

ORDER No. 2008-0011

AN ORDER FINDING THAT PROPERTY AT 3805 TERRACE DRIVE, YAMHILL COUNTY TAX LOT 3207-00500 MEETS THE APPLICABLE NEWBERG DEVELOPMENT CODE CRITERIA TO BE ANNEXED INTO THE CITY, AND MEETS THE APPLICABLE CODE CRITERIA TO CHANGE THE CURRENT ZONING DESIGNATION FROM COUNTY AF-10 TO CITY R-1

RECITALS:

1. On March 31, 2008, Douglas Cushing of Jordan Schrader Ramis PC submitted an application to annex property at 3805 Terrace Drive, Yamhill County tax lot 3207-00500, and change the zoning from County AF-10 to City R-1 (Low Density Residential). The applicant submitted a signed Measure 49 waiver along with the application.
2. The request is for annexation of one parcel of approximately 7.67 acres into the City of Newberg, as well as a corresponding zone change to R-1 upon annexation. The zone change request follows the current comprehensive plan designation of LDR (low density residential). The adjacent parcels to the west, north and east are located outside the city limits but within the Newberg urban growth boundary and all share the same comprehensive plan designations of LDR. The adjacent property to the south is within the city limits and zoned R-1.
3. The Newberg Planning Commission heard the proposed annexation and zoning amendment on May 8, 2008 and recommended approval per Resolution 2008-250.
4. After proper notice, on June 16, 2008, the Newberg City Council held a hearing to consider the annexation and zoning amendment requests. The City Council continued the hearing to July 21, 2008.
5. The City Council finds that the requirements of the City of Newberg Comprehensive Plan and Newberg Development Code regarding zoning map amendments have been met, and that the applicable criteria for annexation have been met.

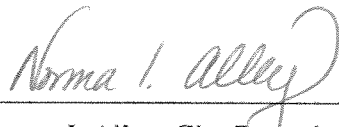
THE CITY OF NEWBERG ORDERS AS FOLLOWS:

1. The City Council finds that the annexation and zoning map amendment meet the Newberg Comprehensive Plan and Newberg Development Code criteria.
2. The City Council adopts the findings and conditions of approval, which are attached hereto as Exhibit A and Exhibit B and incorporated herein by reference.

3. 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 property shown in Exhibit C and described in Exhibit D shall be zoned R-1 (Low Density Residential). The Newberg Zoning Map shall be amended to reflect this change.
4. The owner shall be responsible for the cost of any street and utility improvements necessary to serve the property.


➤ **EFFECTIVE DATE** of this order is the day after the adoption date, which is: July 22, 2008.

ADOPTED by the City Council of the City of Newberg, Oregon, this 21st day of July, 2008.



Norma I. Alley, City Recorder

ATTEST by the Mayor this 24th day of July, 2008.



Bob Andrews, Mayor

QUASI-JUDICIAL HISTORY

By and through Planning Commission Committee at 05/22/2008 meeting. Or, ___ None.
(committee name) (date) (check if applicable)

EXHIBIT A TO ORDER 2008-0011: FINDINGS
ANX-08-005

Annexation of 7.67 acres of property on Terrace Drive, adjacent to the northern city limits
(3805 Terrace Drive)

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 the current Newberg Urban Growth Boundary. Therefore, the request meets this criterion.

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

Finding: The subject site is adjacent to Newberg city limits along its southern property line.

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 site is within the current urban growth boundary and has a comprehensive plan designation of LDR (low density residential). The applicant has proposed zoning of R-1 (low density residential), which is concurrent with the comprehensive plan designation for the site.

(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.

Water: The property will connect to an existing 10-inch mainline located in Terrace Drive near the property's southeastern boundary.

Sewer: Completion of the adjacent Terrace Heights subdivision to the south will provide the site with an 8-inch sanitary sewer stub at the southern boundary of the site. There is also an 8-inch sanitary sewer stub at Morris Street at the westward southern boundary of the site. Due to the natural slope of the property to the northwest, it may be difficult for the northwestern corner of the site to have gravity flow sewer service to the southern manholes. No development plans have been proposed at this time and more in-depth utility plans will be required prior to development.

Storm water: Storm water currently drains to the northwest with the natural slope of the property. Storm water mitigation or on-site detention will likely be required at the time of development to account for increased water flow and volume from additional impervious area.

Roads: The subject property is adjacent to Terrace Drive on its eastern side. Terrace Drive is classified as a local street and shall be improved with curbs, gutters and sidewalks at the time of development on the site. The approved subdivision to the south is constructing a 3/4 street, Petunia Drive, to run east from Terrace Drive and connect to the new Dahlia Street, a north-south street that will stub at the property line. Development of the subject property will require completion of the remaining 1/4 street section of Petunia Drive with curbs, gutters and sidewalks, and the extension of both Dahlia Street and Morris Street north through the property.

