

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.

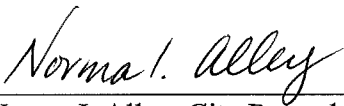
THE CITY OF NEWBERG ORDERS AS FOLLOWS:

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.

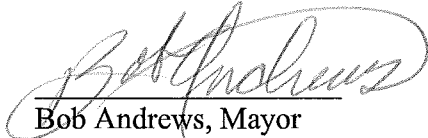
➤ **EFFECTIVE DATE** of this order is the day after the adoption date, which is: August 3, 2010.

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

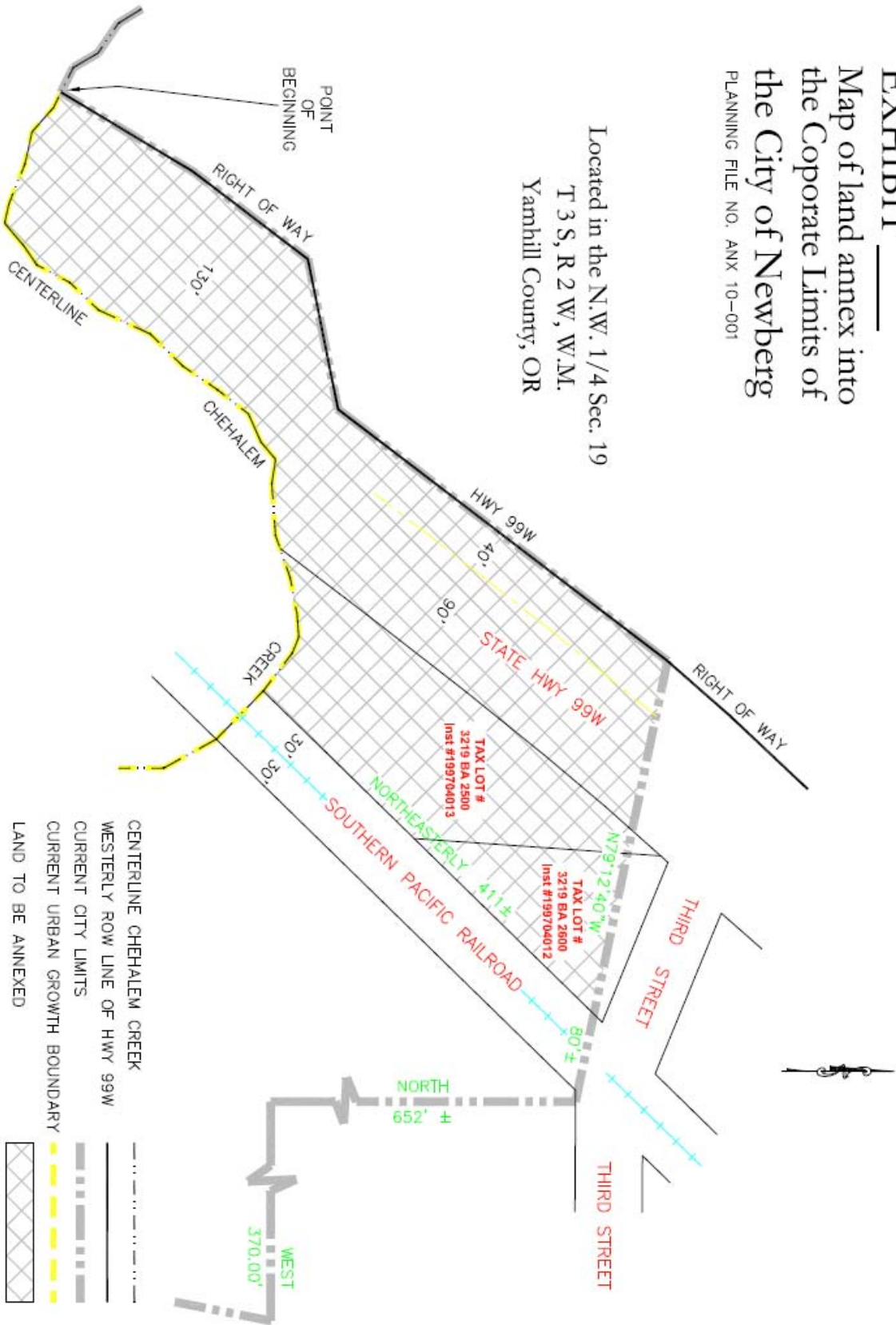


Exhibit C to Order 2010-0026: Legal Description (ANX-10-001)

