

ORDINANCE NO. 2069

AN ORDINANCE DECLARING CERTAIN TERRITORY ANNEXED TO THE CITY OF NEWBERG, REZONED FROM COUNTY R-C (RECREATIONAL/COMMERCIAL) TO A CITY C-2 (COMMUNITY COMMERCIAL) ZONING DISTRICT TOGETHER WITH A SR (SITE REVIEW) SUBDISTRICT OVERLAY AND WITHDRAWAL OF THE SUBJECT PROPERTY FROM THE NEWBERG RURAL FIRE PROTECTION DISTRICT.

WHEREAS, The owners of the territory hereinafter described have requested annexation to the City of Newberg, a rezoning from County R-C (Recreational/Commercial) to a City C-2 (Community Commercial) zoning district and withdrawal property from the Newberg Rural Fire Protection District; and

WHEREAS, The described property is contiguous to the City of Newberg and is found within the acknowledged Newberg Urban Growth Boundary; and

WHEREAS, The property owners within said territory desire the same to be annexed to the City of Newberg and zoned appropriately within the City in order that said territory may obtain access to utilities and services from said said City and said owners of said territory have consented in writing to the annexation as provided for in ORS 222.120 and ORS 222.170, and their written consent thereto is on file in the office of the City Planner of said City; and

WHEREAS, The Charter of the City of Newberg does not expressly prohibit the annexation of said territory to said City by the procedure set forth in ORS 222.120; and

WHEREAS, On October 22, 1981 the Newberg Planning Commission did hold a public hearing on these matters and did recommend that the territory be annexed to the City of Newberg, be rezoned from a County zoning district to a City C-2 (Community Commercial) zone and withdrawal from the Newberg Rural Fire Protection District. The Planning Commission further recommends to the Council that they establish a SR (Site Review) subdistrict overlay on the property as this will promote the objectives of the Newberg Comprehensive Plan. The findings of the Planning Commission are hereby attached to the Ordinance and labeled Exhibit A; and

WHEREAS, On November 2, 1981, at the hour of 7:30 P.M. in the Council Chambers of the City Hall, Newberg, Oregon, was heretofore set as the time and place for public hearing and the City Council through the Recorder of the City did cause notice of this hearing to be published in accordance with ORS 222. and the hearing was held.

NOW, THEREFORE, THE CITY OF NEWBERG ORDAINS AS FOLLOWS,

- Section 1. The City Council adopts the findings of fact as presented to the Council from the Newberg Planning Commission dated September 17, 1981. A copy of said findings of fact is hereby attached and labeled as Exhibit A.
- Section 2. It is hereby ordered and declared that the territory as described in Exhibit B be and the same is hereby annexed and withdrawn from the Newberg Rural Fire Protection District.
- Section 3. The property described in Section 2 above is hereby rezoned from a County R-C (Recreational/Commercial) to a City C-2 (Community Commercial) zoning designation.
- Section 4. A SR (Site Review) subdistrict overlay zone is hereby placed on the subject property in accordance with Section 598, Subsection 5 of the Newberg Zoning Ordinance. The SR (Site Review) Subdistrict overlay zone provides for certain requirements and conditions to be followed in developing the subject property.
- Section 5. As a condition of this annexation and in order to comply with the Transportation and Pub Facilities and Services Goals and Policies of the Newberg Comprehensive Plan, the owners shall dedicate an additional 10 feet of right-of-way along Springbrook Street measured 30 feet perpendicular to the centerline of Springbrook Street for road widening purposes. A legal description, dedication and preliminary title report for the above referenced property shall be submitted to the City prior to the effective date of this ordinance.
- Section 6. 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 Yamhill County Assessor a certified copy of the following documents:
1. A copy of this ordinance.
 2. A copy of the written consent of the landowners in said territory.
 3. A copy of the map identifying the subject property.

PASSED by the Council of the City of Newberg this 2nd day of November, 1981 by the following votes:

AYES: 7

NAYS: 0

ABSENT: 1


Arvilla Page - Recorder

Approved by the Mayor this 2nd day of November, 1981.


Elvern Hall - Mayor

EXHIBIT A
October 22, 1981

1. The subject property is currently the site of the Newberg Highway 99 W Drive-In Theater. The subject property contains approximately 5.25 acres. The property has a flat topography. Surrounding land uses consist of commercial designated lands. To the north there are three single family residences and the Payless Shopping Plaza, to the northwest is Brugato and Sons Realtors, to the west is Mac Realty together with some vacant C-2 zoned property, to the south is Portland General Electric Offices and to the east is a large tract of vacant commercial and industrial property (Werth Property).
2. The subject property is currently designated for commercial uses on the Newberg Comprehensive Plan. The current zoning of the property is under a County zoning designation of R-C (Recreational/Commercial). The City zoning designation which would implement the Newberg Comprehensive Plan would be a C-2 (Community Commercial) zoning district.
3. This particular tract of land would be considered an island of non-incorporated territory completely surrounded by the Newberg City limits if it were not for a segment of Springbrook Road which is not currently found within the City corporate limit boundaries.
4. It has been proposed that the subject property be re-zoned from R-C (Recreational/Commercial) to a City C-2 (Community Commercial) zone. The C-2 zoning district is consistent with, and implements the planned use designation identified for the property on the Newberg Comprehensive Plan. By re-zoning the subject property to C-2, any future use proposed for the site would be compatible with the permitted or future adjoining land uses authorized by the Comprehensive Plan and its implementing ordinances.
5. The annexation would provide for a clear identification of the City boundary by eliminating what is "essentially" an island of un-incorporated territory.
6. The annexation would be considered an efficient land use change in that the subject property is currently surrounded by the Newberg City limits and public facilities and services are currently found within the area. Further, the subject property is currently developed for urban uses. Lands which are either committed or developed for current urban uses should be found within the corporate limits of a city and under city jurisdiction and services.
7. Notice of this request was provided to the owner of the subject property, and to all adjoining property owners within a distance of 250 feet of the subject property. Legal notice was also provided within the Newberg Graphic newspaper and was posted on or adjoining the subject property. As of the writing of this report, no written remonstrances have been received relating to this request.

