

ORDER No. 2007-0002

AN ORDER FINDING THAT PROPERTY LOCATED NORTH OF HWY 99W ACROSS FROM PROVIDENCE HOSPITAL, YAMHILL COUNTY TAX LOT 3216AC-13800, MEETS THE APPLICABLE NEWBERG DEVELOPMENT CODE CRITERIA TO BE ANNEXED INTO THE CITY, AND MEETS THE APPLICABLE CODE CRITERIA TO CHANGE THE ZONING FROM COUNTY AF-10 TO CITY R-1, R-2, AND C-2.

RECITALS:

1. On June 7, 2006, Jeffrey D. Smith submitted concurrent applications for an urban growth boundary amendment, comprehensive plan amendment to COM (commercial), annexation, and zoning amendment to C-2 (community commercial) for property located north of Hwy 99W across from Providence Hospital, Yamhill County tax lot 3216AC-13800.
2. Due to testimony and deliberations at the NUAMC (Newberg Urban Area Management Commission) meeting on September 21, 2006, the applicant revised his request to consist of a comprehensive plan amendment to include portions of LDR (low density residential), MDR (medium density residential) and COM (commercial), and a zoning amendment to include corresponding portions of R-1 (low density residential), R-2 (medium density residential) and C-2 (community commercial).
3. The urban growth boundary amendment and revised comprehensive plan amendment were heard and approved by Newberg City Council on October 16, 2006.
4. The Newberg Planning Commission heard the annexation and zoning amendment on December 14, 2006, and recommended approval per Resolution No. 2006-227.
5. After proper notice, on January 16, 2007, the Newberg City Council held a hearing to consider the annexation and zoning amendment requests.
6. The City Council finds that the applicable criteria have been met, and that approval of the application is in the best interests of the community.

THE CITY OF NEWBERG ORDERS AS FOLLOWS:

1. The City Council finds that the annexation and zoning amendment meet the Newberg Development Code criteria and adopts the findings, which are attached hereto as Exhibit "A" and incorporated herein by reference.
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:

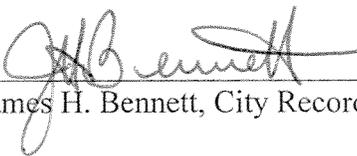
- A. The zoning of the property described in Exhibit "C" is changed to portions of R-1 (low density residential), R-2 (medium density residential) and C-2 (community commercial) as shown on the map in Exhibit "D."

3. This order is subject to the following:

- A. Annexation of this property is contingent upon final official adoption of the urban growth boundary amendment. The effective date of the UGB amendment is contingent upon the final approval and adoption of amendments to the acknowledged Newberg Transportation System Plan as initiated by Resolution 2006-2661 and as shown in the agreement by the parties but subject to any amendment to the agreement as the parties may approve.
- B. Upon future development of this property, the development shall contribute its share, based on traffic volume, of the future cost of capacity improvements to the Springbrook Rd/Hwy 99W intersection.
- C. A 30 ft building setback along the north property line will be required upon development of the site.
- D. A wetland determination is required prior to any development on the site.
- E. Future development of the property shall follow best management practices for storm drainage as outlined in the letter from James Bennett to the Yamhill County Board of Commissioners dated 1/30/06.

➤ **EFFECTIVE DATE** of this order is the day after the adoption date, which is: January 17, 2007.

ADOPTED by the City Council of the City of Newberg, Oregon, this 16th day of January, 2007.



James H. Bennett, City Recorder

ATTEST by the Mayor this 18th day of January, 2007.


Bob Andrews, Mayor

QUASI-JUDICIAL HISTORY

By and through the Planning Commission Committee at their 12/14/2006 meeting.

Exhibits:

Exhibit "A": Findings and Conditions of Approval

Exhibit "B": Annexation Map

Exhibit "C": Legal Description

Exhibit "D": Zoning Map

EXHIBIT "A": FINDINGS & CONDITIONS

ANX-06-009

Annexation of 14.74 acres for property located north of Hwy 99W, across from Providence Hospital
(4020 Portland Rd)

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: On October 19, 2006, the City Council adopted Ordinance 2006-2660, including the property in the Urban Growth Boundary subject to adoption of certain amendments to the Newberg Transportation System Plan. Thus, annexation is contingent on the amendments first being adopted.