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;

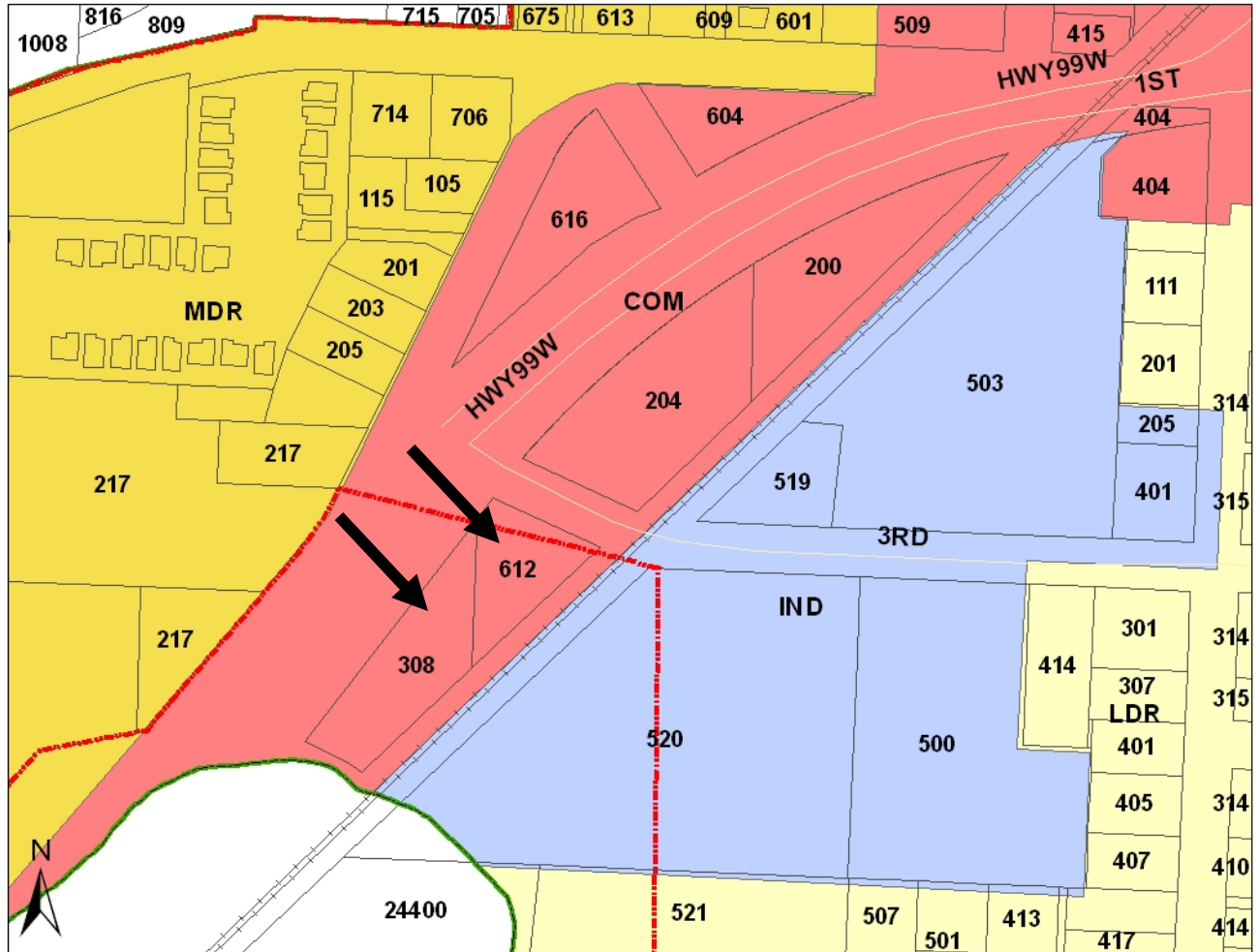
THENCE Easterly along the centerline of Chehalem Creek to the point of intersection of said creek centerline and the westerly right-of-way line of Southern Pacific Railroad;

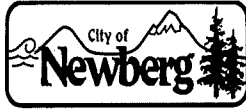
THENCE Northeasterly along said westerly Railroad right-of-way line, an approximate distance of 411 feet to the point of intersection of said westerly right-of-way line and the City Limits;

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.

