

## ORDINANCE No. 2016-2805

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**AN ORDINANCE ANNEXING 10.37 ACRES OF PROPERTY LOCATED AT 24950 NE NORTH VALLEY ROAD, TAX LOT 3207-00900, PLUS THE AREA OF THE ADJACENT RIGHTS-OF-WAY, INTO THE NEWBERG CITY LIMITS, WITHDRAWING IT FROM THE NEWBERG RURAL FIRE PROTECTION DISTRICT, AND CHANGING THE ZONING FROM YAMHILL COUNTY AF-10 TO NEWBERG R-1**

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### RECITALS:

1. The Newberg First Baptist Church submitted an application to annex 10.37 acres of property, plus the area of the adjacent rights-of-way, into the City of Newberg and change the zoning from Yamhill County AF-10 to Newberg R-1. The property is located directly north of the current Newberg city limits at the southeast corner of the Chehalem Drive/North Valley Road intersection, Tax Lot 3207-00900.
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 PQ (Public/Quasi-Public), which is consistent with the proposed zoning of R-1 (Low Density Residential). Adequate public services and utilities are or can be made available to serve the property within three years.
3. 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. 2016-317 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.

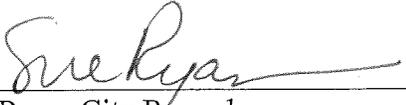
### THE CITY OF NEWBERG ORDAINS AS FOLLOWS:

1. The property shown in Exhibit "A" and described in Exhibit "B" is hereby annexed into the Newberg city limits and withdrawn from the Newberg Rural Fire Protection District, and the zoning of the property is changed from Yamhill County AF-10 to Newberg R-1. Exhibits "A" and "B" are hereby adopted and by this reference incorporated.

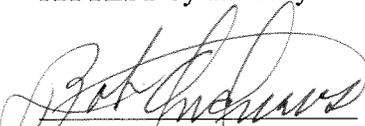
2. This decision is based on the findings shown in Exhibit "C" and the findings that the property meets ORS 222.111 criteria as set forth in Recital #4 above. Exhibit "C" is hereby adopted and by this reference incorporated.

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

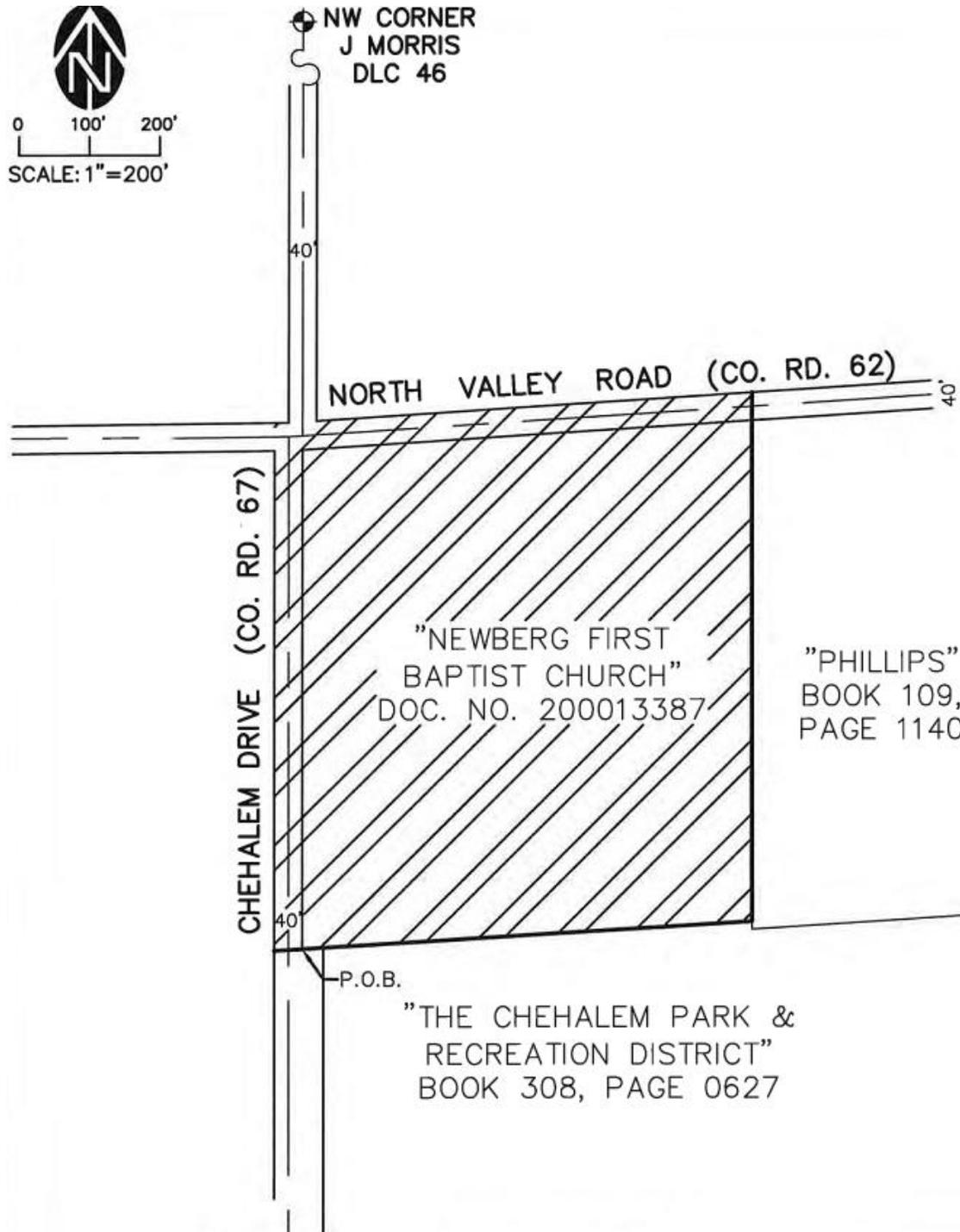
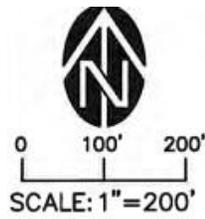
**ADOPTED** by the City Council of the City of Newberg, Oregon, this 5<sup>th</sup> day of July, 2016, by the following votes: **AYE: 7 NAY: 0 ABSENT: 0 ABSTAIN: 0**