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

FINDING: The subject site is adjacent to Newberg city limits on both its southern and western property lines.

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 of the site was changed concurrently with the urban growth amendment application that was filed May 17, 2006 and approved by Ordinance 2006-2660 on October 19, 2006. The new comprehensive plan designation includes portions of LDR (low density residential), MDR (medium density residential), and COM (commercial). The applicant has proposed zoning of R-1 (low density residential) for the northernmost 170 ft of the site, R-2 (medium density residential) for the next northernmost 220 ft, and C-2 (community commercial) for the remainder of the property. These zoning designations would correspond with the redesignated comprehensive plan map areas. Crestview Dr will be extended south through the property in accordance with the comprehensive plan map and the Newberg Transportation System Plan.

(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 that runs along Hwy 99W at the property's southern border.

Storm water: Storm water drainage is currently provided by two storm drainage ditches that cross the property and outfall to the property to the east. These ditches eventually drain to a 24-inch diameter culvert under Hwy 99W. The Newberg Drainage Master Plan identifies this culvert as being undersized and needing to be replaced with a 36-inch culvert. Certain improvements to the storm water drainage system will be required upon development to mitigate the additional demand on the system.

Sewer: Sewer service will be provided by extending the line that currently runs along Klimek Lane along the Klimek Lane right-of-way across Hwy 99W following the general alignment of the drainage ditch on the Gueldner property.

Roads: The subject property is adjacent to Hwy 99W on its southern side. Upon development, Hwy 99W shall be improved with curbs, gutters, and sidewalks. In addition, the Newberg Transportation System Plan designates a planned road improvement for the area. The improvement will consist of Crestview Dr being extended south through the property and connecting with Hwy 99W across from the Providence Dr connection. It also includes an east-west connection between the Crestview Dr extension and Benjamin Rd.

The Transpo Group prepared a traffic impact study for this site using the assumption that Crestview Dr will be extended through the site. The proposed site development is expected to generate a total of 3,488 new daily, and 349 new weekday PM peak hour trips. Due to the new trip generation and the expected burden the new trips will place on the intersection of Springbrook Rd & Hwy 99W, future development of the site will be required to pay a share of the future cost of capacity improvements to the intersection.

The Transpo study also calculated that much of the commercial center traffic will be pass-by or internal trips versus primary, or new, trips. A total of 2,292 weekday daily and 223 weekday PM peak hour passby trips would be generated by the project, and a total of 4,146 weekday internal trips and 254 weekday PM peak hour internal trips would be generated. This would suggest that the commercial center could reduce the number of overall vehicle miles traveled for the residents of Newberg because they will be able to satisfy many of their shopping needs in one central place instead of making individual, or new, trips to many different places. Details of the study methodology, findings, and recommendations are provided in the traffic impact study report.

(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. Because the annexed property will be primarily commercial as opposed to residential, it will provide more revenue for these services than it will be a burden on the services. The new residential development portion of the property may increase the demand for parks and school facilities, which should be offset by the system development charges for parks and the per-pupil State funding for schools. 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), R-2 (medium density residential), and C-2 (community commercial) 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 reasonably 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 finding for § 151.262(B) 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. Transportation impacts are addressed above in the finding for § 151.262(B), and in the urban growth boundary and comprehensive plan amendment staff report, file no. UGB-06-001.

CONDITIONS OF APPROVAL
ANX-06-009

The following conditions of approval apply to the annexation of the property located north of Hwy 99W, across from Providence Hospital (4020 Portland Rd), Yamhill County tax lot 3216AC-13800.

- Annexation of this property cannot go to a public vote until official adoption of the urban growth boundary (UGB) amendment is complete. The effective date of the UGB amendment is contingent upon the final approval and adoption of amendments to the acknowledged Newberg Transportation System Plan as initiated by Resolution 2006-2661 and as shown in the agreement by the parties but subject to any amendment to the agreement as the parties may approve.
- Upon future development of the property, the development shall contribute its share, based on traffic volume, of the future cost of capacity improvements to the Springbrook Rd/Hwy 99W intersection.
- A 30 ft building setback along the north property line will be required upon development of the site.
- A wetland determination is required prior to any development on the site.
- Future development of the property shall follow best management practices for storm drainage as outlined in the letter from James Bennett to the Yamhill County Board of Commissioners dated 1/30/06.

