

Council accepts comments on agenda items during the meeting. Fill out a form identifying the item you wish to speak on prior to the agenda item beginning and turn it into the City Recorder. (The exception is formal land use hearings, which requires a specific public hearing process.)

**CITY OF NEWBERG
CITY COUNCIL AGENDA
AUGUST 2, 2010
7:00 P.M. MEETING
PUBLIC SAFETY BUILDING TRAINING ROOM
401 EAST THIRD STREET**

I. CALL MEETING TO ORDER*

II. ROLL CALL

III. PLEDGE OF ALLEGIANCE

IV. CITY MANAGER'S REPORT

VI. PUBLIC COMMENTS

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

VII. CONSENT CALENDAR

1. Consider a motion approving **Resolution No. 2010-2915** authorizing the City Manager to enter into agreement with the State of Oregon to exchange federal funds for state funds. (Pgs. 3-10)
2. Consider a motion approving **City Council Minutes** for June 28, 2010, and July 6, 2010. (Pgs. 11-20)

VIII. PUBLIC HEARING

Consider a motion to approve **Order No. 2009-0026** approving the findings that the proposed annexation and concurrent zone change meet the applicable Newberg Development Code criteria and approve **Ordinance No. 2009-2729** annexing two adjacent parcels located at 308 Hwy 99W and 612 W. 3rd Street and scheduling this item for the November 2, 2010, General Election. (**Quasi-Judicial Hearing**) (Pgs. 21-64)

IX. COUNCIL BUSINESS

X. ADJOURNMENT

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

INDEX OF ORDERS, ORDINANCES AND/OR RESOLUTIONS:

ORDERS:

Order No. 2010-0026 finding that two adjacent properties located at 308 Hwy 99W and 612 W. 3rd Street, Yamhill County tax lots 3219BD-2500 & -2600 meet the applicable Newberg Development code criteria to be annexed into the City and to change the current zoning designation from Yamhill County LI to City C-2.

ORDINANCES:

Ordinance No. 2010-2729 declaring two adjacent properties located at 308 Hwy 99W and 612 W. 3rd Street, Yamhill County tax lots 3219BD-2500 & -2600, be annexed into the City of Newberg and withdrawn from the Newberg Rural Fire Protection District subject to a public vote, and authorizing and directing the City Elections Officer to certify to the Yamhill County Clerk a ballot title for the measure to be submitted to the Electorate of the City of Newberg for their approval of an annexation for this same property.

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

Public testimony will be heard on all agenda items at the Council meeting. The City Council asks written testimony be submitted to the City Recorder before 5:00 p.m. on the preceding Thursday. Written testimony submitted after that will be brought before the Council on the night of the meeting for consideration and a vote to accept or not accept it into the record.

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

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: August 2, 2010

Order ___ Ordinance ___ Resolution XX Motion ___ Information ___
No. No. No. 2010-2915

SUBJECT: Authorize the City Manager to Enter Into Agreement with the State of Oregon to Exchange Federal Funds for State Funds.

Contact Person (Preparer) for this Resolution: **Tabrina McPherson**

Dept.: **Public Works Department**

File No.:

(if applicable)

RECOMMENDATION:

Adopt **Resolution No. 2010-2915** authorizing the City Manager to enter into agreement with the State of Oregon to exchange federal funds for state funds.

EXECUTIVE SUMMARY:

The State of Oregon, through the Department of Transportation, administers federal funds for improvements to roadways classified as arterial or major collector. Each year the State offers to exchange those federal funds for state funds at the ratio of 94%. This allows the City to use the funds for various transportation projects without having to follow the federal contracting procedures. Following the state contracting procedures saves the City about 15-25% per project.

The available federal funding totals \$462,066.00. Those federal dollars exchange to \$434,342.04 state funds. This is for the combined 2009 and 2010 years. We plan to use this money to offset the cost of the Sheridan Street Road Improvements Project at the Chehalem Cultural Center.

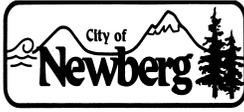
The City Public Works Department provides the City Council with regular updates about the status of the monies provided through this program.

FISCAL IMPACT:

Reduces the impact to the Street Fund by \$434,342.04.

STRATEGIC ASSESSMENT:

Executing this agreement provides an additional \$434,342.04 to be used for already approved capital improvement projects.



RESOLUTION No. 2010-2915

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO
AGREEMENT WITH THE STATE OF OREGON TO EXCHANGE FEDERAL
FUNDS FOR STATE FUNDS**

RECITALS:

1. The State of Oregon, through the Department of Transportation, administers federal funds for improvements to roadways classified as arterial or major collectors.
2. In lieu of the City using the funds on arterial or major collectors, the State has offered to exchange state dollars for federal dollars at the ratio of 94%. This allows the City to utilize these funds for projects on any roadway conforming to state contract procedures and not federal contract procedures. Generally, this will reduce the construction cost by 15-25%.
3. The State has agreed to exchange \$462,066.00 federal funds for \$434,342.04 state funds for the combined 2009 and 2010 years.
4. We plan to use this money to offset the cost of Sheridan Street Road Improvements Project at the Chehalem Cultural Center.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. The agreement prepared by the State entitled Miscellaneous Contracts and Agreements No. 26,882 is shown in Exhibit "A", which is attached. Exhibit "A" is hereby adopted and by this reference incorporated.
2. The City Council authorizes the City Manager to sign said agreement and any future amendments subject to approval of the City Attorney as to the legal sufficiency.

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: August 3, 2010.

ADOPTED by the City Council of the City of Newberg, Oregon, this 2nd day of August 2010.

Norma I. Alley, City Recorder

ATTEST by the Mayor this 5th day of August 2010.

Bob Andrews, Mayor

Exhibit "A" to Resolution No. 2010-2915

Misc. Contracts & Agreements
No. 26882

Oregon Department of Transportation
2010 FUND EXCHANGE AGREEMENT
Various City Street Improvement Projects
City of Newberg

THIS AGREEMENT is made and entered into by and between the STATE OF OREGON, acting by and through its Department of Transportation, hereinafter referred to as "State"; and CITY OF NEWBERG, acting by and through its designated officials, hereinafter referred to as "Agency", collectively referred to as the "Parties".

RECITALS

1. By the authority granted in Oregon Revised Statutes (ORS) 190.110, 366.572, and 366.576, State may enter into cooperative agreements with counties, cities, and units of local governments for the performance of work on certain types of improvement projects with the allocation of costs on terms and conditions mutually agreeable to the contracting parties.

NOW THEREFORE, the premises being in general as stated in the foregoing Recitals, it is agreed by and between the Parties hereto as follows:

TERMS OF AGREEMENT

1. Agency has submitted a completed and signed Part 1 of the Project Prospectus, or a similar document agreed to by State, outlining the schedule and costs associated with all phases of various city street improvement projects, hereinafter referred to as "Project".
2. State has reviewed Agency's prospectus and considered Agency's request for the Fund Exchange. State has determined that Agency's Project is eligible for the exchange of funds.
3. To assist in funding the Project, Agency has requested State to exchange 2010 federal funds, which have been allocated to Agency, for state funds based on the following ratio:

\$94 state for \$100 federal
4. Based on this ratio, Agency wishes to trade \$462,066 federal funds for \$434,342.04 state funds.
5. The term of this Agreement will begin upon execution and will terminate September 30, 2012, unless extended by an executed amendment.
6. The Parties agree that the exchange is subject to the following conditions:

Exhibit "A" to Resolution No. 2010-2915

*City of Newberg / State of Oregon – Dept. of Transportation
Agreement No. 26882*

- a. The federal funds transferred to State may be used by State at its discretion.
- b. State funds transferred to Agency must be used for the Project. This Fund Exchange will provide funding for specific roadway projects and may also be used for the following maintenance purposes:
 - i. Purchase of Production of Aggregate. Agency shall ensure the purchase or production of aggregate will be highway related and used exclusively for highway work.
 - ii. Purchase of Equipment. Agency shall clearly describe how it plans to use said equipment on highways. Agency shall demonstrate that the equipment will only be used for highway purposes.
- c. State funds may be used for all phases of the Project, including preliminary engineering, right of way, utility relocations, and construction. Said use shall be consistent with the Oregon Constitution and statutes (Section 3a of Article IX Oregon Constitution). Agency shall be responsible to account for expenditure of state funds.
- d. This Fund Exchange shall be on a reimbursement basis, with state funds limited to a maximum amount of \$434,342.04. All costs incurred in excess of the Fund Exchange amount will be the sole responsibility of Agency.
- e. State certifies, at the time this Agreement is executed, that sufficient funds are available and authorized for expenditure to finance costs of this Agreement within State's current appropriation or limitation of the current biennial budget.
- f. Agency and any contractors shall perform the work as an independent contractor and will be exclusively responsible for all costs and expenses related to its employment of individuals to perform the work including, but not limited to, retirement contributions, workers' compensation, unemployment taxes, and state and federal income tax withholdings.
- g. Agency shall comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the work under this Agreement, including, without limitation, the provisions of ORS 279C.505, 279C.515, 279C.520, 279C.530, and 279B.270, incorporated herein by reference and made a part hereof. Without limiting the generality of the foregoing, Agency expressly agrees to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing

Exhibit "A" to Resolution No. 2010-2915

*City of Newberg / State of Oregon – Dept. of Transportation
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laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations.

- h. Agency, or its consultant, shall conduct the necessary preliminary engineering and design work required to produce final plans, specifications and cost estimates; purchase all necessary right of way in accordance with current state and federal laws and regulations; obtain all required permits; be responsible for all utility relocations, advertise for bid proposals; award all contracts; perform all construction engineering; and make all contractor payments required to complete the Project.
- i. Agency shall submit invoices to State on a monthly basis for actual costs incurred by Agency on behalf of the Project directly to State's Project manager for review and approval. Such invoices will be in a form identifying the Project, the Agreement number, the invoice or account number (or both), and will itemize all expenses for which reimbursement is claimed. Under no conditions shall State's obligations exceed \$434,342.04, including all expenses. Travel expenses will not be reimbursed.
- j. Agency shall, at its own expense, maintain and operate the Project upon completion at a minimum level that is consistent with normal depreciation and service demand.
- k. All employers, including Agency, that employ subject workers in the State of Oregon shall comply with ORS 656.017 and provide the required workers' compensation coverage unless such employers are exempt under ORS 656.126. Agency shall ensure that each of its subcontractors complies with these requirements.
- l. This Agreement may be terminated by either Party upon thirty (30) days' notice, in writing, and delivered by certified mail or in person.
 - i. State may terminate this Agreement effective upon delivery of written notice to Agency, or at such later date as may be established by State, under any of the following conditions:
 - A. If Agency fails to provide services called for by this Agreement within the time specified herein or any extension thereof.
 - B. If Agency fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from State fails to correct such failures within ten (10) days or such longer period as State may authorize.

Exhibit "A" to Resolution No. 2010-2915

*City of Newberg / State of Oregon – Dept. of Transportation
Agreement No. 26882*

- ii. Either Party may terminate this Agreement effective upon delivery of written notice to the other Party, or at such later date as may be established by the terminating Party, under any of the following conditions:
 - A. If either Party fails to receive funding, appropriations, limitations, or other expenditure authority sufficient to allow either Party, in the exercise of their reasonable administrative discretion, to continue to make payments for performance of this Agreement.
 - B. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Agreement is prohibited or either Party is prohibited from paying for such work from the planned funding source.
 - iii. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.
 - m. State and Agency agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be invalid, unenforceable, illegal, or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.
7. Agency acknowledges and agrees that State, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of Agency which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of six (6) years after final payment. Copies of applicable records shall be made available upon request. Payment for costs of copies is reimbursable by State.
8. Agency certifies and represents that the individual(s) signing this Agreement has been authorized to enter into and execute this Agreement on behalf of Agency under the direction or approval of its governing body, commission, board, officers, members or representatives, and to legally bind Agency.
9. This Agreement may be executed in several counterparts (facsimile or otherwise) all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.

Exhibit "A" to Resolution No. 2010-2915

*City of Newberg / State of Oregon – Dept. of Transportation
Agreement No. 26882*

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

THE PARTIES, by execution of this Agreement, hereby acknowledge that each Party has read this Agreement, understands it, and agrees to be bound by its terms and conditions.

The funding for this Fund Exchange Program was approved by the Oregon Transportation Commission on November 14, 2007 as a part of the 2008-2011 Statewide Transportation Improvement Program (STIP).

The Program and Funding Services Manager approved the Fund Exchange on July 15, 2010.

The Oregon Transportation Commission on December 29, 2008, approved Delegation Order No. 2, which authorizes the Director to approve and execute agreements for day-to-day operations. Day-to-day operations include those activities required to implement the biennial budget approved by the Legislature, including activities to execute a project in the Statewide Transportation Improvement Program.

Signature page to follow

Exhibit "A" to Resolution No. 2010-2915

City of Newberg / State of Oregon – Dept. of Transportation
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On August 2, 2005, the Director, Deputy Director, Highways and Chief Engineer approved Subdelegation Order No. 5, in which the Director, Deputy Director, Highways and Chief Engineer delegate authority to the Region Managers to approve and sign intergovernmental agreements over \$75,000 up to a maximum of \$500,000 when the work is related to a project included in the Statewide Transportation Improvement Program (STIP).

CITY OF NEWBERG, by and through its designated officials

By _____
Robert Andrews, Mayor

Date _____

By _____
Daniel Danicic, City Manager

Date _____

APPROVED AS TO LEGAL SUFFICIENCY

By _____
City Legal Counsel

Date _____

By _____
Dale K. Hormann, Assistant Attorney General

Date _____

Agency Contact:

Tabrina McPherson, Capital Projects
Program Administrator
City of Newberg
PO Box 970
Newberg, OR 97132
Phone: (503) 537-1273
Email: tabrina@newbergoregon.gov

STATE OF OREGON, by and through its Department of Transportation

By _____
Jane S. Lee, Region 2 Manager

Date _____

APPROVAL RECOMMENDED

By _____
Michael T. Long, Region 2 Project Delivery Manager

Date _____

By _____
Lisa D. Nell, Acting Region 2 Planning & Development Manager

Date _____

State Contact:

Sam Johnston, Special Projects Coordinator
ODOT Local Government Section
355 Capitol Street NE, Room 326
Salem, OR 97301-3871
Phone: (503) 986-3789
Email: samuel.a.johnston@odot.state.or.us

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: August 2, 2010

Order ___ Ordinance ___ Resolution ___ Motion XX Information ___
No. No. No.

SUBJECT: Approve the June 28, 2010, and July 6, 2010, City Council Meeting minutes.

Contact Person (Preparer) for this Motion: **Jennifer Nelson, Recording Secretary**

Dept.: **Administration**

File No.:
(if applicable)

RECOMMENDATION:

Approve the June 28, 2010, and July 6, 2010, City Council minutes for preservation and permanent retention in the City's official records.

EXECUTIVE SUMMARY:

On June 28, 2010, and July 6, 2010, the City of Newberg City Council held public meetings. At those meetings, minutes were recorded in text.

FISCAL IMPACT:

None.

STRATEGIC ASSESSMENT:

None.

**CITY OF NEWBERG CITY COUNCIL MINUTES
JUNE 28, 2010
7:00 P.M. MEETING
PUBLIC SAFETY BUILDING TRAINING ROOM
401 EAST THIRD STREET**

I. CALL MEETING TO ORDER

Mayor Bob Andrews called the meeting to order at 7:03 PM.

II. ROLL CALL

Members

Present:	Mayor Bob Andrews	Denise Bacon	Stephen McKinney
	Bart Rierson	Marc Shelton	Wade Witherspoon

Staff

Present:	Daniel Danicic, City Manager	Terrence Mahr, City Attorney
	Janelle Nordyke, Finance Director	Jennifer Nelson, Recording Secretary

III. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was performed.

IV. PUBLIC COMMENTS

None.

V. APPOINTMENTS

Consider a motion to appoint the most qualified candidate to fill the City Council District #6 vacant position created by the resignation of Mr. Bob Larson for a term expiring December 31, 2010.

Mayor Andrews gave some background and explanation of the anticipated process for the evening. Candidates were drawn by lottery for the order of interview and fifteen minutes allotted for each to respond to the questions they have already received. Councilors will rate the responses using an established scoring system and entertain motion later.