(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 annexation and development of the property will generate additional needs for police and fire services. The annexation and development also will generate additional revenues to pay for those services, including property tax revenues, franchise fee revenues, and cigarette and liquor tax revenues. Recent growth in these revenues has increased to the point that four additional police officers are proposed in the General Fund budget for FY08-09. However, property tax limitations have capped the growth in assessed value on existing and new properties within the city. Because of this, property tax revenues have not increased sufficiently to cover existing and new needs for public safety personnel. The Budget Committee's proposed budget for FY08-09 would fund an additional three officers with a public safety fee yet to be established. If this fee is established, then this annexed property also would pay. With this fee, annexation and development of this property should generate sufficient revenue to cover increased public safety service needs. The residential development of the property may also increase the demand for parks and school facilities, which will be partially offset by the system development charges for parks and the school construction excise tax.

Overall, the development of the site will not have adverse affects on the availability of police, fire, parks, and school facilities and services for the community as a whole.

(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.

III. APPLICABLE ZONING MAP AMENDMENT REGULATIONS – NEWBERG DEVELOPMENT CODE § 151.122(3) AMENDMENT CRITERIA

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

Finding: The proposed zone change from County AF-10 to City R-1 (low density residential) is consistent with the comprehensive plan designation of the site. See the finding for § 151.262(A) above for a more in depth discussion of compliance with the Newberg comprehensive plan.

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

Finding: Adequate water, sewer, storm water, and transportation infrastructure is, or will be, available to support the proposed new uses of the site. See the findings for § 151.262(B) and (C) above that further discusses the availability of public facilities and services to this site.

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

Finding: The zone change in itself is in compliance with the State Transportation Rule and does not significantly affect transportation facilities. Proposed build-out of the property at 35 single-family dwellings (according to R-1 density standards) would only create approximately 35 new trips in the PM peak hour. This is a relatively small number, and would not have a significant impact on operating conditions of the surrounding streets and intersections. A traffic safety issue was identified at the Terrace Drive/College Street intersection during review of the Terrace Heights subdivision to the south. That subdivision has been required to mitigate that safety issue prior to final approval, and mitigation must be completed prior to any development on this property. Additional review and mitigation of the intersection may be required at the time of subdivision review for this property.

EXHIBIT B: CONDITIONS OF APPROVAL
ANX-08-005

The following conditions of approval apply to the annexation of 7.67 acres of property located on Terrace Drive, adjacent to the northern city limits (3805 Terrace Drive), Yamhill County tax lot 3207-00500.

- The existing dwelling must either be removed or connect to City sewer and water within three years of approval.
- Mitigation at the intersection of Terrace Drive/College Street must be completed prior to any development on this property.

EXHIBIT D: LEGAL DESCRIPTION

ANX-08-005

Being a tract of land lying in the James Morris DLC No. 46 and the W. T. Wallace DLC No. 47, located in the northeast ¼ of Section 7, Township 3 South, Range 2 West, W.M., Yamhill County, Oregon, more particularly described as follows:

Commencing at the northwest corner of Lot 27 of the Plat of "Natalie Park No. 2" said plat lying within the City of Newberg;

Thence along the north line of said plat and the City boundary, North 83°29'11" East, 2.97 feet to a 1" iron pipe at the POINT OF BEGINNING of this City Annexation;

Thence along the easterly line of that tract of land described in that Statutory Warranty Deed to Melvin J. Taylor, recorded as instrument no. 199610952, Yamhill County Records, North 00°01'02" East, 601.99 feet to the southwest corner of that tract of land described in Warranty Deed to Walter and Edna Dean, recorded in Volume 143 page 751, said County Records;

Thence along the south line of said Dean tract, South 84°31'49" East, 682.61 feet to the easterly right of way line of County Road 162, Terrace Drive;

Thence along the easterly line of said Terrace Drive, South 00°06'11" West, 476.22 feet to the northeast corner of the Newberg city limits;

Thence leaving the easterly line of said Terrace Drive along the northerly boundary line of the Newberg city limits, North 87°56'32" West, 20.01 feet to the centerline of said Terrace Drive;

Thence continuing along said northerly boundary line of the Newberg city limits, South 85°35'28" West, 391.36 feet to a 5/8" iron rod at the northeast corner Lot 28 of the plat of "Natalie Park No. 2";

Thence along said northerly plat line, also being the city boundary of the City of Newberg, South 83°29'13" West, 270.37 feet to the Point of Beginning.