  
\_\_\_\_\_  
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. 2016-2805  
Property Map – First Baptist Annexation**



**EXHIBIT B**  
**PROPOSED ANNEXATION**  
LOCATED IN THE NORTH 1/2 OF SECTION 7  
TOWNSHIP 3 SOUTH, RANGE 2 WEST, W.M.  
YAMHILL COUNTY, OREGON

DATE	3/2/16
DRAWN BY	GRA
CHECKED BY	KLS
REVISION	0
JOB NO.	D131-049

 <b>WESTLAKE</b> CONSULTANTS INC.	<b>ENGINEERING ♦ SURVEYING ♦ PLANNING</b>
	PACIFIC CORPORATE CENTER 15115 S.W. SEQUOIA PARKWAY, SUITE 160 (503) 684-0662 TIGARD, OREGON 97224 FAX (503) 624-0157

**Exhibit "B" to Ordinance No. 2016-2805  
Legal Description – First Baptist Annexation**

Newberg First Baptist Church  
Proposed Annexation  
February 2, 2016  
Project P131-042

PROPERTY DESCRIPTION

A tract of land; situated in the North 1/2 of Section 7, T 3 S., R 2 W., W.M. Yamhill County, Oregon; being more particularly described as follows:

Beginning at a point along the West line of the J. Morris DLC # 46, which point bears South 1,467.16 feet from the northwest corner thereof, said point also being at the intersection of the north line extended to the west of that tract conveyed to "The Chehelam Park & Recreation District" as recorded in Book 308, Page 0627, Yamhill County Deed Records and the east right of way line of Chehalem Drive [Co. Rd. 67];

thence, along said north line and its westerly extension, North 86°32'30" East 642.35 feet, more or less, to the west line of that tract of land conveyed to "Robert Edward Phillips, Jr. and Barbara Jean Phillips" as recorded in Book 109, Page 1140, Yamhill County Deed Records;

thence, along last said west line, North 758.91 feet, more or less, to the northerly right of way line of North Valley Road [Co. Rd. 62];

thence, along said northerly right of way line, South 86°20'00" West 682.58 feet, more or less, to the west right of way line of said Chehalem Drive;

thence, along said west right of way line, South 756.42 feet, more or less, to its intersection with said north line extended to the west of said tract conveyed to "The Chehelam Park & Recreation District";

thence, along said westerly extension, North 86°32'30" East 40.07 feet to the Point of Beginning.