Mr. Terrence Mahr, City Attorney, spoke of Section 33 of the Charter and made some legal statements regarding appointments needing a majority of the votes. He noted the scoring sheets will be signed and submitted into the permanent record. The appointed candidate will attend their first Council meeting as a Councilor on July 6, 2010.

Mr. Ryan Howard spoke of his current enrollment as a law student and described himself as outgoing, objective, logical, and persuasive with a strong work ethic. He said he had two prevailing reasons for his desire to serve; the first was to give back to a city he calls home and encourage others to do the same. He also spoke of his volunteering with an environmental stewardship program with the Oregon Department of Transportation (ODOT) and with the Traffic Safety Commission (TSC) Bicycle Rodeo. The second reason was to further his understanding of local government and laws; he feels the organization of society is fundamental to existence and is fascinated by how the local level interacts with the other branches of county, state, and federal

government. He felt encouraging and maintaining growth is a critical issue for Newberg because it cannot be assumed things will return to the pre-recession level; expenditures need to be carefully planned with reliable and proven methods. He encouraged investments and growth, but he felt finding a balance backed with funding is critical. He felt Newberg's most positive attribute was its sense of community and the pride of its citizens and local businesses. He gave his opinions on a recent Council issue regarding a daytime curfew, saying he supports schools to do what they can by holding the students accountable. He stated he understood the time commitment for this position and felt he would be capable of meeting the requirements as a full time student with effective time management.

Councilor Marc Shelton asked him about his perception of the recent rate increases in the context of growth.

Mr. Howard replied that any time rates increase it is essential to consider the impact on the citizens, the increases may be necessary, but the impact must also be reasonable.

Councilor Bart Rierson asked if he planned to run to be elected for the position after the duration of the current term.

Mr. Howard said he would like to serve as long as he can, but funds are limited and he cannot determine if he will or not at this point.

Mr. Ray Waller said he worked for government all his life as a police officer and assistant chief. After retirement he also worked for an attorney general's office in California and for a private security company in Oregon. When he completely retired, he took care of his wife of forty-four years until she passed. He decided to apply for appointment as a way to get moving and serve again. He felt the major issue facing Newberg is the economy, although the wine industry has not been hurt as heavily and the college is also a steady source to rely on. Regarding recent Council decisions he spoke of the water rate increases; although he disagreed with them and they hurt him financially it had been four years from a previous increase and it was prudent and proper to have one. His schedule is open so he did not feel the time commitment would be a problem.

Councilor Shelton asked how he viewed the work of volunteers and citizen groups to come to decision on rate increases as councilor.

Mr. Waller said he has been involved with volunteer groups most of his life and he felt the more, the better.

Councilor Rierson asked if he was selected, would he plan to run for election. Mr. Waller replied he would.

Mr. Ernie Amundson, Jr. has lived in Newberg since 1964 working at local businesses and volunteering for city groups like the Citizens' Rate Review Committee (CRRC) for the last ten years and the Budget Committee for the last eight years. It has given him good insight on how the City Council works with other committees and staff. He said he takes pride in being a resident and getting to know a lot of people over the years, he likes to be a part of it all and give back to the community. He felt a critical issue for the City is the Budget because of the economy balancing it this year was difficult and next year will be also; tough decisions had to be made and will continue to be as the City figures out how to do what they are doing with less and less available money. He felt Newberg's greatest positive attribute is its people. He also spoke of the city's staff growing from within and the leadership that comes from their experience being invaluable. He spoke of a recent decision involving his work on the CRRC for a step utility rate increase; he was the only member that voted no because although the repairs were needed the timing of the significant increase was too steep to ask for in light of the current unemployment rate. But, he felt good that the City endorsed an assistance program to help low income families with that increase. He said he was aware of the time commitment as he ran for the seat in 2006 and he is willing to commit to it. He said he also intends to run in the fall.

Councilor Stephen McKinney asked about his negative vote on the rate increase on the CRRC and asked how he felt he would handle other difficult decisions in the future as a councilor.

Mr. Amundson, Jr. replied that on the CRRC he was chosen to represent Newberg as a citizen and that amount of an increase was just too much; but, as a councilor he would be asked to make decisions for what is best for the city as a whole, not just from the view of a citizen.

Mr. Dale Farris said he was an Oregon native who graduated from Tigard High School in 1977 and went into the military. After a twenty-one year career, he retired to Albany for ten years and relocated to Newberg in 2009 with plans to make this his home. He has wanted to serve and this has been the first opportunity his schedule has allowed him to do that. He felt the critical issue facing Newberg is facilitating growth while keeping the small town feel. He understood the need to get revenue, but not at the expense of the citizens or just growing to grow. He felt the people were Newberg's most positive attribute and the small town feel. He spoke of recent discussions on a daytime curfew and the decision to continue only after more information was received; that tells him the Council is concerned about the issue and not just making changes for change sake. He said he understands the time commitment and would have to work out a scheduling conflict if he is appointed, but he felt it could be overcome. He plans to run in the fall.

Councilor Shelton asked him to talk about utility rates and balancing the need to facilitate growth while keeping the small town perception.

Mr. Farris said if infrastructure needs to be updated then dollars need to be raised; but, the size of the increase and the burden of the citizens and businesses need to be considered so they are carrying the load equally.

Councilor McKinney asked how this can be achieved when the city is faced with significant capital improvement projects that are not optional.

Mr. Farris said if it is mandated then a way needs to be figured out to get the dollars either by rate increase or other vehicles if warranted and not undue on certain segments of the population.

Mr. Robert Fitzner said he has been living in Newberg over a year working with a company that works with ODOT on the construction of bridges statewide and he has met a lot of stakeholders in the community. He also worked in Saudi Arabia working with government agencies on issues of infrastructure. He is interested in giving back to the community and being involved in the decision making process. He felt the critical issue for Newberg is the Newberg-Dundee Bypass project and how it will affect residents, not just in the corridor, but also in the businesses. He agrees Newberg's people are its most positive attribute and its being a good small town with access to larger events; he felt the city had a good blend. He spoke of a recent hearing on the Columbia Drive local improvement district where a citizen raised an issue and the Council decided to postpone their decision until those issues could be addressed; he felt this was very diplomatic. He said he was aware of the time commitment and although he has a forty hour work week to schedule around, he can be flexible and he will run in the fall.

Councilor Shelton asked about rate increases and how he thinks it impacts how he would come to a decision.

Mr. Fitzner said no one likes additional taxes, but they are a necessary evil for expansion as well as operation and maintenance. If they have not been raised in four years, as was said earlier, then it is necessary to increase the rates in order to keep up.

Councilor McKinney asked him to clarify his comments on the bypass and decreases in business revenue. He asked him what benefits or potential non-benefits he saw with the bypass.

Mr. Fitzner said there are both benefits and non-benefits. The citizens could live better without having to deal with the large volumes of traffic on a daily basis, but, revenue will also be lost from people who would normally be passing through town that will not be if the bypass is built. He felt it would probably be better in the long term to build the bypass though.

Mayor Andrews recessed at 7:58 PM for staff to collect and tally the scores and reconvened at 8:10 PM.

Mr. Danicic provided the score results for each of the candidates. Mr. Ryan Howard and Mr. Ernie Amundson, Jr. were ranked as the two top scoring candidates.

Councilor Rierson argued for Mr. Amundson even though he ranked second, placing higher value on his being a lifelong resident with his duration of service to the City already, he felt strongly that his experience was greater.

Mayor Andrews also agreed that a stronger sense of a long term commitment can be realized on behalf of the City with Mr. Amundson based on his background.

MOTION: Rierson/Shelton to nominate Mr. Ryan Howard and Mr. Ernie Amundson, Jr. for consideration as the most qualified candidate to fill the City Council District No. 6 vacant position for a term expiring December 31, 2010. (6 Yes/0 No/1 Vacant) Motion carried.

MOTION: Rierson/Shelton to appoint either Ryan Howard or Ernie Amundson, Jr. as the most qualified nominee to fill the City Council District No. 6 vacant position for a term expiring December 31, 2010.

VOTE #1: To appoint either Ryan Howard or Ernie Amundson, Jr. as the most qualified nominee to fill the City Council District No. 6 vacant position:

Ryan Howard	3 Yes [McKinney, Bacon, Witherspoon]/0 No/1 Vacant
Ernie Amundson, Jr.	3 Yes [Rierson, Shelton, Andrews]/0 No/1 Vacant

Failed for lack of a majority.

Mayor Andrews recessed until 8:38 PM. He reconvened with three more questions for each of the top two candidates to answer: what makes a good city council, how to fund projects out there that need to be completed, and if they are unsuccessful in the appointment would they still be willing to run in the election.

Mr. Amundson said a good city council has to be willing to dedicate hours of their time with little compensation and they have to be willing to make decisions that are not always popular.

Mr. Howard said they must be receptive to the citizens for what they want and better equipped to provide those services. For funding, although times are tough, actions need to focus on the efficiency of programs and expenditures. If limited funds are available, it is necessary to look at the impacts to ensure the most gets done with the least amount of money. Alternative programs to encourage the citizen to take on a burden that would otherwise burden the city should be emphasized, like reducing water usage and riding bicycles to limit the need to invest in roads.

Mr. Amundson spoke of adding a dollar onto the utility bills to fund the additional police officers being a good example of finding funding, it may not be real popular but there were more who supported it than disapproved. He is planning on running in the fall even if he is not successful in the appointment tonight.

Mr. Howard said while he may be at whim of his career when he is done with classes in three years, his family lives here and he would be willing to run for election.

VOTE #2: To appoint either Ryan Howard or Ernie Amundson, Jr. as the most qualified nominee to fill the City Council District No. 6 vacant position:

Ryan Howard	4 Yes [McKinney, Bacon, Witherspoon, Andrews]/0 No/1 Vacant
Ernie Amundson, Jr.	2 Yes [Rierson, Shelton]/0 No/1 Vacant

Mr. Ryan Howard was appointed to the District No. 6 vacant position.

VI. ADJOURNMENT

The meeting adjourned at 8:54 PM.

ADOPTED by the Newberg City Council this 2nd day of August, 2010.

Norma I. Alley, City Recorder

ATTEST by the Mayor this ____ day of August, 2010.

Bob Andrews, Mayor

CITY OF NEWBERG CITY COUNCIL MINUTES
JULY 6, 2010
7:00 P.M. MEETING
PUBLIC SAFETY BUILDING TRAINING ROOM
401 EAST THIRD STREET

Work Session was held prior to the meeting. A discussion on the League of Oregon Cities (LOC) Legislative Agenda 2011. No decisions were made.

I. CALL MEETING TO ORDER

Mayor Bob Andrews called the meeting to order at 7:05 PM.

II. ROLL CALL

Members

Present:	Mayor Bob Andrews	Denise Bacon	Stephen McKinney
	Bart Rierson	Marc Shelton	Wade Witherspoon

Staff

Present:	Daniel Danicic, City Manager	Terrence Mahr, City Attorney
	Steve Olson, Associate Planner	Janelle Nordyke, Finance Director
	Dain Eichel, Acting Public Works Director	Norma I. Alley, City Recorder
		Jennifer Nelson, Recording Secretary

III. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was performed.

IV. OATH OF OFFICES

The Oath of Office for Ryan Howard was performed.

V. CITY MANAGER'S REPORT

Mr. Daniel Danicic, City Manager, announced the League of Oregon Cities (LOC) 85th Annual Conference in September is now full and asked about those interested in attending; he said Tunes on Tuesday starts next week on July 13, 2010; and finally he will be on vacation and out of the office from July 7-21, 2010, so he will be missing the July 19, 2010, City Council meeting, but Mr. Mahr will be attending.

VI. PUBLIC COMMENTS

None.

VII. CONSENT CALENDAR

1. Consider a motion approving **Resolution No. 2010-2910** authorizing the acceptance of the canvass of votes for the May 18, 2010, Primary Election.
2. Consider a motion approving **Resolution No. 2010-2911** approving the annual evaluation of the City Attorney.

3. Consider a motion approving **Resolution No. 2010-2912** approving the revised City Attorney position description.
4. Consider a motion approving a **Proclamation** declaring July 22-25, 2010 as Old Fashioned Festival Week.
5. Consider a motion approve a **Sound Permit** for Parr Lumber Company and FFA Calf Roping, Horse Riding, Barbecue and Band event on July 10, 2010. Partial proceeds from the event will be donated to the “Ronald McDonald House”.

MOTION: Shelton/Witherspoon approving the Consent Calendar including **Resolution No. 2010-2910** authorizing the acceptance of the canvass of votes for the May 18, 2010, Primary Election, **Resolution No. 2010-2911** approving the annual evaluation of the City Attorney, **Resolution No. 2010-2912** approving the revised City Attorney position description, a Proclamation declaring July 22-25, 2010 as Old Fashioned Festival Week, and a Sound Permit for Parr Lumber Company and FFA Calf Roping, Horse Riding, Barbecue and Band event on July 10, 2010 as amended. (7 Yes/0 No) Motion carried.

Mayor Andrews read the proclamation declaring the week of July 2-25, 2010, as Old Fashioned Festival Week and presented it to the Old Fashioned Festival Committee Chair. Ms. Becky Green, Human Resources Director, presented the Old Fashioned Festival Princess Court.

VIII. NEW BUSINESS

1. Consider a motion approving **Resolution No. 2010-2905** adopting the revised Public Works Department Fee Schedule.

TIME – 7:16 PM

Mr. Danicic and Mr. Dain Eichel, Acting Public Works Director, presented the staff report (see official meeting packet for full report).

Councilor Marc Shelton asked what makes Newberg’s process of composting so unique and if that’s the reason they are not competing with other places for compost. Staff replied it is the level of dryness that makes the City’s compost unique.

Councilor Bart Rierson said he was frustrated by the high cost; he liked the fact the City could dispose of their solid waste from the waste water treatment plant, but he was concerned that only running the saw dust dryer for 2.9 hours is approaching \$800,000.00. He does not wish to be in the business of selling compost, but he likes getting paid to get rid of solid waste. He will support the resolution, but felt it would be nicer to have the saw dust dryer cost less money and still run at capacity. Staff replied additional capacity costs is to cover population increases over a twenty year lifespan which will balance out down the road.

Councilor Ryan Howard asked what the effects would be to run at capacity, rather than just a couple of hours over the twenty year lifespan. Staff replied the design is to last twenty years running twenty-four hours a day, but part replacement costs would occur at about ten years, it really does not make a difference.

Discussions followed about the compost material itself being \$30.00 a yard which is currently selling for \$10.00 a yard. The staff proposed bumping the cost up to \$14.00 a yard to recover some costs; the income from composting from last fiscal year was \$43,120.00. Council spoke with staff about different rate alternatives for commercial vs. non-commercial buyers as well as a reduced rate for Newberg citizens. They also discussed various ways to track this difference, like checking driver’s licenses or including vouchers in the utility bills; staff felt the additional duty would currently be an undue burden on the loader operator. Staff emphasized

citizens are already getting a break by recovering any costs on the compost because most cities have to pay to dispose of their solid waste; asking the loader operator to complete an additional task could result in additional costs for increasing employee hours. Vouchers in the utility bills would also be a problem for those citizens who do not receive their water bills.

Mr. Terry Mahr, City Attorney, warned the Council of a potential conflict of interest if they consider giving discounts to Newberg citizens because they could all benefit from the decreased rate and have a financial advantage.

Councilor Denise Bacon felt the City was fortunate to get paid to get rid of a product and she did not wish to further burden staff with different rates for citizens which would require proof of citizenship.

MOTION: Bacon/Shelton approving **Resolution No. 2010-2905** adopting the revised Public Works Department Fee Schedule as presented by staff. (7 Yes/0 No) Motion carried.

MOTION: Rierson/ to include a coupon in the utility bill once per season for a discount. Motion failed for lack of a second.

2. Consider a motion adopting **Resolution No. 2010-2909** accepting the recommendation of the Electronic Sign Ad Hoc Committee and initiating a development code amendment regarding potential changes to the City's sign ordinance.

TIME – 8:10 PM

Mr. Steve Olson, Associate Planner, presented the staff report including a PowerPoint summary (see official meeting packet for full report).