EXHIBIT E: COMPREHENSIVE PLAN MAP

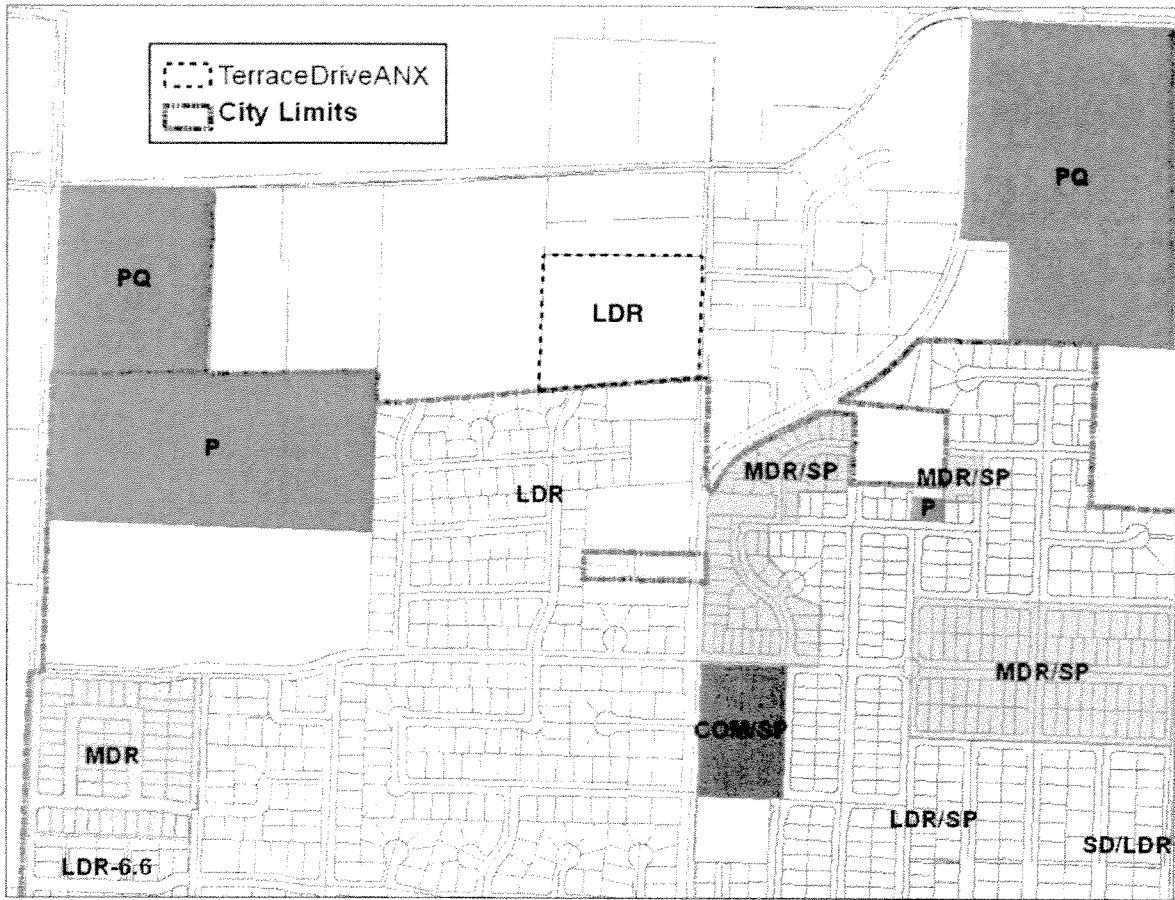
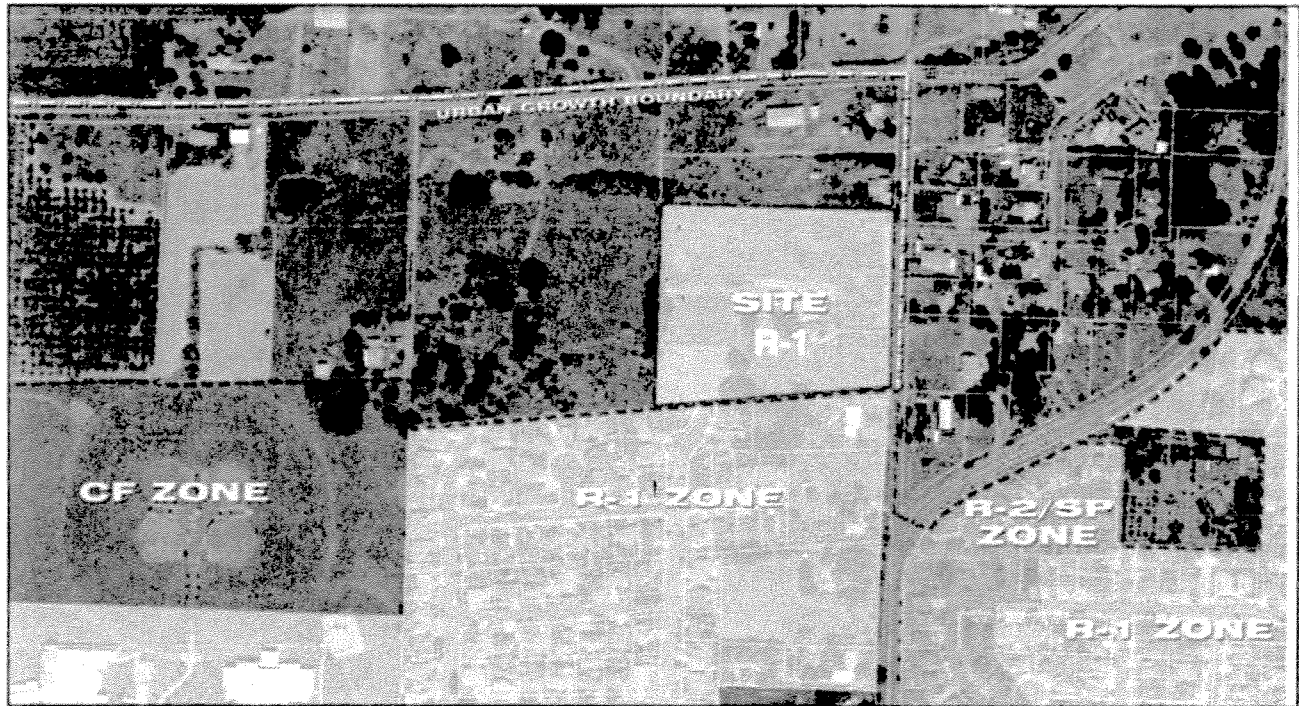
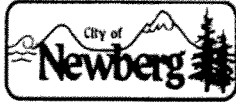