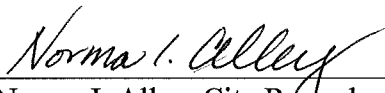
THE CITY OF NEWBERG ORDAINS AS FOLLOWS:

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: 6 NAY: 0 ABSENT: 1 [SHELTON] ABSTAIN: 0**


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

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 PLANNING FILE NO. ANX 10-001

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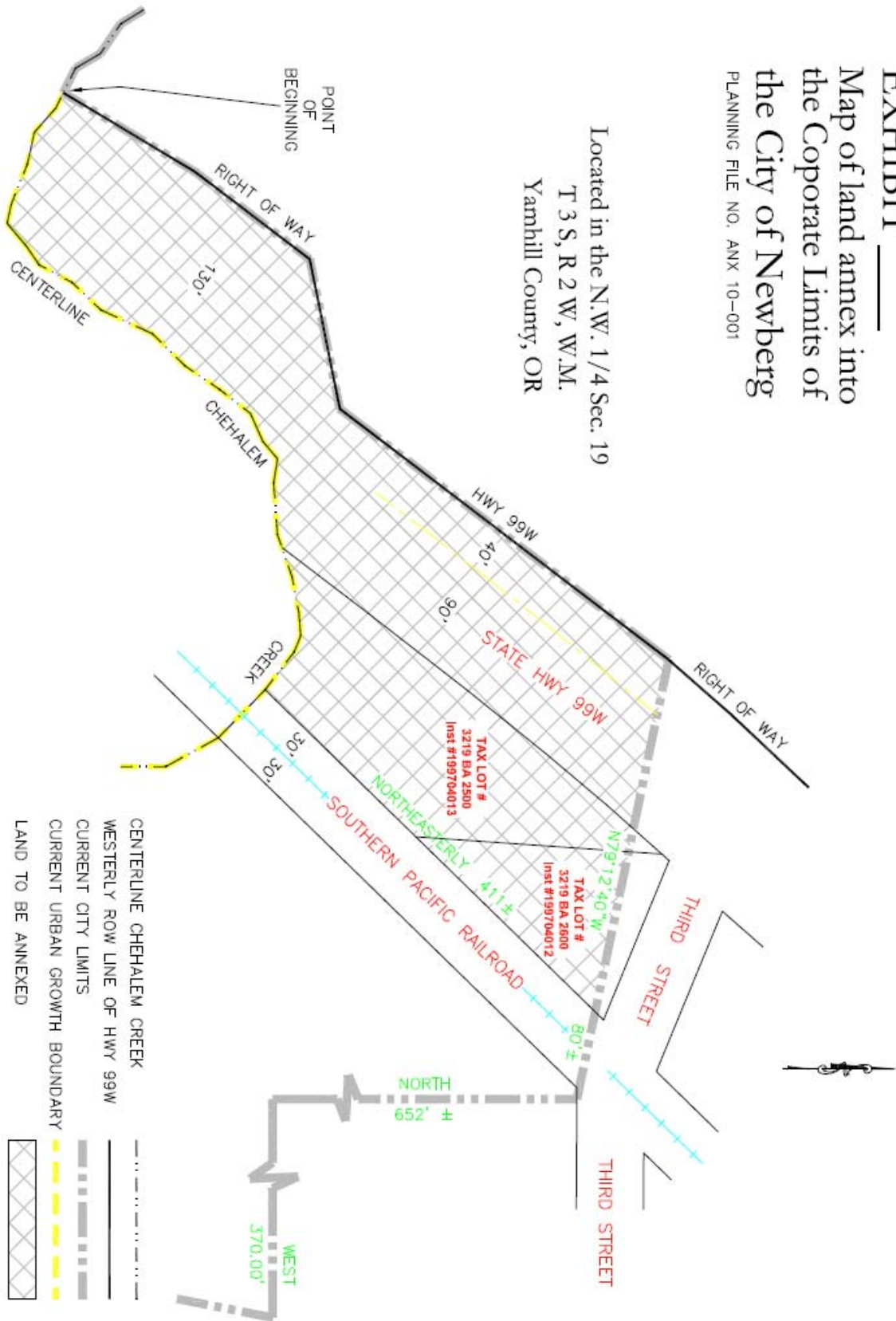


Exhibit B to Ordinance 2010-2729: Legal Description (ANX-10-001)

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