Councilor Wade Witherspoon asked if there had been some type of impact assessment on the businesses themselves as requested previously. Staff stated the research was not included here but would be presented at the hearing; there were only a few general complaints, but mostly positive comments from people.

Councilor Rierson spoke of including some type of low interest loan fund for businesses to make sign upgrades, maybe through the community development block grant. Staff stated there are funds available in the community development fund, but the interest rate may be around 6%.

Mayor Andrews asked for some clarification of the term “lot” on pages 48-9. Staff replied it is a parcel of land with development, it may have multiple businesses. Mayor Andrews felt this should be more clearly defined in the document.

MOTION: Shelton/Rierson approving **Resolution No. 2010-2909** accepting the recommendation of the Electronic Sign Ad Hoc Committee and initiating a development code amendment as well as the non-code recommendations regarding potential changes to the City's sign ordinance.

Councilor Rierson stated he was only put off by the large sign in the presentation; he did not wish to see any large television sets advertising in Newberg, especially not in the downtown area. He hoped business owner would use restraint and he supports the resolution as it stands. He specifically cited a sign in town that is placed on an awning and his concern that the entire awning is considered for the size of the sign; he would like to find a way to work around this kind of issue in the current sign code.

Councilor Witherspoon said he supports the resolution but would like to see more hard data for impact on businesses if they are going to change the code; it is easier to answer questions from citizens if you have hard data to back it up.

Councilor McKinney said he approves of the actions taken to settle an uneven playing field for businesses within the code.

Councilor Ryan Howard said he was unsure of how he felt about the City encouraging electronic signs.

Mayor Andrews felt the committee came up with a decent product to forward on for further development.

VOTE: To approve **Resolution No. 2010-2909**. (7 Yes/0 No) Motion carried.

3. Consider a motion establishing the funding methodology for a Visitor Information Center.

This item has been pulled from the agenda to be discussed at the September 7, 2010 meeting.

IX. COUNCIL BUSINESS

TIME – 8:50 PM

Mayor Andrews presented a draft letter in support of the Newberg-Dundee Bypass Tier 2 DEIS design options. Council discussed the content of the letter and requested changes to be made before they would sign it.

Mr. Mahr passed around a memo regarding the decision on the initiative law suit and discussed the court of appeals process. An executive session was scheduled to further discuss options and the involvement of the LOC.

X. ADJOURNMENT

The meeting adjourned at 9:18 PM.

ADOPTED by the Newberg City Council this day 2nd of August, 2010.

Norma I. Alley, City Recorder

ATTEST by the Mayor this ____ day of August, 2010.

Bob Andrews, Mayor

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: August 2, 2010

Order XX Ordinance XX Resolution ___ Motion ___ Information ___
No. 2010-0026 No. 2010-2729 No.

SUBJECT: Annexation of two adjacent parcels totaling approximately one acre of land, with a concurrent zone change from Yamhill County LI (Light Industrial) to City C-2 (Community Commercial). The two adjacent parcels are located at 308 Hwy 99W and 612 W 3rd Street, Tax Lots 3219BD-2500 and 3219BD-2600.

Contact Person (Preparer) for this Order: Jessica Nunley, AICP

Dept.: Planning & Building

File No.: ANX-10-001
(if applicable)

HEARING TYPE:

ORDER: LEGISLATIVE QUASI-JUDICIAL
ORDINANCE: LEGISLATIVE QUASI-JUDICIAL

RECOMMENDATION:

Adopt **Order No. 2010-0026**, approving the findings that the proposed annexation and concurrent zone change meet the applicable City of Newberg Development Code criteria.

Adopt **Ordinance No. 2010-2729**, annexing two adjacent parcels located at 308 Hwy 99W and 612 W 3rd Street (Yamhill County tax lots 3219BD-2500 & -2600) subject to a public vote, and scheduling this item for the November 2, 2010 general election.

EXECUTIVE SUMMARY:

On March 29, 2010, Steve Watt submitted an application requesting annexation and concurrent zone change of two adjacent parcels totaling approximately one acre, located at 308 Hwy 99W and 612 W 3rd Street. The zone change request is from Yamhill County LI (Light Industrial) to Newberg C-2 (Community Commercial), Yamhill County tax lots 3219BD-2500 & -2600. The current uses on the sites are a tow truck business and an Airgas distribution business (currently closed); both uses comply with the requested C-2 zoning and with the existing Newberg Comprehensive Plan designation of COM (Commercial).

The site is currently served by City water, from a line running adjacent to the northern property line of the northern parcel. There is an existing sanitary sewer manhole located on the northeastern portion of the north parcel that can adequately serve both parcels. Stormwater from the site will continue to discharge into the stream corridor located on the southern third of the southern site. The sites are developed and will not change their existing access points onto 3rd Street and Hwy 99W.

On June 10, 2010, the Newberg Planning Commission adopted Resolution 2010-280, recommending that the City Council approve the requested annexation of the two parcels with the concurrent zone change, and withdraw the parcels from the Newberg Rural Fire Protection District.

FISCAL IMPACT:

The proposed annexation will shift police and fire service responsibility to the City. However, because these parcels are in commercial use, they will add to the City's tax base without unduly burdening certain public services such as schools and parks.

STRATEGIC ASSESSMENT:

Annexation of these two parcels is a logical extension of the city limit boundary to the stream corridor, similar to nearby parcels. As these two parcels are currently in commercial use, they will add to the city’s tax base without burdening certain public services such as schools and parks. Adequate sewer and water service exists to serve the site, and no new access points are proposed. The only negative effect would be that the site does not contribute any “buildable” land to decrease Newberg’s commercial buildable land need. Overall, the positive effects outweigh the negative effects, and the proposal meets the applicable annexation criteria.

ATTACHMENTS:

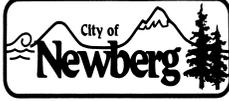
Order 2010-0026 with:

- Exhibit A: Findings
- Exhibit B: Annexation Map
- Exhibit C: Legal Description
- Exhibit D: Comprehensive Plan Map

Ordinance 2010-2729 with:

- Exhibit A: Annexation Map
- Exhibit B: Legal Description

1. Planning Commission Staff Report with Planning Commission Resolution 2010-280 (as adopted) with:
 - Exhibit A: Findings (by reference)
 - Exhibit B: Annexation Map (by reference)
 - Exhibit C: Legal Description (by reference)
 - Exhibit D: Comprehensive Plan Map (by reference)
2. June 10, 2010 Planning Commission Minutes
3. Aerial Photo
4. Existing Yamhill County Zoning Map
5. Existing Development Plan
6. Utility Map
7. ANX-10-001 Application
8. Public Comments – none received
9. Newberg Development Code and Comprehensive Plan (by reference)



ORDER No. 2010-0026

AN ORDER FINDING THAT TWO ADJACENT PROPERTIES LOCATED AT 308 HWY 99W AND 612 W 3RD STREET, YAMHILL COUNTY TAX LOTS 3219BD-2500 & -2600 MEET THE APPLICABLE NEWBERG DEVELOPMENT CODE CRITERIA TO BE ANNEXED INTO THE CITY AND TO CHANGE THE CURRENT ZONING DESIGNATION FROM YAMHILL COUNTY LI TO CITY C-2

RECITALS:

1. On March 29, 2010, Steve Watt submitted an application requesting annexation and concurrent zone change of two adjacent parcels totaling approximately one acre. The zone change request is from Yamhill County LI (Light Industrial) to Newberg C-2 (Community Commercial), Yamhill County tax lots # 3219BD-2500 & -2600, located at 308 Hwy 99W and 612 W 3rd Street.
2. The requested zone change is in accordance with the current comprehensive plan designation for the site of COM (Commercial), and fits the current uses of the site as a tow truck company and Airgas distribution center.
3. On June 10, 2010, the Newberg Planning Commission heard the proposal and adopted Resolution 2010-280, recommending that the City Council approve the requested annexation and concurrent zone change.
4. After proper notice, the Newberg City Council held a hearing on August 2, 2010 to consider the proposed annexation and concurrent zone change. After the staff report and public testimony, the City Council finds that the proposal has met the required criteria for annexation and zone change.

THE CITY OF NEWBERG ORDERS AS FOLLOWS:

1. The City Council finds that the annexation and concurrent zone change meet the Newberg Development Code criteria and adopts the findings, which are attached hereto as Exhibit A. Exhibit A is hereby adopted and by this reference incorporated.
2. Annexation requires the City Council to adopt an ordinance annexing the property, and requires approval at a public vote. If the annexation is approved through these procedures, then the City orders the following:
 - A. The zoning of the property shown in Exhibit B and described in Exhibit C is changed to C-2 (Community Commercial). This zoning designation corresponds with the

Comprehensive Plan designation of COM as shown in Exhibit D. Exhibits B, C and D are hereby adopted and by this reference incorporated.

➤ **EFFECTIVE DATE** of this order is the day after the adoption date, which is: August 3, 2010.

ADOPTED by the City Council of the City of Newberg, Oregon, this 2nd day of August, 2010.

Norma I. Alley, City Recorder

ATTEST by the Mayor this 5th day of August, 2010.

Bob Andrews, Mayor

QUASI-JUDICIAL HISTORY

By and through the Newberg Planning Commission at their June 10, 2010 meeting.

Attachments:

- Exhibit A: Findings
- Exhibit B: Annexation Map
- Exhibit C: Legal Description
- Exhibit D: Comprehensive Plan Map

Exhibit A to Order 2010-0026: Findings

Watt Annexation – 308 Hwy 99W & 612 W 3rd Street – ANX-10-001

I. APPLICABLE ANNEXATION REGULATIONS – NEWBERG DEVELOPMENT CODE § 151.261 CONDITIONS FOR ANNEXATION

(A) The subject site must be located within the Newberg Urban Growth Boundary or Newberg Urban Reserve Areas.

FINDING: The site is within Newberg’s urban growth boundary.

(B) The subject site must be contiguous to the existing city limits.

FINDING: The subject site is contiguous to the existing city limits along its west, north and east sides.

II. APPLICABLE ANNEXATION REGULATIONS – NEWBERG DEVELOPMENT CODE § 151.262 QUASI-JUDICIAL ANNEXATION CRITERIA

(A) The proposed use for the site complies with the Newberg comprehensive plan and with the designation on the Newberg comprehensive plan map. If a redesignation of the plan map is requested concurrent with annexation, the uses allowed under the proposed designation must comply with the Newberg comprehensive plan.

FINDING: The comprehensive plan designation for the site is Commercial (COM). The existing uses on the site are an Airgas distribution business and a tow truck business; both uses comply with the existing Newberg comprehensive plan designation and with the proposed C-2 zoning.

(B) An adequate level of urban services must be available, or made available, within three years time of annexation, except as noted in division (E) below. An adequate level of urban services shall be defined as:

- (1) Municipal sanitary sewer and water service meeting the requirements enumerated in the Newberg comprehensive plan for provision of these services.*
- (2) Roads with an adequate design capacity for the proposed use and projected future uses. Where construction of the road is not deemed necessary within the three-year time period, the city shall note requirements such as dedication of right-of-way, waiver of remonstrance against assessment for road improvement costs, or participation in other traffic improvement costs, for application at the appropriate level of the planning process. The city shall also consider public costs for improvement and the ability of the city to provide for those costs.*

FINDING: As explained below, public facilities will have adequate capacity to accommodate the demands of the site within three years time of annexation.

Water: The site is already being served with city water service. A 12-inch water line runs down W Third Street and across Highway 99W, adjacent to the northern property line of the northern parcel.

Stormwater: Stormwater from the site discharges to the stream corridor located on the southern third of the site.

Sanitary Sewer: There is a Newberg sanitary sewer manhole located on the northeastern portion of the northern parcel that can adequately serve both parcels.

Roads: The site is adjacent to and takes access from W Third Street (the northern parcel) and Highway 99W (the southern parcel). No new roads or access points are proposed.

State Transportation Planning Rule:

660-012-0060

Plan and Land Use Regulation Amendments

(1) Where an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation would significantly affect an existing or planned transportation facility, the local government shall put in place measures as provided in section (2) of this rule to assure that allowed land uses are consistent with the identified function, capacity, and performance standards (e.g. level of service, volume to capacity ratio, etc.) of the facility. 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) As measured at the end of the planning period identified in the adopted transportation system plan:

(A) Allow land uses or levels of development that would result in types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;

(B) Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP or comprehensive plan; or

(C) Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.

Finding: Annexation and rezoning of these two parcels will not affect the number of trips on Highway 99W as the uses will remain the same or similar to what is already permitted. If the uses change in the future to something that would generate over 40 trips in the pm peak hours, a traffic study will be required at that time.

(C) Findings documenting the availability of police, fire, parks, and school facilities and services shall be made to allow for conclusionary findings either for or against the proposed annexation. The adequacy of these services shall be considered in relation to annexation proposals.

Finding: Police services are currently provided to the area by Yamhill County Sheriff's Office.

Fire service is provided by Newberg Rural Fire District. The proposed annexation will shift police and fire services to the city. The site is developed as commercial and will remain in commercial use; therefore, it will generate revenue for the city without unduly taxing the city's services for public safety, parks or school services. Overall, adequate public facilities and services exist to support the proposed annexation.

(D) The burden for providing the findings for divisions (A), (B) and (C) of this section is placed upon the applicant.

FINDING: The applicant has provided written findings for this section.

(E) The City Council may annex properties where urban services are not and cannot practically be made available within the three year time frame noted in division (B) above, but where annexation is needed to address a health hazard, to annex an island, to address sewer or water connection issues for existing development, to address specific legal or contract issues, to annex property where the timing and provision of adequate services in relation to development is or will be addressed through legislatively adopted specific area plans or similar plans, or to address similar situations. In these cases, absent a specific legal or contractual constraint, the Council shall apply an interim zone, such as a limited-use overlay, that would limit development of the property until such time as the services become available.

FINDING: This criterion is not applicable to this property.