EXHIBIT F: ZONING MAP





ORDINANCE No. 2008-2695

AN ORDINANCE DECLARING PROPERTY AT 3805 TERRACE DRIVE, YAMHILL COUNTY TAX LOT 3207-00500, 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 31, 2008, Douglas Cushing of Jordan Schrader Ramis PC submitted an application to annex property at 3805 Terrace Drive, Yamhill County tax lot 3207-00500, and to change the zoning from County AF-10 to City R-1 (Low Density Residential). The applicant submitted a signed Measure 49 waiver along with the application.
2. After proper notice, on June 16, 2008 at the hour of 7:00 PM in the Newberg Public Safety Building, 401 E. Third Street, 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 and the applicant; 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 June 16, 2008, the City Council held a hearing on the proposal. The City Council continued the hearing to July 21, 2008 and on that date adopted Order 2008-0011 which found that the annexation met the applicable Newberg Development Code criteria.
4. The City of Newberg Charter requires that territory may be annexed into the City of Newberg only upon approval by a majority vote among the electorate of the City.
5. The matter can be placed before the voters at the November 4, 2008 general election.

THE CITY OF NEWBERG ORDAINS AS FOLLOWS:

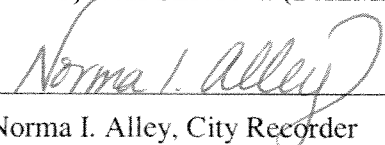
1. The question of annexing the property shown in Exhibit "A" and described in Exhibit "B" shall be submitted to the electorate of the city at the November 4, 2008 general election.
2. The City Council directs that all costs associated with placing the item on the ballot be paid for by the owners. This includes but is not limited to noticing, signage, advertising, and cost

assessed by the Yamhill County Clerk to place the item on the ballot. Owners may be required to place monies in escrow to cover the costs of elections.

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 and GIS 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.

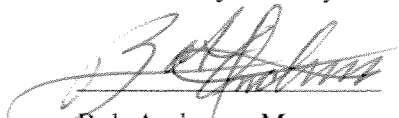
➤ **EFFECTIVE DATE** of this ordinance is 30 days after the adoption date, which is: August 20, 2008.

ADOPTED by the City Council of the City of Newberg, Oregon, this 21st day of July, 2008, by the following votes: **AYE: 5 NAY: 1 (ANDREWS) ABSENT: 1 (PALMER) ABSTAIN: 0**



Norma I. Alley, City Recorder

ATTEST by the Mayor this 24th day of July, 2008.



