

## ORDINANCE No. 2016-2804

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**AN ORDINANCE ANNEXING PROPERTY LOCATED AT 520 W. THIRD STREET, YAMHILL COUNTY TAX LOT 3219BD-1000, INTO THE NEWBERG CITY LIMITS AND WITHDRAWING IT FROM THE NEWBERG RURAL FIRE PROTECTION DISTRICT, AND CHANGING THE CURRENT ZONING FROM YAMHILL COUNTY HI TO CITY M-2**

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### RECITALS:

1. The City of Newberg Public Works Department submitted an application to annex 1.41 acres of property into the City of Newberg and change the zoning from Yamhill County HI to Newberg M-2. The annexation site is the western portion of 520 W. Third Street, Yamhill County tax lot 3219BD-1000.
2. The property is located within the Newberg urban growth boundary and is adjacent to the Newberg city limits. The Comprehensive Plan designation of the property is IND (Industrial), which is consistent with the proposed zoning of M-2 (Light Industrial). There is a Stream Corridor overlay on the southwest corner of the property. Adequate public services and utilities are available to serve the property within three years.
3. After proper notice, the Newberg Planning Commission held a hearing on May 12, 2016, to consider the application. The Commission considered testimony, deliberated, and voted to approve Planning Commission Resolution No. 2016-318 recommending that the City Council approve the annexation request and concurrent zone change.
4. State law recently changed with the passage and adoption of Oregon Senate Bill 1573, which added language to ORS 222.111 that preempts Newberg's requirement that annexations go to a public vote, and instead directs the legislative body of a city to annex property without a public vote when the property meets certain requirements, including: being within the urban growth boundary; subject to the Comprehensive Plan of the city; contiguous to city limits; and meeting the city's adopted Development Code criteria for annexation. This property meets those criteria.
5. After proper notice, the Newberg City Council held a hearing on July 5, 2016 to consider the proposed annexation and concurrent zone change. After the staff report and public testimony, the City Council finds the proposal has met the required criteria.

### THE CITY OF NEWBERG ORDAINS AS FOLLOWS:

1. The property shown in Exhibit "A" and described in Exhibit "B" is hereby annexed into the City of Newberg and withdrawn from the Newberg Rural Fire Protection District, and the zoning of the property is changed from Yamhill County HI to Newberg M-2. Exhibits "A" and "B" are hereby adopted and by this reference incorporated.
2. This decision is based on the findings shown in Exhibit "C" and the findings that the property meets ORS 222.111 criteria as set forth in Recital #4 above. Exhibit "C" is hereby adopted and by this

reference incorporated.

➤ **EFFECTIVE DATE** of this ordinance is 30 days after the adoption date, which is: August 4, 2016.

**ADOPTED** by the City Council of the City of Newberg, Oregon, this 5<sup>th</sup> day of July, 2016, by the following votes: **AYE: 7 NAY: 0 ABSENT: 0 ABSTAIN: 0**