Exhibit B to Order 2010-0026: Annexation Map

EXHIBIT
Map of land annex into
the Corporate Limits of
the City of Newberg
PLANNING FILE NO. ANX 10-001

Located in the N.W. 1/4 Sec. 19
T 3 S, R 2 W, W.M.
Yamhill County, OR

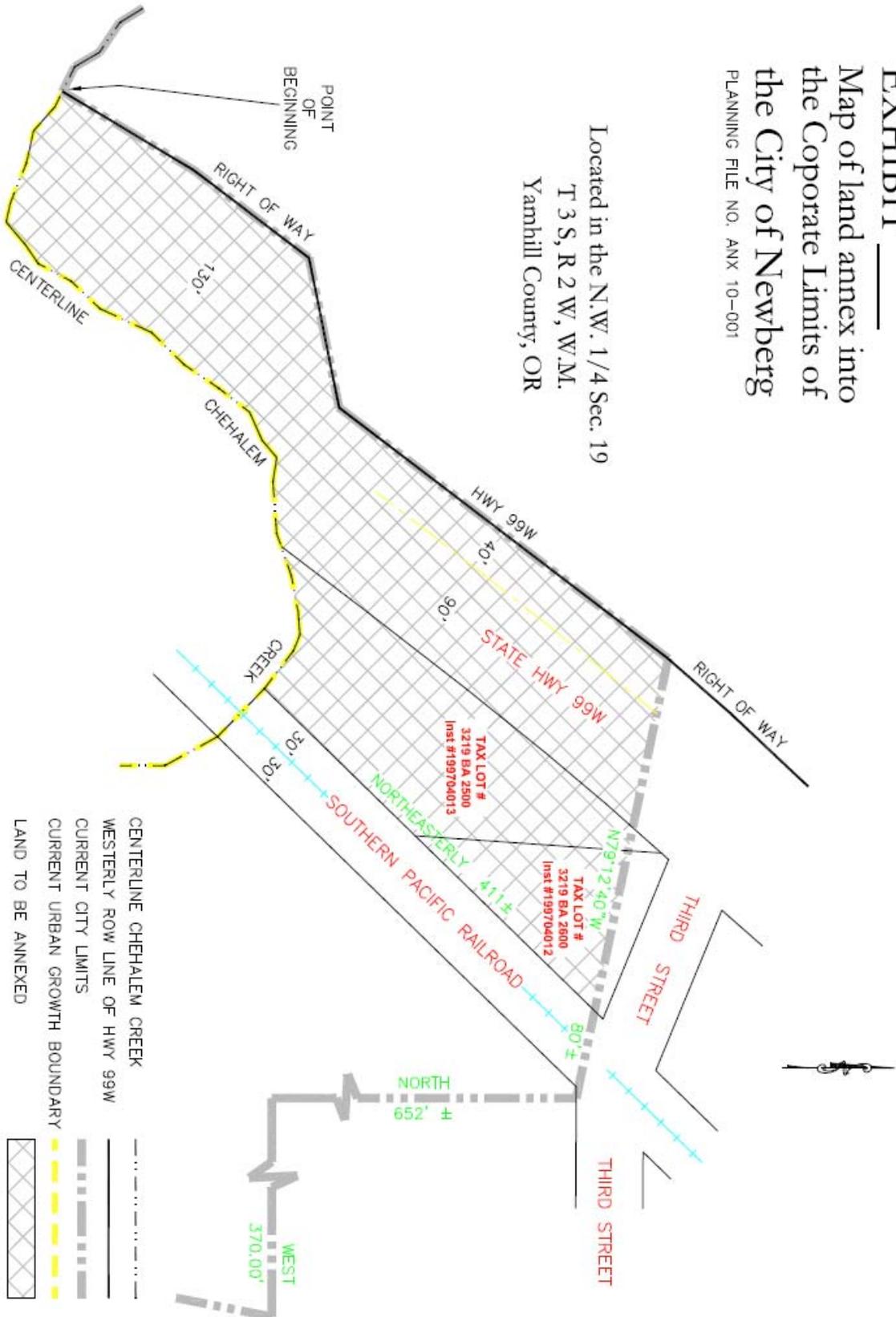


Exhibit C to Order 2010-0026: Legal Description (ANX-10-001)

Exhibit '____'

Annexation Description

Being a tract of land located in the NW ¼ of Section 19, Township 3 South, Range 2 West, Willamette Meridian, Yamhill County, Oregon, said tract of land being all of the land described in Instrument No. 199704012 and in Instrument No. 199704013 which is not inside the boundary of the Corporate Limits of the City of Newberg, herein called the City Limits, together with a portion of the adjoining Right-of-way of Highway 99W, and being more particularly described as follows;

BEGINNING at a point that is the intersection of the westerly right-of-way line of Highway 99W and the centerline of Chehalem Creek, said point also being an angle point in the City Limits;

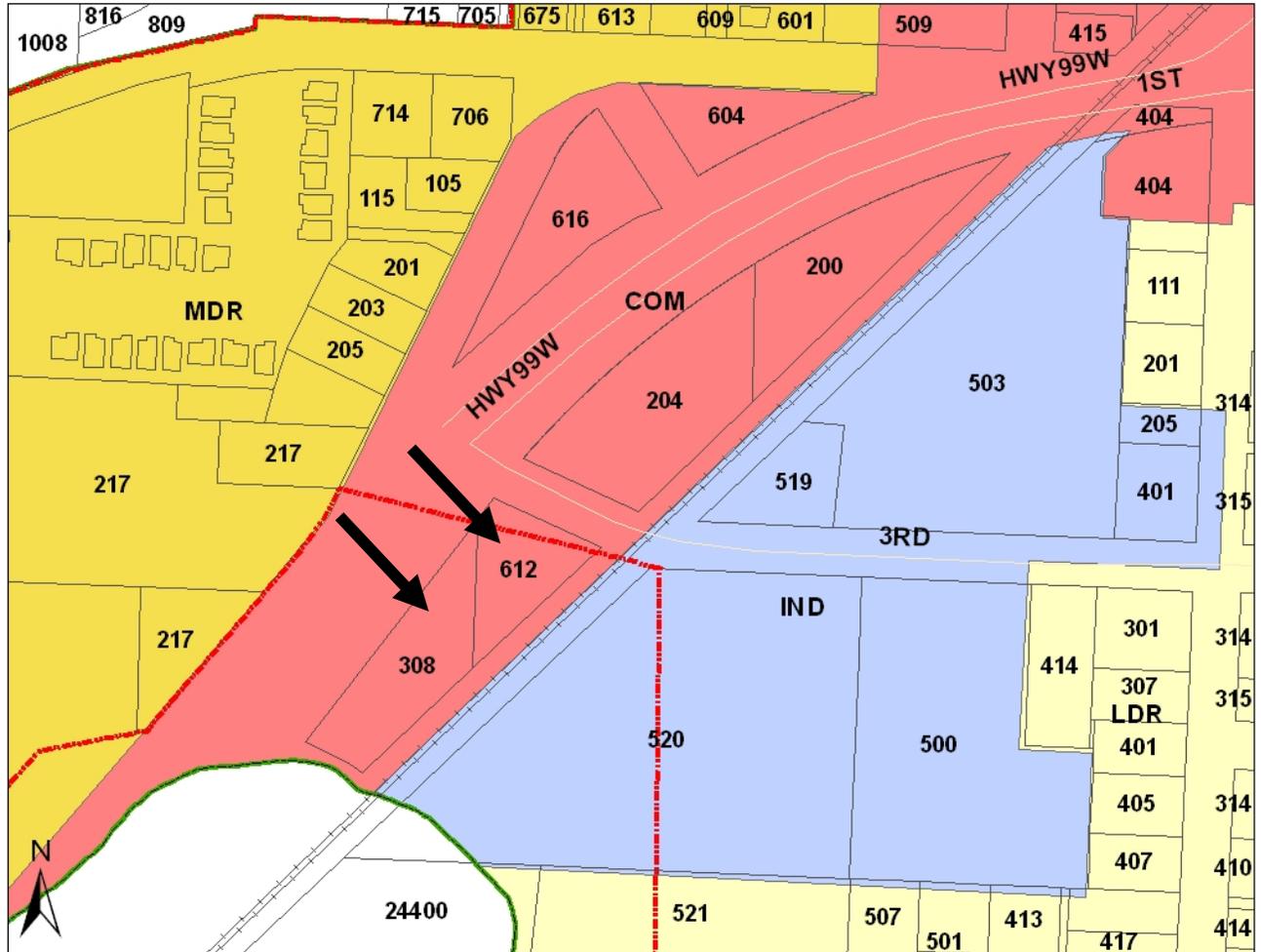
THENCE Easterly along the centerline of Chehalem Creek to the point of intersection of said creek centerline and the westerly right-of-way line of Southern Pacific Railroad;

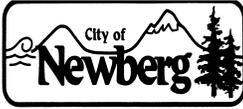
THENCE Northeasterly along said westerly Railroad right-of-way line, an approximate distance of 411 feet to the point of intersection of said westerly right-of-way line and the City Limits;

THENCE North 79° 12' 40" West, along the City Limits to the point of intersection of the City Limits and the westerly right-of-way line of Highway 99W, said point also being an angle point in the City Limits;

THENCE Southwesterly along the westerly right-of-way line of Highway 99W, and along the City Limits, to the POINT OF BEGINNING.

Exhibit D to Order 2010-0026: Comprehensive Plan Map





ORDINANCE No. 2010-2729

AN ORDINANCE DECLARING TWO ADJACENT PROPERTIES LOCATED AT 308 HWY 99W AND 612 W 3RD STREET, YAMHILL COUNTY TAX LOTS 3219BD-2500 & -2600, BE ANNEXED INTO THE CITY OF NEWBERG AND WITHDRAWN FROM THE NEWBERG RURAL FIRE PROTECTION DISTRICT SUBJECT TO A PUBLIC VOTE, AND AUTHORIZING AND DIRECTING THE CITY ELECTIONS OFFICER TO CERTIFY TO THE YAMHILL COUNTY CLERK A BALLOT TITLE FOR THE MEASURE TO BE SUBMITTED TO THE ELECTORATE OF THE CITY OF NEWBERG FOR THEIR APPROVAL OF AN ANNEXATION FOR THIS SAME PROPERTY

RECITALS:

1. On March 29, 2010, Steve Watt submitted an application requesting annexation of two adjacent parcels located at 308 Hwy 99W and 612 W 3rd Street, Yamhill County tax lots # 3219BD-2500 & -2600, with a concurrent zone change from Yamhill County LI (Light Industrial) to Newberg C-2 (Community Commercial).
2. After proper notice, on December 21, 2009, the City Council held a public hearing on the item: accurately stated objections to jurisdiction, bias, and ex-parte contact; considered public testimony; examined the record; heard the presentation from staff; examined and discussed the appropriate criteria to judge the project (as listed in the staff report); considered all relevant information regarding the item; and deliberated.
3. On August 2, 2010, the City Council adopted Order 2010-0026 affirming that the requested annexation met the applicable Newberg Development Code criteria.
4. The City of Newberg charter requires that territory may be annexed into the City only upon approval by a majority vote among the electorate of the City. This matter may be placed before the voters at the November 2, 2010 general election.

THE CITY OF NEWBERG ORDAINS AS FOLLOWS:

1. The question of annexing the property shown in Exhibit A and described in Exhibit B shall be submitted to the electorate of the city at the November 2, 2010 general election. Exhibits A and B are hereby adopted and by this reference incorporated.
2. The City Council directs that all costs associated with placing the item on the ballot be paid for by the owners. This includes but is not limited to noticing, signage, advertising, and costs assessed by the Yamhill County Clerk to place the item on the ballot.
3. The City Elections Officer is hereby authorized and directed to certify to the Yamhill County Clerk

the ballot title for the annexation measure to be placed before the voters. Further, the City Elections Officer is directed to give all necessary notices of the ballot title and do all other necessary acts and deeds which may be required to place the matter before the voters of the City of Newberg at said election.

4. The City Attorney is directed to have prepared and review the explanatory statement which shall be submitted to the Yamhill County Clerk with the ballot title. Such explanatory statement shall be filed with the City Elections Officer and the City Elections Officer is further directed to certify this explanatory statement to the Yamhill County Clerk.
5. The City Elections Officer is authorized to do all other necessary acts and deeds which may be required to conduct the election concerning this measure.
6. Should this annexation request be approved by a majority of the electorate of the City of Newberg at the identified election date, the property shown in Exhibit A and described in Exhibit B, shall be annexed and withdrawn from the Newberg Rural Fire Protection District, and the following events will occur:
 - A. The City of Newberg land use inventory data will be updated to reflect the new addition.
 - B. The Recorder of the City of Newberg is hereby authorized and directed to make and submit to the Secretary of State, the Department of Revenue, the Yamhill County Elections Officer, and the Assessor of Yamhill County, a certified copy of this ordinance.

➤ **EFFECTIVE DATE** of this ordinance is 30 days after the adoption date, which is: September 2, 2010.

ADOPTED by the City Council of the City of Newberg, Oregon, this 2nd day of August, 2010, by the following votes: **AYE:** **NAY:** **ABSENT:** **ABSTAIN:**

Norma I. Alley, City Recorder

ATTEST by the Mayor this 5th day of August, 2010.

Bob Andrews, Mayor

LEGISLATIVE HISTORY

By and through the Newberg Planning Commission at their June 10, 2010 meeting.

Attachments:

- Exhibit A: Annexation Map
- Exhibit B: Legal Description

Exhibit A to Ordinance 2010-2729: Annexation Map

EXHIBIT _____
 Map of land annex into
 the Corporate Limits of
 the City of Newberg
 PLANNING FILE NO. ANX 10-001

Located in the N.W. 1/4 Sec. 19
 T 3 S, R 2 W, W.M.
 Yamhill County, OR

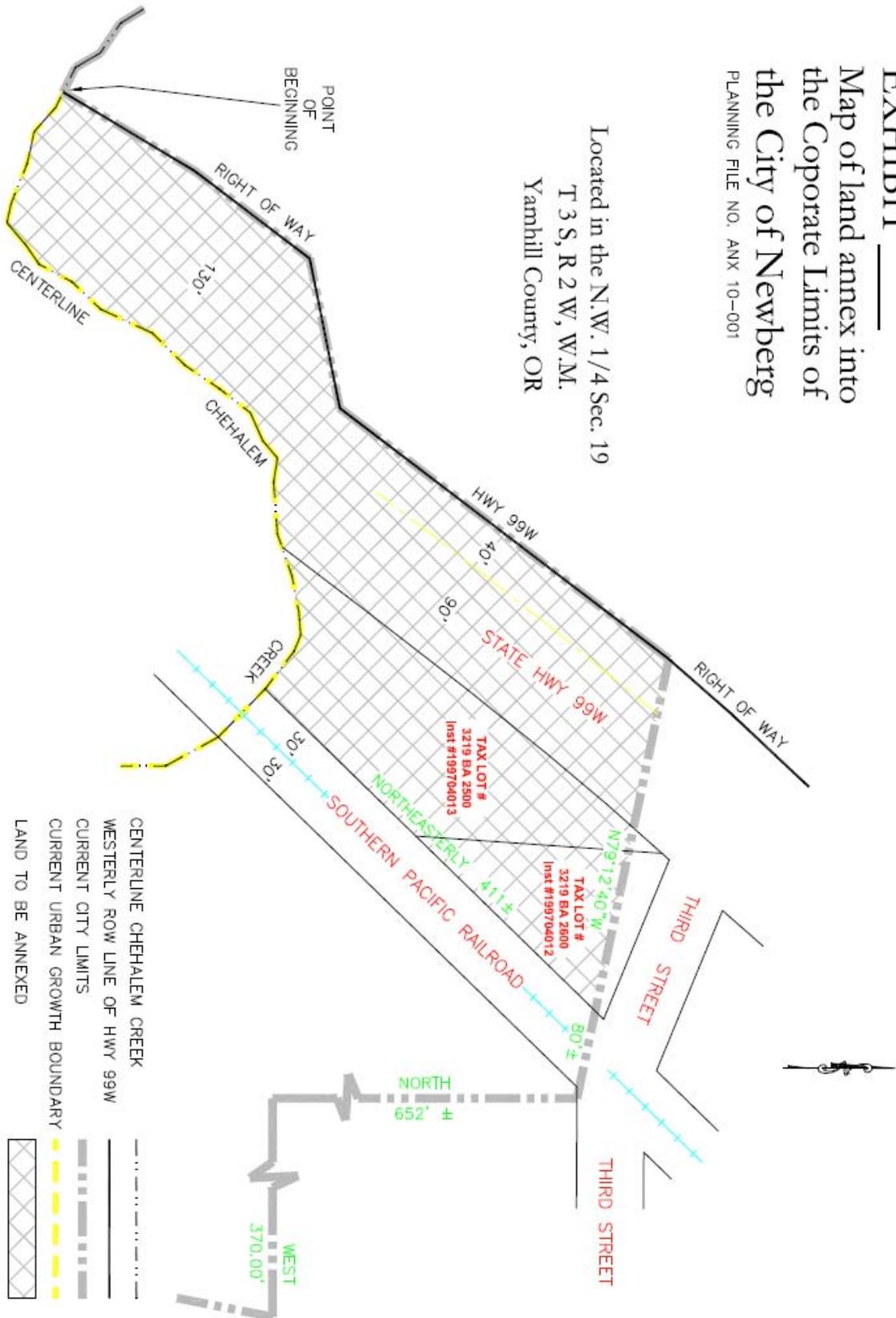


Exhibit B to Ordinance 2010-2729: Legal Description (ANX-10-001)

Exhibit '____'

Annexation Description

Being a tract of land located in the NW ¼ of Section 19, Township 3 South, Range 2 West, Willamette Meridian, Yamhill County, Oregon, said tract of land being all of the land described in Instrument No. 199704012 and in Instrument No. 199704013 which is not inside the boundary of the Corporate Limits of the City of Newberg, herein called the City Limits, together with a portion of the adjoining Right-of-way of Highway 99W, and being more particularly described as follows;

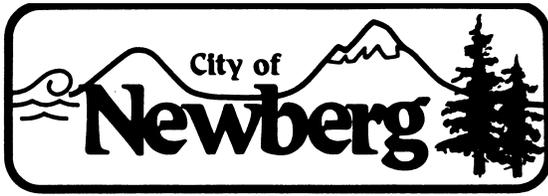
BEGINNING at a point that is the intersection of the westerly right-of-way line of Highway 99W and the centerline of Chehalem Creek, said point also being an angle point in the City Limits;

THENCE Easterly along the centerline of Chehalem Creek to the point of intersection of said creek centerline and the westerly right-of-way line of Southern Pacific Railroad;

THENCE Northeasterly along said westerly Railroad right-of-way line, an approximate distance of 411 feet to the point of intersection of said westerly right-of-way line and the City Limits;

THENCE North 79° 12' 40" West, along the City Limits to the point of intersection of the City Limits and the westerly right-of-way line of Highway 99W, said point also being an angle point in the City Limits;

THENCE Southwesterly along the westerly right-of-way line of Highway 99W, and along the City Limits, to the POINT OF BEGINNING.