Containing 11.848 acres or 516,106 square feet, more or less.

Bearings are based upon Yamhill County Survey #8020.



**Exhibit “C” to Ordinance No. 2016-2805**  
**Findings –File ANX-16-001 – First Baptist Annexation**

**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 First Baptist property, located at 24950 NE North Valley Road, Tax Lot 3207-00900, is located within the urban growth boundary and is contiguous to the Newberg city limits along its southern boundary. The legal description of area to be annexed includes the adjacent Chehalem Drive and North Valley Road rights-of-way, which provides for future continuity of the city limits. This criterion is met.

**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 PQ (Public/Quasi-Public), which corresponds with the requested zoning of R-1 (Low Density Residential). Section 15.250.080 of the Newberg Development Code says that any zoning designation is consistent with the PQ Comprehensive Plan designation. The PQ designation is typically used to indicate the location of public/quasi-public uses such as schools and churches; these uses are typically permitted in any zone, which is why any zone can be applied under a PQ designation. The PQ designation was likely applied at the time of the urban growth boundary expansion in consultation with the property owners to pave the way for a future church on the site; however, the property owners would be permitted to develop the property with any permitted or conditionally permitted use in the R-1 zone and not held to only a PQ type of development. This criterion is met.

*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:** City water, sanitary sewer and stormwater lines are not located adjacent to this property. The nearest services are located at the intersection of Foothills Drive and Chehalem Drive, but there is adequate capacity for the utilities to be extended to the property within three years. At the time of development, services could be extended to the north along Chehalem Drive to serve the property. Downstream of the property, the sanitary sewer flows to the Chehalem Pump Station. At the time of development, an analysis of the pump station is required, and any necessary upgrades to the pump station would be completed by the developer.

There appears to be wetlands located at the southern end of the property. At the time of development, a wetland delineation/determination will be required, along with all associated permits.

The property has road frontage along Chehalem Drive and North Valley Road. Future development of this property will necessitate roadway frontage improvements, along all property frontages, to City standards. Due to limited sight distance at the intersection of North Valley Road and Chehalem Drive, improvements to this intersection will be necessary to meet engineering sight distance standards. Additionally, a pedestrian sidewalk will be required to be installed from the property south along Chehalem Drive to Foothills Drive.

***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 sends 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. In addition, the applicants indicate that they contacted the Newberg School District and the Police and Fire Departments, and verified that there were no issues with serving future development on this site. The School District did comment that a future pedestrian path from the development to the adjacent park would be critical due to the unsafe pedestrian conditions on Chehalem Drive. There is no information to suggest that city services could not support the addition of the 10.37 acres of property, plus the area of the adjacent rights-of-way, to the city limits, and in fact future development of the site helps fund these city services and other System Development Charge or permit fee funded services such as the School District and CPRD. It should be noted that the City of Newberg does not do future planning for the Parks District or the School District; however, the city coordinates with those agencies on a regular basis in regards to future planning efforts. This type of coordination is typically done at the time of urban growth boundary expansion, when properties are added to serve as the future 20-year urbanizable area, or areas where the city limits is expected to expand to meet growth needs.

***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 PQ (Public/Quasi-Public), which corresponds with the requested zoning of R-1 (Low Density Residential) as section 15.250.080 of the Newberg Development Code says that any zoning designation is consistent with the PQ Comprehensive Plan designation. The Comprehensive Plan Housing Goal says “To provide for diversity in the type, density and location of housing within the City to ensure there is an adequate supply of affordable housing units to meet the needs of City residents of various income levels.” Annexations meet the intent of the Goal because they provide land to meet the needs of City residents. The buildable land data in the Comprehensive Plan is rather outdated, but the most recent analysis done for a recent zone change showed a need for 37 acres of LDR land. Annexation of this property would help the city meet this deficiency. 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 can be reasonably made available to support future development of the property at R-1 permitted densities.

***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 R-1 is consistent with the existing comprehensive plan map designation of PQ; the City of Newberg has an acknowledged TSP which included this area in the urban reserve as planned future urbanizable land; this property was brought into the urban growth boundary in 2006 as part of a larger urban growth boundary amendment that included a full report with adequate justifications for transportation and other public facilities.

*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.