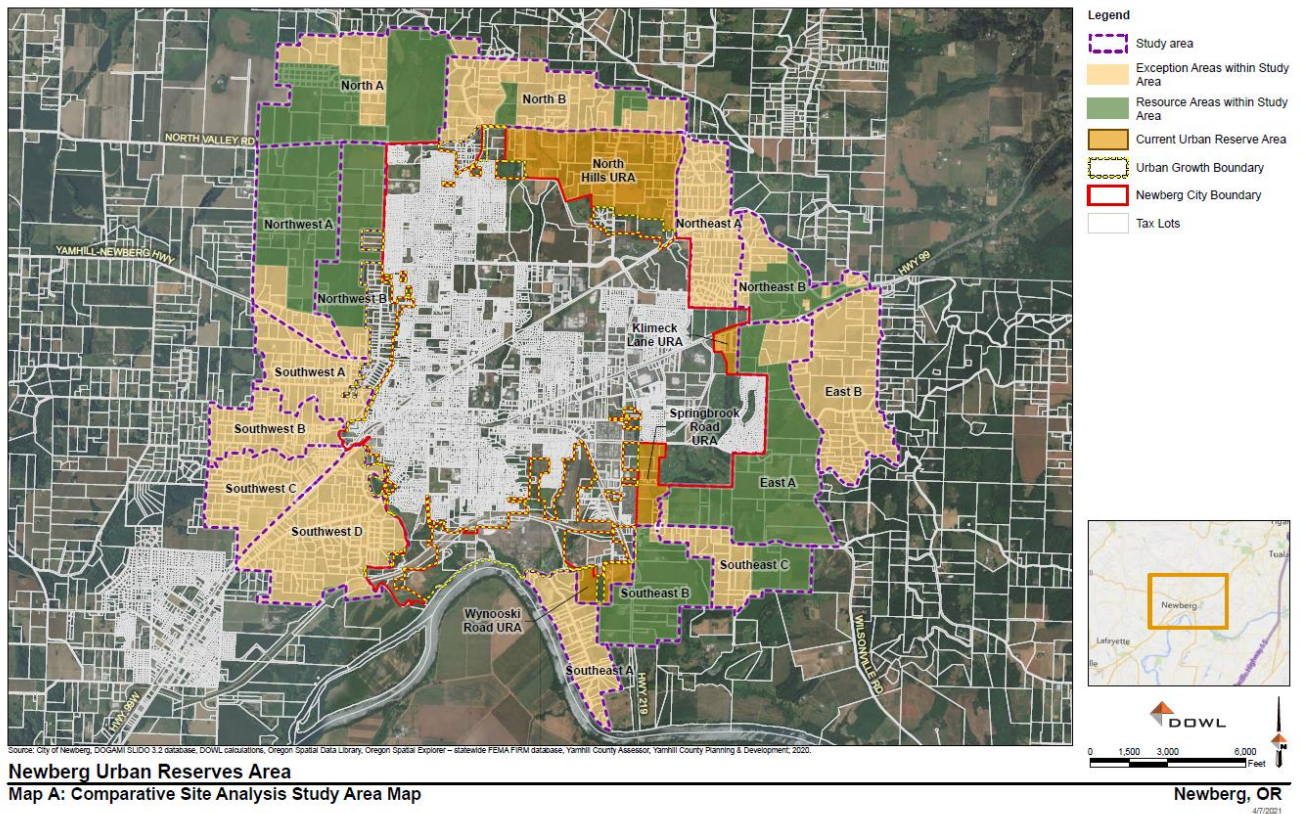
As part of the Applicant's serviceability determination, the Applicant prepared a similar serviceability analysis for designated Resource Lands (see Attachment 17) following the analysis for designated Exception Lands. After determining which areas of Resource Land were reasonably serviceable, the Applicant analyzed the soil composition of the respective areas as required by OAR 660-021-003(3)(c).

***6) What lands are suitable for inclusion in the Newberg URAs?***

Consistent with the 2007 URA Report, the Applicant used a one-mile radius from the current UGB to evaluate lands suitable for inclusion in the URAs. The result was an analysis of 15 subareas that were analyzed for their suitability to be serviced by utilities, the cost of the infrastructure, and soil quality. The 15 subareas mimic the subareas established in the 2007 URA Report, but are labeled differently. The location of the 15 subareas is shown in Figure 2. The Applicant's site is in the East A subarea.



**Figure 2. Comparative Site Study Subareas**



The following sections discuss the applicability of each subarea as it relates to the Urban Reserve Rule.

### *Step 1: “Reasonably Serviceable” Exception Land*

Pursuant to OAR 660-0021-0030(3), the first step is to determine what areas of Exception Land are “reasonably serviceable for urban services” based on costs or other-related factors, such as topography, which is often reflected in cost estimates for service. In Exhibit H of Attachment 15 the Applicant provides estimated costs of the various subareas. Utility cost estimates in the study have been determined by calculating the inflationary increase to estimates in the Newberg Urban Reserve Expansion Study Areas Public Utilities Cost Estimates Report, prepared by the City in support of the 2007 URA Report. DOWL has not conducted detailed engineering cost estimates for the study areas, so the estimates in the report should be considered high level and for planning and comparison purposes only. The full methodology for the utility cost estimates used in this study is included in Exhibit A of the Comparative Site Analysis Report (See Attachment 15, Exhibit H).

Based on the preliminary comments from the Newberg Engineering Division, DOWL refined their Comparative Site Analysis with a supplemental addendum memorandum on March 1, 2022 (Attachment 15, Exhibit H). This addendum includes an Executive Summary, Exhibit A Study Constraints Maps, Exhibit B Study Area Sanitary Sewer Serviceability Maps, Exhibit C Study Area Water Serviceability Maps, and Exhibit D Study Area Combined Serviceability Maps.



DOWL submitted an additional addendum to the Comparative Site Analysis, Exhibit H on November 22, 2022 (Attachment 17). This addendum includes an Executive Summary, Exhibit A Study Area Map, Exhibit B Study Area Constraints Map, Exhibit C Study Area Sanitary Sewer & Water Serviceability Maps, and Exhibit D Soil Composition Map for Reasonably Serviceable Resource Land.

There are 1,504 buildable acres of Exception Land within the 15 subareas evaluated. Pursuant to subsection (4)(a) of Division 21, Exception Lands that are not reasonably serviceable are excluded from the list of possible land for inclusion. The Newberg Engineering Division reviewed the public utilities cost estimates from the first application submittal on May 28, 2021, and provided some suggested modifications based on their local knowledge. Their comments are found in Attachment 3a. Further, they note the previous study from 2007 (which DOWL's analysis was based on) is 15 years old and suggested it "*warrants a review of the previous study's determination of 'reasonableness' of provision of public facilities.*" The Engineering Division recommended a more in-depth analysis of the sub areas, and portions of the subarea, based on contours to evaluate the need for wastewater lift stations and water pump stations in order to provide the information necessary to determine that there are no reasonable alternatives to a future proposed URAs that will require less, or have less effect upon, Resource Land than the subject area.

However, some conclusions regarding reasonable utility provision from the first application submittal on May 28, 2021, on costs in each subarea, can be made with the information that is currently available. Based on the information provided by the Applicant (see Attachment 15, Exhibit H) and Newberg Engineering Division comments (see Attachment 3a), the following exception areas of the analyzed subareas can be considered "reasonably serviceable." Those existing Exception Land areas are:

- Northeast B – The 54 acres of Exception Land has an estimated \$11,037 of major public facility costs per buildable acre. A new pump station at NE Benjamin Road will be required to serve these exception areas. Current development adjacent (west side of NE Benjamin Road) to NE Benjamin Road is evaluating the feasibility of constructing a new pump station. This could reduce the cost of serving this exception area making the provision of public services more reasonable.
- Southwest – Each of the four subareas would require a pump station to convey wastewater.
  - Southwest A – The 137 acres of Exception Land has an estimated \$4,350 of major public facility costs per buildable acre.
  - Southwest B – The 108 acres of Exception Land has an estimated \$10,347 of major public facility costs per buildable acre.
  - Southwest C – The 171 acres of Exception Land has an estimated \$9,149 of major public facility costs per buildable acre.
  - Southwest D – The 239 acres of Exception Land has an estimated \$2,494 of major public facility costs per buildable acre.
- Northwest A – The 64 acres of Exception Land has an estimated \$1,836 of major public facility costs per buildable acre. Development of this exception area would require a new pump station on Old Yamhill Road and flooding concerns were also cited.

- Northwest B – The 20 acres of Exception Land will require no major public facility costs for the Exception Land. There are no new pump stations or reservoirs required to serve this exception area, although there are some flooding concerns for the area.

While there are costs associated with developing exception areas, there are existing “reasonably serviceable” areas that could be brought into the URAs to accommodate future growth. A comparison of all the Exception Lands public facilities cost estimates are shown in Table 4.

**Table 4. Cost for Major Public Facilities for Exception Areas (Source: Table 2, and Engineering Division Comments, Attachment 3a)**

Exception Area within Study Areas	Wastewater Pump Station Costs	Water Reservoir Costs	Water Pump Station Costs	Exception Land Buildable Acres	Major Public Facility Costs per Exception Land Buildable Acre	Developed
Northwest B				20	0	yes
Northwest A	117,500			64	1,836	yes
Southwest D	596,000			239	2,494	yes
Southwest A	596,000			137	4,350	yes
Southwest C	1,564,500			171	9,149	yes
Southwest B	1,117,500			108	10,347	yes
Northeast B	596,000			54	11,037	yes
Southeast A	1,117,500			58	19,267	yes
Northeast A	372,500	4,470,000	2,235,000	79	89,589	yes
East A	372,500			27	13,796	no
Southeast C	1,490,000			82	18,171	no
North B		4,470,000	2,235,000	204	32,868	no
North A	1,564,500			37	42,284	no
East B		16,390,000	2,980,000	223	86,861	no

Note, Table 4 above represents *major public facility costs*. Certain conditions listed as constraints by DOWL in their report (see Attachment 15, Exhibit H) include factors that affect private costs. However, this analysis provided by the KGH Engineer memorandum is focused only on the “major public costs”. As noted by the Applicant in their response letter dated November 15, 2022 (see Attachment 16), the applicable URA suitability provisions per OAR 660-021-0030 do not identify that only costs borne by the public should be considered, rather “future urban services” should be considered. Improvements paid for by developers (i.e., “private costs”), still impact the developability of land if facility costs are extremely high, which can limit whether future land urbanizes or not. Simply discounting these costs could result in an incomplete assessment of the serviceability of the land and the likelihood it develops to meet identified community demands for housing or other uses. As a result and in weighing the evidence presented, NUAMC and City Council ultimately concludes that the Applicant’s identified cost figures and serviceability determinations reflect a more complete representation of the reasonable serviceability of peripheral Exception Land.

Therefore, the Applicant’s comparative site analysis and subsequent addendums have met the burden of proof based on the additional Comparative Site Analysis provided by the Applicant.

The Applicant provided an Addendum to Attachment 15, Exhibit H in response to the memorandum dated 8/16/2021 from KGH Engineering and the City's request to the Applicant for further evaluation of subareas to determine if portions of these sub areas could be reasonably served with public facilities.

Newberg Engineering staff has determined that Applicant's supplemental information in the Addendum to Exhibit H (see Attachment 15) generally provides the requested further evaluation of Exception Land sub areas. In the DOWL information submitted on November 15, 2022, on Combined Serviceability of Exception Land Area the data indicates that there are 213.62 acres of Combined Gravity Sanitary Sewer & Water Service Area in Exception Areas that can be reasonably served (Attachment 16). The letter indicates that based on serviceability there remains a deficit of approximately 183.38 acres to satisfy the established need of 397 acres.

*Table 1: Combined Serviceability Summary (Areas Eligible for URA Consideration), Update*

Study Area	Total Gross Area (ac., approx.)	Exception Land Area (minus Constraints) (ac., approx.)	Combined Gravity Sanitary Sewer & Water Service Area (ac., approx.)
North A	671.32	51.70	0
North B	472.39	281.32	0
Northeast A	298.20	115.55	63.93
Northeast B	238.69	76.16	0
East A	619.30	40.08	2.67
East B	439.92	303.59	0
Southeast A	198.68	82.19	0
Southeast B	299.63	1.81	1.7
Southeast C	235.60	114.45	82.32
Southwest A	255.54	190.60	20 (previously 1 acre)
Southwest B	213.66	154.12	0
Southwest C	277.22	250.75	0
Southwest D	514.40	370.54	0
Northwest A	500.65	99.27	14 (previously 0 acres)
Northwest B	302.10	28.78	29 (previously 0 acres)
<b>Total Area Eligible for URA Consideration:</b>			<b>213.62 (previously 151.62 acres)</b>

The City of Newberg Engineering Division evaluated the November 22, 2022, Comparative Site Analysis Addendum and provides the following:

- Approximately 20 acres of East A Resource Land, 20 acres of which are within the Applicant's proposed URA expansion site, are not serviceable by Zone 1 of the City's water system. (See Map below for 300-foot contour delineation between Zone 1 and Zone 2)
- The information provided does describe two approaches to provide water service to these areas of East A Resources Lands not serviceable by Zone 1.
- What is not described is if any sub areas within the other Resource Lands evaluated might also have areas that could be served in a similar manner that might also be considered reasonably serviceable by the Applicant's methodology.
- The two approaches described for providing water service to the 20 acres of East A

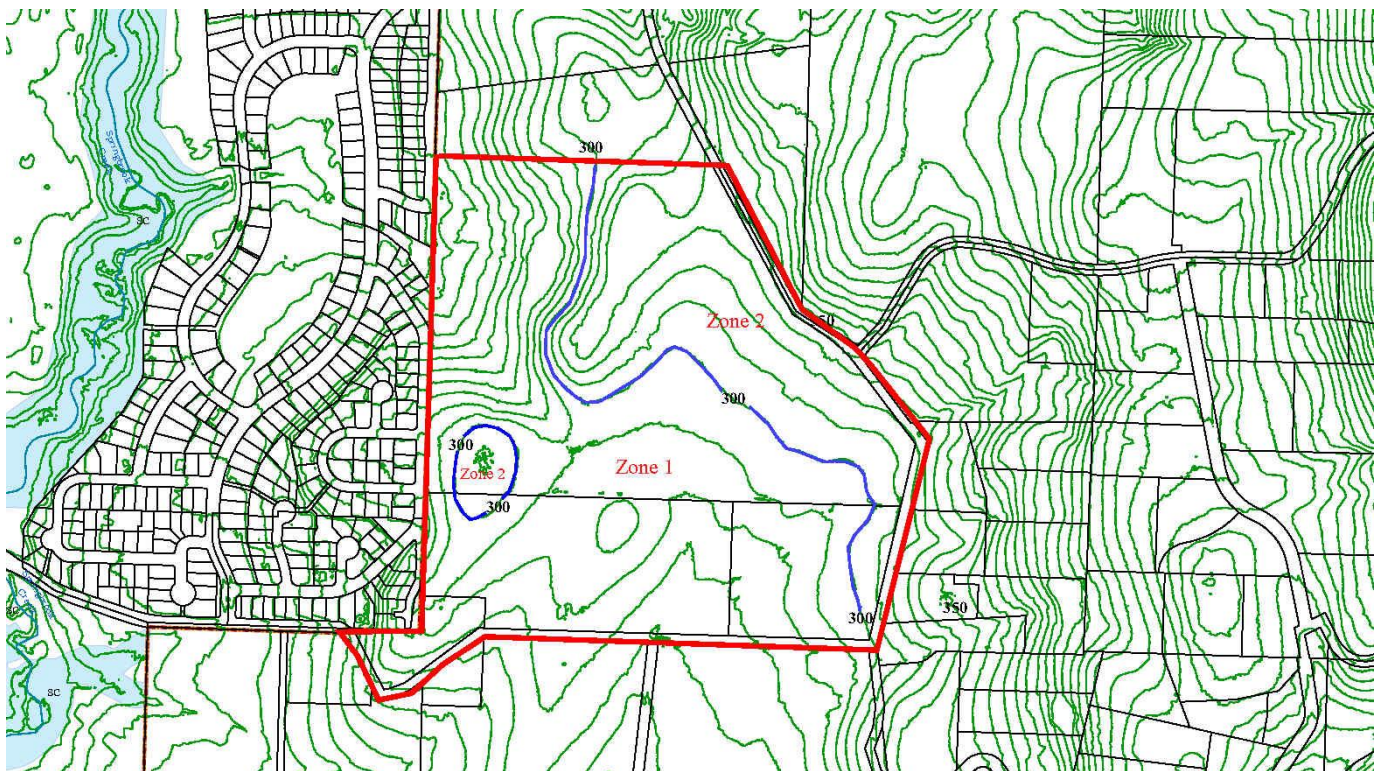


Resource Land within the Applicant's proposed URA expansion site not serviceable by Zone 1 are:

1. Construction of a local Zone 2 within the Applicant's proposed URA expansion site.
2. Extension of the City's Zone 3 service area.

Neither of the approaches described are consistent with the current City of Newberg Water Master Plan.

- e. It is not recommended to create additional local Zone 2 water service areas or water pump stations.
- f. The planned Zone 3 water service area is not located in proximity to the Applicant's proposed URA expansion site.
- g. Staff recommends that the 20 acres of East A resource land within the Applicant's proposed URA expansion site not serviceable by Zone 1 of the City's water system be removed from consideration for inclusion in the Applicant's proposed URA expansion site.



### *Step 2: Intervening Resource Lands*

Intervening Resource Land is Resource Land that is needed to connect an existing UGB to Exception Land in order to serve the Exception Land. There are several areas of intervening Resource Land in the subareas. They are described below:

- **North A Intervening Resource Land** – The topography in the North A subarea makes public utility service extremely difficult. Attachment 17 provides additional analysis on serviceability of North A to get to the Exception Area. Approximately 155 acres of the Intervening Resource Land can be served by wastewater and approximately 126 acres can



be served by Zone 1 for water. Some of the intervening Resource Land could be considered as an Urban Reserve Area.

- **North B Intervening Resource Land** – The topography in the North B subarea makes public utility service extremely difficult, nor is it feasible to serve. Therefore, inclusion of North B intervening Resource Land is not considered.
- **Northeast B Intervening Resource Land** – The Resource Land in this subarea abuts a section of Exception Land that connects the UGB to the larger Exception Land area. While public utilities service may be provided through Exception Land there are constraints for wastewater. Water service is challenging because of Zone 3 and 4 levels. The Exception Lands to the east of the Resource Lands are not realistically serviceable. At this time, inclusion of Northeast B intervening Resource Land is not recommended.
- **East A and East B Intervening Resource Land:** The extension of the Newberg-Dundee Bypass (Phase II) will intervene the properties directly south of Hwy 99W in the East A subarea. Therefore, the need to incorporate intervening Resource Land to reach East A Exception Land is eliminated. In addition, the connection of the East A intervening Resource Land to East B is not important because East B cost of urban services are extremely high (see the Engineering Division comments in Attachments 3a, 3b and 3c). This removes it from a possibility of URAs inclusion in the near future.

The Applicant's report suggests to reasonably serve the Southeast C subarea, East A subarea (includes Applicant's subject area) Resource land must first be incorporated into the City. However, the Applicant's comparative analysis and addendum do not fully explain why Intervening Resource Land in East A subarea would be needed for services to Southeast C. Even with the information in the addendum, it is still unclear why lands north of Wilsonville Road would be needed to serve Southeast C with water and sewer. Thus, the southern Resource Land in East A is not considered Intervening Resource Land at this time.