Planning and Building Department
P.O. Box 970 ▪ 414 E First Street ▪ Newberg, Oregon 97132
503-537-1240 ▪ Fax 503-537-1272 ▪ www.ci.newberg.or.us

ANNEXATION STAFF REPORT

FILE NO.: ANX-10-001

REQUEST: Annexation of two parcels totaling approximately one acre into the City of Newberg. The proposed zoning is C-2 (Community Commercial).

LOCATION: 308 Highway 99W

TAX LOTS: 3219BD-2500 & -2600

**APPLICANT/
OWNER:** Steve Watt

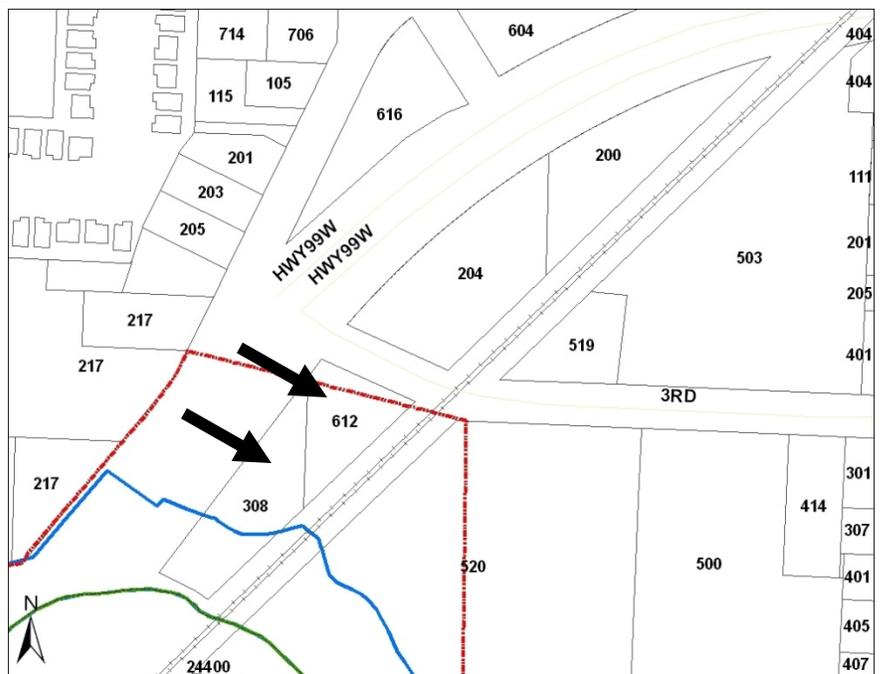
ZONING: Yamhill County LI (Light Industrial)

**COMPREHENSIVE
PLAN DESIGNATION:** COM (Commercial)

DATE OF HEARING: June 10, 2010

ATTACHMENTS:

- Resolution 2010-280 with:
- Exhibit A: Findings
 - Exhibit B: Annexation Map
 - Exhibit C: Legal Description
 - Exhibit D: Comprehensive Plan Map
1. Aerial Photo
 2. Existing Yamhill County Zoning
 3. Existing Development Plan
 4. Utility Map
 5. Application
 6. Public Comments – none received
 7. Newberg Comprehensive Plan and Development Code (by reference)



Attachment 1: ANX-10-001 Staff Report & PC Resolution 2010-280

- A. **PROCESS:** The applicant's request for approval of an annexation is being processed through the provisions of Newberg Development Code § 151.024 as follows:

March 29, 2010	Annexation application submitted
May 4, 2010	Public notice was mailed to property owners within 500 feet of the site for comment.
May 11, 2010	Notice was posted on the site.
May 26, 2010	Notice was posted in four public places and published in the Newberg Graphic.

- B. **CRITERIA:** Staff has determined that the following criteria apply to the annexation proposal. The Planning Commission or other interested parties should direct their comments to the criteria listed or state why they feel other criteria may apply.

- ◆ NDC § 151.262 – Quasi-Judicial Annexation Criteria

C. **SITE INFORMATION:**

1. Request: Annexation of two parcels totaling approximately one acre into the City of Newberg, along with a concurrent zone change from Yamhill County LI (Light Industrial) to Newberg C-2 (Community Commercial).
2. Zoning/Comprehensive Plan designations: The site is located within the Newberg urban growth boundary and has a Newberg comprehensive plan designation of COM (Commercial).
5. Site: The site is relatively flat along the developed northern/eastern portion and then the southern third of the site slopes down into the stream corridor. The existing use of the site is an Airgas distribution business and a tow truck business. These existing uses are compatible with the proposed C-2 zone.
6. Surrounding uses:
West: Highway 99W
South: Stream Corridor
East: Railroad, Baker Rock yard
North: Shell gas station
8. Utilities: The site is currently served with City water. A Newberg sanitary sewer manhole is located on the northeastern portion of the site for future connection. Stormwater drains to the stream corridor in the southern portion of the site.
9. Roads: The northern parcel of the site is adjacent to and takes access from W Third Street; the southern parcel of the site is adjacent to and takes access from Highway 99W. No new roads or accesses are proposed.

Attachment 1: ANX-10-001 Staff Report & PC Resolution 2010-280

D. AGENCY COMMENTS: The proposal was referred to the following public agencies: City Manager, Planning and Building Director, Public Works Director, Public Works Surveyor, Maintenance Supt., Legal, Building, Police, Fire, Finance, NW Natural Gas, Newberg School District, PGE, Comcast, Verizon, Newberg Garbage, Chehalem Park and Rec. District, Newberg Rural Fire District, Postmaster, Yamhill County Planning, Yamhill County Roads, and ODOT.

No substantive comments were received.

F. PRELIMINARY STAFF RECOMMENDATION: The preliminary staff recommendation is made in the absence of public hearing testimony, and may be modified subsequent to the close of the public hearing. At this writing, the staff recommends the following motion:

- Move to adopt Planning Commission Resolution 2010-280, which recommends to the City Council approval of the requested annexation.

Attachment 1: ANX-10-001 Staff Report & PC Resolution 2010-280

PLANNING COMMISSION RESOLUTION NO. 2010-280

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWBERG RECOMMENDING THAT THE CITY COUNCIL APPROVE FILE ANX-10-001, AN ANNEXATION OF APPROXIMATELY ONE ACRE LOCATED AT 308 HIGHWAY 99W, TAX LOTS 3219BD-2500 & -2600.

1. On March 29, 2010, Steve Watt submitted an application requesting annexation and concurrent zone change of two parcels totaling approximately one acre. The zone change request is from Yamhill County LI (Light Industrial) to Newberg C-2 (Community Commercial), Yamhill County tax lots # 3219BD-2500 & -2600.
2. On May 4, 2010, notice of this proposed annexation and zone change was mailed to all adjoining property owners within a distance of 500 feet, and on May 11, 2010, notice of the proposal was posted on the site.
3. *The Newberg Graphic* newspaper published notice of the annexation/zone change and Planning Commission hearing on May 26, 2010, which is at least ten days prior to the public hearing before the Planning Commission on June 10, 2010. On May 26, 2010, staff posted notice of the Planning Commission hearing at four public places to comply with Oregon Revised Statute requirements for annexations.
4. On June 10, 2010, a hearing was held by the Newberg Planning Commission.
5. The Planning Commission finds that the application meets the applicable criteria.

NOW THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Newberg that it recommends that the City Council:

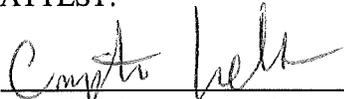
1. Approve the requested annexation of these parcels, as described in Exhibit A and shown in Exhibit B, along with a zoning amendment from Yamhill County LI (Light Industrial) to Newberg C-2 (Community Commercial).
2. Withdraw the parcel from the Newberg Rural Fire Protection District.

This recommendation is based on the staff report, findings and testimony.

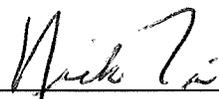
ADOPTED by the Newberg Planning Commission this 10th day of June, 2010.

AYES: 7 NAYS: 0 ABSTAIN: 0 ABSENT: 0

ATTEST:



Planning Commission Secretary



Planning Commission Chair

Exhibits

- Exhibit A: Findings
- Exhibit B: Annexation Map
- Exhibit C: Legal Description
- Exhibit D: Comprehensive Plan Map

PLANNING COMMISSION MINUTES
June 10, 2010
7:00 p.m. Regular Meeting
Newberg Public Safety Building
401 E. Third Street

TO BE APPROVED AT THE JULY 8TH, 2010 PLANNING COMMISSION MEETING

I. ROLL CALL:

Present: Thomas Barnes Derek Duff Nick Tri, Chair
Philip Smith, Vice Chair Matson Haug Cathy Stuhr
Lon Wall

Staff Present: Barton Brierley, Planning & Building Director
Steve Olson, Associate Planner
Jessica Nunley, Assistant Planner
Crystal Kelley, Recording Secretary

Others Present: Randy Lytle Dan Schutter

II. OPENING:

Chair Tri opened the meeting at 7:00 pm and asked for roll call.

III. CONSENT CALENDAR

Chair Tri entertained a motion to accept the minutes of the May 13, 2010 Planning Commission meeting.

Motion #1 Haug /Duff to approve the minutes from the Planning Commissions meeting of May 13, 2010 (Yes 7 /NO 0) Motion Carried.

IV. COMMUNICATIONS FROM THE FLOOR:

Chair Tri offered an opportunity for non-agenda items to be brought forth from the audience. None were stated.

V. QUASI-JUDICIAL PUBLIC HEARING:

1. (Continued from May 13, 2010 at the point of deliberation)

APPLICANT: Fred Meyer Stores, Inc., c/o Barghausen Consulting Engineers, Inc.

REQUEST: Conditional use permit & design review approval for a gas station on the western portion of the Fred Meyer site.

LOCATION: 3300 Portland Road

TAX LOT: 3216-2004

FILE NO.: CUP-08-004/DR2-08-036

RESOLUTION NO.: 2010-262

CRITERIA: Newberg Development Code 151.210, 151.194, 151.196

Steve Olson presented the staff report (see official meeting packet for full report). The record was left open one week for additional written testimony. Some additional written testimony was received and the applicant responded to it; both are included in the meeting packet. The summary and recommendation from staff were presented. Staff recommends that the Planning Commission approve Resolution number 2010-262 as conditioned.

Deliberation:

Commissioner Haug stated that he wanted to make a motion recommending denial of the application and revising many of the findings to state that the criteria were not met. He listed the criteria that he felt were not met. After some discussion the Commission decided to discuss the criteria one at a time.

Commissioner Thomas Barnes stated he has studied the traffic flow at the property. He is concerned with light trespass from the site, and is also concerned about traffic. He spent around four hours sitting in the parking lot to watch the situation.

Commissioner Philip Smith stated he saw six different issues. In the past, traffic studies came up with a cost of \$1,500,000 to fix the Springbrook/99W intersection. This building is the only big box store in the city. It was built before the big box requirements were adopted. If they were going to meet the new requirements they would literally have to rebuild the site. What they are doing is bringing this site closer to the big box standards. The second issue is the internal traffic on site, which will experience increased traffic on the west side of the building with this proposal. He feels there are solutions to work out on the issues of traffic safety. He does not see it as a showstopper. Commissioner Smith feels the issues with the drive-in have been well addressed. The noise problem can be addressed as well. The issue of the gas station being an un-safe station does not make sense to him. He is not sure how this station would be any less safe than any other gas station.

Commissioner Lon Wall stated he is in favor of denial for a number of reasons. In the hearings, the implication from the applicant was this proposal would not create a significant increase in trips. They felt a high percentage of gas station customers would already be on the property. He does not see how it would be a dangerous gas station. The arguments that gas would be unfairly cheap he does not agree with either. He is concerned about Fred Meyer not responding very well to their neighbors. The changes staff made to the ODOT condition concerns him. They are now stating they will allow them to occupy that location. Are they going to insist all the key conditions are enforced before they are allowed to occupy the property? He is also concerned with the issue of bringing the property up to code. He feels the City is not

going to ask Fred Meyer to do anything with regard to conformity. They could require a number of the big box improvements on the building. He is also very concerned with traffic. His conclusion is the numbers they were provided regarding how many trips will come into the gas station are not correct. He does not feel the numbers they were given for traffic flow would be enough to keep the station profitable. He is concerned with the congestion of the parking lot. He feels the traffic will be considerably worse than perceived. The argument that the City should not be concerned with internal movement on a piece of property is not a good one. The traffic is already heavy on the property and the addition of the new proposed station will only make traffic worse. Safety is a huge concern for the public.

Commissioner Matson Haug stated he has ten issues. The first one is the issue with ODOT approval and permits before the City moves ahead. The second is the traffic and noise in the neighborhoods. The third would be the light trespass on the drive-in. He feels once the station is in place there will not be any recourse, which is a high risk for the drive-in. The fourth is in regard to the testimony they heard addressing the behavior of the corporation. The fifth is the refueling trucks that will have to pass through the neighborhoods. He does not think the City could ensure they only use certain streets and could not enforce those requirements. The sixth is the drive-in, which is a historic site and is a unique addition to the town. If it were to take a year to address any light trespass issues, the drive-in would not survive the year. The seventh is that Fred Meyer is not a good neighbor. The eighth is the issue of pollution. They are running the station adjacent to a stream. As the chair of the Citizen Rate review Committee, he knows the issues that are still being addressed with regard to storm water. He is concerned about gas leaks. The ninth is the photometric study, about which he is not convinced they are scientifically correct. There may be some engineering standards for photometric study software but when he asked for that information, he did not get it. The tenth is the overwhelming testimony from the community on the corporate behavior, which will have a big influence on how they meet the criteria. He thinks the community has a right to express an interest and a concern. If Fred Meyer was involved in the community and talked to the owners of the drive-in, they would have done something in the past to try to work out their light concerns. He feels the City will lose the drive-in if this is approved.

Commissioner Cathy Stuhr stated that she felt Fred Meyer does not know this community. If they had done something already to find a solution to the concern with the drive-in, it would have looked better for them. The criteria states it should be a reasonable or minimal effect on livability. What is the community getting in exchange for the negative things they are going to be seeing? There does not appear to be any benefits to the City. She feels it is being forced. She is also concerned with the environmental issues. They could do something to try to work with the drive-in. The underground storage tanks are not a concern for her. An underground leak would most likely not occur on a large scale and the project is meeting all the state and federal standards. She is concerned about the traffic. The benefits do not outweigh what the community will have to endure with regard to traffic risks.

Commissioner Derek Duff stated he is concerned about internal traffic. The station would have a huge impact on the internal flow in the parking lot. From a customer standpoint, he does not want to have to wait for five minutes at an internal stop sign. If the congestion does not have an effect on safety and meets ODOT standards that is fine but he may stop shopping at Fred Meyer. He is also concerned with the issue of Fred Meyer being a poor neighbor. The attitude of the business seems to be that they are unwilling to do anything to address the concerns that are brought before them.

Chair Nick Tri stated he has a concern with the issue of traffic and noise in the neighborhood. He is also concerned about the light issues for the drive-in. The refueling trucks are also a concern for him. He feels they will create problems when they are getting in and out of the parking lot. The community is very concerned about the light trespass issue affecting the drive-in.