Bob Andrews, Mayor

LEGISLATIVE HISTORY

By and through Planning Commission Committee at 05/22/2008 meeting.

EXHIBIT A: ANNEXATION MAP

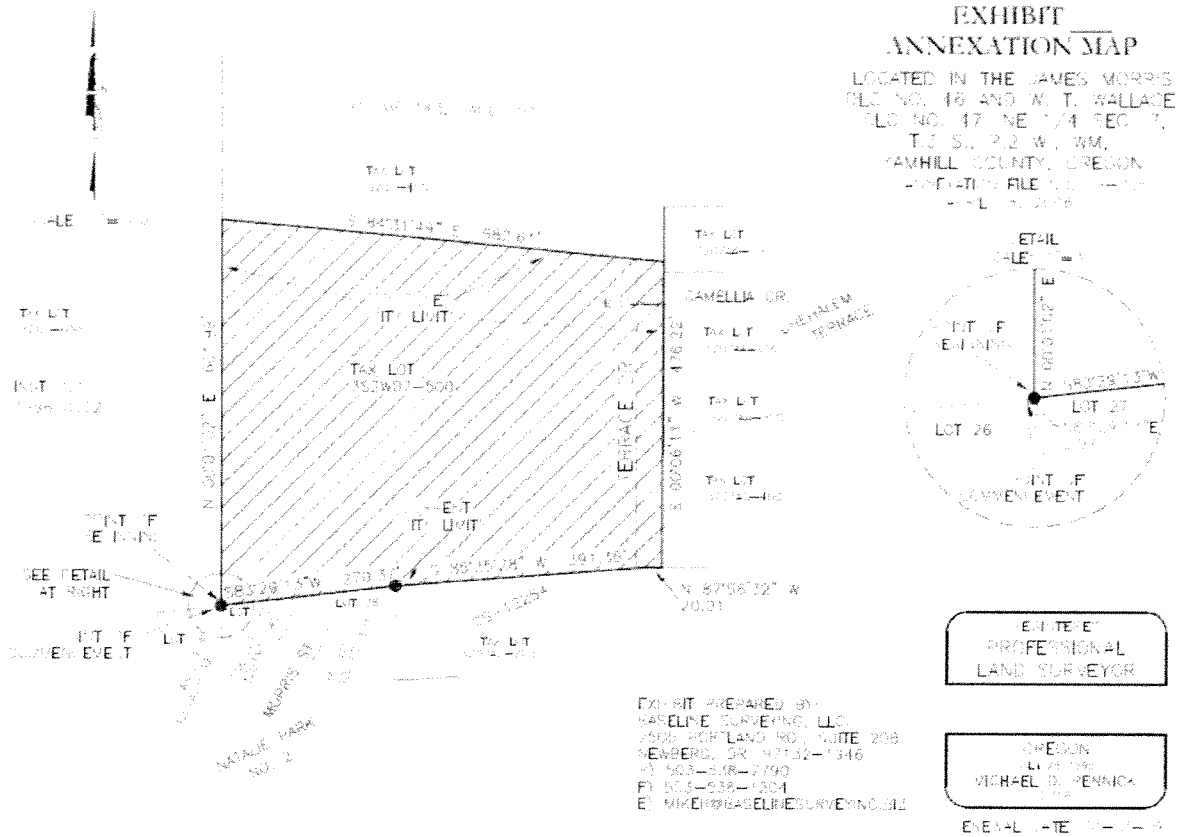


EXHIBIT ANNEXATION MAP

LOCATED IN THE JAMES MORRIS
 PLC NO. 16 AND W. T. WALLACE
 PLC NO. 17 NE 1/4 SEC. 7,
 T.3 S., R.2 W., WM,
 YAMHILL COUNTY, OREGON
 ANNEXATION FILE NO. 2008-2695
 DATE 7-21-08

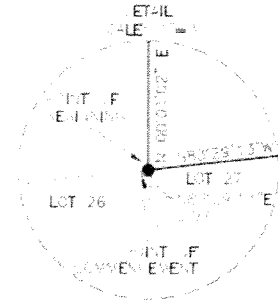


EXHIBIT
 PROFESSIONAL
 LAND SURVEYOR

OREGON
 LICENSE
 MICHAEL D. PENNICK
 0000

EXHIBIT PREPARED BY:
 BASELINE SURVEYING, LLC
 2900 PORTLAND RD., SUITE 208
 NEWBERG, OR 97132-1346
 P: 503-538-7790
 F: 503-538-1804
 E: MIKE@BASELINESURVEYING.COM

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