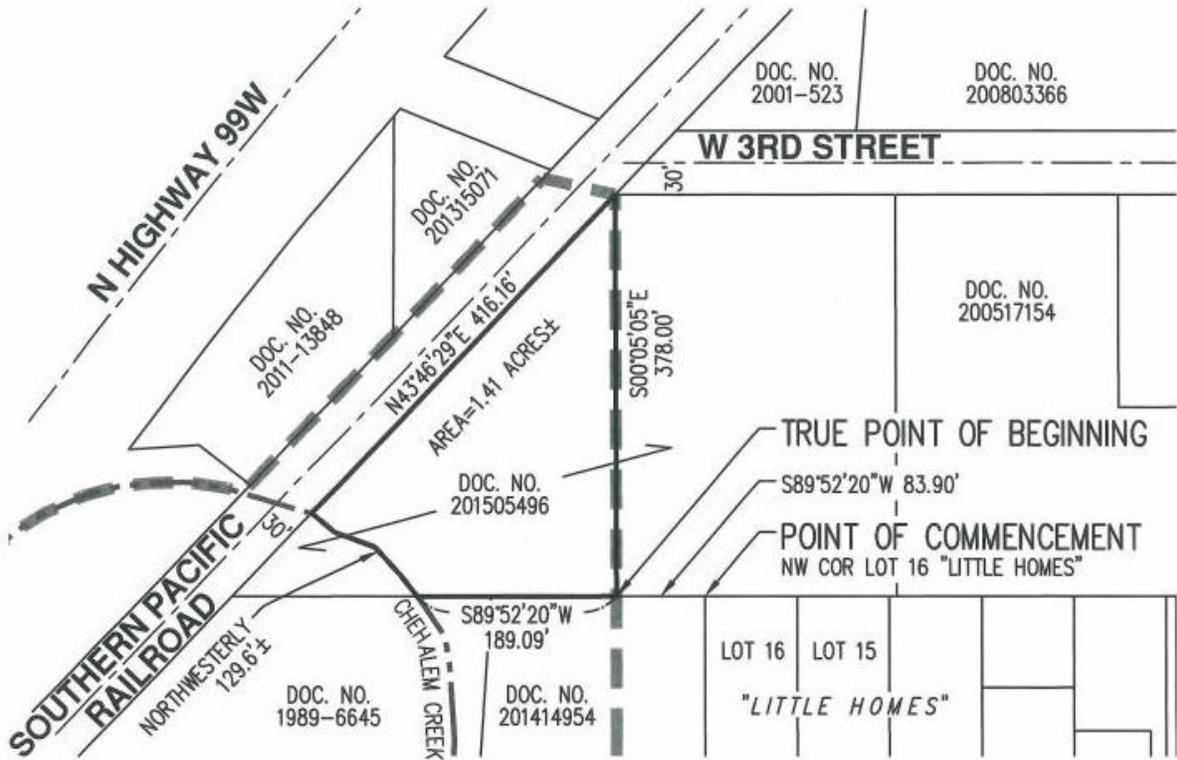
  
\_\_\_\_\_  
Sue Ryan, City Recorder

**ATTEST** by the Mayor this 7<sup>th</sup> day of July, 2016.

  
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Bob Andrews, Mayor

**Exhibit "A" to Ordinance No. 2016-2804  
Annexation Map – 520 W. Third Street**

CITY OF NEWBERG ANNEXATION  
A TRACT OF LAND LOCATED IN THE NORTHWEST 1/4 OF SECTION 19,  
TOWNSHIP 3 SOUTH, RANGE 2 WEST, WILLAMETTE MERIDIAN,  
CITY OF NEWBERG, YAMHILL COUNTY, OREGON



**LEGEND**

- URBAN GROWTH BOUNDRY
- CITY OF NEWBERG CITY LIMITS



03/14/2016

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

*Nick White*

OREGON  
JANUARY 9, 2007  
NICK WHITE  
70652LS

RENEWS: 6/30/16

**PREPARED FOR**

CITY OF NEWBERG  
414 EAST FIRST STREET  
NEWBERG, OR 97132

SCALE 1" = 150 FEET



ANNEXATION EXHIBIT 520 W 3RD STREET - NEWBERG		EXHIBIT <b>B</b>
AKS ENGINEERING & FORESTRY, LLC 12965 SW HERMAN RD, STE 100 TUALATIN, OR 97062 P: 503.563.6151 F: 503.563.6152 aks-eng.com		DRWN: WCB CHKD: NSW AKS JOB: 5157



**Exhibit “B” to Ordinance No. 2016-2804  
Legal Description – 520 W. Third Street Annexation**

Annexation Legal Description for the City of Newberg

A tract of land located in the Northwest One-Quarter of Section 19, Township 3 South, Range 2 East, Willamette Meridian, City of Newberg, Yamhill County, Oregon and being more particularly described as follows:

Commencing at the northwesterly corner of Lot 16 of the plat “Little Homes”, said point being on the southerly line of Document Number 201505496, Yamhill County Records; thence along said southerly line South 89°52’20” West 83.90 feet to a point on the City of Newberg city limits line, and also being the True Point of Beginning of the tract of land herein described; thence continuing along said southerly line South 89°52’20” West 189.09 feet to the centerline of Chehalem Creek, and also being the Urban Growth Boundary line; thence along said Urban Growth Boundary line Northwesterly 129.6 feet, more or less, to the southeasterly right-of-way line of Southern Pacific Railroad (30.00 feet from centerline); thence along said southeasterly right-of-way line North 43°46’29” East 416.16 feet to the southerly right-of-way line of W 3rd Street (30.00 feet from centerline), and also being a point on the City of Newberg city limits line; thence along said city limits line South 00°05’05” East 378.00 feet to the True Point of Beginning.

The above described tract of land contains 1.41 acres, more or less.