Commissioner Haug stated they either adopt the findings the staff presented or come up with their own findings. He does not agree with all the findings. They have to decide if they want to adopt each finding or make a motion to modify them. If they say the criterion is not met, staff needs to revise the findings and address the arguments. They need to decide if they think each finding has been met, then staff can come back with findings of denial. Commissioner Wall stated it would be simpler if they just stated they are opposed to the application. They need to establish their own findings rather than giving counter arguments to staff findings. He is not sure what they will say to make them change their mind. Commissioner Haug stated that staff will rewrite the findings to reflect the decision of the commissioners. Mr. Brierley stated it is appropriate for them to do that. Staff would have to come to the next meeting with the findings they requested. Commissioner Smith stated they should take each proposed finding and vote on keeping or changing it. If they are going to approve a motion to deny it they have to explain why they are denying the application. Mr. Olson stated they could either approve the proposal, approve it with conditions, or they can deny the proposal. They are adopting findings when they make their decision, so they need to say how they want the findings revised if they want changes.

Commissioner Wall asked if the City's stance with regard to the ODOT condition had changed from the last meeting. Mr. Olson confirmed he was correct, they revised it to make the condition clearer and to say that ODOT had to approve the plans before the city would approve the plans, although all improvements still had to be constructed before occupancy. Commissioner Wall asked how the City came to the conclusion that Fred Meyer does not have to do anything with the non-conforming building. Mr. Olson stated the code requires the new addition to meet the new code but does not require changes to the existing building, providing that it does not become more non-conforming.

Commissioner Wall stated they are being asked to approve something that does not have a clear benefit to the community.

Commissioner Wall stated they are being asked to approve something that does not have a clear benefit to the community. Commissioner Stuhr stated the science behind light studies is simple and a trustworthy science. This body did not ask them for another light study. Mr. Bridges did the light study and it was clear they could not determine what portion of the light at the drive-in was coming from Fred Meyer versus other buildings. Commissioner Smith stated he is convinced the plan will protect the drive-in from light pollution but the owners and the public are not persuaded. A light study done in the field may be able to persuade them. Fred Meyer could have done some additional study to reassure the drive-in.

Commissioner Haug stated on Page 31 section 4 with regard to landscape requirements, what happens when the tall trees fall. Years later, it will leave a gap that will not easily be filled. According to the finding, the trees are supposed to block the light for the drive-in. Landscaping is not a long-term solution. Commissioner Stuhr stated that concern has been addressed in the conditions. It states if a tree falls down the light can be mitigated. Commissioner Haug stated there is a limit to how big a tree you can put in there. Commissioner Smith stated he thinks the condition implies if a large gap in the screen provided by the trees occurs, the applicant will have to address the issue at that time. Commissioner Duff stated they could put a condition stating there can be no exterior canopy lights to the west.

Commissioner Wall stated he is a big believer in private property rights on your own property. You have to think of the people who own property in the surrounding area, however. They have private property rights as well. The Planning Commission has to realize this is not always black and white. If they ignore the two components, they have not done their job. They have to consider all involved.

Chair Tri adjourned the meeting at 9:00 for a five-minute break.

Motion #2 Smith/Haug moved to adopt alternative findings denying criteria on page 28, section 2 based on the arguments the last two sentences have not been met. (Yes 6 /NO 1 {Thomas Barnes}) Motion Carried.

Motion #3 Smith/Wall moved to adopt the staff findings on page 30, section 2-3 with regard to setbacks and general requirements (Yes 6 /NO 1 {Matson Haug}) Motion Carried.

Motion #4 Haug/Wall moved to adopt alternative findings on page 31, section 4 denying they satisfy criteria also determining the staff findings are not enforceable (Yes 2 /NO 5 {Thomas Barnes, Derek Duff, Philip Smith, Cathy Stuhr, Nick Tri}) Motion Failed.

Motion #5 Haug/Wall moved to adopt findings that indicated article 9 of page 33 is not satisfied. The City does not have the ability to mandate what public streets are used by the refueling truck (Yes 1 /NO 6 {Thomas Barnes, Derek Duff, Philip Smith, Cathy Stuhr, Nick Tri, Lon Wall}) Motion Failed.

Motion #6 Smith/Barnes moved to adopt staff findings on page 33, section 10 (Yes 5 /NO 2 {Lon Wall, Matson Haug}) Motion Carried.

Motion #7 Haug/Wall moved to adopt alternative findings on page 44, section 3A that would deny the condition is met (Yes 6 /NO 1 {Thomas Barnes}) Motion Carried.

Motion #8 Haug/ Smith moved to deny application, with amended resolution NO. 2010-262 and amended findings (Yes 6 /NO 1 {Thomas Barnes}) Motion Carried.

Mr. Brierley stated staff would amend the resolution and the findings, and bring them back to the next Planning Commission meeting for adoption.

- 2. **APPLICANT: Steve Watt**
REQUEST: Annexation of 0.97 acres
LOCATION: 612 W. 3rd St. and 308 Hwy 99W
TAX LOTS: 3219BD-2600 and 3219BD-2500
FILE NO.: ANX-10-001 **RESOLUTION NO.: 2010-280**
CRITERIA: Newberg Development Code 151.262

Opening of the Public Hearing:

Chair Tri asked the Commissioners for any abstentions, conflicts of interest, or objections to jurisdiction. None were stated. Jessica Nunley presented the staff report (see official meeting packet for full report). Staff recommends they adopt Resolution No. 2010-280.

Proponents:

Randy Lytle, representing Mr. Steve Watt, stated the property is two existing parcels which meet the city’s criteria. City of Newberg water is already servicing the properties. Commissioner Barnes asked why they would like to be annexed. Mr. Lytle stated it increases the property value and the future options.

Commissioner Smith asked why the City does not recommend they make the property industrial zoned. Mrs. Nunley stated that it has current commercial uses and would not really help mitigate the city’s industrial need as it’s not the most appropriate place for industrial. The comprehensive plan designation is for commercial use on the property.

Motion #9 Barnes/Wall moved to adopt resolution NO. 2010-280 (Yes 7 /NO 0) Motion Carried.

- 3. **APPLICANT: George Fox University**
REQUEST: Stream Corridor variance and design review approval to construct a gazebo in the Hess Creek stream corridor.
LOCATION: West of 1306 E. Sherman Street
TAX LOT: 3217CD-6600
FILE NO.: MISC3-10-001 **RESOLUTION NO.: 2010-279**
CRITERIA: Newberg Development Code 151.194, 151.474, 151.478

Opening of the Public Hearing:

Chair Tri asked the Commissioners for any abstentions, conflicts of interest, or objections to jurisdiction. Commissioner Smith left the room due to a conflict of interest, as he is employed by the applicant. Commissioner Duff stated he is a George Fox University student, but this would not be a conflict of interest. Mr. Steve Olson presented the staff report (see official meeting packet for full report). Staff recommends the committee approve resolution number 2010-279 with a few conditions. Those conditions were presented in the staff report.

Proponents:

Mr. Dan Schutter with George Fox University stated the project is funded by the students. The other locations that were considered were a threat to area trees and the students did not want to cut down any trees. The students would have attended the meeting but they have gone home for the summer. The project benefits are the greater use of the canyon and enhancement of the property. The proposed structure will be an enhancement to the stream corridor. He feels it will encourage an awareness of the area. It is also for the purpose of fitness walking and jogging. It will function as a venue to bring the community and nature together regardless of weather. It is adjacent to vehicle travel areas, which will help bring a rural setting to the area. His only criticism concerning the staff proposal are some of the conditions. The problem with the sewer line is probably a mistake in the map, since GFU has been maintaining the line for some time. They do not have a problem assuming responsibility for maintenance of the line from the city. The City has never done maintenance on the line and the university is fine with taking it over. The way the conditions are written, does not allow for discussion and possible appeal to the State regarding the Building Code. It is not certain what the code says for the specific proposal. He would rather the condition state it has to be done per the code requirements. They will follow the erosion control measures that have been asked.

Commissioner Stuhr asked if they would be required to have a burn permit in order to have a fire pit on the property. Mr. Schutter stated the code says if they build an enclosure around it, they are allowed to build a fire. He is not aware of any restrictions for that. Mr. Olson stated he is not aware of any restrictions other than setting rules for students and the use of the fire pit. Commissioner Haug asked if he discussed his concerns with staff prior to the meeting. Mr. Schutter stated he has not talked to staff about his concerns prior to the meeting.

Commissioner Stuhr asked if the sewer line does not meet the interior requirements would they have to excavate it. Mr. Olson stated he does not know what it is constructed of currently. If it does not meet the requirements, it may have to be excavated but it is still undetermined at this point.

Commissioner Haug stated he would like to see staff make the changes based on what was stated by Mr. Schutter. He asked staff if it would be possible to modify the conditions tonight so the applicant can hear them and they can vote on the issue. Mr. Brierley stated the sewer line building code requirements are not under the Planning

Commission. The City can verify it meets code or the applicant can propose an alternate. Mr. Olson stated the sewer line condition could be changed to say it should meet building code requirements for building over a private sewer line. The applicant will also need to discuss the project with the fire marshal.

Motion #10 Wall/Barnes moved to adopt resolution No. 2010-279 and to change condition 2 to meet building code requirements as amended (Yes 6 /No 0) { Philip Smith did not cast his vote due to a conflict of interest}) Motion Carried.

VI. ITEMS FROM STAFF:

Mr. Brierley stated the South Industrial area group meeting took place with 24 people speaking at the meeting. NUAMC took testimony and left the record open for written testimony. They will meet again on June 15th to deliberate on the subject.

The City held a work session with the City Council and an open house, town hall meeting with the public on the subject of affordable housing. The subject will be scheduled to go to the City Council but a date has not been set yet.

ODOT has released the Tier 2 Environmental Impact Statement for the Newberg Dundee bypass. There is a meeting at Newberg High School on June 29th for testimony and information from 3:00 p.m. to 8:00 p.m.

The Electronic Sign Ad Hoc Committee has been meeting and has arrived at a final recommendation. Their final recommendation will be presented to City Council on July 6th. They will be asking City Council to amend the development code, which will require formal hearings. The next Planning Commission meeting will include a brief workshop on the Electronic Sign Committee's recommendation.

VII. ITEMS FROM COMMISSIONERS

Commissioner Smith asked for an excused absence for the July 8th meeting of the Planning Commission. His request was approved by Chair Tri.

VIII. ADJOURN:

Chair Tri adjourned the meeting at 10: 25.

Approved by the Planning Commission this 8th day of July, 2010.

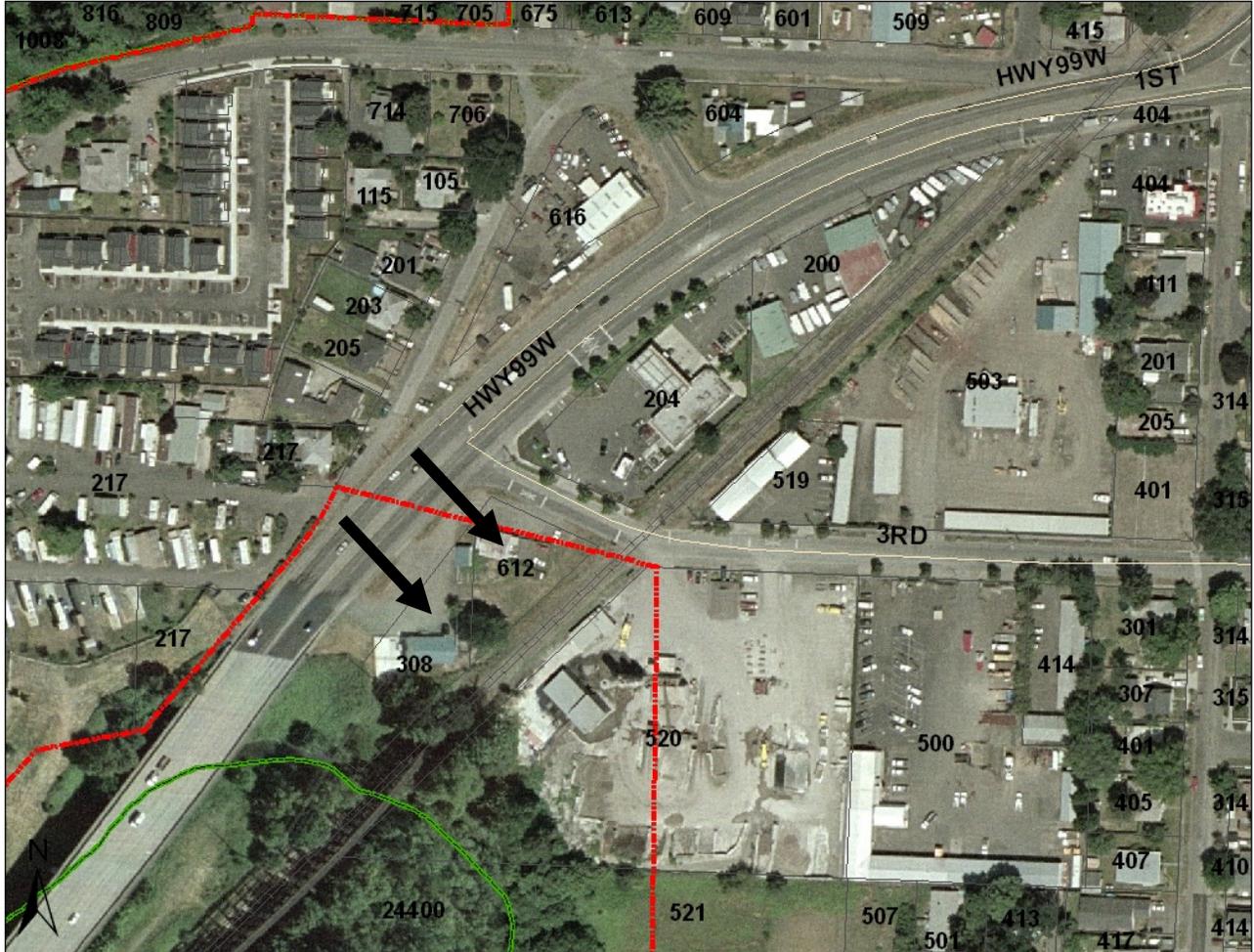
AYES: 6 NO: 0 ABSENT: 1 ABSTAIN: 0
(List Name(s)) (List Names(s))

(Smith)

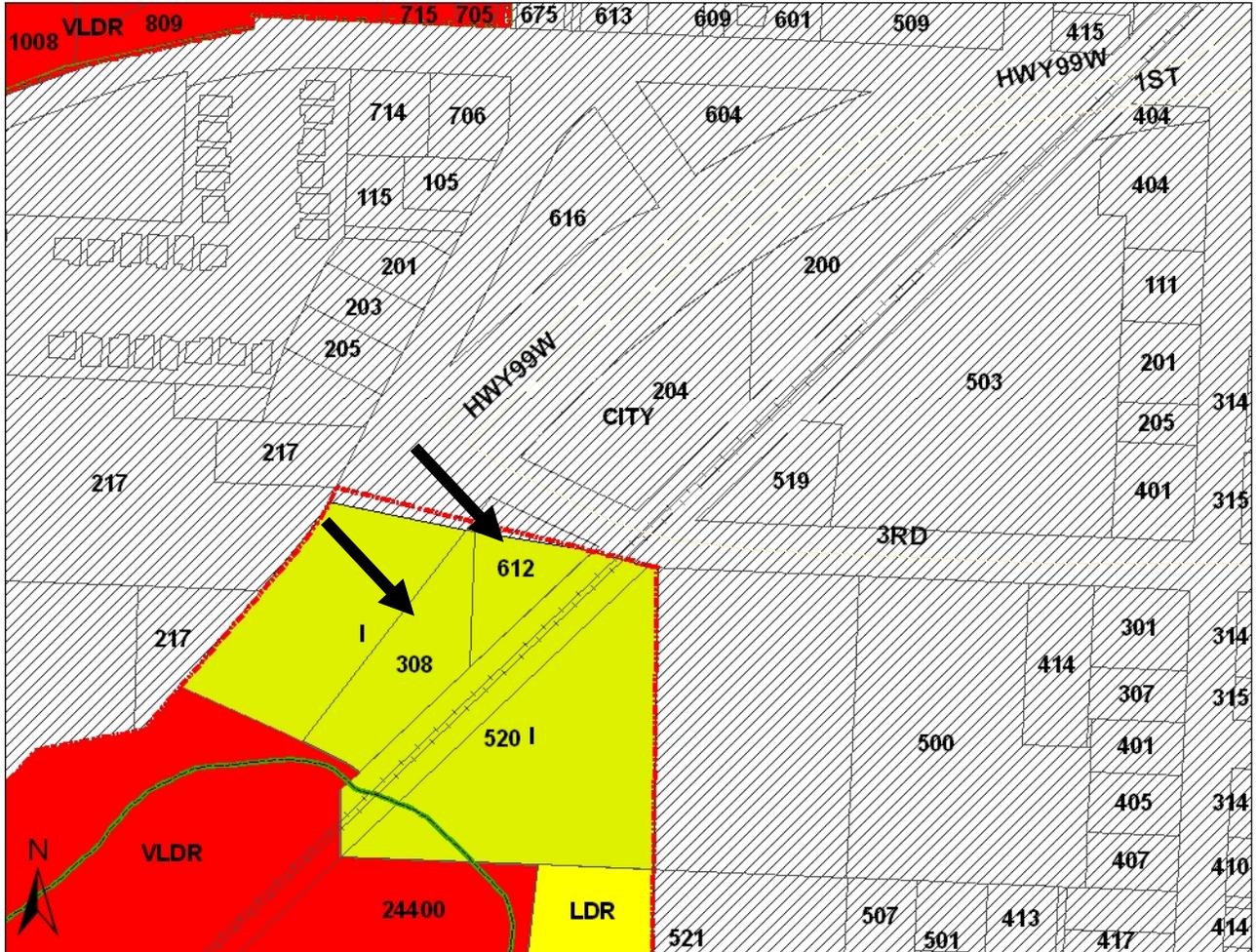
Karen Barnes
Planning Recording Secretary