There are Exception Lands connected or in proximity to the UGB by intervening Resource Land. Only the North A Intervening Resource Land might be considered; however, as noted in this staff report's subsequent review of Resource Lands, the intervening North A Resource Lands are composed of approximately 99% high-value farmland. All remaining Intervening Resource Lands are not recommended be included further in the evaluation.

### *Step 3: Resource Lands*

DOWL provided an additional supplemental addendum on the Comparative Site Analysis on November 22, 2022 (Attachment 17). This addendum includes an Executive Summary, Exhibit A Study Area Map, Exhibit B Study Area Constraints Map, Exhibit C Study Area Sanitary Sewer & Water Serviceability Maps, and Exhibit D Soil Composition Map for Reasonably Serviceable Resource Land. The analysis addressed the serviceability of Resource Lands. Using a similar methodology as the analysis of Exception Lands, the Applicant first determined which Resource Lands could be reasonably served by extensions of urban services. This analysis concluded that

approximately 513 acres of Resource Land were reasonably serviceable, as shown in Table 5 below.

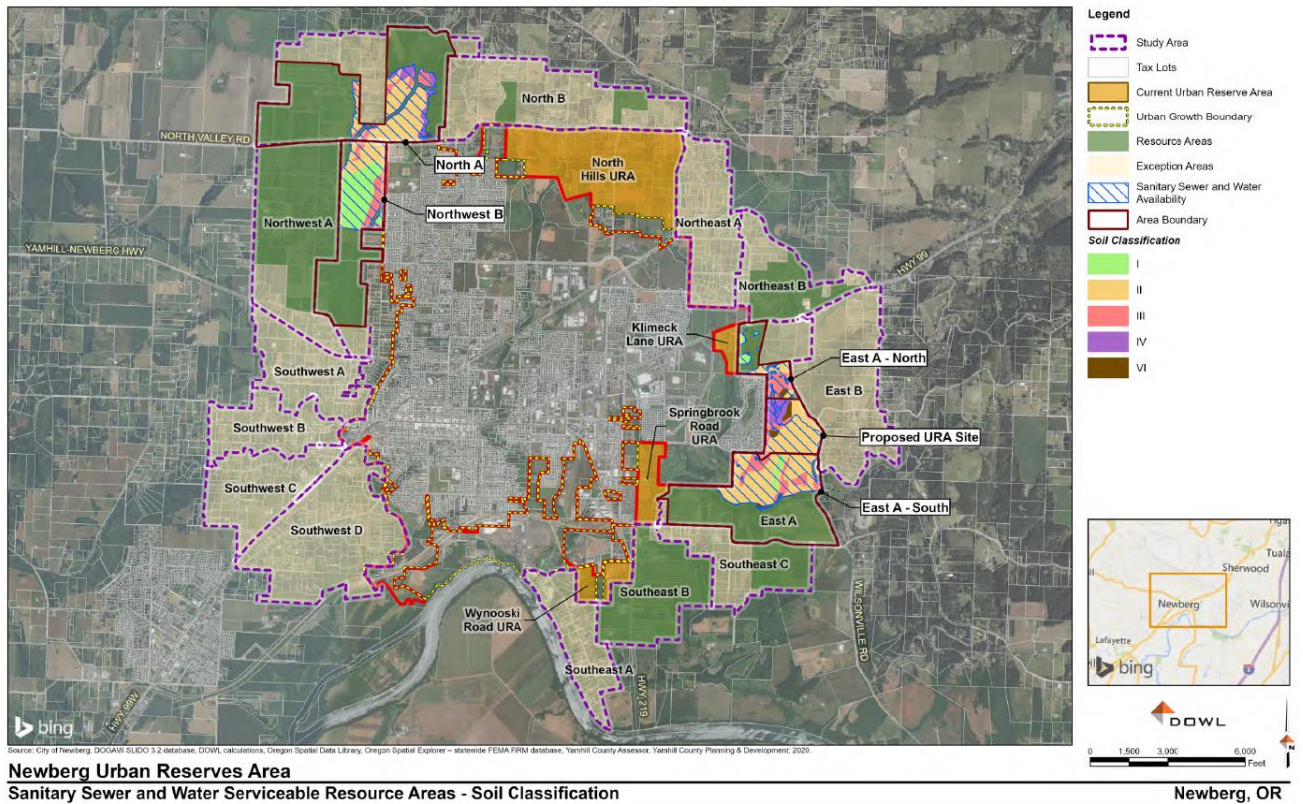
**Table 5: Summary of Reasonably Serviceable Resource Land Area**

Study Area	Total Resource Land Area, Gross (ac., approx.)	Resource Land Area Excluded due to Constraints (ac., approx.)	Resource Land Area Remaining (ac., approx.)	Combined Gravity Sanitary Sewer & Water Service Area (ac., approx.)
North A	488.89	166.83	322.06	126
North B	56.35	24.69	31.66	0
Northeast B	134.62	31.58	103.04	0
East A	539.08	79.54	459.54	262
Southeast B	294.09	75.08	219.01	0
Southeast C	99.88	6.03	93.85	0
Northwest A	390.73	44.23	346.5	0
Northwest B	273.13	15.69	257.44	125
<b>Total Area Reasonably Serviceable:</b>				<b>513 acres</b>

When incorporating Resource Land, OAR 660-021-0030(3)(c) states that “*If land of higher priority is inadequate to accommodate the amount of land estimated in section (1) of this rule, third priority goes to land designated in an acknowledged comprehensive plan for agriculture or forestry, or both. Higher priority shall be given to land of lower capability as measured by the capability classification system or by cubic foot site class, whichever is appropriate for the current use.*” ORS 215.710 describes “high-value farmland” within the Willamette Valley as being land predominantly comprised of Class 1, II, III, and IV soils. In order to further assess eligibility of potential Resource Lands for consideration as a URA, areas of reasonably serviceable Resource Lands have been categorized in five subareas for the purpose of analyzing soil composition and the presence of high-value farmland. For this analysis, the applicant used soil classification data provided by Yamhill County and evaluated each Resource Land subarea’s soil composition by percentage of soil classification. The five subareas are provided below and in Figure 3:

- The Applicant’s proposed URA expansion site (approximately 88.75 acres, which excludes adjacent rights-of-way associated with NE Corral Creek Road and NE Fernwood Road that would be included within the proposed URA expansion site’s boundaries);
- East A North, which includes reasonably serviceable Resource Lands within the East A study area that are generally located north of the proposed URA expansion site and south of Highway 99W (approximately 38 acres);
- East A South, which includes reasonably serviceable Resource Lands within the East A study area that are generally located south of NE Fernwood Road (approximately 136 acres);
- North A, which includes all reasonably serviceable Resource Lands within the North A study area (approximately 126 acres); and
- Northwest B, which includes all reasonably serviceable Resource Lands within the Northwest B study area (approximately 125 acres).

**Figure 3: Soil Classification for Reasonably Serviceable Resource Lands**



As identified in Table 6, the two subareas with the lowest percentage of high-value farmland are the Applicant's proposed URA expansion site (94%) and the East A North subarea (92%). All other subareas are comprised of more than 98% high-value farmland. Further, the Applicant's proposed URA expansion site is the only subarea that completely lacks Class I soils. Given the lower composition of high-value farmland, the Applicant's assertion that the proposed URA expansion site and the East A North subarea should be prioritized for consideration as a URA over other areas of reasonably serviceable Resource Land within the East A South, North A, and Northwest B subareas can be supported.



**Table 6. Soil Capability Class of Subarea Resource Lands**

Study Area	Approximate percent of agricultural land in each study area per Soil Capability Class				Priority Based on Soil Classification
	I	II	III	IV-VIII	
North A	19%	42%	12%	28%	Medium <sup>1</sup>
North B	0%	2%	29%	69%	High <sup>1</sup>
Northeast B	15%	23%	33%	29%	Medium
East A	24%	44%	21%	12%	Medium
Southeast A	0%	17%	79%	4%	High <sup>1</sup>
Southeast B	18%	50%	14%	18%	Medium
Southeast C	20%	21%	18%	42%	Medium
Northwest A	69%	13%	11%	8%	Low
Northwest B	37%	46%	16%	0%	Low

Source: GIS data derived from Yamhill County Soil Survey, Version 3, Sep 10, 2019, Nonirrigated Capability Class, National Resource Conservation Service

1) Earlier findings showed that the subarea cannot reasonably be served with future public facilities due to topographical and physical constraints.

**Table 2: Soil Composition for Reasonably Serviceable Resource Land Areas**

Subarea	Soil Classification										High Value Farmland %
	Class I		Class II		Class III		Class IV		Class VI		
	Area (ac.)	%	Area (ac.)	%	Area (ac.)	%	Area (ac.)	%	Area (ac.)	%	
Proposed URA Expansion Site	0	0	58.2	63	12.3	13	16.4	18	5.6	6	94
East A – North	6.8	18	12.4	33	15.4	41	0.21	1	3.1	8	92
East A – South	6.9	5	96.2	71	30.3	22	0	0	2.4	2	98
North A	0.8	1	90.1	71	17.4	14	16.6	13	1.6	1	99
Northwest B	69.2	55	29.9	24	25.7	21	0	0	0	0	100

Based on soil composition and presence of high-value farmland, the Applicant’s proposed URA site and the subarea immediately to the north are eligible for URA consideration. Together, these two areas are approximately 130 acres, which is within the identified deficit of approximately 183.38 acres to satisfy a land need of 397 buildable acres to the year 2051. Therefore, the Applicant’s proposal to include the approximately 95.3 gross acre site is justifiable and appropriate under the provisions of OAR 660-021-030(3)(c) in order to meet Newberg’s identified land needs through 2051 as justified through this staff report and the existing URA expansion application record.

While NUAMC and City Council understands the Engineering Division’s concerns with retaining the approximately 20 acres of the Applicant’s proposed URA expansion site that aren’t serviceable by Zone 1 of the City’s water system, retaining these lands within the proposed URA expansion site allows the lands to be used for other uses necessary for efficient urbanization, such as parks, open space, and recreational opportunities, as well as public street connections that can allow for more efficient development within the remainder of the URA expansion site.

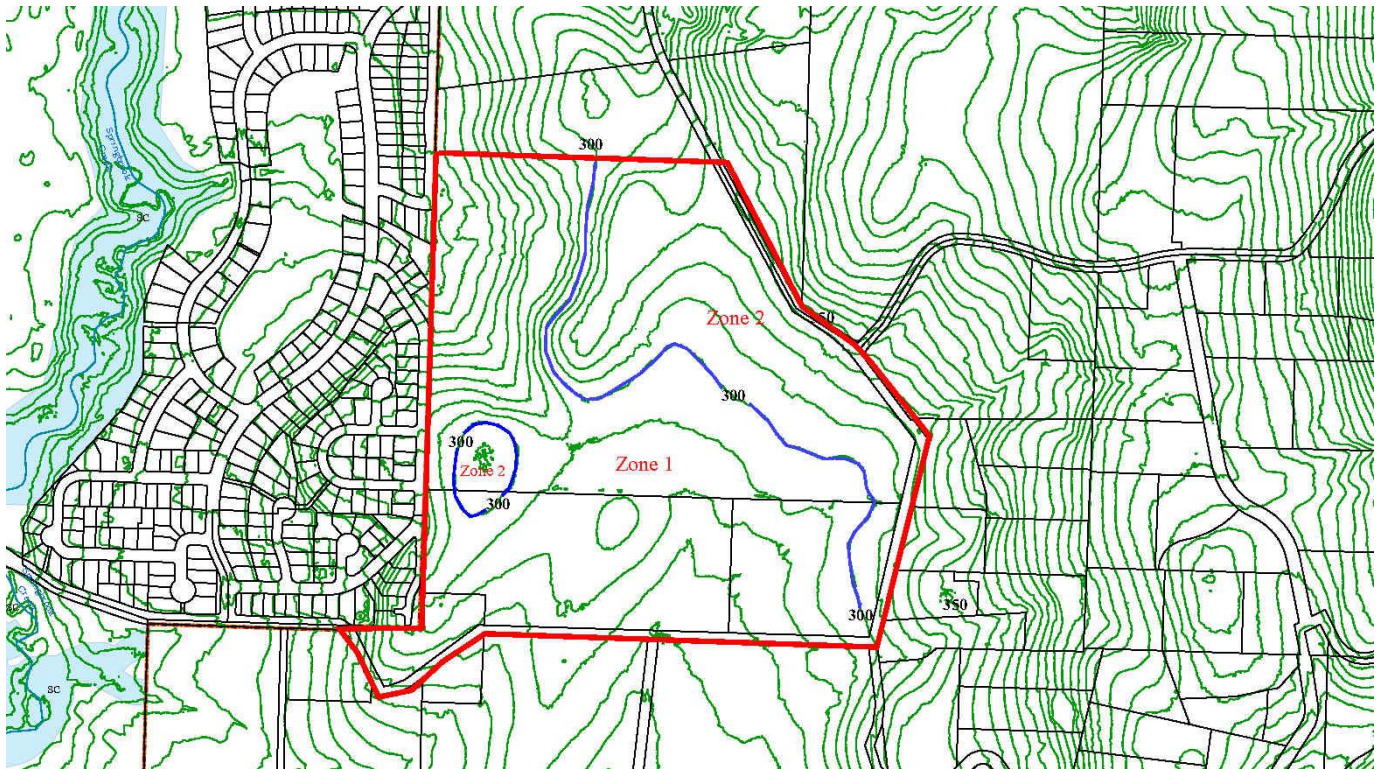
The City of Newberg Engineering Division evaluated the November 22, 2022, Comparative Site Analysis Addendum (Attachment 17) and provided the following comments:



- a. Approximately 21 acres of East A Resource Land, 20 acres of which are within the Applicant's proposed URA expansion site, are not serviceable by Zone 1 of the City's water system. (See Map below for 300-foot contour delineation between Zone 1 and Zone 2)
- b. The information provided does describe two approaches to provide water service to these areas of East A resources lands not serviceable by Zone 1.
- c. What is not described is if any sub areas within the other Resource Lands evaluated might also have areas that could be served in a similar manner that might also be considered reasonably serviceable by the Applicant's methodology.
- d. The two approaches described for providing water service to the 20 acres of East A Resource Land within the Applicant's proposed URA expansion site not serviceable by Zone 1 are:
  1. Construction of a local Zone 2 within the Applicant's proposed URA expansion site.
  2. Extension of the City's Zone 3 service area.

Neither of the approaches described are consistent with the current City of Newberg Water Master Plan.

- e. It is not recommended to create additional local Zone 2 water service areas or water pump stations.
- f. The planned Zone 3 water service area is not located in proximity to the Applicant's proposed URA expansion site.
- g. The Newberg Engineering Division recommends that the 20 acres of East A Resource Land within the Applicant's proposed URA expansion site not serviceable by Zone 1 of the City's water system be removed from consideration for inclusion in the Applicant's proposed URA expansion site.



Because of the Engineering Division has concluded that the 20 acres of East A Resource Land within the Applicant's proposed URA expansion site not serviceable by Zone 1 of the City's water system be removed from consideration for inclusion in the Applicant's proposed URA expansion site.

**7) Based on the hierarchy of inclusion described above, should the East A subarea, and more specifically, the Applicant's area be included in the URAs?**

Of the 397 acres of land needed in the URAs in the 2051 horizon, staff concludes based on the Applicant's information that most of the land need can be accommodated by Exception Land. This is reflected in the Applicant's material and more specifically Attachment 16 which indicates 213.62 acres are available and reasonably serviceable in Exception Lands. This leaves a balance of approximately 183.38 acres of Resource Land to be considered to meet the established need of 397 acres. As described within this staff report, there are an additional 130 acres of reasonably serviceable Resource Lands, including the Applicant's proposed URA expansion site.

The majority of East A subarea, including the Applicant's area are Resource Lands. In total the Applicant's subject site consist of approximately 95.3 acres of land zoned EF-20. Resource Land is the lowest priority land for inclusion in the URAs per the Urban Reserve Rule (OAR 660-0021-0030). Furthermore, within Resource Lands there is a priority for low quality soils to be included over high-quality soil. The subject site consists of Class I, II, III, and IV soils, mostly considered high quality and production soils. Pursuant to OAR 600-004-030(3), there are areas within one mile of the Newberg UGB that are a higher priority for inclusion to meet future land needs.

As identified within this staff report and by the Applicant, OAR 660-021-0030(4) provides that lower priority land (i.e., Resource Land) may be included within the URA if land of a high priority cannot meet the identified land need. This provision does not state that all reasonably serviceable Exception Land must first be brought into the URA before reasonably Resource Land, simply that if the identified need cannot be met by higher priority lands, lower priority lands may be included within the URA. Planning staff agree with the applicant's conclusion that the identified demand for 397 acres in the URA for the 2051 horizon cannot be met by only Exception Lands.

Based on all the information described above, the Applicant's argument supports that there is a deficiency in Urban Reserve Are land out to the 2051 horizon. Taking into consideration what Exception Lands are reasonably serviceable some Resource Land would need to be identified as Urban Reserve. The Applicant's communication submitted on November 22, 2002 indicates the subject property has a low percentage of Class I – IV soils compared to other Resource Land areas. The inclusion of the Applicant's proposed URA site does not preclude reasonably serviceable Exception Lands from being added to the URA in the future as necessary.

## **CONCLUSION**

The owners of four parcels have applied to be designated in the Urban Reserve Area (URA). City staff has analyzed the Applicant's submittal and found that the application does meet the applicable requirements of OAR 660-021 to be included in the URA. There are lands that are designated Exception Lands that could meet some of the 30-year need. The inclusion of the Applicant's proposed URA site does not preclude these reasonably serviceable Exception Lands from being added to the URA in the future.



Based on information submitted the following can be identified:

Study Area	Total Gross acres (approx.)	Total Gross Acres Exception Land (approx.)	Total Gross Acres Exception Land (minus constraints)	Total Gross Acres Resource Land (approx.)
North A	671.32	182.43	51.70	488.89
North B	472.39	416.04	281.32	56.35
Northeast A	298.20	298.2	115.55	0
Northeast B	238.69	104.07	76.16	134.62
East A	619.30	80.22	40.08	539.08
East B	439.92	439.92	303.59	0
Southeast A	198.68	198.68	82.19	0
Southeast B	299.63	5.54	1.81	294.09
Southeast C	235.60	135.72	114.45	99.88
Southwest A	255.54	254.84	190.60	0.7
Southwest B	213.66	213.66	154.12	0
Southwest C	277.22	277.22	250.75	0
Southwest D	514.40	509.97	370.54	4.43
Northwest A	500.65	109.91	99.27	390.73
Northwest B	302.10	28.97	28.78	273.13

A question staff has asked internally is if there is a need to add additional lands to the URA (the City of Newberg has not identified that need as a work item priority) and if yes then should designated exception lands be added first rather than going to resource lands to be added at the exclusion of exception lands? If you add resource lands first does that skew future analysis for URA land needs? Property owners that might be considered for inclusion in a URA were not notified as this is a Type III application for the City and only property owners within 500 feet of the requested application site were notified by the City of Newberg. This raises the question of a legislative URA process notifying all property owners within 1-mile of the existing UGB so that they could participate in the process, and the City has indicated to the applicant's consultant we are not in a position to undertake such a process based on other work program priorities directed by the City Council. There is also an issue about the existing acknowledged Comprehensive Plan land need calculations out to 2040 and the new Housing Needs Analysis, Economic Opportunities Analysis, and Public and Semi-Public Land Needs from 2021, and which prevails. The Department of Land Conservation and Development (DLCD) has indicated the Housing Needs Analysis, Economic Opportunities Analysis, and Public and Semi-Public Land Needs cannot be used as they have not been adopted by ordinance by the City and acknowledged by DLCD. However, as stated above a local government can rely on an unacknowledged HNA, Public and Semi-Public Land Needs, and EOA so long it confirms that conclusions in the adopted and acknowledged EOA, Public and Semi-Public Land Needs, and HNA. *See Shamrock Homes LLC v. City of Springfield*, 68 Or LUBA 1 (2013). The HNA, Public and Semi-Public Land Needs, and EOA relied on by the Applicant include more conservative population forecast figures than the adopted and acknowledged HNA, Public and Semi-Public Land Needs, and EOA and as such confirm the conclusions of the City's adopted and acknowledged HNA, Public and Semi-Public Land Needs, and EOA and can be relied upon by the Applicant. As noted in the staff report the Comprehensive

Plan data would indicate there is potentially a greater need for URA designated land than what the Applicant has analyzed. The 2021 data shows a reduced (conservative) need for the 20-year horizon based on the 2020 population projections from PSU PRC that need to be used for land use decisions.