EXHIBIT "B": ANNEXATION MAP
ANX-06-009

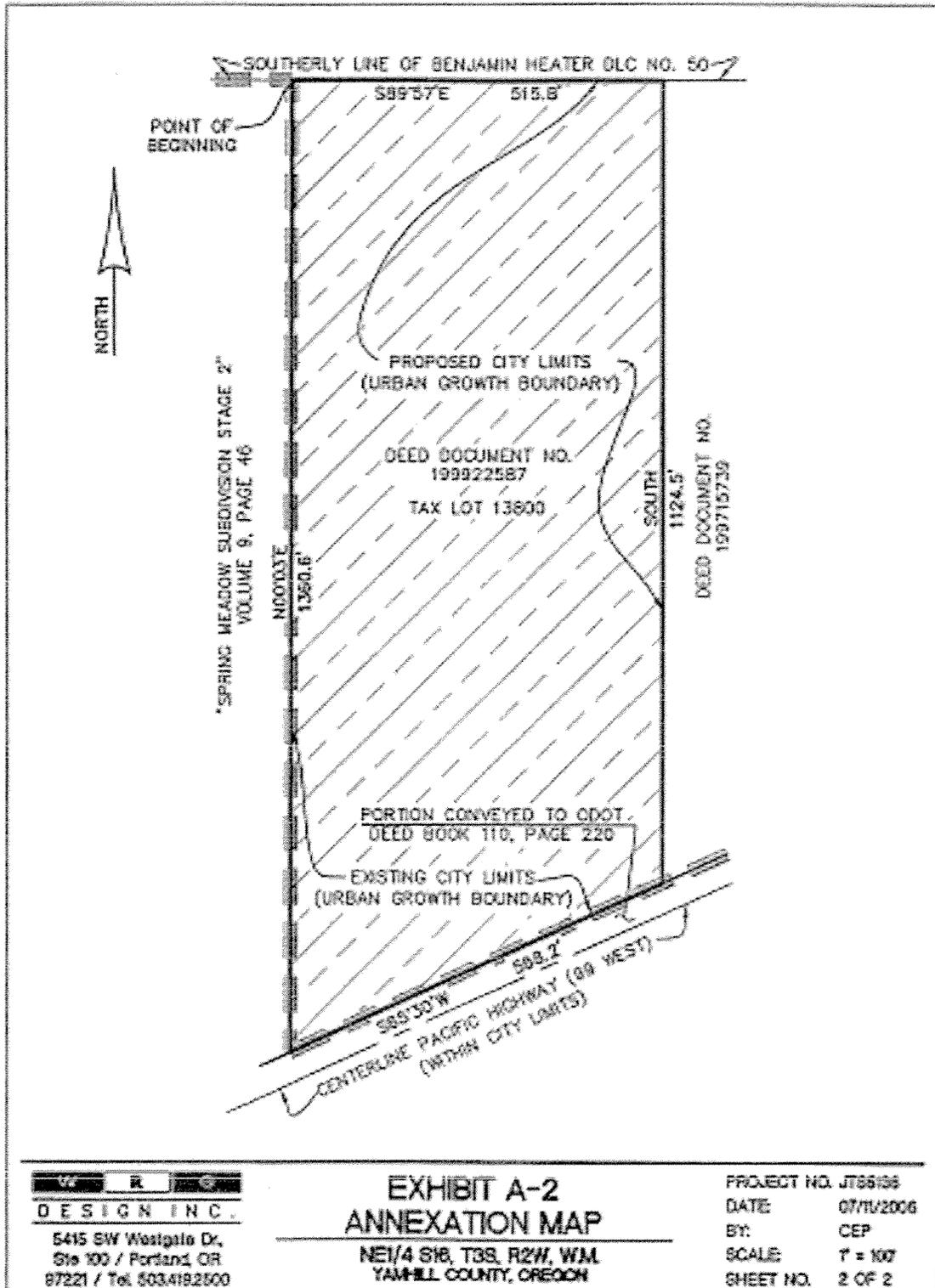


EXHIBIT "C": LEGAL DESCRIPTION
ANX-06-009

LEGAL DESCRIPTION:
JULY 11, 2006
PAGE 1 OF 2

A TRACT OF LAND SITUATED IN THE NORTHEAST ONE-QUARTER OF SECTION 16,
TOWNSHIP 3 SOUTH, RANGE 2 WEST, WILLAMETTE MERIDIAN, YAMHILL COUNTY,
OREGON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