Mike Tri
Planning Commission Chair

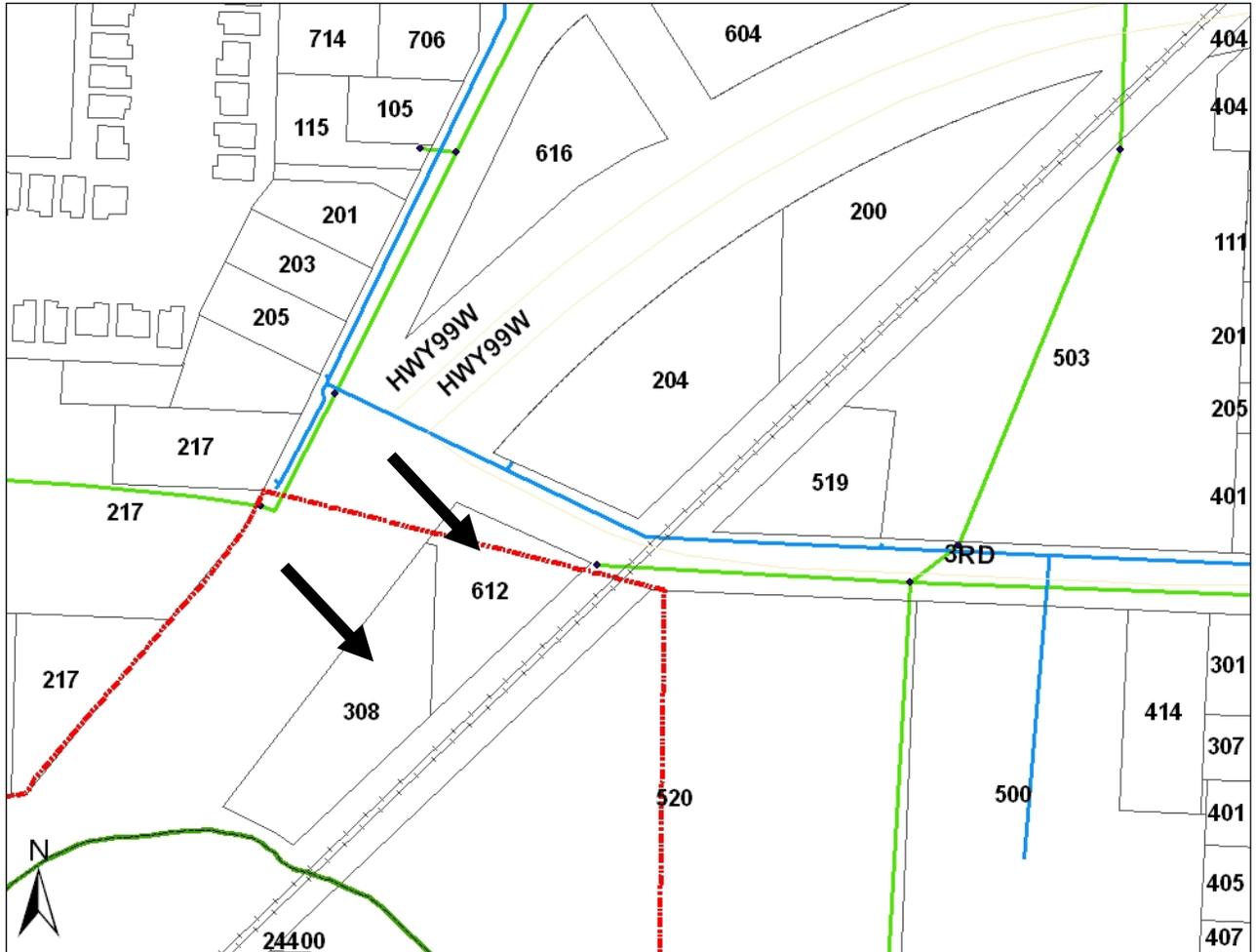
Attachment 3: Aerial Photo

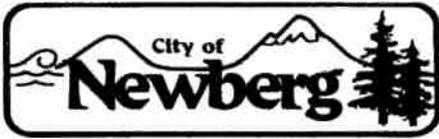


Attachment 4: Existing Yamhill County Zoning



Attachment 6: Utility Map





Attachment 7: ANX-10-001 Application
TYPE III APPLICATION - 2010
(QUASI-JUDICIAL REVIEW)

File #: ANX-10-001

TYPES - PLEASE CHECK ONE:

- Annexation
- Comprehensive Plan Amendment (site specific)
- Zoning Amendment (site specific)
- Historic Landmark Modification/alteration
- Conditional Use Permit
- Type III Major Modification
- Planned Unit Development
- Other: (Explain) _____

APPLICANT INFORMATION:

APPLICANT: Steve Watt
 ADDRESS: 7881 SW Peters Road, Tigard, OR 97224
 EMAIL ADDRESS: sewattinc@comcast.net
 PHONE: (503) 620-4107 MOBILE: (503) 951-8554 FAX: _____
 OWNER (if different from above): _____ PHONE: _____
 ADDRESS: _____
 ENGINEER/SURVEYOR: Consulting Resources, Inc. - Randy Lytle PHONE: (503) 780-8351
 ADDRESS: 22960 NE Hagey Road, Dundee, OR 97115

GENERAL INFORMATION:

PROJECT NAME: _____ PROJECT LOCATION: 308 HWY 99W Newberg OR 97132
 PROJECT DESCRIPTION/USE: Airgas supply & tow truck facility
 MAP/TAX LOT NO. (i.e. 3200AB-400): Lots 2500+2600 of R321980 ZONE: LI SITE SIZE: 0.37+0.58 SQ. FT. ACRE
 COMP PLAN DESIGNATION: COM C-2 Zone TOPOGRAPHY: Relatively Flat - Creek on south
 CURRENT USE: Airgas supply & tow truck facility
 SURROUNDING USES:
 NORTH: Shell Gas Station SOUTH: Creek
 EAST: Railroad WEST: 99W

SPECIFIC PROJECT CRITERIA AND REQUIREMENTS ARE ATTACHED

General Checklist: Fees Public Notice Information Current Title Report Written Criteria Response Owner Signature

For detailed checklists, applicable criteria for the written criteria response, and number of copies per application type, turn to:

Annexation	p. 16
Comprehensive Plan / Zoning Map Amendment (site specific)	p. 19
Conditional Use Permit	p. 21
Historic Landmark Modification/Alteration	p. 23
Planned Unit Development	p. 26

The above statements and information herein contained are in all respects true, complete, and correct to the best of my knowledge and belief. Tentative plans must substantially conform to all standards, regulations, and procedures officially adopted by the City of Newberg. All owners must sign the application or submit letters of consent. Incomplete or missing information may delay the approval process.

[Signature] 3/15/2010
 Applicant Signature Date

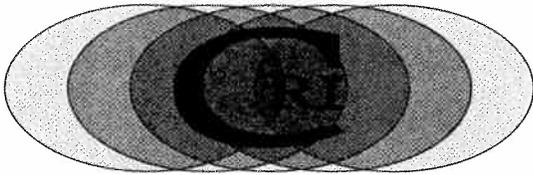
[Signature] 3/15/2010
 Owner Signature Date

STEVEN E WATT
 Print Name

STEVEN E WATT
 Print Name

Attachments: General Information, Fee Schedule, Noticing Procedures, Planning Commission Schedule, Criteria, Checklists

Attachment 7: ANX-10-001 Application



Consulting Resources, Inc.
22960 NE Hagey Road
Dundee, OR 97115
Phone: 503-537-4927
Fax: 503-537-4927
Mobile: 503-780-8351
randylytle@comcast.net

3RD Street & HWY 99W

308 HWY 99W, Lots 2500 & 2600 of R3219BD
Owner & Applicant: Steve Watt
Mailing address: 7881 SW Peters Road, Tigard, OR 97224
Phone: (503) 951-8554
e-mail: sewattinc@comcast.net

Written Criteria Response for Application for Land Use Action - Annexation

The site is currently zoned Light Industrial(LI) in Yamhill County
Newberg Comprehensive Plan: COM Commercial
Proposed Newberg City zoning: C-2 Commercial
Site size: Lot 2500 0.37 acres & Lot 2600 0.58 acres
Pre-Application Conference held on: January 27, 2010, City of Newberg

151.261 CONDITIONS FOR ANNEXATION

The following conditions must be met prior to or concurrent with the city processing of any annexation request:

- (A) The subject site must be located within the Newberg Urban Growth Boundary or Newberg Urban Reserve area:

Finding: The subject site is within the Newberg Urban Growth Boundary.

- (B) The subject site must be contiguous to the existing City Limits.

Finding: The subject site is contiguous with the existing City Limits.

151.262 QUASI-JUDICIAL ANNEXATION CRITERIA

The following criteria shall meet all annexation requests:

- (A) The proposed use of the site complies with the Newberg Comprehensive Plan and the designation on the Newberg Comprehensive Plan Map. If a redesignation of the plan map is requested concurrent with annexation, the uses allowed under the proposed designation must comply with the Newberg Comprehensive Plan.

Finding: The subject site is retaining the existing uses on the site which are an Airgas distribution business and a tow truck business. These existing uses are allowed in the C-2 Zone, and the C-2 Zone matches up with the Comprehensive Plan Map designation of COM, Commercial.

Attachment 7: ANX-10-001 Application

- (B) An adequate level of urban services must be available, or be made available, within three years time of annexation, except as noted in division (E) below. An adequate level of urban services shall be defined as:

- (1) Municipal sanitary sewer and water service meeting the requirements enumerated in the Newberg Comprehensive Plan for provision of these services.

Finding: The subject site currently receives water service from the City of Newberg and a City of Newberg sanitary sewer manhole is located on the northeasterly corner of the site for future connection to the public sewer system.

- (2) Roads with an adequate design capacity for the proposed use and projected future uses. Where construction of the road is not deemed necessary within the three year time period, the city shall note requirements such as dedication of right-of-way, waiver of remonstrance against assessment for road improvement costs, or participation in other traffic improvement costs, for application at the appropriate level of the planning process. The city shall also consider public costs for improvement and the ability of the city to provide for those costs.

Finding: The subject site currently utilizes access from 99W for one lot and Third Street for the other lot. No new roads are proposed and access will not be altered.

- (C) Findings documenting the availability of police, fire, parks, and school facilities and services shall be made to allow for conclusionary findings either for or against the proposed annexation. The adequacy of these services shall be considered in relation to annexation proposals.

Finding: The subject site will utilize the City of Newberg Police, Fire, Park, and Schools facilities. These services are adequate to support this annexation.

- (D) The burden for providing the findings for divisions (A), (B) and (C) of this section is placed upon the applicant.

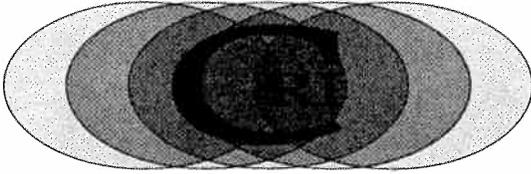
Finding: Applicant has provided such findings.

- (E) The City Council may annex properties where urban services are not and cannot practically be made available within the three year time frame noted in division (B) above, but where annexation is needed to address a health hazard, to annex an island, to address sewer or water connection issues for existing development, to address specific legal or contract issues, to annex property where the timing and provision of adequate services in relation to development is or will be addressed through legislatively adopted specific area plans or similar plans, or to address similar situations. In these cases, absent a specific legal or contractual constraint, the Council shall apply an interim zone, such as a limited-use overlay, that would limit development of the property until such time as the services become available.

(Ord. 96-2451, passed 12-2-96; Am. Ord. 2006-2640, passed 2-21-06)

Finding: No such issue exists.

Attachment 7: ANX-10-001 Application



Consulting Resources, Inc.

22960 NE Hagey Road

Dundee, OR 97115

Phone: 503-537-4927

Fax: 503-537-4927

Mobile: 503-780-8351

randylytle@comcast.net

3RD Street & HWY 99W

308 HWY 99W, Lots 2500 & 2600 of R3219BD

Owner & Applicant: Steve Watt

Mailing address: 7881 SW Peters Road, Tigard, OR 97224

Phone: (503) 951-8554

e-mail: sewattinc@comcast.net

Development Concept Statement

The annexation of this site into the City of Newberg is both practical and enhances the social environment of the area. It is the first parcel of land while entering the City from the south just over the Chehalem Creek Bridge on 99W. This parcel is currently an isolated parcel of land in the county. Bringing it into the City allows the Chehalem Creek Bridge to be a definitive and visual boundary into the City.

It is intended that the current use of this property will be retained. There is no immediate plan to change the site but we would like the opportunity to redevelop the site in the future.

Public Facilities Financing Statement

The annexation of this site into the City of Newberg requires no public facilities financing since the site is currently served by the City of Newberg for water service and there is a City of Newberg public sanitary sewer manhole on the northeast corner of the site.

Positive and Negative Effects Statement

The annexation of this site into the City of Newberg will be a positive asset to the City of Newberg due to the definitive boundary created as mention in the development concept statement above. It will also increase the City of Newberg's tax base and add more Commercial area to the City of Newberg. There are no negative effects to the addition of this site in to the City of Newberg.

Attachment 7: ANX-10-001 Application



First American

First American Title Insurance Company of Oregon
775 NE Evans Street
McMinnville, OR 97128
Phn - (503)472-4627
Fax - (866)800-7294

YAMHILL COUNTY TITLE UNIT

FAX (866)800-7294

Title Officer: **Clayton Carter**

(503)472-4627

ctcarter@firstam.com

LIMITED LOT BOOK SERVICE

Watt Building Supply
7881 SW Peters Road
Tigard, OR 97224

Ref No.:
March 03, 2010

Attn: S. Watt
Phone No.: (503)951-8554 - Fax No.:
Email: sewattinc@comcast.net

Fee: \$150.00

We have searched our Tract Indices as to the following described property:

The land referred to in this report is described in Exhibit A attached hereto.

and as of February 26, 2010 at 8:00 a.m.

We find that the last deed of record runs to

Watt Welding Supply, Inc.

We also find the following apparent encumbrances as of the effective date hereof:

1. Taxes for the year 2009-2010
Tax Amount \$ 1,062.23
Unpaid Balance: \$ 1,062.23, plus interest and penalties, if any
Code No.: 29.2
Map & Tax Lot No.: R3219BD-2500
Property ID No.: 53417

Attachment 7: ANX-10-001 Application

Lot Book Service

Guarantee No.: 1039-1540576

Page 3 of 4

11. Hazardous waste, contamination to soil and other hazardous material which may have affected the property, disclosed by various instruments.
12. Encroachment of underground tanks, if any, as disclosed by various instruments of record.
13. Unrecorded leases or periodic tenancies, if any.