Based on all the information described above, the Applicant's argument supports that there is a deficiency in Urban Reserve Area land out to the 2051 horizon. Taking into consideration what Exception Lands are reasonably serviceable some Resource Land would need to be identified as Urban Reserve. The Applicant's communication submitted on November 22, 2002, indicates the subject property has a low percentage of Class I – IV soils compared to other Resource Land areas. Taking these factors into consideration, the Applicant's subject area is a candidate to bring into the Urban Reserve Area. The Applicant's site has an area that is higher in elevation than the Corral Creek Reservoir and cannot be severed by the reservoir unless a booster pump station is added, or a new reservoir is constructed. The applicant provided supplemental information (Attachment 17) that further addressed this issue. The Engineering Division has recommended that 20 acres of the subject application area should be removed from consideration because it is above water Zone 1 and the City does not support local Zone 2 water service areas or water pump stations.

## **G. NEWBERG URBAN AREA MANAGEMENT COMMISSISON**

The Newberg Urban Area Management Commission held a public hearings August 23, 2022, October 25, 2022, November 22, 2022, January 24, 2023, March 28, 2023, and April 25, 2023, heard public testimony, and approved Resolution No. 2023-23 (Attachment 20) recommending that City Council adopt the Urban Reserve Area Expansion request.

### **Fiscal Impact:**

The Applicant paid the required application fee of \$2,508.45 in 2021 which was received into account 01-0000-341-003.

### **ATTACHMENTS:**

Ordinance No. 2023-2911 with:

- Exhibit "A": Urban Reserve Area Expansion Map
- Exhibit "B": Findings

1. Yamhill County Staff Report and Findings
2. NUMAC Minutes
3. Agency Comments
  - a. Newberg Engineering Division August 16, 2021
  - b. Newberg Engineering Division July 15, 2022
  - c. Newberg Engineering Division December 21, 2022
  - d. General Agency Comments
  - e. Special Districts Comments
4. Public Comments
5. NUAMC Resolution 2006-16



6. Newberg City Council Order No. 2007-0004
7. The Yamhill County Board of Commissioners Ordinance
8. NUAMC by Resolution No. 2007-20
9. Newberg City Council Ordinance No. 2008-2697
10. Yamhill County Board of Commissioners Ordinance 828 (BO-08-500)
11. Department of Land Conservation and Development (DLCD) Director Remand, April 10, 2009
12. Land Conservation and Development Commission (LCDC) Remand, April 22, 2010
13. Newberg City Council Ordinance No. 2015-2792
14. Newberg Urban Area Growth Management Agreement
15. Application
  - a. Narrative
  - b. Exhibits
    - A. Application Forms and Draft Public Notice Materials
    - B. Site Map
    - C. Title Report
    - D. Pre-application Conference Notes
    - E. Neighborhood Meeting Documentation
    - F. Conceptual Development Plan
    - G. 2051 Buildable Lands Inventory & Lands Need Assessment
    - H. Comparative Site Analysis plus Addendum Memorandum of March 1, 2022
    - I. TPR Compliance Memorandum
    - J. Serviceability Memorandum
    - K. Housing Inventory Assessment
16. Applicant Correspondence – Response to Staff Reports (11/15/22)
17. Applicant Supplemental – Addendum to Exhibit H Comparative Site Analysis (11/22/22)
18. Additional Written Public Comment 1<sup>st</sup> 7-day Period
19. Additional Applicant Written Comment 2<sup>nd</sup> 7-day Period
20. NUMAC Resolution 2023-23

# ORDINANCE NO. 2023-2911

**An Ordinance approving an Urban Reserve Area expansion at 31544 NE Corral Creek Road, 30445 NE Fernwood Road, 31095 NE Fernwood Road, 30575 NE Fernwood Road, Yamhill County Tax Lots R3222 02700, R3222 02500, R3222 2800, R3222 02900 and abutting right-of-way**

## Recitals:

1. Brian and Kathy Bellairs (Applicant), and Bestwick LLC represented by DOWL, are requesting approval of an amendment to the City of Newberg (City) and Yamhill County (County) Comprehensive Plan Maps to expand the City's Urban Reserve Areas (URAs) to include a 95.3 gross acre area generally located northwest of the intersection of NE Corral Creek Road and NE Fernwood Road. The site consists of four properties and Yamhill County right-of-way.
2. After proper notice, the Newberg Urban Area Management Commission (NUAMC) reviewed the proposal at public hearings on August 23, 2022, October 25, 2022, November 22, 2022, January 24, 2023, March 28, 2023, and April 25, 2023, considered public testimony and deliberated.
3. The Newberg Urban Area Management Commission (NUAMC) adopted Resolution No. 2023-23 recommending the application be approved minus the 20 acres located outside the Zone 1 Water Service Area. NUAMC found that the proposed amendment was in the best interests of the City.

## The City of Newberg Ordains as Follows:

1. The Newberg Comprehensive Plan Map is amended as shown in Exhibit "A".
2. The adoption is based upon the findings in Exhibit "B".
3. Exhibits "A" and "B" are hereby adopted and by this reference incorporated.

**Effective Date** of this ordinance is 30 days after the adoption date, which is: June 14, 2023.

**Adopted** by the City Council of Newberg, Oregon, this 15<sup>th</sup> day of May, 2023, by the following votes:

**AYE:**      **NAY:**      **ABSTAIN:**

\_\_\_\_\_  
Sue Ryan, City Recorder

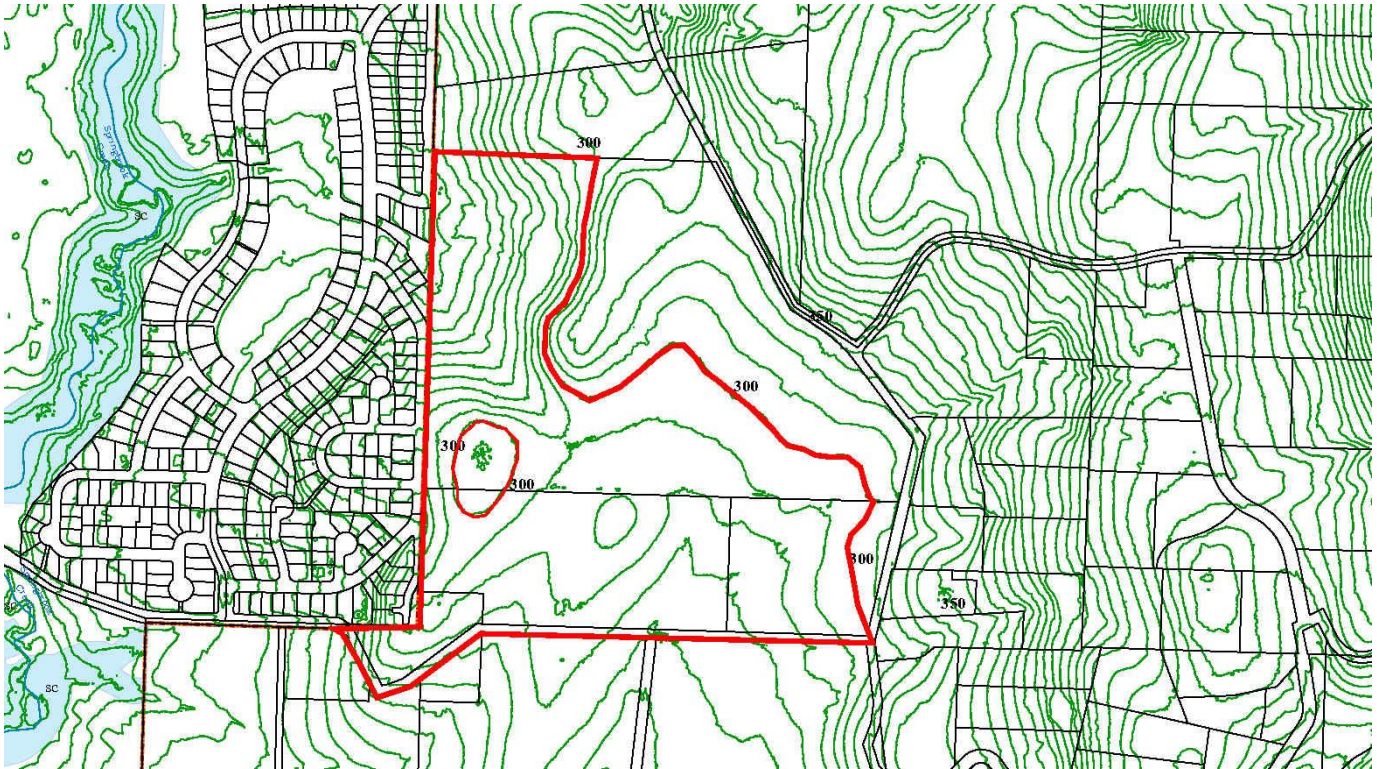
**Attest** by the Mayor this 18<sup>th</sup> day of May, 2023.

\_\_\_\_\_  
Bill Rosacker, Mayor

## EXHIBIT “A” to Ordinance No. 2023-2911

### Urban Reserve Area Expansion Map – File City CPMA21-0002/County PA-01-21

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**Exhibit “B” to Ordinance No. 2023-2911**  
**Findings Urban Reserve Area Expansion – File City CPMA21-0002/County PA-**

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**City of Newberg Regulations**

**Newberg Development Code**

**15.100.050 Type III procedure – Quasi-judicial hearing.**

**A. All Type III decisions shall be heard and decided by the planning commission. The planning commission’s decision shall be final unless the decision is appealed or the decision is a recommendation to the city council.**

**B. Type III actions include, but are not limited to:**

- 1. An appeal of a Type I or Type II decision: This action of the planning commission is a final decision unless appealed to the city council.**
- 2. Conditional use permits: This action is a final decision unless appealed.**
- 3. Planned unit developments: This action is a final decision unless appealed.**
- 4. Substantial change to the exterior appearance of a historic landmark: This action is final unless appealed.**
- 5. Establishment of a historic landmark: This is a final decision by the planning commission, unless appealed.**
- 6. Establishment of a historic landmark subdistrict: This is a recommendation to the city council.**
- 7. Comprehensive plan map amendments: This action is a recommendation to the city council.**
- 8. Zoning map amendments and designation of subdistricts: This action is a recommendation to the city council.**
- 9. Annexation: This action is a recommendation to the city council.**
- 10. Subdivisions with certain conditions requiring them to be processed using the Type III process, pursuant to NMC 15.235.030(A).**

**C. Planning Commission Decisions and Recommendation Actions.**

- 1. Planning Commission Decision. Development actions shall be decided by the planning commission for those land use actions that require a Type III procedure and do not require the adoption of an ordinance. The decision shall be made after public notice and a public hearing is held in accordance with the requirements of NMC 15.100.090 et seq. A Type III decision may be appealed to the city council by a Type III affected party in accordance with NMC 15.100.160 et seq.**
- 2. Planning Commission Recommendation to City Council. Land use actions that would require the adoption of an ordinance shall be referred to the city council by the planning commission together with the record and a recommendation. The recommendation shall be made after public notice and a public hearing is held in accordance with the requirements of NMC 15.100.090 et seq.**

**D. City Council Action. If a recommendation to the city council is required, the matter shall be reviewed by the city council as a new hearing. The final decision on these actions is made by the city council.**

**E. The applicant shall provide notice pursuant to NMC 15.100.200 et seq.**

**F. The hearing body may attach certain conditions necessary to ensure compliance with this code.**



***G. If the application is approved, the director shall issue a building permit when the applicant has complied with all of the conditions and other requirements of this code.***

***H. If a Type III application is denied, or if the applicant wishes to make substantive modifications to an approved application, the applicant may modify the application after the planning commission hearing and request a new planning commission hearing to consider the application. An application so modified shall be considered a new application for purposes of the 120-day time limit for processing applications in accordance with NMC 15.100.100 and state statutes. The applicant shall acknowledge in writing that this is a new application for purposes of the 120-day rule. The city council shall establish a fee for such a reconsideration or modification by resolution. Application of this provision is limited to three times during a continuous calendar year.***

**Finding:** The Applicant has requested an expansion of the Newberg URAs to include the subject area. The subject properties consist of 95.3 gross acres of land across four parcels and a portion of right-of-way under Yamhill County jurisdiction. The request requires a Newberg Urban Area Management Commission (NUAMC) hearing and approval to amend the Newberg Comprehensive Plan Map rather than review by the Newberg Planning Commission. NUAMC is the governing body of the Area of Influence as defined by the Newberg Urban Area Growth Management Agreement (NUAGMA), which is defined as the area of land designated by the City of Newberg and Yamhill County that extends one mile outside Newberg's UGB. Therefore, NUAMC is the recommending body for the decision. Once a decision is reached, NUAMC must present that decision to City and County governing bodies for public hearings. The process is a public hearing and review by ordinance adoption by the City of Newberg followed by public hearing and review by ordinance adoption by the Yamhill County Board of Commissioners.

**15.302.030 Procedures for comprehensive plan map and zoning map amendments.**

***A. Type III Plan and Zoning Map Amendments – One Parcel or Small Group of Parcels.***

***1. Property owners or the city may initiate a map amendment for one parcel or a small group of parcels under the Type III procedure may be initiated by a resolution of the planning commission or city council. Unlike other Type III procedures, the decision of the planning commission on a Type III plan map amendment shall be in the form of a recommendation to the city council. The city council shall hold another new hearing and make a final decision.***

**Finding:** The subject site includes a small group of lots and property owners, and therefore the application is subject to a Type III legislative review. Because this is a request for URA designation NUAMC will review the application and make a recommendation to the City Council. NUAMC is the governing body of the Area of Influence as defined by the Newberg Urban Area Growth Management Agreement (NUAGMA).

Property owners have initiated the application request. NUAMC is the hearing body for an Urban Reserve Area designation and the Newberg Planning Commission does not review the application per the Newberg Urban Area Growth Management Agreement. The subject area consists of 95.3 gross acres consisting of four parcels

and Yamhill County right-of-way, and therefore is subject to a Type III procedure. The amendment and the City and County staff reports were brought directly to NUAMC for a public hearing on August 23, 2022, October 25, 2022, November 22, 2022, January 24, 2023, March 28, 2023, and April 25, 2023. Minutes of the NUAMC meetings are included as Attachment 2. The City Council hearing is scheduled for May 15, 2023.

***2. Where an application has been denied, no new application for the same purpose shall be filed within one year of the date of the previous denial unless the city council for good cause shall grant permission to do so.***

**Finding:** At the time of preparation of this report no decision has been made on the submitted application. NUAMC has only made a recommendation to the Newberg City Council and Yamhill County Board of Commissioners.

The application is under review by the City and the County. A recommendation has been made by NUAMC for approval of the application. The City Council will hold a hearing on the application on May 15, 2023. Following a City Council decision, the application will go before the Yamhill County Board of Commissioners. No final decisions have been made on the application.

***3. Amendment Criteria. The owner must demonstrate compliance with the following criteria:***

***a. The proposed change is consistent with and promotes the goals and policies of the Newberg comprehensive plan and this code;***

**Finding:**

The proposed change is consistent with the applicable objectives of the Newberg Comprehensive Plan. If the area were designated as an Urban Reserve Area and determined it complies with the Urban Reserve Rule (OAR 660, Division 21) it can provide for the orderly and efficient transition from rural to urban land uses as stated by Urbanization Goal 1. Further details on the analysis for compliance with the Comprehensive Plan are detailed later in this report.

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

**Finding:** The Applicant completed an analysis determining the serviceability of the site (see Attachment 15, Exhibit J). The site is reasonably serviceable with moderate costs per buildable acre when compared to other areas considered for URA inclusion. The serviceability to the site is as follows.

- **Water:** Approximately 68 acres of the requested URA expansion area is within Pressure Zone 1, which can be served by the Corral Creek Reservoir. A connection to the existing 24-inch water main, located just north of the area, could provide water service to the northern portions of the area. A connection to the existing 8-inch water main within E Hook Drive and N

Fairway Street could serve the western and southern portions of the area. The remaining higher elevation portions of the area, approximately 22 acres, are within Pressure Zone 2, which would require a new reservoir at a higher elevation, or upgrades to the existing Corral Creek Reservoir, or the construction of a local Pressure Zone 2 system within the requested URA expansion area with a dedicated pump system feeding an isolated portion of the water distribution system to service the higher elevations of the requested URA expansion area. The Applicant contends that alternatively, if not developed for residential uses, these lands could be utilized for park, open space, and recreational uses.

- **Wastewater:** The requested URA expansion area is serviceable by gravity sewer lines as the area generally slopes to the southwest toward NE Fernwood Road. The area would connect to the Fernwood Pump station located approximately 1,300 feet to the west. As identified in the City's Wastewater Master Plan, upgrades to the Fernwood Pump Station and the pressurized and gravity sewer mains downstream of the pump station would be required, as the pump station and mains are already at capacity. A preferred alternative for these upgrades is identified in the Wastewater Master Plan.
- **Stormwater:** The requested URA expansion area is serviceable by a gravity stormwater conveyance system. The on-site stormwater conveyance system could discharge to the 12-inch stormwater main within NE Fernwood Road, which eventually outfalls into Springbrook Creek.

Therefore, the requested URA expansion site's serviceability and adjacency to existing urbanized areas and services can facilitate more orderly and efficient urbanization and development of public facilities to serve as a framework for urban development, including the provision of extensive areas that may be utilized for open space and recreational opportunities.

However, although the site can be served by public facilities, this is one of a number of factors that dictate priority land for inclusion into future URAs. As noted earlier, staff has concluded there are Exception Lands that were analyzed that can be served and meet some of the future land supply needs that are not Resource Lands. OAR 660-021-0030(4) provides that lower priority land (i.e., Resource Land) may be included within the URA if land of higher priority cannot meet the identified land need. The Applicant contends that this provision does not state that all reasonably serviceable Exception Land must first be brought into the URA before reasonably serviceable Resource Land, simply that if the identified demand cannot be met by higher priority lands, lower priority land may be included within the URA.