Notice of this request was further referred to the City Administrator, Fire Department, Engineering Department, Police Department, Finance Department, Building Department, Yamhill County Planning Department and the Newberg School District. The following responses have been received:

Police Dept.--If this area is annexed, consideration should be given to the increase in Police services that might occur

Fire Dept.---There may be a need for a Fire hydrant and access to buildings as per City specifications

Engineering--(preliminary)-In annexing the subject property, the City should have Yamhill County surrender jurisdiction of that portion of Springbrook Street bounded on the north by Highway 99W, south to the Fernwood Grange Hall, and consisting of the west 20 feet of Springbrook Street right-of-way.

An additional 10 feet of right-of-way along Springbrook Street measured 30 feet perpendicular to the center line of Springbrook Street is necessary for road widening purposes. The existing fence now located on the eastern property line should be relocated on the new property boundary.

Sewer is located on the east side of Springbrook Street. The applicant must connect all existing or proposed structures into the City sewer system within 90 days of the effective date of any annexation that may occur.

The property is presently served by the Newberg water system. Water is currently being provided through a water district. Should the annexation occur, then the subject property should be withdrawn from the water district.

The annexation of this property will create two islands of County un-incorporated territory completely surrounded by the City limits. The three parcels are identified as tax lot numbers 3216-2100, -2300 and -2400.

Yamhill Co. Coordinator-The County Department of Planning and Development has no objections to the proposed Francis Theater annexation. The location of the parcel relative to the City limits of Newberg and the anticipated urban use of the property (new theater) indicate that annexation is appropriate.

8. This annexation request was initiated by consent petition of the property owners which is in conformance with the Oregon State Revised Statutes regulating annexations.

9. The subject property is located within the acknowledged Newberg Urban Growth Boundary and is in substantial conformance to the goals and policies found within the Newberg Comprehensive Plan relating to the annexation request.

10. In reviewing this matter, it does appear that the request is in substantial conformity to the annexation ordinance as the property is "essentially" an island of un-incorporated territory surrounded by the City, the annexation would provide for a more clear identification of the City limits boundary and since the property is currently developed already, the annexation would benefit the City by adding substantial revenue to the City's tax base. In addition, the owner's are anticipating on constructing a new twin cinema theater at the location. Since this is an urban use, it would be clearly to the City's advantage to control the growth and development plans for the area.

PROPERTY DESCRIPTION

Part of the Richard Everest Donation Land Claim No. 52 in Township 3 South, Range 2 West of the Willamette Meridian, in Yamhill County, Oregon, described as follows:

Beginning at a point on the East line of said Claim 1382.48 feet North of the Southeast corner of the North half of said claim, said point being also the Southeast corner of that certain tract of land described in Deed to George Auld et ux, recorded in Film Volume 179, Page 320, Deed Records of Yamhill County, Oregon and running thence along the south line of said Auld et ux tract West 232.39 feet to the Southwest corner of said Auld et ux tract; thence along the west line of said Auld et ux tract North 320.00 feet, more or less to the Southerly right-of-way of State Highway 99W as described in deed to the State of Oregon, State Highway Commission, recorded in Film Volume 24, Page 406, Deed Records of Yamhill County, Oregon; thence along said southerly right-of-way S65°40'W 318.78 feet, more or less to the West line of that certain tract of land described in Deed to Francis Enterprises, Inc. recorded in Film Volume 56, Page 590, Deed Records of Yamhill County, Oregon; thence along said west line S00°06'W 58.00 feet, more or less to the Northwest corner of that certain tract of land described in deed to Robert E. Francis recorded in Film Volume 186, Page 265, Deed Records of Yamhill County, Oregon; thence along the north line of said Francis tract East 128.7 feet and South 34.00 feet to the Northwest corner of that certain tract of land described in deed to Josef Stuart Francis, recorded in Film Volume 186, Page 264, Deed Records of Yamhill County, Oregon; thence along the North line of said Francis tract of land East 110.00 feet; thence South 116.3 feet; thence N80°35'W 242.00 feet to the West line of said Francis Enterprises, Inc. tract of land; thence along said West line S00°06'W 534.98 feet more or less to the Northwest corner of that certain tract of land described in deed to Portland General Electric Company, recorded in Film Volume 178, Page 347, Deed Records of Yamhill County, Oregon; thence along the northline of said Portland General Electric Company tract of land N76°43'58"E 538.89 feet to a point on the East line of said Everest Claim; thence along said Claim line North 328.45 feet to the point of beginning.

Together with all portions of the Market Road Number 5 (Springbrook Road) right-of-way, immediately adjacent to the above referenced parcel.