3/14/2016



**Exhibit “C” to Ordinance No. 2016-2804  
Findings & Conditions –File ANX-16-002 – 520 W. Third Street**

**A. 15.250.020 Conditions for annexation.**

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

*A. The subject site must be located within the Newberg urban growth boundary or Newberg urban reserve areas.*

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

**Finding:** The site, located at 520 W. Third Street, is located within the urban growth boundary and is contiguous to the existing city limits on its east boundary.

**B. 15.250.030 Quasi-judicial annexation criteria.**

*The following criteria shall apply to all annexation requests:*

*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 property has a Comprehensive Plan designation of IND (Industrial), with a Stream Corridor overlay on the southwest corner. The applicant has requested M-2 (Light Industrial) zoning for the site. The M-2 zoning district is consistent with the IND comprehensive plan designation, and a Stream Corridor zoning overlay will be placed on the southwest corner of the site. This criterion is met.

The Department of State Lands (DSL) commented that Chehalem Creek, on the southwest side of the site, has been designated Essential Salmonid Habitat. Based on the information provided, work within the developed footprint of this tax lot should not impact jurisdictional wetlands or waters. DSL will require a permit for any impact to the creek and its associated wetlands; contact DSL prior to any work outside of the developed footprint of the site to determine if a permit and/or wetland inspection will be needed.

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

*1. Municipal wastewater 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:** Adequate urban services are currently available to the property. There is a 15-inch diameter wastewater line that runs north-south through the site along its eastern property line, and an 8-inch diameter wastewater line in Third Street. A 12-inch water main and two ¾-inch laterals in Third Street provide water service to the site. Stormwater is currently connected via an existing main in Third Street.

The proposed use as part of the Public Works Maintenance yard is expected to generate fewer trips than the previous use as a cement plant. Future redevelopment of the property may require improvements to the street frontage along Third Street. This criterion is met.

*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 city sent the application information out to the Police and Fire Departments, Chehalem Parks and Recreation District (CPRD), and the Newberg School District, among other agencies, for comments prior to the staff report. No departments or agencies noted any problems with providing services to the proposed annexation site. The public services provided by the Public Works Maintenance Division support the services provided by these other public departments and agencies. Police, fire, parks and school services are found to be adequate for the proposed annexation.

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

**Finding:** The applicant submitted adequate information to allow the city to make findings to the applicable criteria.

*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 subsection (B) of this section, but where annexation is needed to address a health hazard, to annex an island, to address wastewater 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 city 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 because adequate urban services are found to be available within the three year time frame.

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

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

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

**Finding:** The property has a Comprehensive Plan designation of IND (Industrial), with a Stream

Corridor overly on the southwest corner of the site. The requested M-2 (Light Industrial) zoning designation, with a Stream Corridor zoning overlay on the southwest corner of the site, corresponds to the Comprehensive Plan designation. The proposed zone change is therefore consistent with the Newberg Comprehensive Plan, and this criterion is met.

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

**Finding:** As demonstrated in the finding to 15.250.030.B. above, the applicant has demonstrated that adequate public facilities and services are available to the property.

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

**Finding:** Annexation of the property complies with the State Transportation Planning Rule (TPR) (OAR 660-012-0060) because it meets the requirements for an amendment to a zoning map that does not significantly affect an existing or planned transportation facility as permitted by Subsection (9) of the TPR: the proposed zoning of M-2 is consistent with the existing comprehensive plan map designation of IND; the City of Newberg has an acknowledged TSP and the proposed zoning is consistent with the TSP; the TSP accounts for the future urbanization of this property.

*OAR 660-012-0060(9) Notwithstanding section (1) of this rule, a local government may find that an amendment to a zoning map does not significantly affect an existing or planned transportation facility if all of the following requirements are met.*

*(a) The proposed zoning is consistent with the existing comprehensive plan map designation and the amendment does not change the comprehensive plan map;*

*(b) The local government has an acknowledged TSP and the proposed zoning is consistent with the TSP; and*

*(c) The area subject to the zoning map amendment was not exempted from this rule at the time of an urban growth boundary amendment as permitted in OAR 660-024-0020(1)(d), or the area was exempted from this rule but the local government has a subsequently acknowledged TSP amendment that accounted for urbanization of the area.*

*[Subsection (1) of OAR 660-012-0060]*

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

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

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

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

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

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

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

**D. Conclusion:** Based on the above-mentioned findings, the application meets the criteria of the Newberg Development Code, as conditioned.

### **Conditions of approval**

1. Department of State Lands: DSL will require a permit for any impact to the creek and its associated wetlands; contact DSL prior to any work outside of the developed footprint of the site to determine if a permit and/or wetland inspection will be needed.