As part of the proposed URA expansion, the Applicant completed the 2051 Buildable Lands Inventory & Lands Need Assessment (see Attachment 15, Exhibit G), which determined Newberg's buildable land need for the 2051 planning horizon is 397 buildable acres, which the staff concurs with. Further, the Applicant completed a Comparative Site Analysis (see Attachment 15, Exhibit H), as well as a subsequent addendum submitted on March 1, 2022 (see Attachment 15, Exhibit H), that found approximately 213.62 acres of Exception Land within a one mile radius of the City's Urban Growth Boundary (UGB) that can be reasonably served by extensions of public utilities (water and gravity sanitary sewer service), and is therefore eligible for consideration as a URA. Therefore, if such lands were designated URA, the City would continue to have a deficit of approximately 183.3 acres of land to satisfy the identified land need through 2051.

As the Applicant has determined that there is not a sufficient amount of reasonably serviceable Exception Land available to meet Newberg's identified land need through 2051, lower priority land (i.e., Resource Land) may be included within the URA if land of higher priority cannot meet the identified land need, consistent with OAR 660-021-0030(4). The Applicant contends that this provision does not state that all reasonably serviceable Exception Land must first be brought into the URA before reasonably serviceable Resource Land, simply that if the identified demand cannot be met, lower priority land may be included within the URA.

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

**Finding:** An analysis on public facilities per the requirements of OAR 660-021 are addressed in this report.

No development or zone changes are proposed at this time. Before any development could occur on the property, it would be necessary to bring the site into the UGB, annex it into the City of Newberg, and gain approval for a desired land use. Because the requested URA amendment will not permit the construction of any development or generate any potential increase in trips to the site, the Transportation Planning Rule is satisfied. There will not be a significant effect on the transportation system because of the requested URA amendment.

***660-012-0060 Plan and Land Use Regulation Amendments***

***1. If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:***



- (a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);*  
*(b) Change standards implementing a functional classification system; or*  
*(c) Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.*  
*(A) Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;*  
*(B) Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or*  
*(C) Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.*

Subsections (a) and (b) are not triggered since the proposed land use action will not impact or alter the functional classification of any existing or planned facility and the proposal does not include a change to any functional classification standards.

Regarding subsection (c), the requested URA amendment cannot trigger subsections (A) through (C) since the URA amendment will not result in the generation of any trips or any potential increase in trips. As such, there is not a “significant effect” to the transportation system and the TPR is satisfied. A detailed and comprehensive analysis of the transportation impacts associated with the site would be required at the time of either the UGB amendment or annexation into the City. Oregon law allows that detailed TPR findings can be deferred to the time of annexation. At that time, a full transportation impact analysis will be required that provides an in-depth examination of the impacts of development on the site, conditions at the applicable planning horizon, and identification of specific improvements that would be required to mitigate the impact from development.

The Applicant has provided a Transportation Planning Rule memorandum that is included in Attachment 15, Exhibit I.

These criteria are met.

***4. The property owner who desired to have their property reclassified has the burden of establishing that the requested classification meets the requirements of this section. As part of the application, the property owner requesting a change shall file a waiver stating that the owner will not file any demand against the city under Ballot Measure 49, approved November 6, 2007, that amended ORS Chapters 195 and 197.***

**Finding:** The Applicant has submitted application material to support their request.

***5. A traffic study shall be submitted for any proposed change that would significantly affect a transportation facility, or that would allow uses that would increase trip generation in excess of 40 trips per p.m. peak hour. This requirement may be waived by the director when a determination is made that a previous traffic study adequately addresses the proposal and/or when off-site and frontage improvements have already been completed, which adequately mitigate any traffic impacts and/or the proposed use is not in a location, which is adjacent to an intersection, which is functioning at a poor level of service. A traffic study may be required by the director for changes in areas below 40 trips per p.m. peak hour where the use is located immediately adjacent to an intersection functioning at a poor level of service. The traffic study shall be conducted according to the City of Newberg design standards.***

**Finding:** Not applicable because no development is proposed. The TPR requirements are addressed above.

**B. Type IV Plan and Zoning Map Amendments – Large Area of the City and Multiple Ownerships.**

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

The subject area consists of 95.3 gross acres across four parcels and Yamhill County right-of-way, and therefore is subject to a Type III procedure. The amendment and the City and County staff reports were brought directly to NUAMC for a public hearing on August 23, 2022, October 25, 2022, November 22, 2022, January 24, 2023, March 28, 2023, and April 25, 2023. The City Council staff report was presented on May 15, 2023.

***2. Amendment Criteria. The city must demonstrate:***

***a. The proposed change is consistent with and promotes the objectives of the Newberg comprehensive plan and this code:***

The proposed change is consistent with the applicable objectives of the Newberg Comprehensive Plan. If the area were designated as an Urban Reserve Area and determined it complies with the Urban Reserve Rule (OAR 660, Division 21) it could provide for the orderly and efficient transition from rural to urban land uses as stated by Urbanization Goal 1.

Under the Comprehensive Plan, N. URBANIZATION, Policies, 1. Urban Growth Boundary and Urban Reserve Area Policies it states:

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

The Applicant has provided an analysis for a 30-year land supply, which shows that Newberg's buildable land need for the 2051 planning horizon is 397 buildable acres, which staff concurs with. (see Attachment 15, Exhibit H). The Applicant is making the request for inclusion in the Urban Reserve Area based on the established land need of 397 buildable acres.

This criterion is met.

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

The Applicant has demonstrated a need for additional land in the Newberg URAs to meet the 2051 land needs that cannot be met by the land currently in the URAs. The Applicant proposes amending the URAs to include the subject area, which would contribute 95.3 gross acres and approximately 68 buildable acres to the 320 buildable acres of URA lands needed to accommodate the 2051 land need. In the 30-year horizon the Applicant forecasts need for more residential, employment, and public land in the URAs.

The Applicant demonstrated a need for additional land within the URAs based on the 2051 forecast. That analysis indicates that, after considering Exception Land that is "reasonably serviceable", there is a need for 183 acres of Resource Land to meet the overall need of 397 acres. A detailed description of URA land suitability, the hierarchy for inclusion, and available sites in Newberg are described in the "Issues and Analysis" section below.

Per the *Newberg Urban Area Growth Management Agreement*, the Newberg URA provides lands that can support the future expansion of urban level uses, including housing. Given the demonstrated need for additional land within the URA to support Newberg's projected population growth, it is in the public's best interest that URA expansions occur to meet identified land needs.

This criterion is met.

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

Pursuant to the Urban Reserve Rule, the Applicant completed an analysis of the areas available for URA inclusion located within 1-mile of the Newberg UGB, segmenting them into 15 subareas. Staff assessment of the analysis and addendums has determined that after excluding Exception Land that cannot be reasonably served there is a deficiency of 183 acres to meet the 2051 Buildable Lands analysis need of 397 acres. A detailed description of URA land suitability, the hierarchy for inclusion, and available sites in Newberg are described in the "Issues and Analysis" section below. As described within the "Issues and Analysis" section, the Applicant's proposed URA site is the most appropriate Resource Land available for expansion of the Newberg URA.

OAR 660-021-0030(4) provides that lower priority land (i.e., Resource Land) may be included within the URA if land of higher priority cannot meet the identified land need. The Applicant contends that this provision does not state that all reasonably serviceable Exception Land must first be brought into the URA before reasonably serviceable Resource Land, simply that if the

identified demand cannot be met, lower priority land may be included within the URA. Therefore, the Applicant's proposed URA site is eligible to be brought into the URA based on the results of the land suitability analysis.

This criterion is met.

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

No development or zone changes are proposed at this time. Before any development could occur on the property, it would be necessary to bring the site into the UGB, annex it into the City of Newberg, and gain approval for a desired land use. Because the requested URA amendment will not permit the construction of any development or generate any potential increase in trips to the site, the Transportation Planning Rule is satisfied. There will not be a significant effect on the transportation system because of the requested URA amendment.

*660-012-0060 Plan and Land Use Regulation Amendments*

*1. If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:*

*(a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan); or*  
*(b) Change standards implementing a functional classification system; or*  
*(c) Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP.*  
*As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.*

*(A) Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;*  
*(B) Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or*  
*(C) Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.*



Subsections (a) and (b) are not triggered since the proposed land use action will not impact or alter the functional classification of any existing or planned facility and the proposal does not include a change to any functional classification standards.

Regarding subsection (c), the requested URA amendment cannot trigger subsections (A) through (C) since the URA amendment will not result in the generation of any trips or any potential increase in trips. As such, there is not a “significant effect” to the transportation system and the TPR is satisfied. A detailed and comprehensive analysis of the transportation impacts associated with the site would be required at the time of either the UGB amendment or annexation into the City. Oregon law allows that detailed TPR findings can be deferred to the time of annexation. At that time, a full transportation impact analysis will be required that provides an in-depth examination of the impacts of development on the site, conditions at the applicable planning horizon, and identification of specific improvements that would be required to mitigate the impact from development.

The Applicant has provided a Transportation Planning Rule memorandum that is included in Attachment 15, Exhibit I.

This criterion is met.

## **Newberg Comprehensive Plan**

Applicable goals and policies of the Newberg Comprehensive Plan are set forth below with findings demonstrating the project’s consistency with these goals and policies.

### ***Goals and Policies***

#### ***Citizen Involvement***

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

**Finding:** The Applicant’s requested URA expansion is subject to a quasi-judicial procedure to amend the City and County Comprehensive Plans, which requires public notification and public hearings before NUAMC, Newberg City Council, and Yamhill County Board of Commissioners. The public hearing notice of action and decision, and the hearings on this proposal before the NUAMC, City Council, and Yamhill County Board of Commissioners provides opportunities for citizen participation.

Additionally, the applicant held a virtual neighborhood meeting on May 4, 2021, and invited over 200 project neighbors to this meeting for the purpose of reviewing and discussing the proposal. This meeting was attended by over 50 neighboring property owners and residents, and included a presentation describing the Applicant’s URA expansion request, as well as a question and answer session intended to address any questions or concerns raised by neighbors. An overview of the topics discussed during the meeting, are summarized below:

- The applicant described the various steps from URA to development and described what land is prioritized for URA inclusion per state

requirements.

- For the proposed recreational facilities in the conceptual plan, neighbors asked if they will they be public. The applicant said they intend to provide public use access to the conceptual parks.
- Applicant noted they had completed a transportation impact analysis. Since no development is proposed at this time, no significant transportation impacts are anticipated.
- For natural Resource protection, applicant noted that required natural resource protections on the site pursuant to local, state, and federal regulations will be met.
- Neighbors questioned the roadway connections between the subject site and the adjacent subdivision (The Greens at Springbrook). The applicant noted that the subject site and conceptual plan can provide a more complete vehicular network in the area.

The Goal is met.

### ***Land Use Planning***

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

#### **Policies:**

- 2. The Comprehensive Plan and implementing ordinances shall be reviewed continually and revised as needed. Major reviews shall be conducted during the State periodic review process.*

#### **Finding:**

The Comprehensive Plan and implementing ordinances should be continually reviewed and revised as needed. The requested Comprehensive Plan amendment is not a part of a major review. However, new information, in particular the 2021 ECONorthwest land needs evaluations accepted by the Newberg City Council but not adopted provide new forecasts on land needs that are not reflected in the Comprehensive Plan.

The Applicant's 2051 BLI provided a land need forecast within the URA horizon based on the 2021 studies. That updated information was used as the basis for the decision regarding this requested URA expansion.

The Land Use Planning Chapter goal is to implement statewide land use program goals and provisions. This includes the Urban Reserve Rule (OAR 660 Division 21), which established the required land supply in URAs and hierarchy of priority land for inclusion in URAs. The requested URA expansion to the Applicant's area, based on all of their application material, indicates that some Resource Land will need to be designated as Urban Reserve to meet the need out to 2051. Therefore, the request conforms with the land use planning goal of the Comprehensive Plan.

The Goal is met.

### ***Agricultural Lands***

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

**Policies:**

1. *The conversion of urbanizable land from agricultural to urban land uses shall be orderly and efficient.*
2. *Agriculture is a part of our heritage, uniqueness, culture and future. Inclusion of lands in agricultural use within the Urban Growth Boundary is recognition of a commitment to future urbanization, as such lands are necessary to meet long-range population and economic needs, based on criteria outlined in the statewide Urbanization Goal. Urbanization of agricultural land shall be carefully considered and balanced with the needs of the community as a whole.*

**Finding:**

The Applicant's request to expand the City's URA does not alter the area's zoning designation and does not convert the area's agricultural lands to an urban use. The Applicant's request to expand the City's URA is the first step in a process that may lead to the site's eventual conversion to urban uses away from agricultural land. An expansion of the City's UGB, as well as annexation to the City, would be required before urbanization could occur.

The 95.3-gross acre property is almost entirely located on land with a Yamhill County Comprehensive Plan designation of Agricultural/Forestry Large Holding (AFLH), and zoned for agriculture, and designated as Exclusive Farm Use (EF-20) pursuant to Yamhill County zoning. As noted in the Comprehensive Plan policy, inclusion of agricultural land into the UGB would assume future development. Generally, URA inclusion is one step between the current resource status of the subject site and the eventual inclusion of the land in the UGB.

OAR 660-021-0030 describes the hierarchy of priority lands to be included in the URAs. Resource Land, including land zoned EF-20, is the last priority for inclusion in a URA. The provision is intended to protect Resource Land from urbanization. When land needs require inclusion of Resource Land, the Resource Land is then prioritized by soil classifications.

As part of the proposed URA expansion, the Applicant completed the 2051 Buildable Lands Inventory & Lands Need Assessment (see Attachment 15, Exhibit G), which determined Newberg's buildable land need for the 2051 planning horizon is 397 buildable acres, which the staff concurs with. Further, the Applicant completed a Comparative Site Analysis (see Attachment 15, Exhibit H), as well as a subsequent addendum submitted on March 1, 2022 (see Attachment 15, Exhibit H), that ultimately found approximately 213.62 acres of Exception Land within a one mile radius of the City's Urban Growth Boundary (UGB) can be reasonably served by extensions of public utilities (water and gravity sanitary sewer service), and are therefore eligible for consideration as a URA. Therefore, the City would continue to

have a deficit of approximately 183.38 acres of land to satisfy the identified land need through 2051.

As the Applicant has determined that there is not a sufficient amount of reasonably serviceable Exception Land available to meet Newberg's identified land need through 2051, OAR 660-021-0030(4) provides that lower priority land (i.e., Resource Land) may be included within the URA if land of higher priority cannot meet the identified land need. Notably, this provision does not state that all reasonably serviceable Exception Land must first be brought into the URA before reasonably serviceable Resource Land, simply that if the identified demand cannot be met, lower priority land may be included within the URA.

As described within the Staff Report, the Applicant has completed a comprehensive analysis of potential alternative URA expansion sites. Consistent with this goal, the urbanization of agricultural land has been carefully considered consistent with applicable statutes and the Applicant's proposed site is eligible to be brought into the Newberg URA.

The Goal is met.

### **Wooded Areas**

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

**Policies:**

1. *The City shall encourage the preservation of wooded areas for wildlife habitat and limited recreational uses.*
2. *Development in drainageways shall be limited in order to prevent erosion and protect water quality. Trees provide needed protection from erosion and should be maintained.*

**Finding:**

The western portion of the requested URA expansion area contains a large stand of Douglas Fir trees. While the requested URA expansion will not directly result in development, it is possible that, if the site is ultimately slated for urban development, some of these trees may ultimately be removed for site grading for future development. Further analysis, including an arborist study for tree health and protection capability, will be required before prior to removal of trees on the site should the site be included in the Urban Growth Boundary and subsequently annexed into the City and eligible for urban development.

More generally, the Applicant's Comparative Site Analysis (see Attachment 15, Exhibit H), conducted with the Comparative Site Analysis (Exhibit H) determined that alternative sites considered for expansion, such as the East B, Southeast B, and Southwest D study areas, contain larger amounts of wooded areas. Certain wooded areas in these study areas are adjacent to creeks and streams that are tributaries to the Willamette River. Adjacent wooded areas enhance the functional value and water quality of these waterways and the riparian habitat areas adjacent to them. As described within the Staff Report and the Applicant's materials, the Applicant's proposed URA expansion site can promote compact and efficient urban development due to its adjacency to existing urbanized land.



Thus, by directing urban uses toward the proposed URA expansion site, and away from other, more expansive wooded areas, the proposed URA expansion promotes the goal of retaining and protecting wooded areas for the community and region as a whole.

The Goal is met.

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

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

**Policies:**

- 2. Water quality in the Willamette River and tributary streams shall be protected.***
- 3. As public sanitary sewer systems become available, all development shall connect to the public system. To encourage economic development, the City may permit subsurface sewerage disposal where the system meets State and County requirements and where unique circumstances exist.***
- 4. The Newberg airshed shall be protected from excessive pollution levels resulting from urbanization.***

**Finding:** The requested expansion of the City's URAs will not preclude compliance with this goal and policies. Future development requests will be required to comply with applicable City requirements prior to approval, including connection to public wastewater systems.

The applicant has presented information on the subject area that has determined the area to be serviceable by the public wastewater system. They have also noted that stormwater can be properly treated and conveyed to established discharge points, and that water quality in the Willamette River and its tributary system will be protected.

Further, the requested URA expansion area is not within the Willamette River Greenway and is directing urbanization away from the Willamette River.

The Goal is met.

### ***Open Space, Scenic, Natural, Historic and Recreational Resources***

**Goals:**

- 1. To ensure that adequate land shall be retained in permanent open space use and that natural, scenic and historic resources are protected.***
- 2. To provide adequate recreational resources and opportunities for the citizens of the community and visitors.***

**Policies:**

- 1. Open Space & Natural Resources Policies***

- a. *The City shall ensure that as development continues, adequate land shall be retained in permanent open space use.*
- g. *The City shall coordinate with State and Federal agencies to protect identified wetland areas. The National Wetlands Maps prepared by the U.S. Fish and Wildlife Service in 1981 provides an initial inventory of wetlands in Newberg.*

**Finding:**

The area consists of primarily agricultural land with some forested areas. There are also wetlands on the site. The applicant completed a preliminary reconnaissance of the location of wetlands on the site.

Future urban development in the area, if permitted through UGB expansion and annexation into the City, would be subject to various requirements for open space creation and resource protection. Newberg Municipal Code (NMC) Title 15 (Development Code) maintains requirements for recreational facilities, outdoor living areas, and open space areas for various types of development. NMC 15.240 (Planned Unit Developments) requires that sufficient usable recreation facilities, outdoor living area, and open space areas be accessible for use by residents of the proposed development. NMC 15.420 (Landscaping and Outdoor Areas) maintains provisions for minimum usable outdoor recreation space on a per-unit basis for proposed residential developments. Per NMC 15.220 (Site Design Review), multifamily residential projects are required to use a minimum amount of certain design elements, which includes options such as playground equipment, “outdoor” rooms created by well-defined spaces between buildings, and preservation of existing natural features. Future development within the requested URA expansion site would be required to meet applicable provisions of Title 15, in support of this goal.

Per the U.S. Fish and Wildlife Service National Wetlands Inventory, a portion of an approximately 1.49-acre freshwater forested/shrub wetland is shown to exist within the requested URA expansion site. Further, the applicant has contracted with a professional wetland scientist who has completed a preliminary reconnaissance of the requested URA expansion area to determine the approximate location of possible on-site wetlands. These locations are shown on the Conceptual Development Plan (Attachment 15, Exhibit F). A formal delineation would be necessary to determine the extent and precise location of these wetlands. If wetlands are determined to be present within the area with a future delineation, they will be subject to City, state, and federal requirements, and any proposed impacts will require permitting and mitigation.