We have also searched our General Index for Judgments and State and Federal Liens against the Grantee(s) named above and find:

NONE

We also find the following unpaid taxes and city liens: 2009-2010 Taxes due (See #1 & #2 above)

THIS IS NOT a title report since no examination has been made of the title to the above described property. Our search for apparent encumbrances was limited to our Tract Indices, and therefore above listings do not include additional matters which might have been disclosed by an examination of the record title. We assume no liability in connection with this Lot Book Service and will not be responsible for errors or omissions therein. The charge for this service will not include supplemental reports, rechecks or other services.

Attachment 7: ANX-10-001 Application

Lot Book Service

Guarantee No.: 1039-1540576

Page 4 of 4

Exhibit "A"

Real property in the County of Yamhill, State of Oregon, described as follows:

PARCEL 1:

Being a part of the John H. Hess Donation Land Claim Notification No. 1419, Claim No. 39, in Township 3 South of Range 2 West of the Willamette Meridian, in Yamhill County, Oregon, and beginning at iron drift bolt set on North line of 25 foot roadway between the Railroad crossing at the West end of 3rd Street and State Highway, said point being 535.6 feet South and 1698.9 feet West of the intersection of First and Main Streets in the City of Newberg and said intersection being the Northwest corner of the Joseph B. Rogers Donation Land Claim, said beginning point being also the Northwest corner of the Shell Oil Co. tract; thence South 00°50' West with West line of Shell Oil Co. Tract 215.3 feet to iron drift bolt set on the Northwesterly margin of the Southern Pacific right-of-way; thence South 44°17' West along Northerly margin of said right-of-way 206 feet to the center of Chehalem Creek; thence North 76°00' West along center of Chehalem Creek 37.5 feet to point; thence North 21°42' East 387 feet to iron drift bolt set on North margin of 25 foot roadway; thence South 78°57' East along North margin of said roadway 40.7 feet to beginning.

EXCEPTING THEREFROM that portion conveyed to the State of Oregon, by and through its State Highway Commission, recorded February 20, 1935 in Book 110, Page 72, Deed Records.

ALSO: That portion conveyed by the State of Oregon, by and through its Department of Transportation, Highway Division, to Stanley E. Watt and Marian E. Watt, husband and wife, in deed recorded January 21, 1983 in Film Volume 174, Page 1401.

Tax Parcel Number: R3219BD-2500

PARCEL 2:

A tract of land in the City of Newberg, County of Yamhill, State of Oregon, more particularly described as beginning at an iron drift bolt set at the intersection of the Northerly line of the Southern Pacific right-of-way and the North line (extended Westerly) of Third Street in said City of Newberg; thence North 89°37' West along said North line of Third Street extended, a distance of 60.6 feet to a drift bolt set for an angle corner; thence North 78°57' West 112 feet, more or less, to an iron pipe on the Southeasterly boundary of the right-of-way of Oregon State Highway as presently located, being the TRUE PLACE OF BEGINNING of the tract herein described; thence South 67°37' East to a point of the Northwesterly line of the Southern Pacific right-of-way; thence South 44°17' West along the Northwesterly line of said right-of-way to the most Southerly corner of that certain tract conveyed to Shell Oil Company of California by deed recorded in Book 99, Page 25, Deed Records; thence North 0°50' East along the West line of the Shell Oil Company tract to a point on the Easterly line of Highway 99W; thence Northeasterly along said Highway to the place of beginning.

ALSO: That portion conveyed by the State of Oregon, by and through its Department of Transportation, Highway Division, to Stanley E. Watt and Marian E. Watt, husband and wife, in deed recorded January 21, 1983 in Film Volume 174, Page 1401.

Tax Parcel Number: R3219BD-2600

AFTER RECORDING RETURN TO:

City of Newberg
Planning and Building Department
PO Box 970 – (414 E. First Street)
Newberg, OR 97132

COVENANT OF WAIVER OF RIGHTS AND REMEDIES

Recitals

- 1) The undersigned, Steve Watt and _____ (hereinafter referred to as "Owner" or "Owners") has/have petitioned the City of Newberg (hereinafter referred to as "City") to commence certain proceedings, relating to Annexation, for the real property described in **Exhibit A** which is attached hereto and incorporated herein.
- 2) Pursuant to the enactment of **Ballot Measure 49** (adopted November 6, 2007), if a public entity enacts one or more land use regulations that restrict the residential use of private real property or a farming or forest practice and that reduce the fair market value of the property, then the owner of the property shall be entitled to just compensation from the public entity that enacted the land use regulation or regulations as provided in Measure 49.
- 3) There is the potential that the Oregon electors or the Oregon Legislature may, in the future, enact further statutory or constitutional amendments relating to compensation for the impact of local regulations upon real property, under certain circumstances.
- 4) City does not wish to approve the Owner's/Owners' requested proceedings if the result would or could arguably give rise to a later claim by the Owner or Owners, or the Owner's/Owners' successors or assigns for compensation for the land use regulations in effect upon the effective date of the proceedings, or would or could arguably require the City to waive the City's land use regulations in effect upon the effective date of the proceedings, which are being newly imposed upon the property by reason and result of the proceedings.
- 5) Owner(s) seek(s) to induce the City to proceed with the proceedings and therefore Owner(s) agree(s) to eliminate the potential of claim for compensation or the right to seek waiver from the City's land use regulations existing as of the effective date of the proceedings.

NOW THEREFORE, the undersigned Owner(s) warrant(s) that the Owner(s) executing this covenant hold(s) the full and complete present ownership or any interest therein in the property, and hereby agree(s) and covenant(s) as follows:

- 1) As inducement to the City to proceed with the following proceeding(s) affecting the subject real property: Lots 2500 + 2600 of R3219BD, which may include designation of the property as subject to additional applicable overlay zones and districts, e.g., Limited Use Overlay District, (all inclusively referred to herein as "proceedings"), the undersigned Owner(s), on behalf of Owner(s), Owner's/Owners' heirs, devisees, executors, administrators, successors and assigns, agree(s) and covenant(s) to the City of Newberg, its officers, agents, employees and assigns that the undersigned hereby remises, waives, releases and forever discharges, and agrees that Owner(s) shall be estopped from asserting any rights and remedies, actions, causes of action, suits, claims, liabilities, demands, and rights to waivers arising under or granted by any statutory or constitutional regulatory compensation or waiver provisions, including but not limited to Ballot Measure 49 (2007) or otherwise enacted after the date of this proceeding which would create a right of claim for compensation or waiver from City land use regulations that exist upon the effective date of the proceeding and which, by the approval of the proceeding, are then applicable to the property.

Attachment 7: ANX-10-001 Application

- 2) This waiver and release shall bind the undersigned's heirs, devisees, executors and administrators, successors in interests, and assigns. This covenant, waiver, release and discharge shall run with the land, and this instrument, or a memorandum hereof, may be recorded in the official records of the County in which the subject real property is located. This instrument may be terminated upon the filing of a Notice of Termination of Covenant filed by the City of Newberg.
3) If this instrument is given contemporaneous with a consent to future proceedings to be initiated by the City, Owner(s) acknowledge(s) that the proceedings may be initiated by the City of Newberg at any time in the discretion of the City of Newberg, and that this waiver and release is applicable to any ordinances adopted prior to the effective date of the proceeding.
4) This document is executed of my/our own free will and without duress. I, or if more than one, each of us respectively acknowledge that I/we have been advised to obtain legal advice prior to the execution of this document, and that either I, or each of us respectively, have either obtained legal advice or have independently elected not to seek legal advice prior to the execution of this document, recognizing that this document may affect my/our legal rights and remedies.

OWNER

[Handwritten signature of Steve Klatt]

OWNER

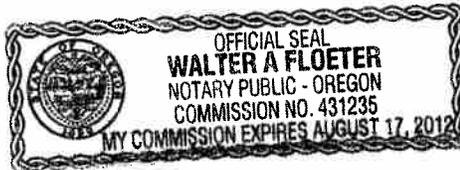
STATE OF OREGON)

County of Yamhill)

) ss.
)

This instrument was acknowledged before me on this 26th day of February, 2010, by Steve Klatt and _____.

[Handwritten signature of Notary Public]
Notary Public for Oregon
My Commission expires: 8-17-2012



CITY OF NEWBERG

APPROVED AS TO FORM:

Norma I. Alley, City Recorder

Terrence D. Mahr, City Attorney

Dated: _____

Dated: _____

Attachment 7: ANX-10-001 Application

Exhibit 'A'

Annexation
Description

Being a tract of land located in the NW ¼ of Section 19, Township 3 South, Range 2 West, W.M., Yamhill County, Oregon, more particularly described as follows:

All that portion of said lands lying northerly of the following described line:

Commencing at the angle point in the westerly line of Parcel 2 of Partition Plat 92-64, thence North 11°10' East, 139 feet more or less to a point on the South line of West Fifth Street;

Thence West along the South line of a lane running West from South Main Street, 370 feet to a 2 inch iron rod;

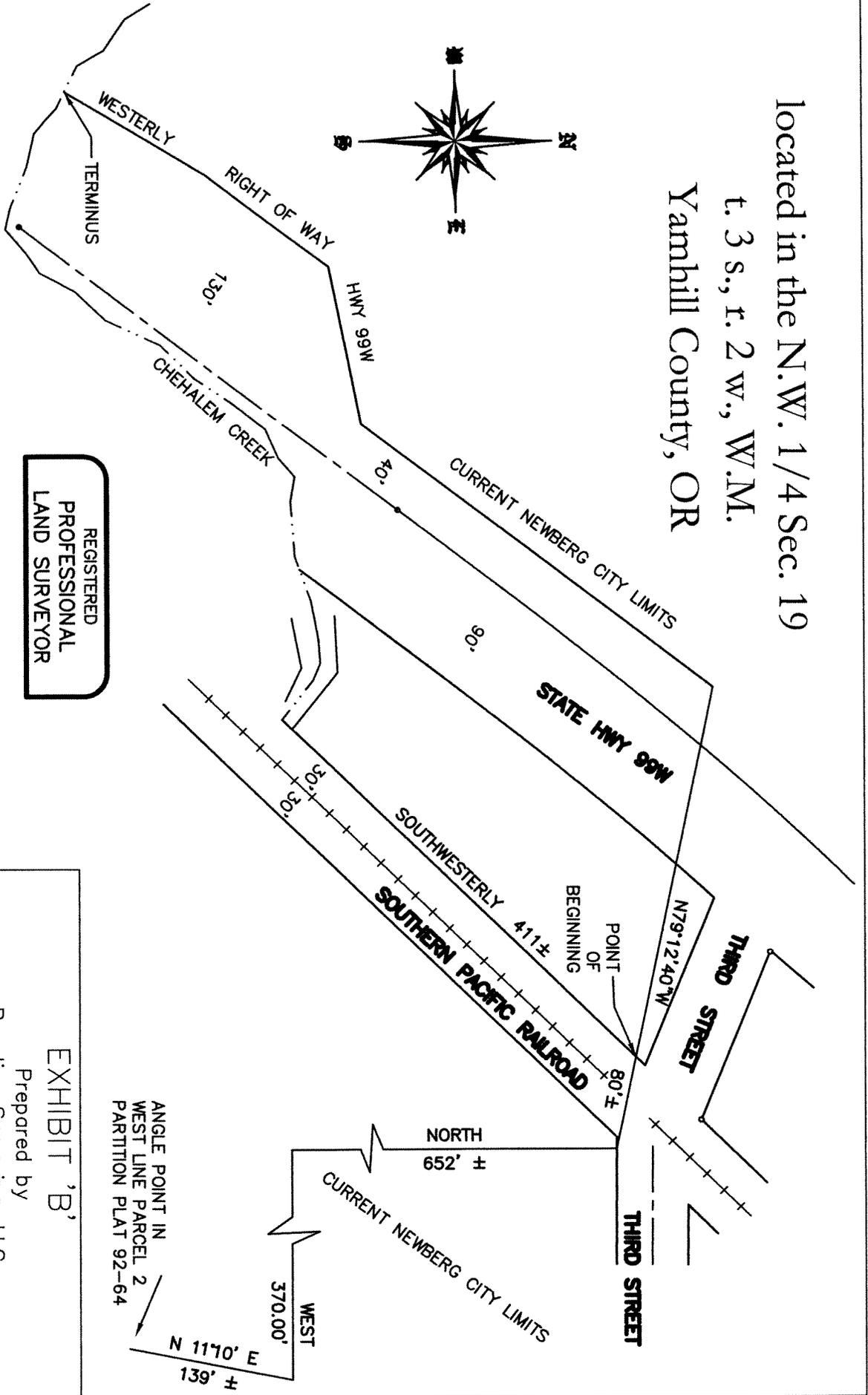
Thence North 652 feet to the South line of Third Street;

Thence North 79°12'40" West, 80 feet more or less, to the westerly right of way line of the Southern Pacific Railroad and the POINT OF BEGINNING of this description;

Thence southwesterly along said right of way line 411 feet, more or less, to the centerline of Chehalem Creek;

Thence westerly along said centerline to the Terminus on the West line of the abandoned West Side Pacific Highway and the relocated right of way of Highway 99W.

located in the N.W. 1/4 Sec. 19
 T. 3 S., R. 2 W., W.M.
 Yamhill County, OR



REGISTERED
 PROFESSIONAL
 LAND SURVEYOR

OREGON
 JULY 25, 1985
 MICHAEL D. RENNICK
 2718

RENEWAL DATE: 01-01-11

EXHIBIT 'B'
 Prepared by
 Baseline Surveying, LLC
 Professional Land Surveyors
 2505 Portland Road, Suite 206
 Newberg, OR 97132

Scale: 1"=120'	Date: 03/11/10	LT:
Drawn: MR	Checked: tvs	Job: 1397

ANNEXATION CONSENT

TO THE HONORABLE MAYOR AND COUNCIL OF THE CITY OF NEWBERG, OREGON:

The undersigned Steve Watt

being the sole owner of the real premises described in Exhibit A attached hereto and incorporated by reference herein, and generally known as (address) 308 Hwy 99w and (tax lot) 2500 + 2600 R321980, does hereby consent to the annexation of such territory above described to the City of Newberg, Oregon.

The undersigned does hereby respectfully petition that the real premises described in Exhibit A be annexed to the City of Newberg, Oregon, in the manner provided by the laws of the State of Oregon and the Charter and Ordinances of the City of Newberg, Oregon.

This consent is binding upon the heirs, successors, and assigns of the above listed property.

In construing this consent, the singular includes the plural as circumstances may require.

IN WITNESS WHEREOF, Petitioner has caused these presents to be executed this 26 day of February, 2010.

[Signature]

STATE OF Oregon, County of Yamhill ss 02/26/2010
month / day / year

Personally appeared the above named Steve Watt

and acknowledged the foregoing instrument to be his voluntary act and deed.



Before me: Walter A Floeter, Notary
Walter A Floeter
Notary Public for state of Oregon
My commission expires 8-17-2012

Attachment 7: ANX-10-001 Application

WAIVER OF EXPIRATION OF ANNEXATION CONSENT

WHEREAS: The undersigned
Steve Watt

as owner(s) of certain property have signed a consent to annex that property to the City of Newberg, Oregon, which consent is attached; and

WHEREAS: ORS 222.173 provides that "only statements of consent to annexation which are filed within any one-year period shall be effective, unless separate written agreement waiving the one-year period or prescribing some other period of time has been entered into between an owner of land or an elector and the city."; and

WHEREAS: The owner(s) desire that this consent to annex be valid until the property is annexed.

NOW, THEREFORE:

The undersigned do hereby request that the attached consent to annex be valid until the property is annexed to the City of Newberg, Oregon.

In construing this consent, the singular includes the plural as circumstances may require.

IN WITNESS WHEREOF, Petitioner has caused these presents to be executed this 26 day of February, 2010.

[Handwritten signature]

STATE OF Oregon, County of Yamhill ss 02/26/2010 month/day/year

Personally appeared the above named Steve Watt

and acknowledged the foregoing instrument to be his voluntary act and deed.

Before me: Walter A Floeter, Notary
[Walter A Floeter signature]

Notary Public for:
State of Oregon

My commission expires:
8-17-2012