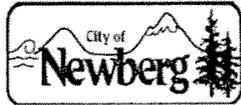
BEGINNING AT THE NORTHEASTERLY CORNER OF THE PLAT OF "SPRING MEADOW
SUBDIVISION STAGE 2" RECORDED IN VOLUME 9, PAGE 46, YAMHILL COUNTY SURVEY
RECORDS BEING AN ANGLE POINT OF THE NEWBERG CITY LIMIT BOUNDARY ON THE
SOUTHERLY LINE OF THE BENJAMIN HEATER DONATION LAND CLAIM NUMBER 50;
THENCE ALONG SAID DONATION LAND CLAIM LINE SOUTH 89° 57' EAST, 515.8 FEET TO
THE NORTHWEST CORNER OF THAT CERTAIN TRACT DESCRIBED IN DEED RECORDED
IN DOCUMENT NUMBER 199715739; THENCE ALONG THE WESTERLY LINE OF SAID
TRACT SOUTH, 1124.5 FEET TO THE NORTHERLY RIGHT-OF-WAY OF PACIFIC HIGHWAY
(HIGHWAY 99 WEST) AS DESCRIBED IN DEED BOOK 110, PAGE 220; THENCE ALONG
SAID RIGHT-OF-WAY LINE SOUTH 65° 30' WEST, 568.2 FEET TO A POINT BEING THE
SOUTHEASTERLY CORNER OF SAID PLAT OF "SPRING MEADOW SUBDIVISION STAGE
2"; THENCE LEAVING SAID RIGHT-OF-WAY LINE ALONG THE EASTERLY BOUNDARY OF
SAID PLAT (BEING COINCIDENT WITH AN EASTERLY NEWBERG CITY LIMIT LINE) NORTH
00°03' EAST, 1360.6 FEET TO SAID **POINT OF BEGINNING**.

CONTAINS 14.729 ACRES, MORE OR LESS.

THE ATTACHED EXHIBIT ENTITLED "EXHIBIT A-2 ANNEXATION MAP" IS MADE APART
HEREOF.

THIS DESCRIPTION IS MEANT FOR ANNEXATION PURPOSES ONLY. IT IS NOT INTENDED
TO BE USED IN THE TRANSFER OF REAL PROPERTY.





ORDINANCE NO. 2007-2664

AN ORDINANCE DECLARING PROPERTY LOCATED NORTH OF HWY 99W ACROSS FROM PROVIDENCE HOSPITAL, YAMHILL COUNTY TAX LOT 3216AC-13800, 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. Jeffrey D. Smith submitted an application for annexation and consent to annex on October 5, 2006, for property located north of Hwy 99W across from Providence Hospital, Yamhill County tax lot 3216AC-13800.
2. After proper notice, on January 16, 2007 at the hour of 7:00 PM in the Newberg Public Safety Building, 401 E Third, 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 January 16, 2007, the City Council adopted Order 2007-0002 which affirmed 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 applicant has requested that this matter be placed before the voters at the May 15, 2007 special 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 May 15, 2007 general election.

2. The City Council directs that all costs associated with placing the item on the ballot be paid for by the applicant/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. Owners may be required to place monies in escrow to cover the costs of election(s).
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: February 15, 2007.

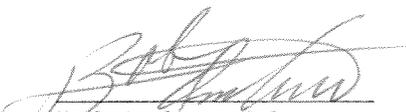
ADOPTED by the City Council of the City of Newberg, Oregon, this 16th day of January, 2007, by the following votes:

AYE: 6 NAY: 0 ABSENT: 1 ABSTAIN: 0



 James H. Bennett, City Recorder

ATTEST by the Mayor this 18th day of January, 2007.