The Goal is met.

## ***The Economy***

**Goal:** *To develop a diverse and stable economic base.*

**Finding:**

The 2051 BLI, determined a land need of 397 acres of land needed in the URAs. Theoretically, the requested URA expansion for the subject site could contribute 95.3 acres (gross) to meet a portion of the 170-acre land need identified in the

Applicant's report for employment land into 2051. The applicant has provided a concept plan (see Attachment 15, Exhibit F) that relies on residential development of the area as opposed to employment lands. The concept plan demonstrates a variety of housing types can be provided, including single-family detached homes, duplexes, triplexes, cottage clusters, townhomes, and multi-family residential (apartments), as well as commercial (employment) land. A greater variety of housing options offers increased opportunities for renters and homeownership across multiple price levels, which is conducive to attracting new industries and maintaining a stable economic base in support of this goal.

The Goal is met.

## **Housing**

### **Policies**

- x. Where large parcels or groups of parcels are to be brought into the urban growth boundary and designated low or medium density residential, the City shall apply a mixture of residential designations, to include some HDR-designated lands, consistent with the policy of distributing multi-family housing throughout the community. Such designations shall be applied to portions of the property that are most suitable for high density development.*

*For the purposes of this policy, "large" is defined as an area greater than 15 net acres, after subtracting for land in stream corridor overlays. "Some" is defined as 10% of the net size of the application.*

**Finding:** The 2051 BLI, determined a land need of 397 acres of land needed in the URAs. The requested URA expansion could contribute 95.3 acres (gross) towards meeting the 2051 need of 239-acres of residential land. Any future urban (City of Newberg) zoning for the site would not be determined or applied until the site was brought into the UGB and annexed. Pursuant to policy, high density residential designated land would be required on a portion of the area upon annexation.

The Goal is not applicable because an Urban Growth Boundary expansion is not being requested.

## **Transportation**

**Goal 2:** *Establish consistent policies which require concurrent consideration of transportation/land use system impacts.*

### **Policies:**

- a. Transportation improvements should be used to guide urban development and should be designed to serve anticipated future needs.*

**Finding:** The requested URA expansion area is bordered by two existing County minor arterials, NE Corral Creek Road and NE Fernwood Road. The applicant has conceptually demonstrated that the site can provide an efficient and compact internal road network that guides the areas urban development and integrates with

existing facilities. Future development of the area would also be subject to the City's Transportation Utility Fee (TUF) which provides funds in support of City-wide transportation maintenance projects and needed improvements.

The Goal is not applicable because development is not proposed that would transportation improvements.

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

**Policies:**

- a. *Enhance the efficiency of the existing collector/arterial street system to move local traffic off the regional system.*
- b. *Provide for alternate routes for regional traffic.*

**Finding:**

The Applicant's requested URA expansion will not significantly affect the transportation system within the vicinity of the requested URA expansion site. A complete traffic study that thoroughly analyzes possible impacts from the area to certain transportation facilities would be required at the time when the City's UGB is amended to include the site if it is designated a URA, or when the site is annexed into the City. A complete traffic study would provide an in-depth examination of the impacts of the development of the site, conditions at the applicable planning horizon, and identification of specific improvements and enhancements to the existing transportation system that may be required to mitigate the impact of the areas development on existing facilities.

Future applications, including comprehensive plan amendments to amend the City's UGB, as well as annexation, will be required to demonstrate compliance with applicable goals and policies of the City's Comprehensive Plan, including the above policies.

The Goal is not applicable because development is not proposed that would transportation improvements.

- h. *For the purposes of compliance with the Transportation Planning Rule, OAR 660-12-0060 and in order to support the goal exception that Yamhill County took to advance construction of the Bypass, the City of Newberg acknowledges that reliance upon the full Bypass as a planned improvement to support comprehensive plan amendments or changes is premature. (Ordinance 2008-2708, December 1, 2008, Ordinance 2011-2734, March 7, 2011; Ordinance 2016-2810, December 19, 2016) The Phase 1 Bypass is considered a planned improvement for the 20-year planning horizon and may be relied upon for planning purposes. The City of Newberg will continue to work with ODOT on improvements to the local transportation system in accordance with post- Phase 1 Bypass impacts. This may include adopting alternative mobility standards for Oregon 99W and Oregon 219. For purposes of the Newberg TSP, alternative mobility standards are consistent with the planned function of Oregon 99W through Newberg as a lower speed local arterial intended to provide access to businesses and residences and a more pedestrian friendly environment.*



***Alternative mobility standards may continue to be necessary on Oregon 99W and Oregon 219 until the full Bypass can be completed.***

**Finding:** Phase I of the Bypass is already constructed and completed. Phase II of the Bypass is currently in design stages. According to ODOT's project webpage, as of April 1, 2022, "Phase 2A We are designing and building improvements for the interchange where OR 18 meets OR 219, including the realignment of NE Wyooski Road. We expect to start Phase 2A construction in 2023, and anticipate completing construction by 2025." "Phase 2B Not funded for construction. We are also designing a road connecting the new interchange with OR 99W. Phase 2B is not yet funded for construction." The general location of Phase 2B improvements is located near the area along Oregon 99W; however, it is unlikely it will affect the subject area directly.

If the requested URA expansion is approved, future development on the site would be required to address specific TPR requirements for compliance. As well, any future TPR analysis should have the benefit of the adopted Phase 2 Bypass design to make clear TPR findings with accurate Bypass considerations. The requested URA's expansion consistency with the TPR is addressed in the response to NMC 15.302.030.B.2.d.

This Goal is not applicable as it relates the URA expansion.

***Public Facilities and Services***

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

**Policies:**

***1. All Facilities & Services Policies***

- a. The provision of public facilities and services shall be used as tools to implement the land use plan and encourage an orderly and efficient development pattern.***
- d. Services shall be planned to meet anticipated community needs.***

***2. Wastewater, Stormwater and Water Policies***

- c. Developments with urban densities should be encouraged to locate within the area which can be serviced by Newberg's present wastewater system.***

**Finding:** The applicant completed an analysis determining the serviceability of the site (see Attachment 15, Exhibit J). The site is reasonably serviceable with moderate costs per buildable acre when compared to other areas considered for URA inclusion. The serviceability to the site is as follows.

- **Water:** Approximately 68 acres of the requested URA expansion area is within Pressure Zone 1, which can be served by the Corral Creek Reservoir. A connection to the existing 24-inch water main, located just north of the area, could provide water service to the northern portions of the area. A

connection to the existing 8-inch water main within E Hook Drive and N Fairway Street could serve the western and southern portions of the area. The remaining higher elevation portions of the area are within Pressure Zone 2, which would require a new reservoir at a higher elevation or the construction of a local Pressure Zone 2 system within the requested URA expansion area with a dedicated pump system feeding an isolated portion of the water distribution system to service the higher elevations of the requested URA expansion area. The Applicant contends that alternatively if not developed for residential uses, these lands could be utilized for park, open space, and recreational uses in support of Newberg Comprehensive Plan goals and policies that encourage the provision of open space and recreational opportunities and “complete communities”.

- **Wastewater:** The requested URA expansion area is serviceable by gravity sewer lines as the area generally slopes to the southwest toward NE Fernwood Road. The area would connect to the Fernwood Pump station located approximately 1,300 feet to the west. As identified in the City’s Wastewater Master Plan, upgrades to the Fernwood Pump Station and the pressurized and gravity sewer mains downstream of the pump station would be required, as the pump station and mains are already at capacity. A preferred alternative for these upgrades is identified in the Wastewater Master Plan.
- **Stormwater:** The requested URA expansion area is serviceable by a gravity stormwater conveyance system. The on-site stormwater conveyance system could discharge to the 12-inch stormwater main within NE Fernwood Road, which eventually outfalls into Springbrook Creek.

Therefore, the requested URA expansion site’s serviceability and adjacency to existing urbanized areas and services can facilitate more orderly and efficient urbanization and development of public facilities to serve as a framework for urban development.

However, although the site can be served by public facilities, this is one of a number of factors that dictate priority land for inclusion into future URAs. The Applicant’s site has an area that is higher in elevation than the Corral Creek Reservoir and cannot be severed by the reservoir unless a booster pump station is added, or a new reservoir is constructed. The applicant provided supplemental information (Attachment 17) that further addressed this issue. The Engineering Division has recommended that 20 acres of the subject application area should be removed from consideration because it is above water Zone 1 and the City does not support local Zone 2 water service areas or water pump stations.

While NUAMC and City Council understands the Engineering Division’s concerns with retaining the 20 acres of the Applicant’s proposed URA expansion site that aren’t serviceable by Zone 1 of the City’s water system, retaining these lands within the proposed URA expansion site allows the lands to be used for other uses necessary for efficient urbanization, such as parks, open space, and recreational

opportunities, as well as public street connections that can allow for more efficient development within the remainder of the URA expansion site.

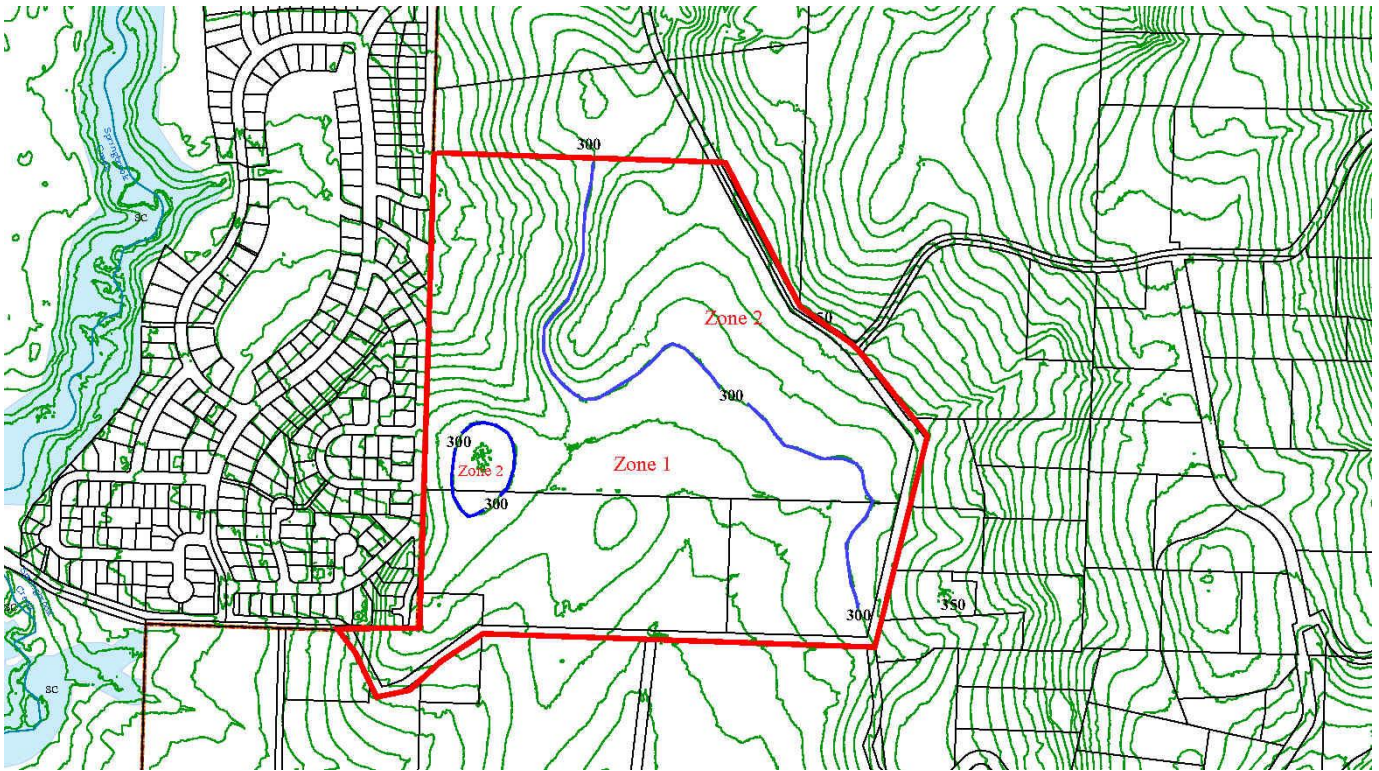
The City of Newberg Engineering Division evaluated the November 22, 2022, Comparative Site Analysis Addendum (Attachment 17) and provided the following comments:

- a. *Approximately 20 acres of East A Resource Land, 20 acres of which are within the Applicant's proposed URA expansion site, are not serviceable by Zone 1 of the City's water system. (See Map below for 300-foot contour delineation between Zone 1 and Zone 2)*
- b. *The information provided does describe two approaches to provide water service to these areas of East A resources lands not serviceable by Zone 1.*
- c. *What is not described is if any sub areas within the other Resource Lands evaluated might also have areas that could be served in a similar manner that might also be considered reasonably serviceable by the Applicant's methodology.*
- d. *The two approaches described for providing water service to the 20 acres of East A Resource Land within the Applicant's proposed URA expansion site not serviceable by Zone 1 are:*
- e. *Construction of a local Zone 2 within the Applicant's proposed URA expansion site.*
- f. *Extension of the City's Zone 3 service area.*

*Neither of the approaches described are consistent with the current City of Newberg Water Master Plan.*

- g. *It is not recommended to create additional local Zone 2 water service areas or water pump stations.*
- h. *The planned Zone 3 water service area is not located in proximity to the Applicant's proposed URA expansion site.*
- i. *The Newberg Engineering Division recommends that the 20 acres of East A Resource Land within the Applicant's proposed URA expansion site not serviceable by Zone 1 of the City's water system be removed from consideration for inclusion in the Applicant's proposed URA expansion site.*





The Goal is not met for water but can be met for wastewater and stormwater.

## Energy

**Goal:** *To conserve energy through efficient land use patterns and energy-related policies and ordinances.*

### **Policies:**

#### **1. Planning Policies**

- a. *The City will encourage energy-efficient development patterns. Such patterns shall include the mixture of compatible land uses and a compactness of urban development.*

### **Finding:**

The area of the requested URA expansion is primarily vacant or agricultural land. Therefore, if the land was brought into the URAs, there is an opportunity for a master-planned development which could create energy-efficient development patterns consistent with the Comprehensive Plan and applicable provisions of the NMC. However, there is no conditions requiring the site be developed as a master-planned community.

Large parcel size, ideal for master planning, was included by the applicant as a reason for inclusion the subject site into the URAs. However, this factor, while beneficial from a comprehensive planning perspective, does not fall under any of the criteria listed in OAR 660-021-0030. The Engineering Division comments (Attachment 3a 3b and 3c), indicate that existing development in exception areas that are highly parcelized could be seen as a physical constraint. In certain subareas,



the constraint is represented through utility costs. However, that is not consistent with the hierarchy as it relates to both exception and Resource Lands, that implements the provisions of OAR 660-0021.

The Goal can be met.

## **Urbanization**

### **Goals:**

1. *To provide for the orderly and efficient transition from rural to urban land uses.*
2. *To maintain Newberg's identity as a community which is separate from the Portland Metropolitan area.*

### **Policies:**

1. *Urban Growth Boundary and Urban Reserve Area Policies*
  - b. *The City shall oppose urban development outside the City limits but within the Newberg Area Influence.*
  - h. *The designated Urban Reserve Area identifies the priority lands to include within the Newberg Urban Growth Boundary to meet projected growth needs to provide a thirty (30) to fifty (50) year land supply. Designated Urban Reserve Area lands will be included within the Urban Growth Boundary on a phased basis at periodic review. Property owners will also have the opportunity to request that land within the designated Urban Reserve Area be included within the Newberg Urban Growth Boundary, based on the criteria outlined in LCDC Goal 14 and the Urban Growth Management.*

### **Finding:**

The Newberg Area of Influence is described in the NUAGMA as an area of land that extends one mile outside the City's UGB and includes the requested URA expansion area. NUAMC by approval of the Newberg City Council and Yamhill County Board of Commissioners governs the NUAGMA

The Applicant's request to expand the City's URAs do not alter the areas zoning designation and does not convert the areas agricultural lands to an urban use. The Applicant's request to expand the City's URAs is the first step in a process that may lead to the site's eventual conversion to urban uses. An expansion of the City's UGB, as well as annexation to the City, would be required before urbanization could occur.

As established in these findings, the City has an identified land need of approximately 397 more buildable acres within its URAs to ensure that the City's URAs provide sufficient land for a minimum of a 30-year growth horizon per OAR 660-021-0030(1). OAR 660-021-0030(2-5) establishes criteria determining and prioritizing land for inclusion in the URAs, which are addressed in the findings of OAR 660 Division 21.

Staff considerations of the Applicant’s Comparative Site Analysis, Engineering Division comments, and the Urban Reserve Rule determined that the Applicant’s site is a potential priority for URA inclusion at this time. Given that the site is Resource Land with high-quality soils, it is the lowest priority for URA inclusion, excluding lands that cannot be “reasonably serviced.” Approving the inclusion of Resource Land in the URAs is consistent with Goal 14 to preserve rural land and character outside of the UGB when balanced against other Resource Land Areas, and prioritizing Exception Lands, which are more reflective of urban development within the URAs.

As the Applicant has determined that there is not a sufficient amount of reasonably serviceable Exception Land available to meet Newberg’s identified land need through 2051, OAR 660-021-0030(4) provides that lower priority land (i.e., Resource Land) may be included within the URA if land of higher priority cannot meet the identified land need. Notably, this provision does not state that all reasonably serviceable Exception Land must first be brought into the URA before reasonably serviceable Resource Land, simply that if the identified demand cannot be met, lower priority land may be included within the URA.

The Goal is met.

#### F. Summary of Land Needs

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

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

**Finding:** The City’s adopted future land needs data, identified in Table V-14 above, is not based on the current PSU Population Research Center population forecasts. Because the Applicant’s requested URA expansion requires an amendment to acknowledged Comprehensive Plans, the current PSU Population Research Center population forecast numbers must be used as the basis for a decision on the Applicant’s requested URA expansion request pursuant to ORS 195.033(3). The ECONorthwest studies completed in 2021 were based on the most recent PSU population forecast and only accepted (not adopted) by the Newberg City Council and have not been acknowledged by DLCD. The results of those reports were the basis for the

Applicant's 2051 BLI. Therefore, the analyses on population forecasts and associated land needs are assumed to be more accurate than the land needs identified above.

## **Newberg Urban Area Growth Management Agreement (NUAGMA)**

The following provisions of the NUAGMA apply to the submitted application. The full NUGMA is included as Attachment 14.

### ***VII. Establishment of Land Use Review Procedures***

#### ***2. Urban Reserve Area Expansions***

##### ***a. Procedures to establish Urban Reserve Area.***

*An application to amend the Urban Reserve Area may be initiated by the Yamhill County Board of Commissioners, the Newberg City Council, or by a property owner who requests inclusion in or exclusion from the Urban Reserve Area.*

*Amendment of the Urban Reserve Area shall be treated as a map amendment to both the City and County Comprehensive Plan maps.*

*Individual amendment applicants shall pay the fees established from time to time by each governing body.*

*Each application shall include a map and sufficient information to make a decision based upon the applicable requirements of Statewide Land Use Planning Goal 14, ORS Chapter 197 or 197A, and related Oregon Administrative Rules.*

*A property owner requesting inclusion or exclusion from the Urban Reserve Area shall file applications simultaneously with the Newberg Community Development Department, Planning Division, and the Yamhill County Planning and Development Department. The City and County shall each collect fees from the applicant. The City and County shall coordinate with each other to process the application. The City of Newberg may initiate an amendment to the Urban Growth Area by filing its completed application and required fees with the Yamhill County Planning and Development Department for processing. Yamhill County may initiate an amendment to the Urban Reserve Area by filing its completed application and required fees with the Newberg Community Development Department, Planning Division, for processing. Applications must be complete prior to consideration by the Newberg Urban Area Management Commission.*

*Applications shall be accumulated and referred quarterly to the Newberg Urban Area Management Commission for a Public Hearing for which at least ten days advance public notice shall be given by publication in a newspaper of general circulation in the County (or published in the territory so concerned ORS 215.060).*

*Following the Public Hearing, the NUAMC shall make and forward its findings and decision directly to the governing body of each jurisdiction. The City shall review NUAMC's finding and decision in a public hearing (de novo), and adopt its final decision by ordinance. The City shall forward its ordinance to the County, which shall make its final decision based on the NUAMC record, the City's ordinance, and public testimony. The County shall adopt its final decision by ordinance and issue a Board order.*

*Nothing included in this process requires or prohibits the City or County from referring the application to its respective Planning Commissions for information.*

*If the governing bodies do not concur in their final decision within sixty days of referral of the matter to them by the NUAMC, a joint meeting shall be held to resolve differences. If agreement cannot be reached, the parties agree to mediate the issue using a jointly selected mediator.*

**Finding:** This application was initiated by a private property owner. The proposal is being treated as a map amendment to both the City and County Comprehensive Plan maps. The applicant paid fees to process the request to both the City of Newberg and Yamhill County. The property owner filed applications with the City of Newberg and Yamhill County. Notice of a public hearing before NUAMC was provided in the Newberg Graphic at least 10 days prior to opening the initial evidentiary hearing on August 23, 2022. At the conclusion of the NUAMC public hearing its findings and decision will be forwarded to the City Council and County Board of Commissioners for their review. The City Council hearing was noticed provided in the Newberg Graphic at least 10 days prior to the hearing on May 15, 2023. Notice to property owners within 500 feet of the subject proposal was provided on May 3, 2023 by mail.

### **3. Comprehensive Plan Amendment**

- a. *Inside the Urban Growth Boundary, but outside the city limits. The amendment shall be filed with Yamhill County, and shall otherwise be subject to the same procedures as an Urban Growth Boundary Amendment under this Agreement.*

**Finding:** Not applicable because the proposed Comprehensive Plan Amendment is outside of the UGB and outside of the Newberg city limits.

- b. *Inside the Urban Reserve Area, but outside the City limits. This amendment shall be filed with Yamhill County, and shall otherwise be treated subject to the same procedures as an amendment to the Urban Reserve Area, with referral to the City for its recommendation.*

**Finding:** Not applicable because the application addresses land not designated an Urban Reserve Area and is outside of the Newberg city limits.

- c. *Outside the Urban Growth Boundary, but within the "Area of Influence". This amendment shall be processed by Yamhill County and shall be referred to the City of Newberg for a recommendation.*



**Finding:** The proposed application is outside of the UGB but is within the area of influence (within 1 mile of the Newberg UGB). The City and Yamhill County have been coordinating on the application in accordance with Oregon Administrative Rules OAR 660-024. NUAMC will be reviewing the application request as has occurred with previous Urban Reserve Area application requests in 1995, 2006 (Resolution 2006-16), 2007 (Resolution No. 2007-20), 2007 (Resolution No. 2007-21). NUAMC will hold a public hearing and adopt a Resolution regarding the application that will be forwarded to the Newberg City Council and Yamhill County Board of Commissioners for a decision.

## **State Regulations**

### **Statewide Planning Goals**

Applicable Statewide Planning Goals are set forth below with findings demonstrating the project's consistency with each applicable Goal. Goals 7, 13, 15, 16, 17, 18, and 19 are not applicable to the proposed comprehensive plan amendment.

#### ***Goal 1: Citizen Involvement***

***To ensure opportunities for citizens to be involved in the development of public policies and all phases of the planning process.***

**Finding:** The Applicant's requested URA expansion is subject to a quasi-judicial procedure to amend the City and County Comprehensive Plans, which requires public notification and public hearings before NUAMC, Newberg City Council, and Yamhill County Board of Commissioners. The public hearing notice of action and decision, and the hearings on this proposal before the NUAMC, City Council, and Yamhill County Board of Commissioners provides opportunities for citizen participation.

Additionally, the applicant held a virtual neighborhood meeting on May 4, 2021, and invited over 200 project neighbors to this meeting for the purpose of reviewing and discussing the proposal. This meeting was attended by over 50 neighboring property owners and residents, and included a presentation describing the Applicant's URA expansion request, as well as a question and answer session intended to address any questions or concerns raised by neighbors. Concerns around transportation impacts and natural resource protection were raised by neighbors.

The Goal is met.

#### ***Goal 2: Land Use Planning***

***To maintain a transparent land use planning process in which decisions are based on factual information and reviewed in accordance with implementing ordinances.***

**Finding:** The procedure to expand the City's URAs requires a Comprehensive Plan amendment to both the City and County's adopted Comprehensive Plans. This process requires the Applicant to demonstrate consistency with the goals and policies of these Comprehensive Plans, as well as the Newberg Municipal Code, the

Statewide Planning Goals, the Oregon Administrative Rules, and Oregon Revised Statutes so that NUAMC, the City, and the County can make a decision based on findings of fact. This process includes public notice and review for the NUAMC public hearing. NUAMC is the recommending body of the NUAGMA area with final decisions resting with the Newberg City Council and Yamhill County Board of Commissioners. NUAMC includes representatives from both City of Newberg and Yamhill County.

The Land Use Planning Chapter goal is to implement statewide land use program goals and provisions. This includes the Urban Reserve Rule (OAR 660 Division 21), which established the required land supply in the URAs and hierarchy of priority land for inclusion in the URAs. As previously discussed, the City meets the current URAs land supply needed into 2041. The requested URA expansion to the Applicant's area, based on all of their application material, indicates that some Resource Land will need to be designated as Urban Reserve to meet the need out to 2051. Therefore, the request does conform with the land use planning goal of the Comprehensive Plan.

The Goal is met.

### ***Goal 3: Agricultural Lands***

***To preserve and maintain agricultural lands and to support agriculture through farm zoning.***

**Finding:** The Applicant's request to expand the City's URA does not alter the area's zoning designation and does not convert the area's agricultural lands to an urban use. The Applicant's request to expand the City's URA is the first step in a process that may lead to the site's eventual conversion to urban uses away from agricultural land. An expansion of the City's UGB, as well as annexation to the City, would be required before urbanization could occur. Unless and until urbanized as allowed under the applicable state and local statutes, the site's rural character will remain intact and the URA expansion will not directly impact the site's rural character.

The subject area is zoned Exclusive Farm Use, in total about 90 acres of Exclusive Farm Use land. Exclusive Farm Use land is protected through Goal 3 and its implementing provisions. The area consists of Class I, II, III, and IV soils. The Applicant's 2051 BLI demonstrated a need for more land in the URAs. However, pursuant to the Urban Reserve Rule, Resource Lands, which includes agricultural land, is the lowest priority land for inclusion.

The 95.3-gross acre property is almost entirely located on land with a Yamhill County Comprehensive Plan designation of Agricultural/Forestry Large Holding (AFLH), and zoned for agriculture, and designated as Exclusive Farm Use (EF-20) pursuant to Yamhill County zoning. As noted in the Comprehensive Plan policy, inclusion of agricultural land into the UGB would assume future development. Generally, URA inclusion is one step between the current resource status of the subject site and the eventual inclusion of the land in the UGB.

OAR 660-021-0030 describes the hierarchy of priority lands to be included in the URAs. Resource Land, including land zoned EF-20, is the last priority for inclusion in a URA. The provision is intended to protect Resource Land from urbanization. When land needs require inclusion of Resource Land, the Resource Land is then prioritized by soil classifications.

As part of the proposed URA expansion, the Applicant completed the 2051 Buildable Lands Inventory & Lands Need Assessment (see Attachment 15, Exhibit G), which determined Newberg's buildable land need for the 2051 planning horizon is 397 buildable acres, which the staff concurs with. Further, the Applicant completed a Comparative Site Analysis (see Attachment 15, Exhibit H), as well as a subsequent addendum submitted on March 1, 2022 (see Attachment 15, Exhibit H), that found approximately 213.62 acres of Exception Land within a one mile radius of the City's Urban Growth Boundary (UGB) that can be reasonably served by extensions of public utilities (water and gravity sanitary sewer service), and are therefore eligible for consideration as a URA. Therefore, the City would continue to have a deficit of approximately 183.38 acres of land to satisfy the identified land need through 2051.

As the Applicant has determined that there is not a sufficient amount of reasonably serviceable Exception Land available to meet Newberg's identified land need through 2051, OAR 660-021-0030(4) provides that lower priority land (i.e., Resource Land) may be included within the URA if land of higher priority cannot meet the identified land need. Notably, this provision does not state that all reasonably serviceable Exception Land must first be brought into the URA before reasonably serviceable Resource Land, simply that if the identified demand cannot be met, lower priority land may be included within the URA.

As described within the Staff Report, the Applicant has applied a comprehensive analysis of potential alternative URA expansion sites. Consistent with this goal, the urbanization of agricultural land has been carefully considered with the determination that the Applicant's proposed site is eligible to be brought into the Newberg URA.

The Goal is met.

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

***To protect and maintain unique scenic, open space and natural areas.***

**Finding:** Historic resources are inventoried by both the City and County and are not shown to exist in the subject area. The Applicant's requested URA expansion will not alter protections that currently exist within the Newberg Municipal Code and the Yamhill County Zoning Ordinance (YCZO). Future development, whether urban or rural in nature, will have to comply with Goal 5 and existing protections maintained by both the City and County, depending on future jurisdiction.

The applicant has completed a preliminary reconnaissance to determine the approximate location of possible on-site wetlands. A formal delineation will be

necessary to determine the extent and precise location of these wetlands prior to any future development activity.

The Goal is met.

#### ***Goal 6: Air, Water and Land Resource Quality***

***To maintain and improve the quality of air, land, and water resources consistent with state and federal regulations.***

**Finding:** The Applicant's requested URA expansion will not alter protections that currently exist within the NMC or the YCZO. Future development, whether urban or rural in nature, will comply with Goal 6 and existing protections maintained by the City and County as applicable. The applicant has completed a preliminary reconnaissance to determine the approximate location of possible on-site wetlands. A formal delineation will be necessary to determine the extent and precise location of these wetlands prior to development.

The Goal is met.

#### ***Goal 9: Economic Development***

***To inventory commercial and industrial lands, identify future demand, and plan for ways to meet that demand.***

**Finding:** The 2051 BLI, determined a land need of an additional 397 acres of land needed in the URAs. Theoretically, the requested URA expansion for the subject site could contribute 90 acres to meet a portion of the 170-acre land need identified in the Applicant's report for employment land into 2051. The Applicant, however, has provided a concept plan (see Attachment 15, Exhibit F) that relies on residential development of the area as opposed to employment lands. The concept plan demonstrates a variety of housing types can be provided, including single-family detached homes, duplexes, triplexes, cottage clusters, townhomes, and multi-family residential (apartments), as well as commercial (employment) land. A greater variety of housing options offers increased opportunities for renters and homeownership across multiple price levels, which is conducive to attracting new industries and maintaining a stable economic base in support of this goal.

The Goal is met.

#### ***Goal 10: Housing***

***Top plan for and accommodate needed housing types based on residential land inventories.***

**Finding:** The 2051 BLI, determined a land need of an additional 397 acres of land needed in the URAs. The requested URA expansion could contribute 95.3 gross acres towards meeting the 2051 need of 239-acres of residential land. Any future urban (City of Newberg) zoning for the area would not be determined or applied until the site was added to the UGB and annexed. The applicant, however, has provided a concept plan (see Attachment 15, Exhibit F) that demonstrates a variety of housing types



can be provided, including single-family detached homes, duplexes, triplexes, cottage clusters, townhomes, and multi-family residential (apartments), as well as commercial (employment) land. A greater variety of housing options offers increased opportunities for renters and homeownership across multiple price levels, consistent with Goal 10.  
The Goal can be met.

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

***To plan, develop, and maintain public facilities and services that serve the needs of the community in an orderly and efficient manner.***

**Finding:** The Applicant completed an analysis determining the serviceability of the area (see Attachment 15, Exhibit J). The area is reasonably serviceable with moderate costs per buildable acre when compared to other areas considered for URA inclusion. The serviceability to the area is as follows.

- **Water:** Approximately 68 acres of the requested URA expansion area is within Pressure Zone 1, which can be served by the Corral Creek Reservoir. A connection to the existing 24-inch water main, located just north of the area, could provide water service to the northern portions of the area. A connection to the existing 8-inch water main within E Hook Drive and N Fairway Street could serve the western and southern portions of the area. The remaining higher elevation portions of the area are within Pressure Zone 2, which would require a new reservoir at a higher elevation or the construction of a local Pressure Zone 2 system within the requested URA expansion area with a dedicated pump system feeding an isolated portion of the water distribution system to service the higher elevations of the requested URA expansion area. The Applicant contends that alternatively if not developed for residential uses, these lands could be utilized for park, open space, and recreational uses in support of Newberg Comprehensive Plan goals and policies that encourage the provision of open space and recreational opportunities and “complete communities”.
- **Wastewater:** The requested URA expansion site is serviceable by gravity wastewater lines as the area generally slopes to the southwest toward NE Fernwood Road. The area would connect to the Fernwood Pump station located approximately 1,300 feet to the west. As identified in the City’s Wastewater Master Plan, upgrades to the Fernwood Pump Station and the pressurized and gravity sewer mains downstream of the pump station would be required, as the pump station and mains are already at capacity. A preferred alternative for these upgrades is identified in the Wastewater Master Plan.
- **Stormwater:** The requested URA expansion area is serviceable by a gravity stormwater conveyance system. The on-site stormwater conveyance system could discharge to the 12-inch stormwater main within NE Fernwood Road, which eventually outfalls into Spring Brook Creek.

Therefore, the requested URA expansion site's serviceability and adjacency to existing urbanized areas and services can facilitate more orderly and efficient urbanization and development of public facilities to serve as a framework for urban development.

The Applicant's site has an area that is higher in elevation than the Corral Creek Reservoir and cannot be served by the reservoir unless a booster pump station is added, or a new reservoir is constructed. The applicant provided supplemental information (Attachment 17) that further addressed this issue. The Engineering Division has recommended that 20 acres of the subject application area should be removed from consideration because it is above Water Zone 1 and the City does not support local Zone 2 water service areas or water pump stations.

While NUAMC understands the Engineering Division's concerns with retaining the 20 acres of the Applicant's proposed URA expansion site that aren't serviceable by Zone 1 of the City's water system, retaining these lands within the proposed URA expansion site allows the lands to be used for other uses necessary for efficient urbanization, such as parks, open space, and recreational opportunities, as well as public street connections that can allow for more efficient development within the remainder of the URA expansion site.

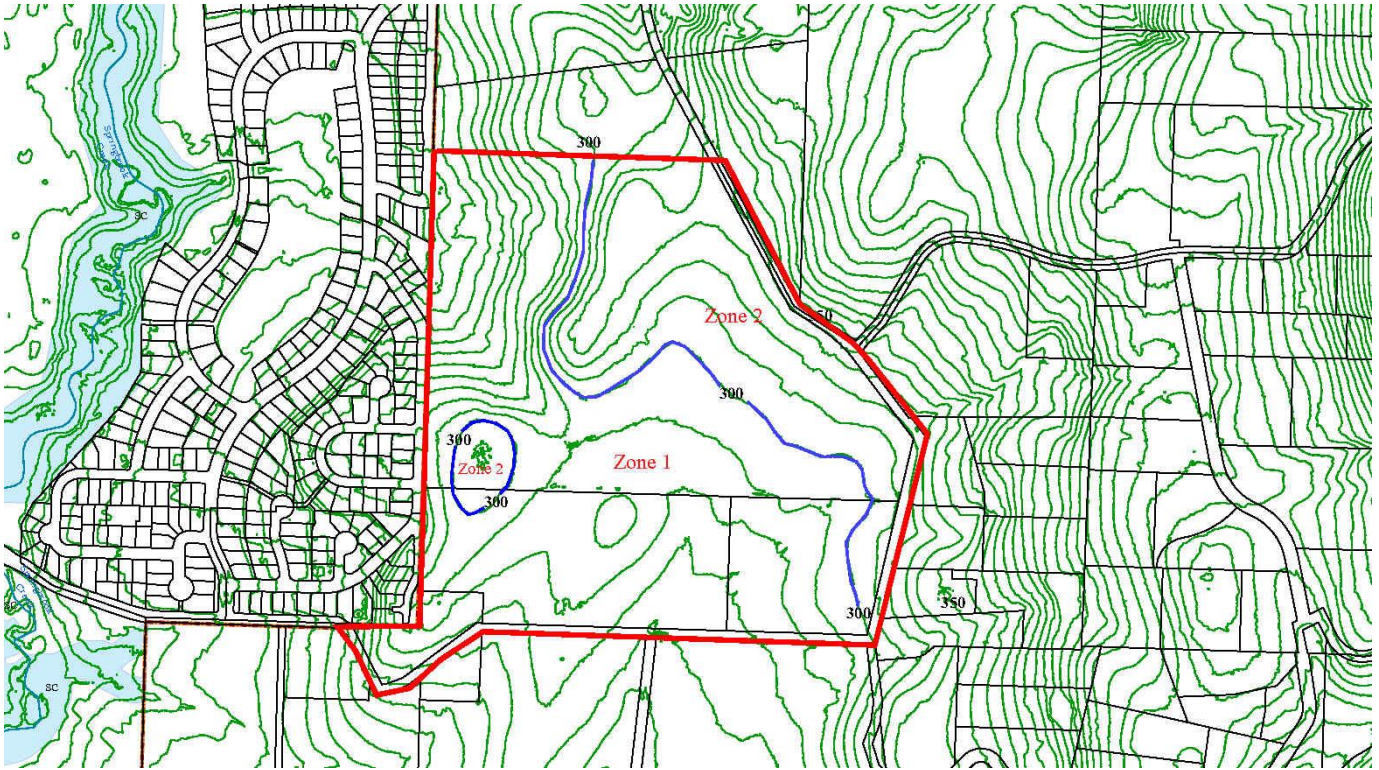
The City of Newberg Engineering Division evaluated the November 22, 2022, Comparative Site Analysis Addendum (Attachment 17) and provided the following comments:

- a. Approximately 20 acres of East A Resource Land, 20 acres of which are within the Applicant's proposed URA expansion site, are not serviceable by Zone 1 of the City's water system. (See Map below for 300-foot contour delineation between Zone 1 and Zone 2)
- b. The information provided does describe two approaches to provide water service to these areas of East A resources lands not serviceable by Zone 1.
- c. What is not described is if any sub areas within the other Resource Lands evaluated might also have areas that could be served in a similar manner that might also be considered reasonably serviceable by the Applicant's methodology.
- d. The two approaches described for providing water service to the 20 acres of East A Resource Land within the Applicant's proposed URA expansion site not serviceable by Zone 1 are:
- e. Construction of a local Zone 2 within the Applicant's proposed URA expansion site.
- f. Extension of the City's Zone 3 service area.