 Bob Andrews, Mayor

LEGISLATIVE HISTORY

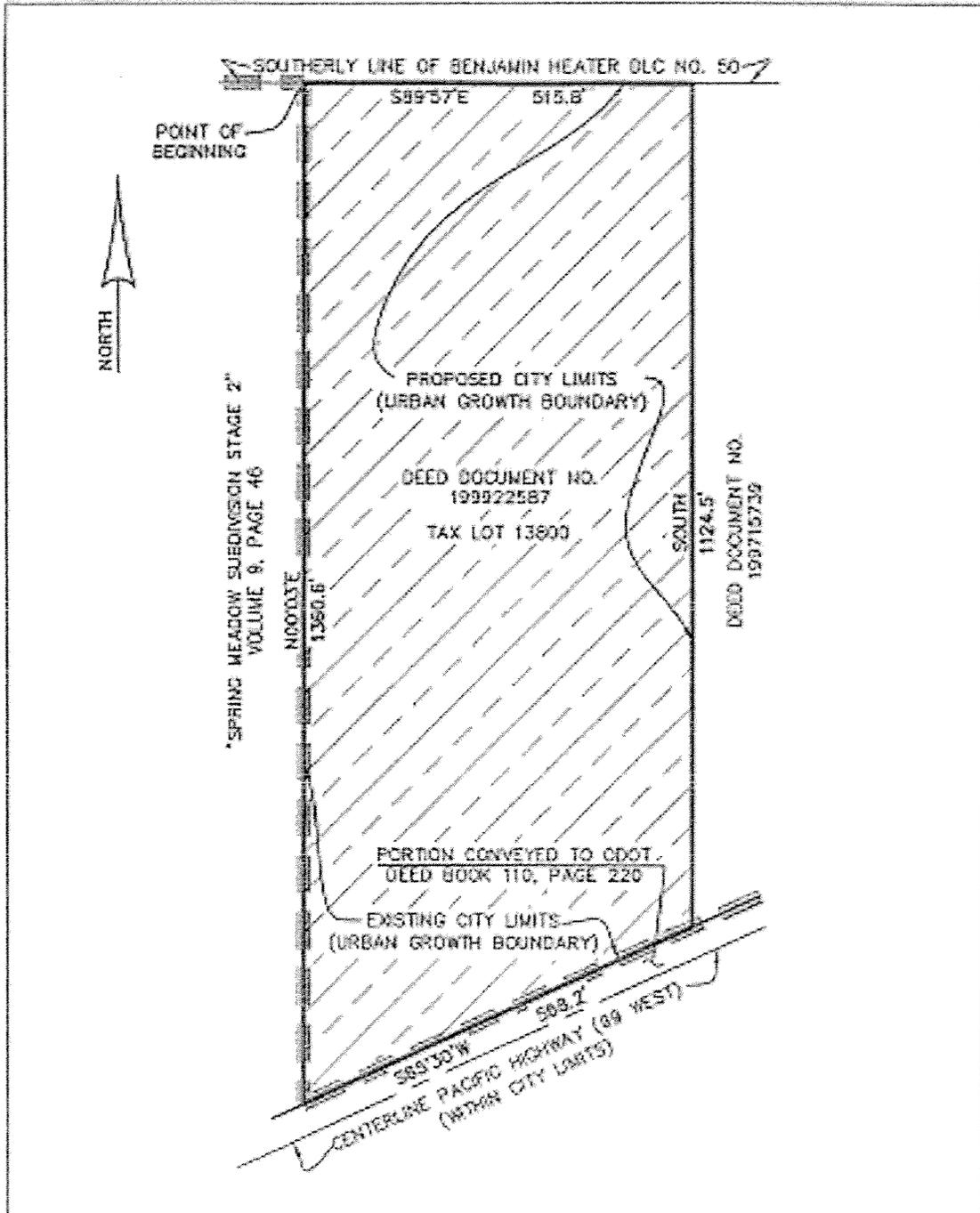
By and through Planning Commission Committee at the 12/14/2006 meeting.

Exhibits:

Exhibit "A": Annexation Map

Exhibit "B": Legal Description

EXHIBIT "B": ANNEXATION MAP
ANX-06-009



DESIGN INC.
5415 SW Westgate Dr.
Ste 100 / Portland, OR
87221 / Tel: 503.419.2500

**EXHIBIT A-2
ANNEXATION MAP**
NE1/4 S18, T3S, R2W, WM,
YAMHILL COUNTY, OREGON

PROJECT NO. JTS6136
DATE: 07/11/2006
BY: CEP
SCALE: 1" = 100'
SHEET NO. 2 OF 2

EXHIBIT "C": LEGAL DESCRIPTION
ANX-06-009

LEGAL DESCRIPTION:
JULY 11, 2006
PAGE 1 OF 2

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