Neither of the approaches described are consistent with the current City of Newberg Water Master Plan.

- g. It is not recommended to create additional local Zone 2 water service areas or water pump stations.

- h. The planned Zone 3 water service area is not located in proximity to the Applicant's proposed URA expansion site.
- i. The Newberg Engineering Division recommends that the 20 acres of East A Resource Land within the Applicant's proposed URA expansion site not serviceable by Zone 1 of the City's water system be removed from consideration for inclusion in the Applicant's proposed URA expansion site.



The Goal is not met for water but can be met for wastewater and stormwater.

### ***Goal 12: Transportation***

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

**Finding:**

For instances involving comprehensive plan amendments, Goal 12 is implemented by the Transportation Planning Rule (TPR) per OAR 660-0012. No development or zone changes are proposed at this time. Before any development could occur on the property, it would be necessary to bring the site into the UGB, annex it into the City of Newberg, and gain approval for desired land uses. Because the requested URA amendment will not permit the construction of any development or generate any potential increase in trips to the site, the Transportation Planning Rule is satisfied. There will not be a significant effect on the transportation system as a result of the requested URA amendment.

*660-012-0060 Plan and Land Use Regulation Amendments*

*1. If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing*



*or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:*

*(a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);*

*(b) Change standards implementing a functional classification system; or*

*(c) Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on*

*projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.*

*(A) Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;*

*(B) Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or*

*(C) Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.*

Subsections (a) and (b) are not triggered since the proposed land use action will not impact or alter the functional classification of any existing or planned facility and the proposal does not include a change to any functional classification standards.

Regarding subsection (c), the requested URA amendment cannot trigger subsections (A) through (C) since the URA amendment will not result in the generation of any trips or any potential increase in trips. As such, there is not a “significant effect” to the transportation system and the TPR is satisfied. A detailed and comprehensive analysis of the transportation impacts associated with the area would be required at the time of either the UGB amendment or annexation into the City. Oregon law allows that detailed TPR findings can be deferred to the time of annexation. At that time, a full transportation impact analysis will be required that provides an in-depth examination of the impacts of development on the site, conditions at the applicable planning horizon, and identification of specific improvements that would be required to mitigate the impact from development.

The Goal can be met.

#### **Goal 14: Urbanization**

***To provide for an orderly and efficient transition from rural to urban land use; to accommodate urban populations and employment inside urban growth boundaries, to preserve rural character outside urban growth boundaries, and to preserve small town character.***



**Finding:**

The Applicant's request to expand the City's URAs does not alter the areas zoning designation and does not convert the areas agricultural lands to an urban use. The Applicant's request to expand the City's URA is the first step in a process that may lead to the site's eventual conversion to urban uses. An expansion of the City's UGB, as well as annexation to the City, would be required before urbanization could occur. Prior to urbanization, the site's rural character will be preserved in compliance with Goal 14.

As established in these findings, the City has an identified land need of approximately 397 more buildable acres within its URAs to ensure that the City's URAs provide sufficient land for a minimum 30-year growth horizon per OAR 660-021-0030(1). OAR 660-021-0030(2-5) establishes criteria determining and prioritizing land for inclusion in a URA, which are addressed with findings of OAR 660 Division 21.

Staff considerations of the Applicant's Comparative Site Analysis, Engineering Division comments, and the Urban Reserve Rule determined that the Applicant's site is a potential priority for URA inclusion at this time. Given that the site is Resource Land with high-quality soils, it is the lowest priority for URA inclusion, excluding lands that cannot be "reasonably serviced." Approving the inclusion of resource land in the URAs is consistent with Goal 14 to preserve rural land and character outside of the UGB when balanced against other Resource Land Areas, and prioritizing exception lands, which are more reflective of urban development within the URAs.

As the Applicant has determined that there is not a sufficient amount of reasonably serviceable exception land available to meet Newberg's identified land need through 2051, OAR 660-021-0030(4) provides that lower priority land (i.e., resource land) may be included within the URA if land of higher priority cannot meet the identified land need. Notably, this provision does not state that all reasonably serviceable exception land must first be brought into the URA before reasonably serviceable resource land, simply that if the identified demand cannot be met, lower priority land may be included within the URA.

The Goal is met.

## **Oregon Administrative Rules**

Applicable provisions of the Oregon Administrative Rules (OAR) are set forth below with findings demonstrating the project's consistency with these provisions.

### ***Chapter 660 – Land Conservation and Development Department***

#### ***Division 12 – Transportation Planning***

##### ***660-012-0060 Plan and Land Use Regulation Amendments***

- (1) If an amendment to a functional plan, an acknowledged comprehensive plan, or a***

*land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:*

- (a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);*
- (b) Change standards implementing a functional classification system; or*
- (c) Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.*
  - (A) Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;*
  - (B) Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or*
  - (C) Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.*

**Finding:** See response to Statewide Planning Goal 12 findings.

#### ***Division 18 – Post-Acknowledgement Amendments***

##### ***660-018-0020 Notice of a Proposed Change to a Comprehensive Plan or Land Use Regulation***

- (1) Before a local government adopts a change to an acknowledged comprehensive plan or a land use regulation, unless circumstances described in OAR 660-018-0022 apply, the local government shall submit the proposed change to the department, including the information described in section (2) of this rule. The local government must submit the proposed change to the director at the department's Salem office at least 35 days before holding the first evidentiary hearing on adoption of the proposed change.*

**Finding:** The Applicant is requesting an amendment to both the City and County Comprehensive Plans. The City will be required to provide notice to the Department of Land Conservation and Development (DLCD) at least 35 days prior to the first evidentiary hearing before the NUAMC.

- (2) The submittal must include applicable forms provided by the department, be in a*

*format acceptable to the department, and include all of the following materials:*

- (b) If a comprehensive plan map or zoning map is created or altered by the proposed change, a copy of the relevant portion of the map that is created or altered;*
- (c) A brief narrative summary of the proposed change and any supplemental information that the local government believes may be useful to inform the director and members of the public of the effect of the proposed change;*
- (d) The date set for the first evidentiary hearing;*
- (e) The notice or a draft of the notice required under ORS 197.763 regarding a quasi-judicial land use hearing, if applicable; and*
- (f) Any staff report on this proposed change or information that describes when the staff report will be available and how a copy may be obtained.*

**Finding:** The Applicant is requesting an amendment to both the City and County Comprehensive Plans to expand the City's URAs. The submittal to DLCD will include the materials identified above.

- (3) The proposed text submitted to comply with subsection (2)(a) of this rule must include all of the proposed wording to be added to or deleted from the acknowledged plan or land use regulations. A general description of the proposal or its purpose, by itself, is not sufficient. For map changes, the material submitted to comply with Subsection (2)(b) must include a graphic depiction of the change; a legal description, tax account number, address or similar general description, by itself, is not sufficient. If a goal exception is proposed, the submittal must include the proposed wording of the exception.*

**Finding:** The Applicant is requesting an amendment to both the City and County Comprehensive Plans to expand the City's URA, which involves changes to both Comprehensive Plan Maps. The submittal to DLCD shall include the materials as identified by OAR 660-018- 0020(2)(b). A goal exception is not proposed with the Applicant's requested URA expansion.

- (4) If a local government proposes a change to an acknowledged comprehensive plan or a land use regulation solely for the purpose of conforming the plan and regulations to new requirements in a land use statute, statewide land use planning goal, or a rule implementing the statutes or goals [...]*

**Finding:** The Applicant's requested URA expansion is not amending the City and County Comprehensive Plans for the purpose of conforming the plan and regulations to new requirements in a land use statute, statewide land use planning goal, or a rule implementing the statutes or goals.

- (5) For purposes of computation of time for the 35-day notice under this rule and OAR 660-018- 0035(1)(c), the proposed change is considered to have been "submitted" on*

*the day that paper copies or an electronic file of the applicable notice forms and other documents required by section (2) this rule are received or, if mailed, on the date of mailing. The materials must be mailed to or received by the department at its Salem office.*

**Finding:** The Applicant is requesting an amendment to both the City and County Comprehensive Plans to expand the City's URAs. The City will be required to provide notice to DLCD at least 35 days prior to the first evidentiary hearing before NUAMC. The Applicant's requested URA expansion shall be considered submitted on the day that paper copies or an electronic file are either mailed or received by DLCD at its Salem office.

#### ***660-018-0021 Joint Submittal of Notices and Changes***

- (1) Where two or more local governments are required by plan provisions, coordination agreements, statutes or goals to agree on and mutually adopt a change to a comprehensive plan or land use regulation, the local governments shall jointly submit the notice required in OAR 660-018-0020 and, if the change is adopted, the decision and materials required by OAR 660-018-0040. Notice of such proposed changes must be jointly submitted at least 35 days prior to the first evidentiary hearing. For purposes of notice and appeal, the date of the decision is the date of the last local government's adoption of the change.***
- (2) For purposes of this rule, a change to a comprehensive plan or land use regulation that requires two or more local governments to agree on and mutually adopt the change includes, but is not limited to, the establishment or amendment of an urban growth boundary or urban reserve by a city and county in the manner specified in Goal 14.***

**Finding:** The Applicant's requested URA expansion requires an amendment to both the City and County Comprehensive Plans, which requires their mutual participation and agreement per the NUAGMA. The City and County jointly submitted the notice required by OAR 660-018-0020, and OAR 660-018-0040 following a decision. Notice shall be provided at least 35 days prior to the first evidentiary hearing before NUAMC.

#### ***660-018-0022 Exemptions to Notice Requirements Under OAR 660-018-0020***

- (1) When a local government determines that no goals, commission rules, or land use statutes apply to a particular proposed change, the notice of a proposed change under OAR 660-018- 0020 is not required.***
- (2) If a local government determines that emergency circumstances beyond the control of the local government require expedited review such that the local government cannot submit the proposed change consistent with the 35-day deadline under OAR 660-018-0020, the local government may submit the proposed change to the department as soon as practicable. The submittal must include a description of the emergency circumstances.***
- (3) A local government must submit any adopted change to an acknowledged***



*comprehensive plan or land use regulation to the department within 20 days after the decision to adopt the change, as required by OAR 660-018-0040, regardless of the reason for not submitting the proposed change in advance, as provided in ORS 197.615(1) and (2).*

- (4) *Notwithstanding the requirements of ORS 197.830(2) to have appeared before the local government in the proceedings concerning the proposal, if a local government does not provide any notice described in OAR 660-018-0020, regardless of the reason for not providing the notice, the director or any other person may appeal the decision to the board under ORS 197.830 to 197.845, except as provided in ORS 197.620(3).*

**Finding:** The Applicant's requested URA expansion is subject to numerous goals, Oregon Administrative Rules and land use statutes and is not requested for an emergency situation beyond the control of the City or County. The exemptions provided by OAR 660-018-022 are, therefore, not applicable.

#### ***660-018-0025 Requests for Department Notice of Proposed Changes***

- (1) *Within 15 days of receipt of a notice of a proposed change to an acknowledged comprehensive plan or a land use regulation described under OAR 660-018-0020, the department shall provide notice of the proposed change to persons that have requested notice of such changes. The notice shall be provided using electronic mail, electronic bulletin board, electronic mailing list server or similar electronic method.*
- (2) *The department shall notify persons that are generally interested in proposed changes to acknowledged comprehensive plans by posting notices received under OAR 660-018-0020 on a weekly basis on the department website using the Internet or a similar electronic method.*

**Finding:** The Applicant's requested URA expansion requires an amendment to the City and County Comprehensive Plans. DLCD shall provide notice of the proposed change to interested persons that have requested notice of such changes.

#### ***660-018-0040 Submittal of Adopted Change***

- (1) *When a local government adopts a proposed change to an acknowledged comprehensive plan or a land use regulation it shall submit the decision to the department, with the appropriate notice forms provided by the department, within 20 days. [...]*

**Finding:** The Applicant's requested URA expansion requires an amendment to the City and County Comprehensive Plans. Once a NUAMC recommendation is rendered and forwarded to the Newberg City Council and Yamhill County Board of Commissioners for public hearings, the City and County will be required to submit the decisions to DLCD within 20 days.

#### ***660-018-0050 Notice to Other Parties of Adopted Changes***

- (1) *Notice of an adopted change to a comprehensive plan or land use regulation to persons other than the department is governed by ORS 197.615(4) and (5), which require that on the same day the local government submits the decision to the director the local government shall mail or otherwise deliver notice of the decision to persons*

*that:*

- (a) Participated in the local government proceedings that led to the decision to adopt the change to the acknowledged comprehensive plan or the land use regulation; and*
- (b) Requested in writing that the local government provide them with notice of the change to the acknowledged comprehensive plan or the land use regulation.*

**Finding:** The Applicant's requested URA expansion requires an amendment to the City and County Comprehensive Plans. Once a NUAMC decision is rendered and forwarded to the Newberg City Council and Yamhill County Board of Commissioners for public hearings, notice of the NUAMC recommendation and City and County decisions shall be delivered to interested persons that participated in the proceedings and/or requested in writing to the City and/or County that notice be provided to them.

***660-018-0055 Notice by the Department of Local Adoption***

- (1) Within five working days of the receipt of a local government notice of adoption of a change to a comprehensive plan or a land use regulation described under OAR 660-018-0040, the department shall provide notice of the decision and an explanation of the requirements for appealing the land use decision under ORS 197.830 to 197.845, to persons that have requested notice from the director of such adopted changes. The notice shall be provided using electronic mail, electronic bulletin board, electronic mailing list server or similar electronic method.*
- (2) The department shall notify persons that are generally interested in changes to acknowledged comprehensive plans by posting notices received under OAR 660-018-0040 periodically on the department website using the Internet or a similar electronic method.*

**Finding:** The Applicant's requested URA expansion requires an amendment to the City and County Comprehensive Plans. Once a NUAMC recommendation is rendered and forwarded to the Newberg City Council and Yamhill County Board of Commissioners for public hearings, DLCD will be required to provide notice of the decision and an explanation of the requirements for appealing the decision under ORS 197.830-845 to persons that have requested notice of such adopted changes. DLCD shall periodically post notice on the DLCD website as required by OAR 660-018-0055(2).

***Division 21 – Urban Reserves***

***660-021-0020 Authority to Establish Urban Reserve***

- (1) Cities and counties cooperatively, and the Metropolitan Service District for the Portland Metropolitan area urban growth boundary, may designate urban reserves under the requirements of this division, in coordination with special districts listed in OAR 660-021-0050(2) and other affected local governments, including neighboring*

*cities within two miles of the urban growth boundary. Where urban reserves are adopted or amended, they shall be shown on all applicable comprehensive plan and zoning maps, and plan policies and land use regulations shall be adopted to guide the management of these reserves in accordance with the requirements of this division.*

**Finding:** The City of Newberg, in coordination with Yamhill County, has designated URAs for the City under the requirements of this division. The Applicant is requesting an amendment to the City and County Comprehensive Plans to expand the City's URAs to include the Applicant's proposed URA expansion site. Therefore, compliance with OAR 660-021 is required. Coordination with special districts has occurred by referral notice. The City of Dundee is beyond the 2-mile distance based on the application site submittal.

#### **660-021-0030 Determination of Urban Reserve**

*(1) Urban reserves shall include an amount of land estimated to be at least a 10-year supply and no more than a 30-year supply of developable land beyond the 20-year time frame used to establish the urban growth boundary. Local governments designating urban reserves shall adopt findings specifying the particular number of years over which designated urban reserves are intended to provide a supply of land.*

**Finding:** In 2020, the City hired ECONorthwest to prepare updates to the City's HNA and EOA, as well as a Public and Semi-Public Land Need Memorandum which addressed the City's residential, employment, and public and semi-public land needs over a 20-year period. These analyses are based on the current PSU Population Research Center's population forecasts (published in June 2020), which are required to be used for the purpose of land use planning per ORS 195.033(3). These studies showed that in the 2021 to 2041 period there is a land deficiency within Newberg's UGB of 192 acres. Residential has a surplus of 31 acres factoring in employment uses and public/semi-public needs in Low Density Residential (LDR) land, a deficiency of 37 acres factoring in employment uses and public/semi-public needs in Medium Density Residential (MDR) land, and a deficiency of 44 acres factoring in employment uses, public/semi-public and group quarter needs in High Density Residential (HDR) land (February 2021 HNA), Commercial has a surplus of 22 acres factoring in public/semi-public needs, and industrial has a deficit of 164 factoring in public/semi-public needs.

An amendment to the February 2021 HNA in June 2021 was added to reflect the OAR 660-046-0330(4)(c) requirement to assume a 3% production of middle housing in forecasting future development. With the middle housing requirements shift, the residential land need shifted to a land deficiency within Newberg's UGB of 185 acres. Residential has a surplus of 35 acres factoring in employment uses and public/semi-public needs in Low Density Residential (LDR) land, a deficiency of 34 acres factoring in employment uses and public/semi-public needs in Medium Density Residential (MDR) land, and a deficiency of 44 acres factoring in employment uses, public/semi-public and group quarter needs in High Density Residential (HDR) land, Commercial has a surplus of 22 acres factoring in

public/semi-public needs, and industrial has a deficit of 164 factoring in public/semi-public needs.

Per Newberg Comprehensive Plan Policy N.1.h, the City's designated URAs shall provide a 30-to-50-year land supply to meet projected growth as required by this division. The 2051 BLI (see Attachment 15, Exhibit G) assessed the sufficiency of the City's current URAs to provide a supply of buildable land through 2051. Resulting forecasted land need for 2051 was a total of 475 buildable acres. Modifying the total land need to be consistent with the revised HNA, the total land need is 472 acres.

According to the Applicant's 2051 BLI, the existing URAs contains 557 gross acres of land, of which 320 acres are considered buildable. Accounting for subtractions of 25 percent of this value for future public infrastructure and right-of-way, there are approximately 240 acres of net buildable land within the City's existing URAs. After reconciling the existing URAs land with UGB expansion land needs there is a remaining surplus of 72 acres within the existing URAs. The Applicant determined the surplus that can meet land demands through 2041, but that additional land is needed to meet demand through 2051 to maintain a minimum 30-year supply into 2051. Staff concurs with the Applicant's 2051 BLI and the identified residential land need for the 2041-2051 period.

Per Newberg Comprehensive Plan Policy N.1.h, the City's designated URAs shall provide a 30-to-50-year land supply to meet projected growth as required by this division. The Applicant's 2051 BLI identifies that the identified land need for 2051 cannot be met by Newberg's current URA; therefore, the URA may be expanded to meet the identified land need.

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

**Finding:** The Applicant completed a Comparative Site Analysis (Attachment 15, Exhibit H; Attachment 17), in accordance with this division, considered all areas adjacent to or near the City's current UGB in its analysis to determine suitability for inclusion with the City's URAs. The study areas extend approximately one mile from the City's current UGB and include all adjacent exception areas as well as agricultural (resource) land. The one-mile radius is consistent with the NUAGMA "area of influence." A total of 15 subareas were evaluated. The areas are generally consistent with the 2007 URA study area, but have different labels. Additionally, the Newberg Engineering Division provided additional comments regarding costs of public utility infrastructure to applicable exception areas.

Goal 14 locational factors:



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

The Applicant's Comparative Site Analysis analyzed potential URA lands for suitability based on the provisions identified by OAR 660-021-0030(3) and the locational factors of Goal 14 identified above. Findings are provided in response to OAR 660-021-0030(3) demonstrating the Applicant's proposed URA expansion site is eligible for inclusion within the Newberg URA.

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

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

**Finding:**

In Exhibit H of Attachment 15 (Application) the Applicant provides estimated costs of the various subareas. Utility cost estimates in the study have been determined by calculating the inflationary increase to estimates in the Newberg Urban Reserve Expansion Study Areas Public Utilities Cost Estimates Report, prepared by the City in support of the 2007 URA Report. DOWL has not conducted detailed engineering cost estimates for the study areas, so the estimates in the report should be considered high level and for planning and comparison purposes only. The full methodology for the utility cost estimates used in this study is included in Exhibit A of the Comparative Site Analysis Report (Attachment 15, Exhibit H).

There are 1,504 buildable acres of Exception Land within the 15 subareas evaluated. Pursuant to subsection (4)(a) of Division 21, exception areas that are not reasonably serviceable are excluded from the list of possible land for inclusion. The Newberg Engineering Division reviewed the public utilities cost estimates and provided modification suggestions based on their local knowledge. Their comments are found in Attachment 3a, 3b and 3c. Further, they note the previous study 2007 (which DOWL's analysis was based on) is 15 years old and suggested it "*warrants a review of the previous study's determination of "reasonableness" of provision of public facilities.*" The Engineering Division recommends a more in-depth analysis in order to provide the information necessary to determine that there are no reasonable alternatives to a future proposed URAs that will require less, or have less effect upon, Resource Land. An approach to this would be to complete a contour analysis of the 15 subareas to determine which areas, or portions of the subareas, could be served without wastewater lift stations or water pump stations.

The Applicant provided an Addendum to Attachment 15, Exhibit H in response to the memorandum dated 8/16/2021 from KGH Engineering/Newberg Engineering

Division and the City's request to the Applicant for further evaluation of subareas to determine if portions of these sub areas could be reasonably served with public facilities. Newberg Engineering staff has determined that the Applicant's supplemental information in the Addendum to Exhibit H (see Attachment 15) generally provides the requested further evaluation of exception land sub areas. In the DOWL information submitted on November 15, 2022, on Combined Serviceability of Exception Land Area the data indicates that there are 213.62 acres of Combined Gravity Sanitary Sewer & Water Service Area in Exception Areas that can be reasonably served (Attachment 16). The letter indicates that based on serviceability there remains a deficit of approximately 183.38 acres to satisfy the established need of 397 acres as shown in the table below, which staff concurs with.

*Table 1: Combined Serviceability Summary (Areas Eligible for URA Consideration), Update*

<b>Study Area</b>	<b>Total Gross Area (ac., approx.)</b>	<b>Exception Land Area (minus Constraints) (ac., approx.)</b>	<b>Combined Gravity Sanitary Sewer &amp; Water Service Area (ac., approx.)</b>
<b>North A</b>	671.32	51.70	0
<b>North B</b>	472.39	281.32	0
<b>Northeast A</b>	298.20	115.55	63.93
<b>Northeast B</b>	238.69	76.16	0
<b>East A</b>	619.30	40.08	2.67
<b>East B</b>	439.92	303.59	0
<b>Southeast A</b>	198.68	82.19	0
<b>Southeast B</b>	299.63	1.81	1.7
<b>Southeast C</b>	235.60	114.45	82.32
<b>Southwest A</b>	255.54	190.60	<b>20 (previously 1 acre)</b>
<b>Southwest B</b>	213.66	154.12	0
<b>Southwest C</b>	277.22	250.75	0
<b>Southwest D</b>	514.40	370.54	0
<b>Northwest A</b>	500.65	99.27	<b>14 (previously 0 acres)</b>
<b>Northwest B</b>	302.10	28.78	<b>29 (previously 0 acres)</b>
<b>Total Area Eligible for URA Consideration:</b>			<b>213.62 (previously 151.62 acres)</b>

Intervening Resource Lands can sometimes be needed for urbanization; however, that is not the case in the current URA inclusion exercise. Staff analyses determined the East A subarea, which includes the subject site, is not a necessary intervening Resource Land. The East A subarea Exception Land connected by a small area of Resource Land is planned to house the extension of the Newberg Dundee Bypass, leaving little remaining land for development and limiting access to those properties. Contrary to the Applicant's suggestions and the 2007 URA Report, staff also finds the Resource Land in East A is not required to provide a cost-efficient provision of public utilities to the Southeast C exception area. In the site comparison, applicable intervening Resource Land is found in subareas North A, North B, and Northeast B. However, since the Exception Land at the top of the priority list does not include intervening Resource Land, no intervening Resource Land would need to be prioritized.

Collectively, the Exception Lands described as “reasonably serviceable” shown in the table above total approximately 213.62 acres. None of these exception areas require intervening Resource Land to be reached. Therefore, the prioritized Exception Lands can meet some, but not all, of the established 2051 land need for the Newberg URA of 397 acres. As mentioned, there remains a deficit of approximately 183.38 acres.

OAR 660-021-0030(4) provides that lower priority land (i.e., Resource Land) may be included within the URA if land of higher priority cannot meet the identified land need. Notably, this provision does not state that all reasonably serviceable exception land must first be brought into the URA before reasonably serviceable resource land, simply that if the identified demand cannot be met, lower priority land may be included within the URA. Therefore, Resource Land may be evaluated next.

- (b) If land of higher priority is inadequate to accommodate the amount of land estimated in section (1) of this rule, second priority goes to land designated as marginal land pursuant to former ORS 197.247 (1991 edition);***

**Finding:** Yamhill County does not have lands designated as marginal lands. Therefore, OAR 660- 021-030(3)(b) does not apply.

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

**Finding:** Addendum material submitted by the Applicant indicates that there are 213.62 acres of Exception Land that is reasonably serviceable. The information indicates that there is 183.38 acres of Resource Land that needs to be considered for URA designation to meet the 397-acre deficiency (Attachment 16).

The Applicant provided an additional supplemental addendum on the Comparative Site Analysis on November 22, 2022 (Attachment 17). This addendum includes an Executive Summary, Exhibit A Study Area Map, Exhibit B Study Area Constraints Map, Exhibit C Study Area Sanitary Sewer & Water Serviceability Maps, and Exhibit D Soil Composition Map for Reasonably Serviceable Resource Land. The analysis addressed the serviceability of resource lands. Using a similar methodology as the analysis of Exception Lands, the Applicant first determined which resource lands could be reasonably served by extensions of urban services. This analysis concluded that approximately 513 acres of resource land were reasonably serviceable, as shown in the table below.

Study Area	Total Resource Land Area, Gross (ac., approx.)	Resource Land Area Excluded due to Constraints (ac., approx.)	Resource Land Area Remaining (ac., approx.)	Combined Gravity Sanitary Sewer & Water Service Area (ac., approx.)
North A	488.89	166.83	322.06	126
North B	56.35	24.69	31.66	0
Northeast B	134.62	31.58	103.04	0
East A	539.08	79.54	459.54	262
Southeast B	294.09	75.08	219.01	0
Southeast C	99.88	6.03	93.85	0
Northwest A	390.73	44.23	346.5	0
Northwest B	273.13	15.69	257.44	125
<b>Total Area Reasonably Serviceable:</b>				<b>513 acres</b>

When incorporating resource land, OAR 660-021-0030(3)(c) states that “*If land of higher priority is inadequate to accommodate the amount of land estimated in section (1) of this rule, third priority goes to land designated in an acknowledged comprehensive plan for agriculture or forestry, or both. Higher priority shall be given to land of lower capability as measured by the capability classification system or by cubic foot site class, whichever is appropriate for the current use.*” ORS 215.710 describes “high-value farmland” within the Willamette Valley as being land predominantly comprised of Class 1, II, III, and IV soils. In order to further assess eligibility of potential resource lands for consideration as a URA, areas of reasonably serviceable resource lands have been broken into five subareas for the purpose of analyzing soil composition and the presence of high-value farmland using soil classification data provided by Yamhill County and each resource land subarea’s soil composition by percentage of soil classification was determined. The five subareas are provided below:

- The Applicant’s proposed URA expansion site (approximately 92 acres, which excludes adjacent rights-of-way associated with NE Corral Creek Road and NE Fernwood Road that would be included within the proposed URA expansion site’s boundaries);
- East A North, which includes reasonably serviceable resource lands within the East A study area that are generally located north of the proposed URA expansion site and south of Highway 99W (approximately 38 acres);
- East A South, which includes reasonably serviceable resource lands within the East A study area that are generally located south of NE Fernwood Road (approximately 136 acres);
- North A, which includes all reasonably serviceable resource lands within the North A study area (approximately 126 acres); and
- Northwest B, which includes all reasonably serviceable resource lands within the Northwest B study area (approximately 125 acres).



As identified in the table below, the two subareas with the lowest percentage of high-value farmland are the Applicant's proposed URA expansion site (94%) and the East A North subarea (92%). All other subareas are comprised of more than 98% high-value farmland. Further, the Applicant's proposed URA expansion site is the only subarea that completely lacks Class I soils. Given the lower composition of high-value farmland, both the Applicant's proposed URA expansion site and the East A North subarea should be prioritized for consideration as a URA over other areas of reasonably serviceable resource land within the East A South, North A, and Northwest B subareas.

**Table 2: Soil Composition for Reasonably Serviceable Resource Land Areas**

Subarea	Soil Classification										High Value Farmland %
	Class I		Class II		Class III		Class IV		Class VI		
	Area (ac.)	%	Area (ac.)	%	Area (ac.)	%	Area (ac.)	%	Area (ac.)	%	
Proposed URA Expansion Site	0	0	58.2	63	12.3	13	16.4	18	5.6	6	94
East A – North	6.8	18	12.4	33	15.4	41	0.21	1	3.1	8	92
East A – South	6.9	5	96.2	71	30.3	22	0	0	2.4	2	98
North A	0.8	1	90.1	71	17.4	14	16.6	13	1.6	1	99
Northwest B	69.2	55	29.9	24	25.7	21	0	0	0	0	100

Based on soil composition and presence of high-value farmland, the Applicant's proposed URA site and the subarea immediately to the north are eligible for URA consideration. Together, these two areas are approximately 130 acres, which is within the identified deficit of approximately 183.38 acres to satisfy a land need of 397 buildable acres to the year 2051. Therefore, the Applicant's proposal to include the approximately 95.3 gross acre site is justifiable and appropriate under the provisions of OAR 660-021-030(3)(c) in order to meet Newberg's identified land needs through 2051 as discussed through this memorandum and the existing URA expansion application record.

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

- (a) Future urban services could not reasonably be provided to the higher priority area due to topographical or other physical constraints; or*
- (b) Maximum efficiency of land uses within a proposed urban reserve requires inclusion of lower priority lands in order to include or to provide services to higher priority lands.*

**Finding:** See comparison of urban services above in the Finding to OAR 660-021-0030(3)(a-c).

- (5) Findings and conclusions concerning the results of the consideration required by this rule shall be adopted by the affected jurisdictions.*

**Finding:** The Applicant's requested URA expansion does meet the provisions and considerations adopted by this Urban Reserve Rule. Staff recommends NUAMC approve the Applicant's request for a URA expansion. Thus, amending the City and County Comprehensive Plan Maps are not necessary.

***660-021-0040 Urban Reserve Area Planning and Zoning***

- (1) Until included in the urban growth boundary, lands in urban reserves shall continue to be planned and zoned for rural uses in accordance with the requirements of this rule and the applicable statutes and goals, but in a manner that ensures a range of opportunities for the orderly, economic and efficient provision of urban services when these lands are included in the urban growth boundary.*

**Finding:** The Applicant's request to expand the City's URA does not alter the site's comprehensive plan (Agriculture/Forestry Large Holding (AFLH) and zoning designation (EF20) and does not convert the site's agricultural lands designation (Exclusive Farm Use) to an urban use.

***660-021-0070 Adoption and Review of Urban Reserve***

- (1) Designation and amendment of urban reserves shall follow the applicable procedures of ORS 197.610 through 197.650.*

**Finding:** The Applicant's request to expand the City's URAs shall follow the post-acknowledged plan amendment procedures per ORS 197.610-650; compliance with these statutes is addressed within the findings of those provisions in this document.

- (2) Disputes between jurisdictions regarding urban reserve boundaries, planning and regulation, or urban reserve agreements may be mediated by the department or commission upon request by an affected local government or special district.*

**Finding:** The City and County staff discussed their individual recommendations and presented staff reports for approval to NUAMC. A recommendation will be made by NUAMC, who represents both the City and County. The City and County will hold public hearings to make a final decision.

***Division 23 – Procedures and Requirements for Complying with Goal 5***

***660-023-0250 Applicability***

- (2) The requirements of this division are applicable to PAPAs initiated on or after September 1, 1996. OAR 660, division 16 applies to PAPAs initiated prior to September 1, 1996. For purposes of this section "initiated" means that the local government has deemed the PAPA application to be complete.*

**Finding:** The Applicant's requested URAs expansion requires an amendment to acknowledged Comprehensive Plans and will be initiated after September 1, 1996.

However, as demonstrated in the Finding to OAR 660-023-0250(3)(a-c), the Applicant's request to expand the City's URA will not affect Goal 5 resources, and the requirements of this provision are not applicable.

**(3) *Local governments are not required to apply Goal 5 in consideration of a PAPA unless the PAPA affects a Goal 5 resource. For purposes of this section, a PAPA would affect a Goal 5 resource only if:***

**(a) *The PAPA creates or amends a resource list or a portion of an acknowledged plan or land use regulation adopted in order to protect a significant Goal 5 resource or to address specific requirements of Goal 5;***

**Finding:** The Applicant's requested URA expansion requires an amendment to acknowledged Comprehensive Plans but does not propose to create or amend a Goal 5 resource list, a portion of an acknowledged comprehensive plan, or a land use regulation adopted in order to protect a significant Goal 5 resource. Future development, whether urban or rural in nature, will have to comply with Goal 5 and existing protections maintained by both the City and County, depending on future jurisdiction.

**(b) *The PAPA allows new uses that could be conflicting uses with a particular significant Goal 5 resource site on an acknowledged resource list; or***

**Finding:** The Applicant's request to expand the City's URA does not alter the site's zoning designation and does not provide for new or additional uses. Future development, whether urban or rural in nature, will have to comply with Goal 5 and existing protections maintained by both the City and County, depending on future jurisdiction.

**(c) *The PAPA amends an acknowledged UGB and factual information is submitted demonstrating that a resource site, or the impact areas of such a site, is included in the amended UGB area.***

**Finding:** The applicant is not proposing to amend the City's UGB and is only proposing to expand the City's URAs.

## **Oregon Revised Statutes**

Applicable provisions of the Oregon Revised Statutes (ORS) are set forth below with findings demonstrating the project's consistency with these provisions.

### ***Chapter 195 – Local Government Planning Coordination***

#### ***195.143 Coordination and concurrent process for designation of rural reserves and urban reserves.***

**(1) *A county and a metropolitan service district must consider simultaneously the designation and establishment of:***

**(a) *Rural reserves pursuant to ORS 195.141; and***

**(b) *Urban reserves pursuant to ORS 195.145(1)(b).***

**Finding:** The Applicant's requested URA expansion requires an amendment to acknowledged Comprehensive Plans, both City of Newberg and Yamhill County comprehensive plan maps. As identified by ORS 195.145(1), the City and County may cooperatively designate lands outside the current UGB as URAs to provide a minimum amount of buildable land for a 30-year growth horizon per OAR 660-021-0030(1). This procedure is subject to the post-acknowledged plan amendment procedure pursuant to ORS 197.610-626. Newberg and Yamhill County coordinated this report for the NUAMC hearing. The Newberg City Council will hold a separate public hearing based on the NUAMC decision. The Yamhill County Board of Commissioners will hold a separate public hearing following the City Council hearing.

***195.145 Urban Reserves; when required; limitation; rules.***

***(1) To ensure that the supply of land available for urbanization is maintained:***

- (a) Local governments may cooperatively designate lands outside urban growth boundaries as urban reserves subject to ORS 197.610 to 197.625 and 197.626. [...]***

**Finding:** The City of Newberg and Yamhill County have an established coordinated governance of urban reserves. The NUAGMA is a growth management agreement between the City and County that establishes both area of governance, provisions for governance, and institutes a recommending decision-making body for the area, NUAMC. The existing URAs and prior expansions of the URAs are governed by NUAMC. NUAMC, Newberg City Council, and Yamhill County Board of Commissioner hearings are subject to the post-acknowledged plan amendment procedure pursuant to ORS 197.610-626. ORS 197.610-626 are addressed with findings of compliance are addressed in the appropriate section of this report.

***Chapter 197 – Comprehensive Land Use Planning I***

***197.610 Submission of proposed comprehensive plan or land use regulation changes to Department of Land Conservation and Development; rules.***

- (1) Before a local government adopts a change, including additions and deletions, to an acknowledged comprehensive plan or a land use regulation, the local government shall submit the proposed change to the Director of the Department of Land Conservation and Development. The Land Conservation and Development Commission shall specify, by rule, the deadline for submitting proposed changes, but in all cases the proposed change must be submitted at least 20 days before the local government holds the first evidentiary hearing on adoption of the proposed change. The commission may not require a local government to submit the proposed change more than 35 days before the first evidentiary hearing. [...]***



**Finding:** City Staff submitted a joint notice of amendments on behalf of the City and County to DLCD on 7/20/22, 35 days prior to the first evidentiary hearing before NUAMC.

***197.612 Comprehensive plan or land use regulation changes to conform plan or regulations to new requirement in statute, goal or rule.***

**Finding:** The Applicant's requested URA expansion is not amending the City and County Comprehensive Plans for the purpose of conforming the plan and regulations to new requirements in a land use statute, statewide land use planning goal, or a rule implementing the statutes or goals. The provision is not applicable.

***197.615 Submission of adopted comprehensive plan or land use regulation changes to Department of Land Conservation and Development***

***(1) When a local government adopts a proposed change to an acknowledged comprehensive plan or a land use regulation, the local government shall submit the decision to the Director of the Department of Land Conservation and Development within 20 days after making the decision. [...]***

**Finding:** The Applicant's requested URA expansion requires an amendment to acknowledged Comprehensive Plans. The City will submit its decision to DLCD within 20 days after the City Council hearing. The County will submit its decision to DLCD within 20 days after its hearing.

***197.625 Acknowledgement of comprehensive plan or land use regulation changes; application prior to acknowledgement.***

***(1) A local decision adopting a change to an acknowledged comprehensive plan or a land use regulation is deemed to be acknowledged when the local government has complied with the requirements of ORS 197.610 and 197.615 and either: [...]***

**Finding:** The Applicant's requested URA expansion requires an amendment to acknowledged Comprehensive Plans. Consistent with this provision, the requirements of ORS 197.610 and ORS 197.615 as well as the applicable provisions set forth by ORS 197.625 must be followed for acknowledgement of the proposed amendment. Compliance with those provisions is addressed above.

***197.626 Submission of land use decisions that expand urban growth boundary or designated urban or rural reserves.***

***(1) A local government shall submit for review and the Land Conservation and Development Commission shall review the following final land use decisions in the manner provided for review of a work task under ORS 197.633 and subject to subsection (3) of this section: [...]***

**Finding:** The Applicant's requested URA expansion requires an amendment to acknowledged Comprehensive Plans. Therefore, the City and County shall separately submit to DLCD for review before the Commission the issued final land

use decisions in the manner provided for review of a work task under ORS 197.633 and subject to ORS 197.626(3).